

Confidential draft submission # 6 as confidentially submitted to the Securities and Exchange Commission on April 15, 2016.

This draft registration statement has not been publicly filed with the Securities and Exchange Commission and all information herein remains strictly confidential.

Registration Statement No. 333-

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM S-1  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

EVERBRIDGE, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of  
incorporation or organization)

7372

(Primary Standard Industrial  
Classification Code Number)

26-2919312

(I.R.S. Employer  
Identification Number)

25 Corporate Drive, Suite 400  
Burlington, Massachusetts 01803  
(818) 230-9700

(Address, including zip code, and telephone number, including area code, of registrant’s principal executive offices)

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President and Chief Executive Officer  
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(818) 230-9700

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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, as amended, check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer ☐

Accelerated Filer ☐

Non-accelerated Filer ☒

Smaller Reporting Company ☐

CALCULATION OF REGISTRATION FEE

| Title of Securities Being Registered      | Proposed Maximum<br>Aggregate<br>Offering Price(1)(2) | Amount of<br>Registration Fee |
|---|---|-------------------------------|
| Common Stock, \$0.001 par value per share |   |                               |

- (1) In accordance with Rule 457(o) under the Securities Act of 1933, as amended, the number of shares being registered and the proposed maximum offering price per share are not included in this table.
- (2) Estimated solely for purposes of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended. Includes the offering price of shares that the underwriters have the option to purchase to cover over-allotments, if any.

The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We and the selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we and the selling stockholders are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED APRIL 15, 2016

PRELIMINARY PROSPECTUS

Shares



Common Stock

We are selling \_\_\_\_\_ shares of common stock and the selling stockholders are selling \_\_\_\_\_ shares of common stock. We will not receive any of the proceeds from the shares of common stock sold by the selling stockholders.

Prior to this offering, there has been no public market for our common stock. The initial public offering price of our common stock is expected to be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_ per share. We have applied to list our common stock on the NASDAQ Global Market under the symbol "EVBG."

We are an "emerging growth company" as defined under the U.S. federal securities laws and have elected to comply with certain reduced public company disclosure and reporting requirements for this prospectus and future filings. See "Prospectus Summary—Implications of Being an Emerging Growth Company."

The underwriters have an option to purchase a maximum of \_\_\_\_\_ additional shares from the selling stockholders at the initial public offering price, less underwriting discounts and commissions, within 30 days from the date of this prospectus solely to cover over-allotments of shares.

Investing in our common stock involves risks. See "[Risk Factors](#)" beginning on page 17.

|           | Price to Public | Underwriting<br>Discounts and<br>Commissions <sup>(1)</sup> | Proceeds to<br>Everbridge, Inc. | Proceeds to<br>Selling<br>Stockholders |
|-----------|-----------------|---|---------------------------------|--|
| Per Share | \$ _____        | \$ _____  | \$ _____                        | \$ _____                               |
| Total     | \$ _____        | \$ _____  | \$ _____                        | \$ _____                               |

(1) See "Underwriting" beginning on page 131 for additional information regarding underwriting compensation.

The underwriters expect to deliver the shares of our common stock on or about \_\_\_\_\_, 2016.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

**Credit Suisse**

**BofA Merrill Lynch**

**Stifel**

**Pacific Crest Securities**  
a division of KeyBanc Capital Markets

**Raymond James**

**Canaccord Genuity**

**William Blair**

The date of this prospectus is \_\_\_\_\_, 2016

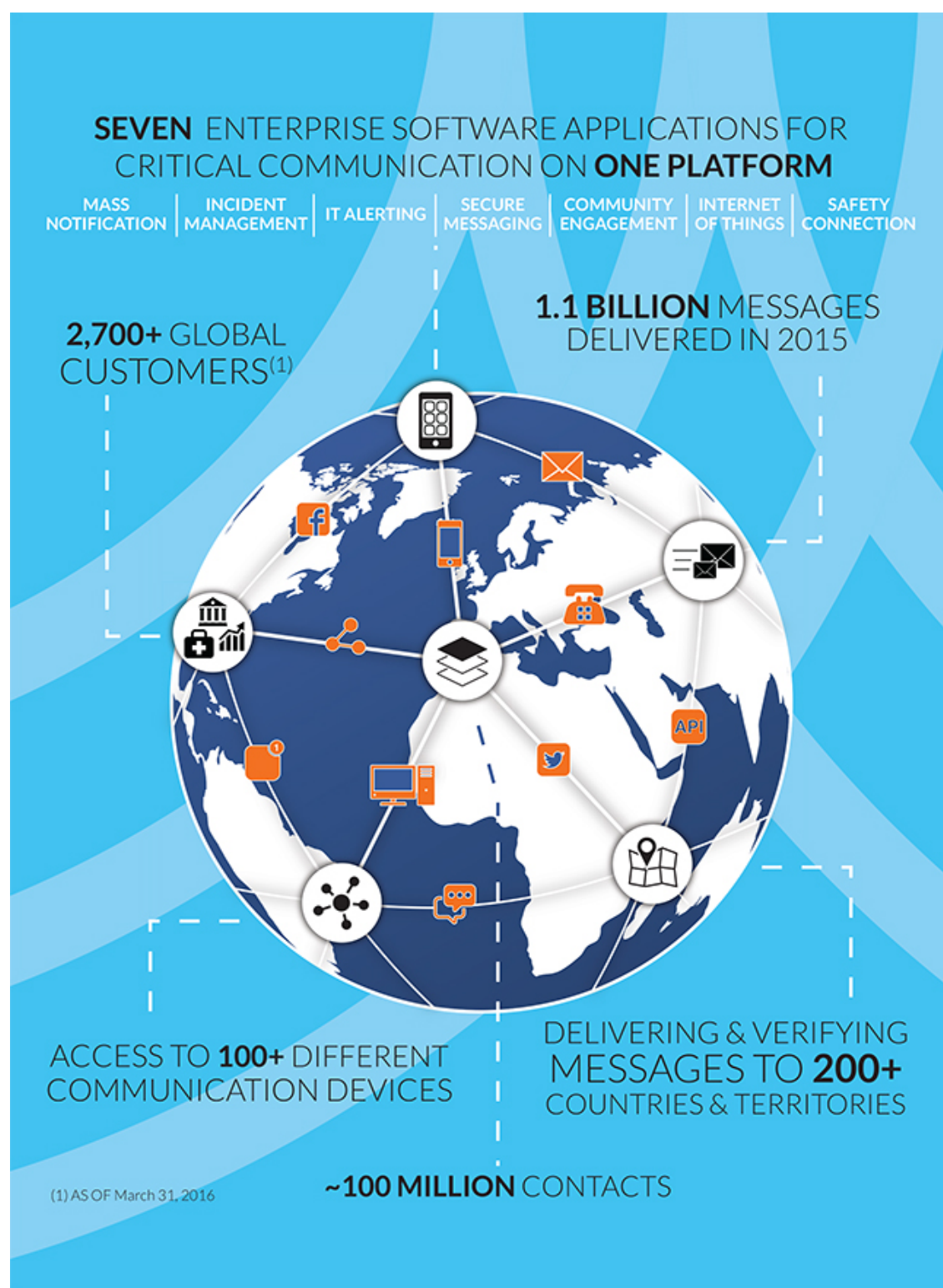




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You should rely only on the information contained in this document and any free writing prospectus we provide to you. We have not, the selling stockholders have not and the underwriters have not authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is current only as of its date.

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For investors outside the United States: We have not, the selling stockholders have not and the underwriters have not done anything that would permit this offering, or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside of the United States.

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**DEALER PROSPECTUS DELIVERY OBLIGATION**

Through and including \_\_\_\_\_, 2016 (25 days after the date of this prospectus), all dealers that effect transactions in our common stock, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to unsold allotments or subscriptions.

## PROSPECTUS SUMMARY

*This summary highlights information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read this entire prospectus, including our consolidated financial statements and the related notes and the information set forth under the sections titled “Risk Factors,” “Special Note Regarding Forward-Looking Statements,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” in each case included in this prospectus. Unless the context otherwise requires, we use the terms “Everbridge,” “company,” “our,” “us,” and “we” in this prospectus to refer to Everbridge, Inc. and, where appropriate, our consolidated subsidiaries.*

### EVERBRIDGE, INC.

#### Overview

We are a global enterprise software company that provides applications which automate the delivery of critical information to help keep people safe and businesses running. During mission-critical business events or man-made or natural disasters, our SaaS-based platform enables our customers to quickly and reliably deliver intelligent, contextual messages to, and receive verification of delivery from, hundreds or millions of recipients, across multiple communications modalities such as voice, SMS and e-mail. Our applications enable the delivery of messages in near real-time to more than 100 different communication devices, in over 200 countries and territories, in multiple languages – all simultaneously. We automate the process of sending contextual notifications to multiple constituencies so that organizations can act quickly and confidently. Our enterprise critical communications applications, which include Mass Notification, Incident Management, IT Alerting, Secure Messaging, Community Engagement, Internet of Things and Safety Connection, are easy-to-use and deploy, secure, highly scalable and reliable. We believe that our broad suite of integrated, enterprise applications delivered via a single global platform is a significant competitive advantage.

In critical situations, the speed at which information is transmitted and accessed is essential. From the early days of manual call trees and simple outdoor sirens, mass communications have evolved with advances in technology to include system-generated calls, text messages, emails, social media and outdoor digital signage. The proliferation of mobile and digital communications has increased the number of ways in which people receive and transmit information and the volume of information that they must process. During mission-critical business events or man-made or natural disasters, organizations must be able to rapidly deliver messages that are tailored to multiple, specific audiences, in precise locations, using a variety of different communication modalities. The ability to enable secure, scalable, reliable and automated communications to people can be essential to saving lives, saving money and protecting assets.

The severity, complexity and frequency of these critical events, their implications for business performance and personal safety, and regulatory and compliance challenges are increasing. The need for active shooter preparedness and public safety protection from terrorist attacks, as well as notifications about IT outages, cyber incidents, severe weather conditions, missing persons, failing equipment and other urgent events, drive the need for a secure, scalable and reliable notification system that can be operated quickly and easily. In addition, there has been a rapid proliferation of connected devices and networked physical objects – the Internet of Things, or IoT – that have the capability to communicate information about status and environment and generate data that enables individuals and enterprises to intervene. These dynamics have led to a growing need for enterprise critical communications solutions that can deliver comprehensive yet targeted and contextually relevant content that facilitates the desired outcomes in critical situations and overcomes the information overload that individuals face. We estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, that the market for critical communications solutions represented a \$6.2 billion worldwide opportunity in 2015 and is expected to grow to \$17.8 billion in 2020.

Our SaaS-based critical communications platform is built on a secure, scalable and reliable infrastructure with multiple layers of redundancy to enable the rapid delivery of critical communications, with near real-time verification, over numerous devices and contact paths. We deliver communications to more than 200 countries and territories, which are available in 14 languages and dialects, and delivered 1.1 billion communications in 2015. Our Mass Notification application is our most established application and enables enterprises and governmental entities to send contextually aware notifications to individuals or groups to keep them informed before, during and after natural or man-made disasters and other emergencies. By automating the delivery of these types of critical communications, we enable customers to increase the speed and accuracy of their response and reduce associated costs. Importantly, given the pressure and anxiety most people experience in critical situations, our Mass Notification application provides a simple user interface and automated workflows for ease of use. The expertise that we garnered developing our Mass Notification application and our customers' reliance on our solutions led us to leverage our platform to deploy solutions for additional critical communications use cases. In turn, we have developed a full suite of enterprise-scale applications that enable our customers to deliver contextually relevant communications during critical situations, whether to a broad audience or to a targeted subset of individuals, globally or locally, and accounting for cultural, linguistic, regulatory and technological differences. As all of our applications leverage our critical communications platform, customers can use a single contacts database, rules engine of algorithms and hierarchies and user interface to accomplish multiple objectives. Our applications are easy-to-use and deploy and require minimal implementation services.

The following situations reflect examples of how our applications enable and optimize critical communications processes:

- When a hurricane is imminent, local emergency management departments can alert affected communities and available emergency responders of the impending storm with relevant instructions such as safety and evacuation instructions and organizations can alert employees of office closing and provide other safety instructions.
- When IT systems fail, IT administrators can alert and escalate the specific IT resources required to quickly provide systems restoration, automate a conference bridge and notify affected employees and customers.
- When a cyber incident shuts down an IT network, management can alert employees of the network shutdown via a secure, alternate communication path.
- When an active shooter situation or terrorist attack occurs, organizations can quickly identify employees in the affected area, including employees not at their usual business location, in order to confirm that they are safe and provide instructions.
- When a physician has two coinciding commitments in different locations, he or she can conduct a virtual interactive patient consultation from a wireless device from any location using our secure messaging and video solution that is designed to be HIPAA-compliant.
- When a power line is down, utility workers can activate incident management templates to alert affected customers and responders in a coordinated, error-free fashion.
- When engine readings in critical equipment detect a malfunction, technicians with the right skills can be automatically alerted and quickly deployed to minimize downtime, improving efficiency and avoiding revenue loss.
- When readings from an implanted medical device are abnormal, that information can be automatically routed to the individual's healthcare provider to enable timely medical care.
- When a young child goes missing, residents can communicate with their neighbors and local officials to coordinate efforts to locate and return the child.



- When a financial services firm experiences disruptions, clients can be promptly notified and audit confirmations can be provided to document delivery.

Our customer base has grown from 867 customers at the end of 2011 to more than 2,700 customers as of March 31, 2016. As of March 31, 2016, our customers were based in 21 countries and included eight of the 10 largest U.S. cities, seven of the 10 largest U.S.-based investment banks, 24 of the 25 busiest North American airports, six of the 10 largest global auto makers and four of the 10 largest U.S.-based health care providers. We generated revenue of \$23.4 million in 2012, \$30.0 million in 2013, \$42.4 million in 2014 and \$58.7 million in 2015, representing year-over-year increases of 29% in 2013, 41% in 2014 and 38% in 2015. We derive substantially all of our revenue from subscriptions to our critical communications applications, which represented 96%, 97% and 95% of our total revenue in 2013, 2014 and 2015, respectively. Historically, we derived more than 90% of our revenue in each of the last three fiscal years from sales of our Mass Notification application. We had net losses of \$0.9 million, \$0.6 million and \$10.8 million in 2013, 2014 and 2015, respectively. Our adjusted EBITDA, which is a measure that is not calculated and presented in accordance with generally accepted accounting principles in the United States, or GAAP, decreased from \$2.2 million to \$(3.4) million from 2013 to 2015. See note 2 to the table contained in “Summary Consolidated Financial and Other Data—Key Metrics” for a reconciliation of adjusted EBITDA to net loss, the most directly comparable financial measure calculated and presented in accordance with GAAP.

### **Industry Background**

Over the past two decades, critical communications methods have evolved rapidly, in tandem with advances in technology, to include system-generated voice calls, text messages, emails, social media and outdoor digital signage. In critical situations, the speed at which information is transmitted and accessed is essential.

### ***Key Trends Driving a Fundamental Shift in Communications***

Key business and technology trends continue to shift both the fundamental way that organizations communicate with relevant stakeholders and how individuals regularly consume information. People increasingly consume most of their information through mobile devices and applications as well as social media and other digital channels. Increasingly, less information is shared using traditional “analog” communication methods, such as printed media, television and landline telephones. The proliferation of mobile and digital communications has accelerated the speed at which people communicate and, together with the emergence of the IoT, has exponentially increased the volume of communications that individuals must process. In light of these trends, communications have become one of the most important areas of technology investment. In a 2015 report, Gartner, Inc. estimates that \$1.5 trillion, or 42.5%, of information technology, or IT, expenditure was for communications in 2015.

Governmental entities and enterprises also face increasing threats to the safety of their geographically disparate and constantly mobile residents and employees. According to the Institute of Economics and Peace’s Global Terrorism Index, more people died globally from terrorist attacks in 2014 than in any prior year, and in recent months the world has witnessed devastating attacks in Paris, Brussels, San Bernardino, Istanbul and other global cities. In addition, global reinsurer Swiss Reinsurance Company Ltd. found that the cost of disaster events, including man-made and severe weather incidents, reached \$85 billion worldwide in 2015.

During mission-critical business events or man-made or natural disasters, the ability to communicate life-saving or damage-mitigating information is crucial. Speed, security, scalability and reliability of communications are essential. The severity, complexity and frequency of these critical events, their implications for business performance or personal safety and rising regulatory and compliance challenges are driving demand for critical communications solutions, which we estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, represented a \$6.3 billion worldwide market opportunity in 2015.



### ***Evolution of Critical Communications***

Traditional solutions for critical communications have not kept pace with the increasingly digital world, the evolving threat landscape and opportunity to leverage technological innovation to more effectively communicate with people. These solutions are often developed in-house or are not truly enterprise in scale, leaving many organizations to use analog, manual, one-way and people-based modalities to communicate with relevant stakeholders. These solutions lack the scale to reliably address the breadth of challenges that organizations increasingly face, the sophistication required to address evolving needs with automated workflows and the ability to rapidly deliver messages that are tailored to multiple, specific audiences, in precise locations, using a variety of different communication modalities.

Organizations today require a solution that is engineered for modern critical communications. While traditional mass notification solutions are designed to support infrequent one-way messages, new targeted and contextually relevant critical communications systems must be deployed to deliver interactive support for a far broader range of incidents, both operational and emergency-oriented in nature. Global threats have increased in complexity—from the failure of data centers to more sophisticated cyber incidents and terrorist threats. At the same time, more routine, everyday situations such as those involving IT operations, incident response teams or colleagues that need to converse securely also require a solution that can quickly and contextually reach anyone on any device, anywhere, at any time. As a result of these dynamics, it has become imperative that communications be appropriately contextualized, meaningful and actionable in order to overcome the profound information overload and enable the desired outcomes in critical situations to be achieved.

### ***Requirements of Effective Critical Communications Solutions***

In order to deliver effective critical communications solutions, several requirements must be met:

- ***Comprehensive Solution.*** Organizations require an enterprise-scale, comprehensive solution that can deliver intelligent, contextual messages across multiple communications modalities and be operated from desktop or mobile devices to address their diverse critical communications needs.
- ***Scalability and Speed.*** Organizations require a solution that is agile and flexible enough to reach individuals at both high volume/low frequency intervals, such as emergency mass notification situations, and low volume/high frequency intervals, such as for IT alerting and secure messaging.
- ***Enterprise-Grade Reliability.*** Given the inherent nature of critical communications, organizations require a solution that is robust, resilient and highly redundant, with a high level of assured uptime and a low degree of fault tolerance.
- ***Security and Regulatory Compliance.*** Organizations require a solution that is architected to ensure secure communications given the significance of the content being distributed and the regulatory requirements that apply to the sensitive data being transmitted.
- ***Intelligent Communication and Contextual Personalization.*** Organizations require sophisticated, intelligent technology that can tailor both the content of communications and the modalities through which they are delivered based on differing individual preferences and roles and responsibilities within the organization.
- ***Ease-of-Use.*** Given the need for speed and the pressure and anxiety most people experience in critical situations, organizations require a solution that is simple and easy-to-use, particularly when lives and property are at risk.
- ***Real-Time and After-Event Reporting and Analytics.*** To ensure that organizations can deliver appropriate communications during critical events, a solution should provide detailed, timely and compliant reporting and analytics to optimize the overall communication process.

- **Global Reach and Local Expertise.** Global communications require a “local” approach to deal with the complexity of varying cultural preferences, languages and device types, as well as technical and regulatory requirements.
- **Dynamic Technology.** As contact pathways continue to expand and communication endpoints continue to proliferate with the growth of internet connectivity across multiple devices and things, customers demand dynamic solutions that can keep pace with technological advances and address new communication use cases with minimal incremental investment.

#### Key Benefits of Our Solutions and Competitive Strengths

Everbridge was founded with a vision to help organizations communicate quickly and reliably to deliver the right message to the right people, on the right device, in the right location, at the right time during mission-critical business events or man-made or natural disasters. Key benefits of our solutions and competitive strengths include the following:

- **Comprehensive, Enterprise-Scale Platform.** The core of our solutions is our critical communications platform, which provides multiple layers of redundancy to assure uptime and delivery of communications regardless of volume or throughput requirements. The platform is dynamic, secure, scalable and reliable, enabling the delivery and verification of tens of millions of different communications virtually anywhere, in any volume, in near real-time. In 2015, we delivered 1.1 billion communications, or over 30 communications per second, through our globally distributed data centers.
- **Out-of-the-Box, Scalable and Mobile Applications.** Our SaaS-based applications are out-of-the box, enterprise-ready and can be utilized without customer development, testing or ongoing maintenance. Regardless of a customer or prospect’s size or needs, our applications are built to scale to its largest and most complex critical communications requirements.
- **Contextual Communications.** We enable intelligence and personalization in the critical communications process by delivering contextual communications. Our customers can deliver and escalate critical communications broadly to a mass population or to a targeted subset of individuals based on geographic location, skill level, role and communication modality preferences for rich, two-way collaboration.
- **Large, Dynamic and Rich Communications Data Asset.** As of March 31, 2016, our data asset consists of our contacts databases that manage approximately 100 million contact profiles and connections from more than 2,700 customers based in 21 countries. Our contacts databases, which we refer to as contact stores, are initially created through an upload of contacts from the customer and automatically updated with the most current contact information provided by the customer or by individuals who opt-in to receive notifications from our Community Engagement application. Our contact stores are repositories for all contact details, attributes and business rules and preferences, such as a person’s last-known location, expected location, language spoken, special needs, technical certifications and on-call status.
- **Robust Security, Industry Certification and Compliance.** Our platform is built on a secure and resilient infrastructure with multiple layers of redundancy. Many of our enterprise applications are designed to meet rigorous security and compliance requirements for financial services firms, healthcare institutions, the U.S. federal government and other regulated industries, including facilitating compliance with FINRA and HIPAA standards. Our solutions received designation under the Support Anti-terrorism by Fostering Effective Technology Act of 2002, or SAFETY ACT, and certification by U.S. Department of Homeland Security that places us on the approved product list for homeland security. Our solutions are also accredited under the Federal Information Security Management Act of 2002, or FISMA, and we are in the process of seeking accreditation under the Federal Risk and Authorization Management Program, or FedRAMP.

- **Automated Workflows.** Our platform automates the workflows required to complete a critical notification, including establishing the individuals within an organization authorized to send messages, the groups of stakeholders to whom messages will be sent and the content of messages to be sent to different groups of relevant stakeholders, in each case based on incident type. We believe that this automation reduces the amount of time required to send critical notification as well as the associated cost. Our platform also enables customers to automatically establish procedures for improving the success of communication efforts.
- **Globally Local.** Our platform is designed to be utilized globally while accounting for local cultural, linguistic, regulatory and technological differences. We have relationships with suppliers and carriers in multiple countries to ensure delivery in compliance with local, technical and regulatory requirements. We have localized our user interface in 14 languages and dialects that are spoken by more than 60% of the world's population.
- **Next-Generation, Open Architecture.** We developed our platform to easily integrate our applications with other systems. Our solutions provide open APIs and configurable integrations, enabling our platform to work with our customers' and partners' pre-existing processes and solutions, increasing the business value we deliver.
- **Actionable Reporting and Analytics.** Our platform provides real-time dashboards, advanced map-based visualization and ad-hoc reporting across notifications, incidents and contacts. This information is easily accessed for required after-event reviews, continuous communication process improvements and regulatory compliance.

### Our Growth Strategy

We intend to drive growth in our business by building on our position as a global provider of enterprise critical communications. Key elements of our growth strategy include:

- **Accelerate Our Acquisition of New Customers.** We believe that we are in the early stages of penetration of the large and growing market for targeted and contextually relevant critical communications. We intend to capitalize on our growing portfolio of applications and the technological advantages of our critical communications platform to continue to attract new customers. In parallel, we plan to attract new customers by investing in sales and marketing and expanding our channel partner relationships.
- **Further Penetrate Our Existing Customers.** With revenue retention rates of over 110% for each of the last three years, we believe that there is a significant opportunity within our existing customer base to expand their use of our platform, both by selling to our existing customers new applications and features and selling to additional departments in their organizations. We believe that we have a significant opportunity to increase the lifetime value of our customer relationships as we educate customers about the benefits of our current and future applications that they do not already utilize.
- **Develop New Applications to Target New Markets and Use Cases.** Our platform is highly flexible and can support the development of new applications to meet evolving critical communications challenges. We intend to continue to develop new applications for use cases in a variety of new markets and to leverage our platform and our existing customer relationships as a source of new applications, industry use cases, features and solutions.
- **Expand Our International Footprint.** We intend to continue to expand our local presence in regions such as Europe, the Middle East and Asia to leverage our relationships with local carriers and our ability to deliver messages to over 200 countries and territories in 14 languages and dialects as well as expand

our channel partnerships, in order to capitalize on this significant opportunity and also to opportunistically consider expanding in other regions.

- ***Maintain Our Technology and Thought Leadership.*** We will continue to invest in our critical communications platform and our applications to maintain our technology leadership position. We believe we have a competitive advantage through our commitment to innovation and thought leadership that has enabled us to take market share from our competitors and accelerate our growth.
- ***Opportunistically Pursue Acquisitions.*** We plan to selectively pursue acquisitions of complementary businesses, technologies and teams that allow us to penetrate new markets and add features and functionalities to our platform.

#### **Selected Risks Affecting Our Business**

Our business is subject to numerous risks and uncertainties, including those highlighted in the section titled “Risk Factors” immediately following this prospectus summary. These risks include, among others, the following:

- If our business does not grow as we expect or if we fail to manage our growth effectively, our operating results and business prospects would suffer.
- We have not been profitable on a consistent basis historically and may not achieve or maintain profitability in the future.
- Historically, we derived 95%, 96% and 91% of our revenue from sales of our Mass Notification application in 2013, 2014 and 2015, respectively. If we are unable to renew or increase sales of this application, or if we are unable to increase sales of our other applications, our business and operating results could be adversely affected.
- If we are unable to develop upgrades to our platform, develop new applications, sell our platform and applications into new markets or further penetrate our existing market, our revenue may not grow.
- The nature of our business exposes us to inherent liability risks.
- Our estimates of market opportunity and forecasts of market growth may prove to be inaccurate, and even if the market in which we compete achieves the forecasted growth, our business could fail to grow at similar rates, if at all.
- The markets in which we participate are competitive, and if we do not compete effectively, our operating results could be harmed.
- An assertion by a third party that we are infringing its intellectual property could subject us to costly and time-consuming litigation or expensive licenses that could harm our business and results of operations.
- Our executive officers, directors and principal stockholders own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval. Following this offering, our directors, executive officers and holders of more than 5% of our common stock, all of whom are represented on our board of directors, together with their affiliates will beneficially own % of the voting power of our outstanding capital stock.

#### **Corporate Information**

Everbridge, Inc. was initially incorporated under the laws of the State of Delaware under the name 3n Global, Inc. in January 2008. 3n Global, Inc. was initially a wholly-owned subsidiary of National Notification Network, LLC, which was formed in November 2002 as a limited liability company organized under the laws of the State

of California. In May 2008, pursuant to a merger agreement between 3n Global, Inc. and National Notification Network, LLC, National Notification Network, LLC merged with and into 3n Global, Inc. We changed our name to Everbridge, Inc. in April 2009.

Our principal executive offices are located at 25 Corporate Drive, Suite 400, Burlington, Massachusetts 01803 and at 500 North Brand Boulevard, Suite 1000, Glendale, California 91203. Our telephone number is (818) 230-9700. Our website address is [www.everbridge.com](http://www.everbridge.com). The information contained on, or that can be accessed through, our website is not incorporated by reference into this prospectus, and you should not consider any information contained on, or that can be accessed through, our website as part of this prospectus or in deciding whether to purchase our common stock.

“Everbridge”, the Everbridge logo, and other trademarks or service marks of Everbridge, Inc. appearing in this prospectus are the property of Everbridge, Inc. This prospectus contains additional trade names, trademarks and service marks of others, which are the property of their respective owners. Solely for convenience, trademarks and trade names referred to in this prospectus may appear without the ® or TM symbols.

### **Implications of Being an Emerging Growth Company**

We qualify as an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. An emerging growth company may take advantage of specified reduced reporting and other burdens that are otherwise applicable generally to public companies. These provisions include:

- a requirement to have only two years of audited financial statements and only two years of related selected financial data and management’s discussion and analysis of financial condition and results of operations disclosure;
- an exemption from the auditor attestation requirement in the assessment of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act;
- an exemption from new or revised financial accounting standards until they would apply to private companies and from compliance with any new requirements adopted by the Public Company Accounting Oversight Board requiring mandatory audit firm rotation;
- reduced disclosure about the emerging growth company’s executive compensation arrangements; and
- no requirement to seek nonbinding advisory votes on executive compensation or golden parachute arrangements.

We may take advantage of some or all these provisions until we are no longer an emerging growth company. We will remain an emerging growth company until the earlier to occur of (1) the last day of the fiscal year (a) following the fifth anniversary of the completion of this offering, (b) in which we have total annual gross revenues of at least \$1.0 billion or (c) in which we are deemed to be a “large accelerated filer,” under the rules of the U.S. Securities and Exchange Commission, or SEC, which means the market value of our common stock that is held by non-affiliates exceeds \$700 million as of the prior June 30th, and (2) the date on which we have issued more than \$1.0 billion in non-convertible debt during the prior three-year period.

We are choosing to “opt out” of the provision of the JOBS Act that permits emerging growth companies to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies and, as a result, we will comply with new or revised accounting standards as required when they are adopted. This decision to opt out of the extended transition period is irrevocable.

We have elected to adopt certain of the reduced disclosure requirements available to emerging growth companies. As a result of these elections, the information that we provide in this prospectus may be different than

the information you may receive from other public companies in which you hold equity interests. In addition, it is possible that some investors will find our common stock less attractive as a result of these elections, which may result in a less active trading market for our common stock and higher volatility in our stock price.

| The Offering  |  |
|---|--|
| Common stock offered by Everbridge  | shares   |
| Common stock offered by the selling stockholders  | shares   |
| Total common stock offered  | shares   |
| Total common stock to be outstanding after this offering  | shares   |
| Over-allotment option offered by the selling stockholders   | shares   |
| Use of proceeds   | <p>We estimate that we will receive net proceeds of approximately \$       million, assuming an initial public offering price of \$       per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting the underwriting discounts and commissions and estimated offering expenses payable by us. The principal purposes of this offering are to increase our financial flexibility, create a public market for our common stock, and facilitate our future access to the capital markets. We expect to use the net proceeds of this offering for working capital and other general corporate purposes. We also intend to use approximately \$10.0 million of the net proceeds to pay all outstanding principal and interest under our revolving line of credit with Western Alliance Bank. We may use a portion of the proceeds from this offering for acquisitions or strategic investments in complementary businesses or technologies, although we do not currently have any plans for any such acquisitions or investments. These expectations are subject to change. We will not receive any of the proceeds from the sale of shares to be offered by the selling stockholders. See “Use of Proceeds” for additional information.</p> |
| Risk factors  | <p>See “Risk Factors” and the other information included in this prospectus for a discussion of factors you should carefully consider before deciding to invest in our common stock.</p>   |
| Proposed NASDAQ Global Market Symbol  | “EVBG”   |
| <p>The number of shares of our common stock that will be outstanding after this offering is based on 118,601,655 shares of common stock outstanding as of December 31, 2015, and excludes:</p> <ul style="list-style-type: none"> <li>• 10,474,299 shares of common stock issuable upon the exercise of options outstanding as of December 31, 2015, at a weighted-average exercise price of \$1.51 per share;</li> <li>• 749,712 shares of common stock issuable upon the exercise of warrants outstanding as of December 31, 2015, at an exercise price of \$0.4335 per share, which warrants, prior to the completion of this offering, are exercisable to purchase shares of our Series A-1 preferred stock;</li> </ul> |  |



- shares of our common stock reserved for future issuance pursuant to our 2016 Equity Incentive Plan, which will become effective prior to the completion of this offering and will include provisions that automatically increase the number of shares of common stock reserved for issuance thereunder each year; and
- shares of common stock reserved for future issuance under our 2016 Employee Stock Purchase Plan, which will become effective prior to the completion of this offering and will include provisions that automatically increase the number of shares of common stock reserved for issuance thereunder each year.

Unless otherwise indicated, this prospectus reflects and assumes the following:

- the conversion of all of our outstanding shares of class A common stock into an aggregate of 6,694,854 shares of our common stock immediately prior to the closing of this offering;
- the conversion of all of our outstanding shares of our preferred stock into an aggregate of 48,041,096 shares of our common stock immediately prior to the closing of this offering;
- the filing and effectiveness of our amended and restated certificate of incorporation in Delaware and the adoption of our amended and restated bylaws, each of which will occur immediately prior to the completion of this offering;
- no exercise of outstanding options or warrants after December 31, 2015;
- no exercise by the underwriters of their over-allotment option to purchase additional shares of our common stock; and
- a one-for- reverse stock split of our common stock to be effected prior to the closing of this offering.

### Summary Consolidated Financial and Other Data

We derived the summary consolidated statements of operations data for the years ended December 31, 2013, 2014 and 2015 from our audited consolidated financial statements included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results to be expected in the future.

When you read this summary consolidated financial data, it is important that you read it together with the historical consolidated financial statements and related notes to those statements, as well as “Selected Consolidated Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” included elsewhere in this prospectus.

|   | Year Ended December 31,                         |            |             |
|---|---|------------|-------------|
|   | 2013  | 2014       | 2015        |
|   | (in thousands, except share and per share data) |            |             |
| <b>Consolidated Statements of Operations Data:</b>  |   |            |             |
| Revenue   | \$ 30,040                                       | \$ 42,421  | \$ 58,720   |
| Cost of revenue:(1)   | 8,699   | 12,089     | 19,789      |
| Gross profit  | 21,341  | 30,332     | 38,931      |
| Operating expenses: (1)   |   |            |             |
| Sales and marketing   | 11,695  | 15,818     | 25,925      |
| Research and development  | 5,697   | 7,365      | 11,521      |
| General and administrative  | 4,352   | 7,435      | 12,272      |
| Total operating expenses  | 21,744  | 30,618     | 49,718      |
| Operating loss  | (403)   | (286)      | (10,787)    |
| Other expense, net  | 368   | 426        | 599         |
| Loss before (provision for) benefit from income taxes   | (771)   | (712)      | (11,386)    |
| (Provision for) benefit from income taxes   | (118)   | 89         | 562         |
| Net loss  | \$ (889)  | \$ (623)   | \$ (10,824) |
| Net loss attributable to common stockholders  | \$ (889)  | \$ (623)   | \$ (10,824) |
| Net loss per share attributable to common stockholders:(2)  |   |            |             |
| Basic   | \$ (0.01)                                       | \$ (0.01)  | \$ (0.15)   |
| Diluted   | \$ (0.01)                                       | \$ (0.01)  | \$ (0.15)   |
| Weighted-average common shares outstanding:(2)  |   |            |             |
| Basic   | 63,484,370                                      | 67,788,061 | 70,482,217  |
| Diluted   | 63,484,370                                      | 67,788,061 | 70,482,217  |
| Pro forma net loss per share attributable to common stockholders, basic and diluted (unaudited):(3) |   |            | \$          |
| Pro forma weighted average common shares outstanding, basic and diluted (unaudited):(3)             |   |            |             |

- (1) Includes stock-based compensation expense and depreciation and amortization expense as follows:

|   | Year Ended<br>December 31, |                 |                 |
|---|----------------------------|-----------------|-----------------|
|   | 2013                       | 2014            | 2015            |
|   | (in thousands)             |                 |                 |
| Stock-based compensation expense:           |                            |                 |                 |
| Cost of revenue                             | \$ 48                      | \$ 82           | \$ 150          |
| Sales and marketing                         | 82                         | 120             | 315             |
| Research and development                    | 28                         | 147             | 297             |
| General and administrative                  | 18                         | 27              | 760             |
| Total stock-based compensation expense      | <u>\$ 176</u>              | <u>\$ 376</u>   | <u>\$ 1,522</u> |
| Depreciation and amortization expense:      |                            |                 |                 |
| Cost of revenue                             | \$ 2,374                   | \$ 1,615        | \$ 4,457        |
| Sales and marketing                         | 46                         | 101             | 227             |
| Research and development                    | 16                         | 31              | 134             |
| General and administrative                  | 19                         | 765             | 1,158           |
| Total depreciation and amortization expense | <u>\$ 2,455</u>            | <u>\$ 2,512</u> | <u>\$ 5,976</u> |

- (2) See notes (2) and (13) to our consolidated financial statements appearing elsewhere in this prospectus for further details on the calculation of basic and diluted net loss per share attributable to common stockholders.
- (3) Pro forma basic and diluted net loss per share represents net loss divided by the pro forma weighted-average shares of common stock outstanding and reflects (1) the repayment of \$ million of outstanding principal and accrued interest under our revolving line of credit from the proceeds from our sale of shares of common stock in this offering at an assumed initial public offering price of \$ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and (2) our write-off of the associated debt issuance costs. Pro forma weighted-average shares outstanding reflects the conversion of all outstanding shares of class A common stock and preferred stock (using the if-converted method) into common stock as though the conversion had occurred on the later of the first day of the relevant period and the date of issuance.

|   | As of December 31, 2015 |                |                             |
|---|-------------------------|----------------|-----------------------------|
|   | Actual                  | Pro forma(1)   | Pro forma as adjusted(2)(3) |
|   |                         | (in thousands) |                             |
|   |                         | (unaudited)    |                             |
| <b>Consolidated Balance Sheet Data:</b> |                         |                |                             |
| Cash                                    | \$ 8,578                | \$ 8,578       | \$                          |
| Accounts receivable, net                | 15,699                  | 15,699         |                             |
| Total assets                            | 53,557                  | 53,557         |                             |
| Total deferred revenue                  | 40,467                  | 40,467         |                             |
| Total debt                              | 17,018                  | 17,018         |                             |
| Total liabilities                       | 69,608                  | 69,608         |                             |
| Convertible preferred stock             | 48                      | —              |                             |
| Class A common stock                    | 7                       | —              |                             |
| Common stock                            | 64                      | 119            |                             |
| Accumulated deficit                     | (78,332)                | (78,332)       |                             |
| Total stockholders' deficit             | (16,051)                | (16,051)       |                             |

(1) Pro forma consolidated balance sheet data reflects the automatic conversion of all outstanding shares of class A common stock and preferred stock into common stock immediately prior to the closing of this offering.

(2) Pro forma as adjusted consolidated balance sheet data reflects the pro forma items described immediately above plus (1) our sale of shares of common stock in this offering at an assumed initial public offering price of \$ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, (2) repayment of principal and interest under our revolving line of credit and (3) our write-off of the associated debt issuance costs.

(3) Pro forma as adjusted consolidated balance sheet data is illustrative only and will change based on the actual initial public offering price and other terms of this offering determined at pricing. Each \$1.00 increase or decrease in the assumed initial public offering price of \$ per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease pro forma as adjusted cash, total assets and total stockholders' (deficit) equity by approximately \$ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and commissions payable by us. We may also increase or decrease the number of shares we are offering. A 1,000,000 share increase or decrease in the number of shares offered by us would increase or decrease pro forma as adjusted cash, total assets and total stockholders' (deficit) equity by approximately \$ million, at the assumed initial public offering price, and after deducting underwriting discounts and commissions payable by us.

## Key Metrics

We regularly monitor a number of financial and operating metrics in order to measure our current performance and estimate our future performance. For a further description of how we use these financial and operating metrics, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Key Metrics."

|                                       | Year Ended<br>December 31, |          |            |
|---------------------------------------|----------------------------|----------|------------|
|                                       | 2013                       | 2014     | 2015       |
|                                       | (dollars in thousands)     |          |            |
| Revenue retention rate <sup>(1)</sup> | 112%                       | 111%     | 115%       |
| Adjusted EBITDA <sup>(2)</sup>        | \$ 2,152                   | \$ 2,524 | \$ (3,351) |
| Adjusted gross margin <sup>(3)</sup>  | \$21,412                   | \$30,663 | \$41,084   |
| Free cash flow <sup>(4)</sup>         | \$ 2,548                   | \$ 3,884 | \$ (3,012) |

- (1) We calculate our revenue retention rate by dividing (1) total revenue in the current 12-month period from those customers who were customers during the prior 12-month period by (2) total revenue from all customers in the prior 12-month period. For the purposes of calculating our revenue retention rate, we count as customers all entities with whom we had contracts in the applicable period other than (1) customers of our wholly-owned subsidiary, Microtech, which generates an immaterial amount of our revenue in any given year and (2) in the first year following our acquisition of another business, customers that we acquired in connection with such acquisition. We believe that our ability to retain our customers and expand their use of our solutions over time is an indicator of the stability of our revenue base and the long-term value of our customer relationships. Our revenue retention rate provides insight into the impact on current period revenue of the number of new customers acquired during the prior 12-month period, the timing of our implementation of those new customers, growth in the usage of our solutions by our existing customers and customer attrition. If our revenue retention rate for a period exceeds 100%, this means that the revenue retained during the period including upsells, more than offset the revenue that we lost from customers that did not renew their contracts during the period.
- (2) Adjusted EBITDA represents our net loss before interest income and interest expense, income tax expense and benefit, depreciation and amortization expense and stock-based compensation expense. We do not consider these items to be indicative of our core operating performance. The items that are non-cash include depreciation and amortization expense and stock-based compensation expense. Adjusted EBITDA is a key measure used by management to understand and evaluate our core operating performance and trends and to generate future operating plans, make strategic decisions regarding the allocation of capital and invest in initiatives that are focused on cultivating new markets for our solutions. In particular, the exclusion of certain expenses in calculating adjusted EBITDA facilitates comparisons of our operating performance on a period-to-period basis. Adjusted EBITDA is not a measure calculated in accordance with United States generally accepted accounting principles, or GAAP.

We believe that adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results in the same manner as our management and board of directors. Nevertheless, use of adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our financial results as reported under GAAP. Some of these limitations are: (1) although depreciation and amortization are non-cash charges, the capitalized software that is amortized will need to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements; (2) adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs; (3) adjusted EBITDA does not reflect the potentially dilutive impact of equity-based compensation; (4) adjusted EBITDA does not reflect tax payments or receipts that may represent a reduction or increase in cash available to us; and (5) other companies, including companies in our industry, may calculate adjusted EBITDA or similarly titled measures differently, which reduces the usefulness of the metric as a comparative measure. Because of these and other limitations, you should consider adjusted EBITDA alongside our other GAAP-based financial performance measures, net loss and our other GAAP financial results. The following table presents a reconciliation of adjusted EBITDA to net loss, the most directly comparable GAAP measure, for each of the periods indicated.

|   | Year Ended<br>December 31, |          |            |
|---|----------------------------|----------|------------|
|   | 2013                       | 2014     | 2015       |
|   | (in thousands)             |          |            |
| Net loss                                  | \$ (889)                   | \$ (623) | \$(10,824) |
| Interest expense, net                     | 292                        | 348      | 537        |
| Provision for (benefit from) income taxes | 118                        | (89)     | (562)      |
| Depreciation and amortization expense     | 2,455                      | 2,512    | 5,976      |
| Stock-based compensation expense          | 176                        | 376      | 1,522      |
| Total net adjustments                     | \$3,041                    | \$3,147  | \$ 7,473   |
| Adjusted EBITDA                           | \$2,152                    | \$2,524  | \$ (3,351) |

- (3) Adjusted gross margin represents gross profit plus stock-based compensation and amortization expenses related to acquisitions. Adjusted gross margin is a key measure used by management to understand and evaluate our core operating performance and trends and to generate future operating plans. The exclusion of stock-based compensation expense and amortization expenses related to acquisitions facilitates comparisons of our operating performance on a period-to-period basis. Adjusted gross margin is not a measure calculated in accordance with GAAP. We believe that adjusted gross margin provides useful information to investors and others in understanding and evaluating our operating results in the same manner as our management and board of directors. Nevertheless, our use of adjusted gross margin has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our financial results as reported under GAAP. You should consider adjusted gross margin alongside our other GAAP-based financial performance measures, gross profit and our other GAAP financial results. The following table presents a reconciliation of adjusted gross margin to gross profit, the most directly comparable GAAP measure, for each of the periods indicated.

|  | Year Ended<br>December 31, |           |           |
|--|----------------------------|-----------|-----------|
|  | 2013                       | 2014      | 2015      |
|  | (in thousands)             |           |           |
| Gross profit                                 | \$ 21,341                  | \$ 30,332 | \$ 38,931 |
| Stock-based compensation expense             | 48                         | 82        | 150       |
| Amortization expense related to acquisitions | 23                         | 249       | 2,003     |
| Adjusted gross margin                        | \$ 21,412                  | \$ 30,663 | \$ 41,084 |

- (4) Free cash flow represents net cash provided by operating activities minus capital expenditures and capitalized software development costs. Free cash flow is a key measure used by management to understand and evaluate our core operating performance and trends and to generate future operating plans. The exclusion of capital expenditures and amounts capitalized for internally-developed software facilitates comparisons of our operating performance on a period-to-period basis and excludes items that we do not consider to be indicative of our core operating performance. Free cash flow is not a measure calculated in accordance with GAAP. We believe that free cash flow provides useful information to investors and others in understanding and evaluating our operating results in the same manner as our management and board of directors. Nevertheless, our use of free cash flow has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our financial results as reported under GAAP. You should consider free cash flow alongside our other GAAP-based financial performance measures, net cash provided by operating activities, and our other GAAP financial results. The following table presents a reconciliation of free cash flow to net cash for operating activities, the most directly comparable GAAP measure, for each of the periods indicated.

|   | Year Ended<br>December 31, |            |            |
|---|----------------------------|------------|------------|
|   | 2013                       | 2014       | 2015       |
|   | (in thousands)             |            |            |
| Net cash provided by operating activities | \$ 3,998                   | \$ 7,716   | \$ 4,392   |
| Capital expenditures                      | (688)                      | (2,155)    | (2,502)    |
| Capitalized software development costs    | (762)                      | (1,677)    | (4,902)    |
| Total net adjustments                     | \$ (1,450)                 | \$ (3,832) | \$ (7,404) |
| Free cash flow                            | \$ 2,548                   | \$ 3,884   | \$ (3,012) |

## RISK FACTORS

*Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including our consolidated financial statements and related notes, before deciding whether to purchase shares of our common stock. If any of the following risks is realized, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment.*

### Risks Related to Our Business and Our Industry

***If our business does not grow as we expect, or if we fail to manage our growth effectively, our operating results and business prospects would suffer.***

We increased our number of full-time employees from 189 to 303 to 418 as of December 31, 2013, 2014 and 2015, respectively. In 2015, we made a significant investment in our sales organization, growing our headcount by 51%, and our revenue increased by \$16.3 million for the year ended December 31, 2015 compared to 2014, due in part to the increase in our customer base.

However, our business may not continue to grow as quickly or at all in the future, which would adversely affect our revenue and business prospects. Our business growth depends on a number of factors including:

- our ability to execute upon our business plan effectively;
- our ability to accelerate our acquisition of new customers;
- our ability to further sell to our existing customers new applications and features and to additional departments in their organizations;
- our ability to develop new applications to target new markets and use cases;
- our ability to expand our international footprint;
- the growth of the market in which we operate;
- our ability to maintain our technology leadership position; and
- our ability to acquire complementary business, technologies and teams we need.

Further, our growth has placed, and will continue to place, a strain on our managerial, operational, financial and other resources, and our future operating results depend to a large extent on our ability to successfully manage our anticipated expansion and growth. To manage our growth successfully and handle the responsibilities of being a public company, we believe we must effectively, among other things:

- increase our customer base and upsell and cross-sell additional and new applications to our existing customers;
- invest in sales and marketing and expand our channel partner relationships;
- develop new applications that target new markets and use cases;
- expand our international operations; and
- improve our platform and applications, financial and operational systems, procedures and controls.

We intend to continue our investment in sales and marketing, our platform and applications, research and development, and general and administrative functions and other areas to grow our business. We are likely to recognize the costs associated with these investments earlier than some of the anticipated benefits and the return on these investments may be lower, or may develop more slowly, than we expect, which could adversely affect our operating results.



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If we are unable to manage our growth effectively in a manner that preserves the key aspects of our corporate culture, we may not be able to take advantage of market opportunities or develop new applications or upgrades to our existing applications and we may fail to satisfy customer requirements, maintain the quality and security of our applications, execute on our business plan or respond to competitive pressures, which could result in our financial results suffering and a decline in our stock price.

***We have not been profitable on a consistent basis historically and may not achieve or maintain profitability in the future.***

We have posted a net loss in each year since inception, including net losses of \$0.9 million, \$0.6 million and \$10.8 million in the years ended December 31, 2013, 2014 and 2015, respectively. As of December 31, 2015, we had an accumulated deficit of \$78.3 million. While we have experienced significant revenue growth in recent periods and profitability solely in the quarters ended March 31, 2014, June 30, 2014 and September 30, 2014, we are not certain whether or when we will obtain a high enough volume of sales of our applications to sustain or increase our growth or achieve or maintain profitability in the future. We also expect our costs to increase in future periods, which could negatively affect our future operating results if our revenue does not increase. In particular, we expect to continue to expend substantial financial and other resources on:

- sales and marketing, including a significant expansion of our sales organization, both domestically and internationally;
- research and development related to our platform and applications, including investments in our research and development team;
- continued international expansion of our business; and
- general administration expenses, including legal and accounting expenses related to being a public company.

These investments may not result in increased revenue or growth in our business. If we are unable to increase our revenue at a rate sufficient to offset the expected increase in our costs, our business, financial position and results of operations will be harmed, and we may not be able to achieve or maintain profitability over the long term. Additionally, we may encounter unforeseen operating expenses, difficulties, complications, delays and other unknown factors that may result in losses in future periods. If our revenue growth does not meet our expectations in future periods, our financial performance may be harmed, and we may not achieve or maintain profitability in the future.

***To date, we have derived substantially all of our revenue from the sale of our Mass Notification application. If we are unable to renew or increase sales of this application, or if we are unable to increase sales of our other applications, our business and operating results could be adversely affected.***

While we have recently introduced five new critical communications applications, one of which was introduced in the middle of 2014, three of which were introduced in 2015 and one of which was introduced in 2016, we derived 95%, 96% and 91% of our revenue from sales of our Mass Notification application in 2013, 2014 and 2015, respectively, and expect to continue to derive a substantial portion of our revenue from sales of this application in the near term. As a result, our operating results could suffer due to:

- any decline in demand for our Mass Notification application;
- pricing or other competitive pressures from competing products;
- the introduction of applications and technologies that serve as a replacement or substitute for, or represent an improvement over, our Mass Notification application;
- technological innovations or new standards that our Mass Notification application do not address; and
- sensitivity to current or future prices offered by us or competing solutions.

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Because of our reliance on our Mass Notification application, our inability to renew or increase sales of this application or a decline in prices of this application would harm our business and operating results more seriously than if we derived significant revenue from a variety of applications. Any factor adversely affecting sales of our historical or new applications, including release cycles, market acceptance, competition, performance and reliability, reputation and economic and market conditions, could adversely affect our business and operating results.

***If we are unable to develop upgrades to our platform, develop new applications, sell our platform and applications into new markets or further penetrate our existing market, our revenue may not grow.***

Our ability to increase sales will depend in large part on our ability to enhance and improve our platform and applications, introduce new applications in a timely manner, develop new use cases for our platform and further penetrate our existing market. The success of any enhancement to our platform or new applications depends on several factors, including the timely completion, introduction and market acceptance of enhanced or new applications, the ability to maintain and develop relationships with channel partners and communications carriers, the ability to attract, retain and effectively train sales and marketing personnel and the effectiveness of our marketing programs. Any new application that we develop or acquire may not be introduced in a timely or cost-effective manner, and may not achieve the broad market acceptance necessary to generate significant revenue. Any new markets into which we attempt to sell our applications, including new vertical markets and new countries or regions, may not be receptive. Our ability to further penetrate our existing markets depends on the quality of our platform and applications and our ability to design our platform and applications to meet consumer demand. Any failure to enhance or improve our platform and applications as well as introduce new applications may adversely affect our revenue growth and operating results.

***If we are unable to attract new customers or sell additional applications to our existing customers, our revenue and revenue growth will be harmed.***

A part of our growth strategy is to add new customers and sell additional applications to our existing customers. Our ability to maintain existing customers, sell them new applications and to add new customers will depend in significant part on our ability to anticipate industry evolution, practices and standards and to continue to introduce and enhance the applications we offer on a timely basis to keep pace with technological developments. However, we may prove unsuccessful in developing new applications and improving existing applications. In addition, the success of any new application depends on several factors, including the timely completion, introduction and market acceptance of the application. Any new applications we develop or acquire might not be introduced in a timely or cost-effective manner and might not achieve the broad market acceptance necessary to generate significant revenue. If any of our competitors implements new technologies before we are able to implement them or better anticipates market opportunities, those competitors may be able to provide more effective or cheaper products than ours. As a result, we may be unable to renew our agreements with existing customers, attract new customers or grow or maintain our business from existing customers, which could harm our revenue and growth.

***Failure to effectively develop and expand our sales and marketing capabilities could harm our ability to increase our customer base and achieve broader market acceptance of our platform and applications.***

To increase total customers and achieve broader market acceptance of our platform and applications, we will need to expand our sales and marketing organization, including the vertical and geographic distribution of our salesforce and our teams of account executives focused on new accounts, account managers responsible for renewal and growth of existing accounts, and business development representatives targeting new and growth business opportunity creation. We will continue to dedicate significant resources to our global sales and marketing organizations. The effectiveness of our sales and marketing teams has varied over time and may vary in the future, and depends in part on our ability to maintain and improve our platform and applications. All of these efforts will require us to invest significant financial and other resources and we are unlikely to see the benefits, if any, of these increases until future periods after incurring these expenses. Our business will be seriously harmed if our efforts do not generate a correspondingly significant increase in revenue. We may not achieve revenue growth from expanding our salesforce if we are unable to hire, develop and retain talented sales

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personnel, if our new sales personnel are unable to achieve desired productivity levels in a reasonable period of time or if our sales and marketing programs are not effective.

### ***The nature of our business exposes us to inherent liability risks.***

Our applications, including our Mass Notification, Incident Management, IT Alerting, Secure Messaging, Community Engagement, Internet of Things and Safety Connection applications, are designed to communicate life-saving or damage-mitigating information to the right people, on the right device, in the right location, at the right time during mission-critical business events or man-made or natural disasters. Due to the nature of such applications, we are potentially exposed to greater risks of liability for employee acts or omissions or system failures than may be inherent in other businesses. Although substantially all of our customer agreements contain provisions limiting our liability to our customers, we cannot assure you that these limitations will be enforced or the costs of any litigation related to actual or alleged omissions or failures would have a material adverse effect on us even if we prevail. Further, certain of our insurance policies and the laws of some states may limit or prohibit insurance coverage for punitive or certain other types of damages or liability arising from gross negligence and we cannot assure you that we are adequately insured against the risks that we face.

### ***Because we generally recognize revenue ratably over the term of our contract with a customer, downturns or upturns in sales will not be fully reflected in our operating results until future periods.***

Our revenue is primarily generated from subscriptions to our critical communications applications. Our customers do not have the right to take possession of our software platform and applications. Revenue from subscriptions, including additional fees for items such as incremental usage is recognized ratably over the subscription period beginning on the date that the subscription is made available to the customer. Our agreements with our customers typically range from one to three years. As a result, much of the revenue that we report in each quarter is attributable to agreements entered into during previous quarters. Consequently, a decline in sales, customer renewals or market acceptance of our applications in any one quarter would not necessarily be fully reflected in the revenue in that quarter, and would negatively affect our revenue and profitability in future quarters. This ratable revenue recognition also makes it difficult for us to rapidly increase our revenue through additional sales in any period, as revenue from new customers generally is recognized over the applicable agreement term.

### ***We operate in an emerging and evolving market, which may develop more slowly or differently than we expect. If our market does not grow as we expect, or if we cannot expand our platform and applications to meet the demands of this market, our revenue may decline, fail to grow or fail to grow at an accelerated rate, and we may incur operating losses.***

The market for targeted and contextually relevant critical communications is in an early stage of development, and it is uncertain whether this market will develop, and even if it does develop, how rapidly or how consistently it will develop or whether our platform and applications will be accepted into the markets in which we operate and plan to operate. Our success will depend to a substantial extent on the widespread adoption of our platform and applications as an alternative to historical mass notification systems. Some organizations may be reluctant or unwilling to use our platform and applications for a number of reasons, including concerns about additional costs, uncertainty regarding the reliability and security of cloud-based offerings or lack of awareness of the benefits of our platform and applications. Many organizations have invested substantial personnel and financial resources to integrate traditional on-premise applications into their businesses, and therefore may be reluctant or unwilling to migrate to cloud-based applications. Our ability to expand sales of our platform and applications into new markets depends on several factors, including the awareness of our platform and applications; the timely completion, introduction and market acceptance of enhancements to our platform and applications or new applications that we may introduce; our ability to attract, retain and effectively train sales and marketing personnel; our ability to develop relationships with channel partners and communication carriers; the effectiveness of our marketing programs; the costs of our platform and applications; and the success of our competitors. If we are unsuccessful in developing and marketing our platform and applications into new markets, or if organizations do not perceive or value the benefits of our platform

and applications, the market for our platform and applications might not continue to develop or might develop more slowly than we expect, either of which would harm our revenue and growth prospects.

***Our estimates of market opportunity and forecasts of market growth may prove to be inaccurate, and even if the market in which we compete achieves the forecasted growth, our business could fail to grow at similar rates, if at all.***

Market opportunity estimates and growth forecasts are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. Our estimates and forecasts relating to the size and expected growth of our addressable market may prove to be inaccurate. Even if the market in which we compete meets our size estimates and forecasted growth, our business could fail to grow at similar rates, if at all.

***The markets in which we participate are competitive, and if we do not compete effectively, our operating results could be harmed.***

The market for critical communications solutions is highly fragmented, competitive and constantly evolving. With the introduction of new technologies and market entrants, we expect that the competitive environment in which we compete will remain intense going forward. Some of our competitors have made or may make acquisitions or may enter into partnerships or other strategic relationships to provide a more comprehensive offering than they individually had offered or achieve greater economies of scale. In addition, new entrants not currently considered to be competitors may enter the market through acquisitions, partnerships or strategic relationships. We compete on the basis of a number of factors, including:

- application functionality, including local and multi-modal delivery in international markets;
- breadth of offerings;
- performance, security, scalability and reliability;
- compliance with local regulations and multi-language support;
- brand recognition, reputation and customer satisfaction;
- ease of application implementation, use and maintenance; and
- total cost of ownership.

We face competition from in-house solutions, large integrated systems vendors and established and emerging cloud and SaaS and other software providers. Our competitors vary in size and in the breadth and scope of the products and services offered. Many of our competitors and potential competitors have greater name recognition, longer operating histories, more established customer relationships, larger marketing budgets and greater resources than we do. While some of our competitors provide a platform with applications to support one or more use cases, many others provide point-solutions that address a single use case. Further, other potential competitors not currently offering competitive applications may expand their offerings to compete with our solutions. Our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards and customer requirements. An existing competitor or new entrant could introduce new technology that reduces demand for our solutions. In addition to application and technology competition, we face pricing competition. Some of our competitors offer their applications or services at a lower price, which has resulted in pricing pressures. Some of our larger competitors have the operating flexibility to bundle competing applications and services with other offerings, including offering them at a lower price as part of a larger sale. For all of these reasons, we may not be able to compete successfully and competition could result in reduced sales, reduced margins, losses or the failure of our applications to achieve or maintain market acceptance, any of which could harm our business.

***We may not be able to scale our business quickly enough to meet our customers' growing needs and if we are not able to grow efficiently, our operating results could be harmed.***

As usage of our platform and applications grows, we will need to continue making significant investments to develop and implement new applications, technologies, security features and cloud-based infrastructure operations. In addition, we will need to appropriately scale our internal business systems and our services organization, including customer support and professional services, to serve our growing customer base, particularly as our customer demographics change over time. Any failure of, or delay in, these efforts could impair the performance of our platform and applications and reduce customer satisfaction. Even if we are able to upgrade our systems and expand our staff, any such expansion may be expensive and complex, requiring management's time and attention. To the extent that we do not effectively scale our platform and operations to meet the growing needs of our customers, we may not be able to grow as quickly as we anticipate, our customers may reduce or cancel use of our applications and professional services, we may be unable to compete effectively and our business and operating results may be harmed.

***Our quarterly results of operations may fluctuate, and if we fail to meet or exceed the expectations of investors or securities analysts, our stock price could decline.***

Our quarterly revenue and results of operations have historically varied from period to period, and we expect that they will continue to do so as a result of a variety of factors, including many that are outside of our control. Our future revenue is difficult to predict. Our expense levels are relatively fixed in the short term and are based, in part, on our expectations as to future revenue. If revenue levels are below our expectations, we may incur higher losses and may never attain or maintain consistent profitability. Our operating results may be disproportionately affected by a reduction in revenue because a proportionately smaller amount of our expenses varies with our revenues. If our quarterly revenue or results of operations fall below the expectations of investors or securities analysts, the price of our common stock could decline substantially. Fluctuations in our results of operations may be due to a number of factors, including:

- fluctuations in demand for our platform and applications;
- changes in our business or pricing policies in response to competitive pricing actions or otherwise;
- the timing and success of introductions of new applications or upgrades to our platform;
- the impact of acquisition transaction-related amortization expenses and other certain expenses on our gross profit;
- competition, including entry into the industry by new competitors and new offerings by existing competitors;
- changes in the business or pricing policies of our competitors;
- the amount and timing of expenditures, including those related to expanding our operations, increasing research and development, enhancing our platform, introducing new applications or growing our sales and marketing teams;
- our ability to effectively manage growth within existing and new markets, both domestically and internationally;
- changes in the payment terms for our applications;
- our ability to successfully manage any future acquisitions of businesses or technologies;
- the strength of regional, national and global economies; and
- the impact of natural disasters or man-made problems such as cyber incidents and terrorism.

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Due to the foregoing factors and the other risks discussed in this prospectus, you should not rely on quarter-to-quarter comparisons of our results of operations as an indication of our future performance nor should you consider our recent revenue growth or results in any single period to be indicative of our future performance.

***Interruptions or delays in service from our third-party data center providers could impair our ability to make our platform and applications available to our customers, resulting in customer dissatisfaction, damage to our reputation, loss of customers, limited growth and reduction in revenue.***

We currently serve part of our platform functions from third-party data center hosting facilities operated by Century Link and located in the Los Angeles, California and Denver, Colorado areas. In addition, we serve ancillary functions for our customers from third-party data center hosting facilities operated by Interoute located in the United Kingdom, Germany and the Netherlands, and by Elastichost in Toronto, Canada. We also rely on Amazon Web Services located in California and Virginia to host certain of our platform functions and applications. Our operations depend, in part, on our third-party facility providers' abilities to protect these facilities against damage or interruption from natural disasters, power or telecommunications failures, cyber incidents, criminal acts and similar events. In the event that any of our third-party facilities arrangements is terminated, or if there is a lapse of service or damage to a facility, we could experience interruptions in our platform as well as delays and additional expenses in arranging new facilities and services. Any changes in third-party service levels at our data centers or any errors, defects, disruptions, cyber incidents or other performance problems with our solutions could harm our reputation.

Any damage to, or failure of, the systems of our third-party providers could result in interruptions to our platform. Despite precautions taken at our data centers, the occurrence of spikes in usage volume, natural disasters, cyber incidents, acts of terrorism, vandalism or sabotage, closure of a facility without adequate notice or other unanticipated problems could result in lengthy interruptions in the availability of our platform and applications. Problems faced by our third-party data center locations, with the telecommunications network providers with whom they contract, or with the systems by which our telecommunications providers allocate capacity among their customers, including us, could adversely affect the experience of our customers. Because of the nature of the services that we provide to our customers during mission-critical business events or man-made or natural disasters, any such interruption may arise when our customers are most reliant on our applications, thereby compounding the impact of any interruption on our business. Interruptions in our services might reduce our revenue, cause us to issue refunds to customers and subject us to potential liability.

Further, our insurance policies may not adequately compensate us for any losses that we may incur in the event of damage or interruption. Although we benefit from liability protection under the Support Anti-Terrorism by Fostering Effective Technology Act of 2002, the occurrence of any of the foregoing could reduce our revenue, still subject us to liability, cause us to issue credits to customers or cause customers not to renew their subscriptions for our applications, any of which could materially adversely affect our business.

***Failures or reduced accessibility of third-party software on which we rely could impair the availability of our platform and applications and adversely affect our business.***

We license software from third parties for integration into our platform and applications, including open source software. These licenses might not continue to be available to us on acceptable terms, or at all. While we are not substantially dependent upon any third-party software, the loss of the right to use all or a significant portion of our third-party software required for the development, maintenance and delivery of our applications could result in delays in the provision of our applications until we develop or identify, obtain and integrate equivalent technology, which could harm our business.

Any errors or defects in the hardware or software we use could result in errors, interruptions, cyber incidents or a failure of our applications. Any significant interruption in the availability of all or a significant portion of such software could have an adverse impact on our business unless and until we can replace the functionality provided by these applications at a similar cost. Furthermore, this software may not be available on commercially reasonable terms, or at all. The loss of the right to use all or a significant portion of this software could limit

access to our platform and applications. Additionally, we rely upon third parties' abilities to enhance their current applications, develop new applications on a timely and cost-effective basis and respond to emerging industry standards and other technological changes. We may be unable to effect changes to such third-party technologies, which may prevent us from rapidly responding to evolving customer requirements. We also may be unable to replace the functionality provided by the third-party software currently offered in conjunction with our applications in the event that such software becomes obsolete or incompatible with future versions of our platform and applications or is otherwise not adequately maintained or updated.

***If we do not or cannot maintain the compatibility of our platform with third-party applications that our customers use in their businesses, our revenue will decline.***

As a significant percentage of our customers choose to integrate our solutions with certain capabilities provided by third-party providers, the functionality and popularity of our solutions depend, in part, on our ability to integrate our platform and applications with certain third-party systems. Third-party providers may change the features of their technologies, restrict our access to their applications or alter the terms governing use of their applications in an adverse manner. Such changes could functionally limit or terminate our ability to use these third-party technologies in conjunction with our platform and applications, which could negatively impact our solutions and harm our business. If we fail to integrate our solutions with new third-party applications that our customers use, we may not be able to offer the functionality that our customers need, which would negatively impact our ability to generate revenue and adversely impact our business.

***Changes in the mix of sizes or types of businesses or government agencies that purchase our platform and applications purchased or used by our customers could affect our operating results.***

We have sold and will continue to sell to enterprises of all sizes, municipal and regional governmental agencies, non-profit organizations, educational institutions and healthcare organizations. Sales to larger organizations may entail longer sales cycles and more significant selling efforts. Selling to small businesses may involve greater credit risk and uncertainty. Changes in the sizes or types of businesses that purchase our applications could cause our operating results to be adversely affected.

***If our, our customers' or our third-party providers' security measures are compromised or unauthorized access to the data of our customers or their employees, customers or constituents is otherwise obtained, our platform may be perceived as not being secure, our customers may be harmed and may curtail or cease their use of our applications, our reputation may be damaged and we may incur significant liabilities.***

Our operations involve the storage and transmission of data of our customers and their employees, customers and constituents, including personally identifiable information such as contact information and physical location. Security incidents, whether as a result of third-party action, employee or customer error, technology impairment or failure, malfeasance or criminal activity, could result in unauthorized access to, or loss or unauthorized disclosure of, this information, litigation, indemnity obligations and other possible liabilities, as well as negative publicity, which could damage our reputation, impair our sales and harm our customers and our business. Cyber incidents and malicious internet-based activity continue to increase generally, and providers of cloud-based services have been targeted. If third parties with whom we work, such as vendors or developers, violate applicable laws or our security policies, such violations may also put our customers' information at risk and could in turn have an adverse effect on our business. We may be unable to anticipate or prevent techniques used to obtain unauthorized access or to sabotage systems because they change frequently and often are not detected until after an incident has occurred. As we increase our customer base and our brand becomes more widely known and recognized, third parties may increasingly seek to compromise our security controls or gain unauthorized access to our sensitive corporate information or customers' data. Further, because of the nature of the services that we provide to our customers during mission-critical business events or man-made or natural disasters, we may be a unique target for attacks.

Many governments have enacted laws requiring companies to notify individuals of data security incidents or unauthorized transfers involving certain types of personal data. In addition, some of our customers contractually



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require notification of any data security incident. Accordingly, security incidents experienced by our competitors, by our customers or by us may lead to public disclosures, which may lead to widespread negative publicity. Any security compromise in our industry, whether actual or perceived, could harm our reputation, erode customer confidence in the effectiveness of our security measures, negatively impact our ability to attract new customers, cause existing customers to elect not to renew their subscriptions or subject us to third-party lawsuits, regulatory fines or other action or liability, which could materially and adversely affect our business and operating results. Further, the costs of compliance with notification laws and contractual obligations may be significant and any requirement that we provide such notifications as a result of an actual or alleged compromise could have a material and adverse effect on our business.

While we maintain general liability insurance coverage and coverage for errors or omissions, we cannot assure you that such coverage would be adequate or would otherwise protect us from liabilities or damages with respect to claims alleging compromises of personal data or that such coverage will continue to be available on acceptable terms or at all.

***If our applications fail to function in a manner that allows our customers to operate in compliance with regulations and/or industry standards, our revenue and operating results could be harmed.***

Certain of our customers require applications that ensure secure communications given the nature of the content being distributed and associated applicable regulatory requirements. In particular, our healthcare customers rely on our applications to communicate in a manner that is designed to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, the 2009 Health Information Technology for Economic and Clinical Health Act, the Final Omnibus Rule of January 25, 2013, which are collectively referred to as HIPAA, and which impose privacy and data security standards that protect individually identifiable health information by limiting the uses and disclosures of individually identifiable health information and requiring that certain data security standards be implemented to protect this information. As a “business associate” to “covered entities” that are subject to HIPAA, we also have our own compliance obligations directly under HIPAA and pursuant to the business associate agreements that we are required to enter into with our customers that are HIPAA-covered entities.

Governments and industry organizations may also adopt new laws, regulations or requirements, or make changes to existing laws or regulations, that could impact the demand for, or value of, our applications. If we are unable to adapt our applications to changing legal and regulatory standards or other requirements in a timely manner, or if our applications fail to allow our customers to communicate in compliance with applicable laws and regulations, our customers may lose confidence in our applications and could switch to products offered by our competitors, or threaten or bring legal actions against us.

In addition, governmental and other customers may require our applications to comply with certain privacy, security or other certifications and standards. For instance, with regard to transfers of personal data, the EU-US Safe Harbor program, which provided a valid legal basis for transfers of personal data from Europe to the United States, was invalidated in October 2015, which has a significant impact on the transfer of data from the European Union to U.S. companies, including us. While we have other legally recognized mechanisms in place that we believe allow for the lawful transfer of EU customer and employee information to the United States, it is possible that these mechanisms may also be challenged or evolve to include new legal requirements that could have an impact on how we move this data. Recently, the United States and the European Union agreed in principle upon a new framework called the Privacy Shield as a potential replacement for the EU-US Safe Harbor, but it has not yet been finalized, published or interpreted. The Privacy Shield may add significant requirements that could impact our business and result in substantial expense, and changes to our operations, to implement, and it is unclear that it will be appropriate for us. If our applications are late in achieving or fail to achieve or maintain compliance with these certifications and standards, or our competitors achieve compliance with these certifications and standards, we may be disqualified from selling our applications to such customers, or may otherwise be at a competitive disadvantage, either of which would harm our business, results of operations and financial condition. If our policies and practices are, or are perceived to be, insufficient or if our customers have concerns regarding the transfer of data from the European Union to the United States, we could be subject to enforcement actions or investigations by EU Data Protection Authorities or lawsuits by private parties, and our business could be negatively impacted.

***If we fail to offer high-quality customer support, our business and reputation may suffer.***

We offer our customers implementation services and 24/7 support through our customer support centers as well as education, professional development and certification through Everbridge University as well as a range of consulting services. Consulting service offerings include onsite implementation packages, Certified Emergency Management professional operational reviews, dedicated client care representatives, custom web-based training, and development of client-specific communications materials to increase internal awareness of system value.

Providing this education, training and support requires that our personnel who manage our training resources or provide customer support have specific experience, knowledge and expertise, making it more difficult for us to hire qualified personnel and to scale up our support operations. The importance of high-quality customer support will increase as we expand our business and pursue new customers and larger organizations. We may be unable to respond quickly enough to accommodate short-term increases in customer demand for support services or scale our services if our business grows. We also may be unable to modify the format of our support services or change our pricing to compete with changes in support services provided by our competitors. Increased customer demand for these services, without corresponding revenue, could increase our costs and harm our operating results. If we do not help our customers use applications within our platform and provide effective ongoing support, our ability to sell additional applications to, or to retain, existing customers may suffer and our reputation with existing or potential customers may be harmed.

***Our strategy includes pursuing acquisitions, and our potential inability to successfully integrate newly-acquired technologies, assets or businesses may harm our financial results. Future acquisitions of technologies, assets or businesses, which are paid for partially or entirely through the issuance of stock or stock rights, could dilute the ownership of our existing stockholders.***

We have acquired businesses and technology in the past. For example, we acquired Vocal Limited in March 2014, the assets of Nixle, LLC in December 2014 and technology from Tapestry Telemed LLC in December 2014. We believe that part of our continued growth will be driven by acquisitions of other companies or their technologies, assets, businesses and teams. Any acquisitions we complete will give rise to risks, including:

- incurring higher than anticipated capital expenditures and operating expenses;
- failing to assimilate the operations and personnel or failing to retain the key personnel of the acquired company or business;
- failing to integrate the acquired technologies, or incurring significant expense to integrate acquired technologies, into our platform and applications;
- disrupting our ongoing business;
- diverting our management's attention and other company resources;
- failing to maintain uniform standards, controls and policies;
- incurring significant accounting charges;
- impairing relationships with our customers and employees;
- finding that the acquired technology, asset or business does not further our business strategy, that we overpaid for the technology, asset or business or that we may be required to write off acquired assets or investments partially or entirely;
- failing to realize the expected synergies of the transaction;
- being exposed to unforeseen liabilities and contingencies that were not identified prior to acquiring the company; and
- being unable to generate sufficient revenue and profits from acquisitions to offset the associated acquisition costs.

Fully integrating an acquired technology, asset or business into our operations may take a significant amount of time. We may not be successful in overcoming these risks or any other problems encountered with acquisitions. To the extent that we do not successfully avoid or overcome the risks or problems related to any such acquisitions, our results of operations and financial condition could be harmed. Acquisitions also could impact our financial position and capital requirements, or could cause fluctuations in our quarterly and annual results of operations. Acquisitions could include significant goodwill and intangible assets, which may result in future impairment charges that would reduce our stated earnings. We may incur significant costs in our efforts to engage in strategic transactions and these expenditures may not result in successful acquisitions.

We expect that the consideration we might pay for any future acquisitions of technologies, assets, businesses or teams could include stock, rights to purchase stock, cash or some combination of the foregoing. If we issue stock or rights to purchase stock in connection with future acquisitions, net income per share and then-existing holders of our common stock may experience dilution.

***We rely on the performance of our senior management and highly skilled personnel, and if we are unable to attract, retain and motivate well-qualified employees, our business and results of operations could be harmed.***

We believe our success has depended, and continues to depend, on the efforts and talents of senior management and key personnel, including Jaime Ellertson, our President, Chief Executive Officer and Chairman of our board of directors, Kenneth S. Goldman, our Senior Vice President and Chief Financial Officer, and Imad Mouline, our Senior Vice President and Chief Technology Officer. Our future success depends on our continuing ability to attract, develop, motivate and retain highly qualified and skilled employees. Qualified individuals are in high demand, and we may incur significant costs to attract them. In addition, the loss of any of our senior management or key personnel could interrupt our ability to execute our business plan, as such individuals may be difficult to replace. If we do not succeed in attracting well-qualified employees or retaining and motivating existing employees, our business and results of operations could be harmed.

***Uncertain or weakened global economic conditions may adversely affect our industry, business and results of operations.***

Our overall performance depends on domestic and worldwide economic conditions, which may remain challenging for the foreseeable future. Financial developments seemingly unrelated to us or to our industry may adversely affect us and our planned international expansion. The U.S. economy and other key international economies have been impacted by threatened sovereign defaults and ratings downgrades, falling demand for a variety of goods and services, restricted credit, threats to major multinational companies, poor liquidity, reduced corporate profitability, volatility in credit, equity and foreign exchange markets, bankruptcies and overall uncertainty. These conditions affect the rate of information technology spending and could adversely affect our customers' ability or willingness to purchase our applications and services, delay prospective customers' purchasing decisions, reduce the value or duration of their subscriptions or affect renewal rates, any of which could adversely affect our operating results. We cannot predict the timing, strength or duration of the economic recovery or any subsequent economic slowdown worldwide, in the United States, or in our industry.

***Any future litigation against us could be costly and time-consuming to defend.***

We have in the past and may in the future become subject, from time to time, to legal proceedings and claims that arise in the ordinary course of business such as claims brought by our customers in connection with commercial disputes or employment claims made by our current or former employees. Litigation might result in substantial costs and may divert management's attention and resources, which might seriously harm our business, overall financial condition and operating results. Insurance might not cover such claims, might not provide sufficient payments to cover all the costs to resolve one or more such claims and might not continue to be available on terms acceptable to us. A claim brought against us that is uninsured or underinsured could result in unanticipated costs, thereby reducing our operating results and leading analysts or potential investors to reduce their expectations of our performance, which could reduce the trading price of our stock.

***Because our long-term growth strategy involves further expansion of our sales to customers outside the United States, our business will be susceptible to risks associated with international operations.***

A component of our growth strategy involves the further expansion of our operations and customer base internationally. We opened our first international office in Beijing, China in April 2012 and subsequently opened an office in Windsor, United Kingdom in September 2012 as part of our geographic expansion. In March 2014, we acquired Vocal Limited, a mass notification company based in Colchester, United Kingdom. For each of the years ended December 31, 2014 and 2015, approximately 14% of our revenue was derived from customers located outside of the United States. We intend to further expand our local presence in regions such as Europe, the Middle East and Asia. Our current international operations and future initiatives will involve a variety of risks, including:

- currency exchange rate fluctuations and the resulting effect on our revenue and expenses, and the cost and risk of entering into hedging transactions if we chose to do so in the future;
- economic or political instability in foreign markets;
- greater difficulty in enforcing contracts, accounts receivable collection and longer collection periods;
- more stringent regulations relating to technology, including with respect to privacy, data security and the unauthorized use of, access to, or deletion of commercial and personal information, particularly in the European Union;
- difficulties in maintaining our company culture with a dispersed and distant workforce;
- unexpected changes in regulatory requirements, taxes or trade laws;
- differing labor regulations, especially in the European Union, where labor laws are generally more advantageous to employees as compared to the United States, including deemed hourly wage and overtime regulations in these locations;
- challenges inherent in efficiently managing an increased number of employees over large geographic distances, including the need to implement appropriate systems, policies, benefits and compliance programs;
- difficulties in managing a business in new markets with diverse cultures, languages, customs, legal systems, alternative dispute systems and regulatory systems;
- limitations on our ability to reinvest earnings from operations in one country to fund the capital needs of our operations in other countries;
- limited or insufficient intellectual property protection;
- political instability or terrorist activities;
- likelihood of potential or actual violations of domestic and international anticorruption laws, such as the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, or of U.S. and international export control and sanctions regulations, which likelihood may increase with an increase of sales or operations in foreign jurisdictions and operations in certain industries; and
- adverse tax burdens and foreign exchange controls that could make it difficult to repatriate earnings and cash.

Our limited experience in operating our business internationally increases the risk that any potential future expansion efforts that we may undertake will not be successful. If we invest substantial time and resources to expand our international operations and are unable to do so successfully and in a timely manner, our business and operating results will suffer. We continue to implement policies and procedures to facilitate our compliance with

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U.S. laws and regulations applicable to or arising from our international business. Inadequacies in our past or current compliance practices may increase the risk of inadvertent violations of such laws and regulations, which could lead to financial and other penalties that could damage our reputation and impose costs on us.

***If we cannot maintain our company culture as we grow, our success and our business may be harmed.***

We believe our culture has been a key contributor to our success to-date and that the critical nature of the solutions that we provide promotes a sense of greater purpose and fulfillment in our employees. We have invested in building a strong corporate culture and believe it is one of our most important and sustainable sources of competitive advantage. Any failure to preserve our culture could negatively affect our ability to retain and recruit personnel and to effectively focus on and pursue our corporate objectives. As we grow and develop the infrastructure of a public company, we may find it difficult to maintain these important aspects of our company culture. If we fail to maintain our company culture, our business may be adversely impacted.

***We may be subject to additional obligations to collect and remit sales tax and other taxes, and we may be subject to tax liability for past sales, which could harm our business.***

State, local and foreign jurisdictions have differing rules and regulations governing sales, use, value added and other taxes, and these rules and regulations are subject to varying interpretations that may change over time. Further, these jurisdictions' rules regarding tax nexus are complex and vary significantly. If one or more jurisdictions were to assert that we have failed to collect taxes for sales of applications that leverage our platform, we could face the possibility of tax assessments and audits. A successful assertion that we should be collecting additional sales, use, value added or other taxes in those jurisdictions where we have not historically done so and do not accrue for such taxes could result in substantial tax liabilities and related penalties for past sales or otherwise harm our business and operating results.

***We face exposure to foreign currency exchange rate fluctuations.***

As our international operations expand, our exposure to the effects of fluctuations in currency exchange rates grows. While we have primarily transacted with customers and vendors in U.S. dollars historically, we expect to continue to expand the number of transactions with our customers that are denominated in foreign currencies in the future. Fluctuations in the value of the U.S. dollar and foreign currencies may make our subscriptions more expensive for international customers, which could harm our business. Additionally, we incur expenses for employee compensation and other operating expenses at our non-U.S. locations in the local currency for such locations. Fluctuations in the exchange rates between the U.S. dollar and other currencies could result in an increase to the U.S. dollar equivalent of such expenses. These fluctuations could cause our results of operations to differ from our expectations or the expectations of our investors. Additionally, such foreign currency exchange rate fluctuations could make it more difficult to detect underlying trends in our business and results of operations.

We do not currently maintain a program to hedge transactional exposures in foreign currencies. However, in the future, we may use derivative instruments, such as foreign currency forward and option contracts, to hedge certain exposures to fluctuations in foreign currency exchange rates. The use of such hedging activities may not offset any or more than a portion of the adverse financial effects of unfavorable movements in foreign exchange rates over the limited time the hedges are in place. Moreover, the use of hedging instruments may introduce additional risks if we are unable to structure effective hedges with such instruments.

***Our ability to raise capital in the future may be limited, and our failure to raise capital when needed could prevent us from growing.***

Our business and operations may consume resources faster than we anticipate. In the future, we may need to raise additional funds to invest in future growth opportunities. Additional financing may not be available on favorable terms, if at all. If adequate funds are not available on acceptable terms, we may be unable to invest in future growth opportunities, which could seriously harm our business and operating results. If we incur debt, the debt holders would have rights senior to common stockholders to make claims on our assets, and the terms of any debt

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could restrict our operations, including our ability to pay dividends on our common stock. Furthermore, if we issue equity securities, stockholders will experience dilution, and the new equity securities could have rights senior to those of our common stock. Because our decision to issue securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. As a result, our stockholders bear the risk of our future securities offerings reducing the market price of our common stock and diluting their interest.

### ***Our sales cycle can be unpredictable, time-consuming and costly, which could harm our business and operating results.***

Our sales process involves educating prospective customers and existing customers about the use, technical capabilities and benefits of our platform and applications. Prospective customers, especially larger organizations, often undertake a prolonged evaluation process, which typically involves not only our solutions, but also those of our competitors and lasts from four to nine months or longer. We may spend substantial time, effort and money on our sales and marketing efforts without any assurance that our efforts will produce any sales.

Events affecting our customers' businesses may occur during the sales cycle that could affect the size or timing of a purchase, contributing to more unpredictability in our business and operating results. As a result of these factors, we may face greater costs, longer sales cycles and less predictability in the future.

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

As of December 31, 2015, we had federal and state net operating loss carryforwards, or NOLs, of \$39.2 million and \$36.6 million, respectively, due to prior period losses, which expire in various years beginning in 2028 if not utilized. In general, under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, a corporation that undergoes an "ownership change" is subject to limitations on its ability to utilize its NOLs to offset future taxable income. Our existing NOLs may be subject to limitations arising from previous ownership changes. Future changes in our stock ownership, some of which are outside of our control, could result in an ownership change. There is also a risk that due to regulatory changes, such as suspensions on the use of NOLs, or other unforeseen reasons, our existing NOLs could expire or otherwise be unavailable to offset future income tax liabilities. Additionally, state NOLs generated in one state cannot be used to offset income generated in another state. For these reasons, we may not be able to realize a tax benefit from the use of our NOLs, whether or not we attain profitability.

### ***Our business is subject to the risks of earthquakes, fires, floods and other natural catastrophic events and to interruption by man-made problems such as cyber incidents or terrorism.***

Our business and operations are vulnerable to damage or interruption from earthquakes, fires, floods, power losses, telecommunications failures, terrorist attacks, acts of war, human errors, break-ins and similar events affecting us or third-party vendors we rely on, any of which could have a material adverse impact on our business, operating results and financial condition. Acts of terrorism, which may be targeted at metropolitan areas that have higher population density than rural areas, could cause disruptions in our or our customers' businesses or the economy as a whole. Our servers and those of our third-party vendors may also be vulnerable to cyber incidents, break-ins and similar disruptions from unauthorized tampering with our computer systems, which could lead to interruptions, delays, loss of critical data or the unauthorized disclosure of confidential customer data. We or our customers may not have sufficient protection or recovery plans in place, and our business interruption insurance may be insufficient to compensate us for losses that may occur. As we rely heavily on our servers, computer and communications systems, that of third parties and the Internet to conduct our business and provide high quality customer service, such disruptions could have an adverse effect on our business, operating results and financial condition.

### ***Impairment of goodwill and other intangible assets would result in a decrease in our earnings.***

Current accounting rules provide that goodwill and other intangible assets with indefinite useful lives may not be amortized but instead must be tested for impairment at least annually. These rules also require that intangible

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assets with definite useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. We have substantial goodwill and other intangible assets, and we would be required to record a significant charge to earnings in our consolidated financial statements during the period in which any impairment of our goodwill or intangible assets is determined. Any impairment charges or changes to the estimated amortization periods would result in a decrease in our earnings.

***Our reported financial results may be adversely affected by changes in accounting principles generally accepted in the United States.***

Generally accepted accounting principles in the United States are subject to interpretation by the Financial Accounting Standards Board, or FASB, the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results, and could affect the reporting of transactions completed before the announcement of a change.

### **Risks Related to Our Intellectual Property**

***If we fail to protect our intellectual property and proprietary rights adequately, our business could be harmed.***

Our future success and competitive position depend in part on our ability to protect our intellectual property and proprietary technologies. To safeguard these rights, we rely on a combination of patent, trademark, copyright and trade secret laws and contractual protections in the United States and other jurisdictions, some of which afford only limited protection.

As of March 31, 2016, we had eight issued patents and five patent applications pending in the United States and one patent application pending under the European Patent Convention relating to our U.S. applications. We cannot assure you that any patents will issue from any patent applications, that patents that issue from such applications will give us the protection that we seek or that any such patents will not be challenged, invalidated, or circumvented. Any patents that may issue in the future from our pending or future patent applications may not provide sufficiently broad protection and may not be enforceable in actions against alleged infringers. In addition, we have registered the “Everbridge” and “Nixle” names in the United States, and have registered the “Everbridge” name in the European Union. We have registrations and/or pending applications for additional marks in the United States; however, we cannot assure you that any future trademark registrations will be issued for pending or future applications or that any registered trademarks will be enforceable or provide adequate protection of our proprietary rights.

In order to protect our unpatented proprietary technologies and processes, we rely on trade secret laws and confidentiality agreements with our employees, consultants, vendors and others. Despite our efforts to protect our proprietary technology and trade secrets, unauthorized parties may attempt to misappropriate, reverse engineer or otherwise obtain and use them. In addition, others may independently discover our trade secrets, in which case we would not be able to assert trade secret rights, or develop similar technologies and processes. Further, the contractual provisions that we enter into may not prevent unauthorized use or disclosure of our proprietary technology or intellectual property rights and may not provide an adequate remedy in the event of unauthorized use or disclosure of our proprietary technology or intellectual property rights. Effective trade secret protection may not be available in every country in which our services are available or where we have employees or independent contractors. The loss of trade secret protection could make it easier for third parties to compete with our solutions by copying functionality. In addition, any changes in, or unexpected interpretations of, the trade secret and employment laws in any country in which we operate may compromise our ability to enforce our trade secret and intellectual property rights. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our competitive business position.

In addition, to protect our intellectual property rights, we may be required to spend significant resources to monitor and protect these rights. Litigation brought to protect and enforce our intellectual property rights could



be costly, time-consuming and distracting to management and could result in the impairment or loss of portions of our intellectual property. Failure to adequately enforce our intellectual property rights could also result in the impairment or loss of those rights. Furthermore, our efforts to enforce our intellectual property rights may be met with defenses, counterclaims and countersuits attacking the validity and enforceability of our intellectual property rights. Patent, copyright, trademark and trade secret laws offer us only limited protection and the laws of many of the countries in which we sell our services do not protect proprietary rights to the same extent as the United States and Europe. Accordingly, defense of our trademarks and proprietary technology may become an increasingly important issue as we continue to expand our operations and solution development into countries that provide a lower level of intellectual property protection than the United States or Europe. Policing unauthorized use of our intellectual property and technology is difficult and the steps we take may not prevent misappropriation of the intellectual property or technology on which we rely. For example, in the event of inadvertent or malicious disclosure of our proprietary technology, trade secret laws may no longer afford protection to our intellectual property rights in the areas not otherwise covered by patents or copyrights. Accordingly, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property.

We may elect to initiate litigation in the future to enforce or protect our proprietary rights or to determine the validity and scope of the rights of others. That litigation may not be ultimately successful and could result in substantial costs to us, the reduction or loss in intellectual property protection for our technology, the diversion of our management's attention and harm to our reputation, any of which could materially and adversely affect our business and results of operations.

Our failure or inability to adequately protect our intellectual property and proprietary rights could harm our business, financial condition and results of operations.

***An assertion by a third party that we are infringing its intellectual property could subject us to costly and time-consuming litigation or expensive licenses that could harm our business and results of operations.***

Patent and other intellectual property disputes are common in our industry and we have been involved in such disputes from time to time in the ordinary course of our business. Some companies, including some of our competitors, own large numbers of patents, copyrights and trademarks, which they may use to assert claims against us. Third parties may in the future assert claims of infringement, misappropriation or other violations of intellectual property rights against us. They may also assert such claims against our customers whom we typically indemnify against claims that our solution infringes, misappropriates or otherwise violates the intellectual property rights of third parties. As the numbers of products and competitors in our market increase and overlaps occur, claims of infringement, misappropriation and other violations of intellectual property rights may increase. Any claim of infringement, misappropriation or other violation of intellectual property rights by a third party, even those without merit, could cause us to incur substantial costs defending against the claim and could distract our management from our business.

As we seek to extend our platform and applications, we could be constrained by the intellectual property rights of others and it may also be more likely that competitors or other third parties will claim that our solutions infringe their proprietary rights. We might not prevail in any intellectual property infringement litigation given the complex technical issues and inherent uncertainties in such litigation. Defending such claims, regardless of their merit, could be time-consuming and distracting to management, result in costly litigation or settlement, cause development delays or require us to enter into royalty or licensing agreements. In addition, we currently have a limited portfolio of issued patents compared to our larger competitors, and therefore may not be able to effectively utilize our intellectual property portfolio to assert defenses or counterclaims in response to patent infringement claims or litigation brought against us by third parties. Further, litigation may involve patent holding companies or other adverse patent owners who have no relevant applications or revenue and against which our potential patents provide no deterrence, and many other potential litigants have the capability to dedicate substantially greater resources to enforce their intellectual property rights and to defend claims that may be brought against them. If our platform or any of our applications exceed the scope of in-bound licenses or violate any third-party proprietary rights, we could

be required to withdraw those applications from the market, re-develop those applications or seek to obtain licenses from third parties, which might not be available on reasonable terms or at all. Any efforts to re-develop our platform and our applications, obtain licenses from third parties on favorable terms or license a substitute technology might not be successful and, in any case, might substantially increase our costs and harm our business, financial condition and results of operations. If we were compelled to withdraw any of our applications from the market, our business, financial condition and results of operations could be harmed.

***We have indemnity obligations to our customers and certain of our channel partners for certain expenses and liabilities resulting from intellectual property infringement claims regarding our platform and our applications, which could force us to incur substantial costs.***

We have indemnity obligations to our customers and certain of our channel partners for intellectual property infringement claims regarding our platform and our applications. As a result, in the case of infringement claims against these customers and channel partners, we could be required to indemnify them for losses resulting from such claims or to refund amounts they have paid to us. We also expect that some of our channel partners with whom we do not have express contractual obligations to indemnify for intellectual property infringement claims may seek indemnification from us in connection with infringement claims brought against them. We may elect to indemnify these channel partners where we have no contractual obligation to indemnify them and we will evaluate each such request on a case-by-case basis. If a channel partner elects to invest resources in enforcing a claim for indemnification against us, we could incur significant costs disputing it. If we do not succeed in disputing it, we could face substantial liability.

***We may be subject to damages resulting from claims that our employees or contractors have wrongfully used or disclosed alleged trade secrets of their former employers or other parties.***

We have in the past and may in the future be subject to claims that employees or contractors, or we, have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of our competitors or other parties. Litigation may be necessary to defend against these claims. If we fail in defending against such claims, a court could order us to pay substantial damages and prohibit us from using technologies or features that are essential to our solutions, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of these parties. In addition, we may lose valuable intellectual property rights or personnel. A loss of key personnel or their work product could hamper or prevent our ability to develop, market and support potential solutions or enhancements, which could severely harm our business. Even if we are successful in defending against these claims, such litigation could result in substantial costs and be a distraction to management.

***The use of open source software in our platform and applications may expose us to additional risks and harm our intellectual property.***

Our platform and some of our applications use or incorporate software that is subject to one or more open source licenses and we may incorporate open source software in the future. Open source software is typically freely accessible, usable and modifiable; however, certain open source software licenses require a user who intends to distribute the open source software as a component of the user's software to disclose publicly part or all of the source code to the user's software. In addition, certain open source software licenses require the user of such software to make any modifications or derivative works of the open source code available to others on potentially unfavorable terms or at no cost. Use and distribution of open source software may entail greater risks than use of third-party commercial software, as open source licensors generally do not provide warranties or other contractual protections regarding infringement claims or the quality of the code.

The terms of many open source licenses to which we are subject have not been interpreted by U.S. or foreign courts, and accordingly there is a risk that those licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to commercialize our platform and applications. In that event, we could be required to seek licenses from third parties in order to continue offering our platform and applications, to re-develop our platform and applications, to discontinue sales of our platform and applications or

to release our proprietary software code in source code form under the terms of an open source license, any of which could harm our business. Further, given the nature of open source software, it may be more likely that third parties might assert copyright and other intellectual property infringement claims against us based on our use of these open source software programs. Litigation could be costly for us to defend, have a negative effect on our operating results and financial condition or require us to devote additional research and development resources to change our applications.

Although we are not aware of any use of open source software in our platform and applications that would require us to disclose all or a portion of the source code underlying our core applications, it is possible that such use may have inadvertently occurred in deploying our platform and applications, or that persons or entities may claim such disclosure to be required. Disclosing our proprietary source code could allow our competitors to create similar products with lower development effort and time and ultimately could result in a loss of sales for us. Disclosing the source code of our proprietary software could also make it easier for cyber attackers and other third parties to discover vulnerabilities in or to defeat the protections of our products, which could result in our products failing to provide our customers with the security they expect. Any of these events could have a material adverse effect on our business, operating results and financial condition. Additionally, if a third-party software provider has incorporated certain types of open source software into software we license from such third party for our platform and applications without our knowledge, we could, under certain circumstances, be required to disclose the source code to our platform and applications. This could harm our intellectual property position and our business, results of operations and financial condition.

## **Risks Related to Government Regulation**

### ***Failure to comply with governmental laws and regulations could harm our business.***

Our business is subject to regulation by various federal, state, local and foreign governments. In certain jurisdictions, these regulatory requirements may be more stringent than those in the United States. Noncompliance with applicable regulations or requirements could subject us to investigations, sanctions, enforcement actions, disgorgement of profits, fines, damages, civil and criminal penalties, injunctions or other collateral consequences. If any governmental sanctions are imposed, or if we do not prevail in any possible civil or criminal litigation, our business, results of operations, and financial condition could be materially adversely affected. In addition, responding to any action will likely result in a significant diversion of management's attention and resources and an increase in professional fees. Enforcement actions and sanctions could harm our business, reputation, results of operations and financial condition.

### ***A portion of our revenue is generated by subscriptions sold to governmental entities and heavily regulated organizations, which are subject to a number of challenges and risks.***

A portion of our revenue is generated by subscriptions sold to government entities. Additionally, many of our current and prospective customers, such as those in the financial services, and healthcare and life sciences industries, are highly regulated and may be required to comply with more stringent regulations in connection with subscribing to and implementing our applications. Selling subscriptions to these entities can be highly competitive, expensive and time consuming, often requiring significant upfront time and expense without any assurance that we will successfully complete a sale.

Furthermore, engaging in sales activities to foreign governments introduces additional compliance risks specific to the Foreign Corrupt Practices Act, the U.K. Bribery Act and other similar statutory requirements prohibiting bribery and corruption in the jurisdictions in which we operate. Governmental and highly regulated entities often require contract terms that differ from our standard arrangements. For example, the federal government provides grants to certain state and local governments for our applications and if such governmental entities do not continue to receive these grants, they have the ability to terminate their contracts without penalty. Governmental and highly regulated entities impose compliance requirements that are complicated, require preferential pricing or "most favored nation" terms and conditions, or are otherwise time consuming and expensive to satisfy. If we undertake to meet special standards or requirements and do not meet them, we could be subject to increased

liability from our customers or regulators. Even if we do meet these special standards or requirements, the additional costs associated with providing our applications to government and highly regulated customers could harm our margins. Moreover, changes in the underlying regulatory conditions that affect these types of customers could harm our ability to efficiently provide our applications to them and to grow or maintain our customer base.

Governmental demand and payment for our applications may also be impacted by public sector budgetary cycles and funding authorizations, with funding reductions or delays adversely affecting public sector demand for our solutions.

***We are subject to governmental regulation and other legal obligations, particularly related to privacy, data protection and information security, and our actual or perceived failure to comply with such obligations could harm our business. Compliance with such laws could also impair our efforts to maintain and expand our customer base, and thereby decrease our revenue.***

Our handling and storage of data is subject to a variety of laws and regulations, including regulation by various government agencies, including the U.S. Federal Trade Commission, or FTC, and various state, local and foreign agencies. We collect personally identifiable information and other data directly from our customers and through our channel partners. We also process or otherwise handle personally identifiable information about our customers' employees, customers and constituents in certain circumstances. We use this information to provide applications to our customers, to support, expand and improve our business. We may also share customers' personally identifiable information with third parties as described in our privacy policy and/or as otherwise authorized by our customers.

The U.S. federal and various state and foreign governments have adopted or proposed legislation that regulates the collection, distribution, use and storage of personal information of individuals and that mandates security requirements with respect to certain personally identifiable information. In the United States, the FTC and numerous state attorneys general are imposing standards for the online collection, distribution, use and storage of data by applying federal and state consumer protection laws. The lack of a clear and universal standard for protecting such information means, however, that these obligations may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and may conflict with other requirements or our practices. Any failure or perceived failure by us to comply with privacy or security laws, policies, legal obligations or industry standards or any security incident that results in the unauthorized release or transfer of sensitive corporate information, personally identifiable information or other customer data may result in governmental enforcement actions, litigation, fines and penalties and/or adverse publicity, and could cause our customers to lose trust in us, which could have an adverse effect on our reputation and business.

Some proposed laws or regulations concerning privacy, data protection and information security are in their early stages, and we cannot yet determine how these laws and regulations may be interpreted nor can we determine the impact these proposed laws and regulations, may have on our business. Such proposed laws and regulations may require companies to implement privacy and security policies, permit users to access, correct and delete personal information stored or maintained by such companies, inform individuals of security breaches that affect their personal information, and, in some cases, obtain individuals' consent to use personal information for certain purposes. In addition, a foreign government could require that any personal information collected in a country not be disseminated outside of that country, and we may not be currently equipped to comply with such a requirement. Our failure to comply with federal, state and international data privacy laws and regulators could harm our ability to successfully operate our business and pursue our business goals.

In addition, several foreign countries and governmental bodies, including the European Union and Canada, have regulations governing the collection and use of personal information obtained from their residents, which are often more restrictive than those in the United States. Laws and regulations in these jurisdictions apply broadly to the collection, use, storage, disclosure and security of personal information that identifies or may be used to identify an individual, such as names, email addresses and in some jurisdictions, Internet Protocol, or IP, addresses. Such regulations and laws may be modified and new laws may be enacted in the future. Within the

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European Union, legislators are currently considering a revision to the 1995 European Union Data Protection Directive that would include more stringent operational requirements for processors and controllers of personal information and that would impose significant penalties for non-compliance. If our privacy or data security measures fail to comply with current or future laws and regulations, we may be subject to litigation, regulatory investigations, fines or other liabilities, as well as negative publicity and a potential loss of business. Moreover, if future laws and regulations limit our customers' ability to use and share personal information or our ability to store, process and share personal information, demand for our applications could decrease, our costs could increase, and our business, results of operations and financial condition could be harmed.

New interpretations of existing laws, regulations or standards could require us to incur additional compliance costs and could restrict our business operations, and any failure by us to comply with applicable requirements may result in governmental enforcement actions, litigation, fines and penalties or adverse publicity, which could have an adverse effect on our reputation and business.

***Potential regulatory requirements placed on our applications and content could impose increased costs on us, delay or prevent our introduction of new applications, and impair the function or value of our existing applications.***

Certain of our existing applications, such as HipaaBridge, a tailored version of our Secure Messaging application that is designed to comply with HIPAA, are and are likely to continue to be subject to increasing regulatory requirements in a number of ways and as we continue to introduce new applications, we may be subject to additional regulatory requirements and other risks that could be costly and difficult to comply with or that could harm our business. In addition, we market our applications and professional services in certain countries outside of the United States and plan to expand our local presence in regions such as Europe, the Middle East and Asia. If additional legal and/or regulatory requirements are implemented in the foreign countries in which we provide our services, the cost of developing or selling our applications may increase. As these requirements proliferate and as existing legal requirements become subject to new interpretations, we must change or adapt our applications and professional services to comply. Changing regulatory requirements might render certain of our applications obsolete or might block us from accomplishing our work or from developing new applications. This might in turn impose additional costs upon us to comply or to further develop our applications. It might also make introduction of new applications or service types more costly or more time-consuming than we currently anticipate. It might even prevent introduction by us of new applications or cause the continuation of our existing applications or professional services to become unprofitable or impossible.

### **Risks Related to this Offering and Ownership of Our Common Stock**

***Our stock price may be volatile and you may lose some or all of your investment.***

The initial public offering price for the shares of our common stock will be determined by negotiations between us and the representative of the underwriters and may not be indicative of the market price of our common stock following this offering. The market price of our common stock may be highly volatile and may fluctuate substantially as a result of a variety of factors, some of which are related in complex ways, including:

- actual or anticipated fluctuations in our financial condition and operating results;
- variance in our financial performance from expectations of securities analysts;
- changes in the prices of our applications;
- changes in our projected operating and financial results;
- changes in laws or regulations applicable to our platform and applications;
- announcements by us or our competitors of significant business developments, acquisitions or new applications;
- our involvement in any litigation;

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- our sale of our common stock or other securities in the future;
- changes in senior management or key personnel;
- trading volume of our common stock;
- changes in the anticipated future size and growth rate of our market; and
- general economic, regulatory and market conditions.

Recently, the stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations have often been unrelated or disproportionate to the operating performance of those companies. Broad market and industry fluctuations, as well as general economic, political, regulatory and market conditions, may negatively impact the market price of our common stock. If the market price of our common stock after this offering does not exceed the initial public offering price, you may lose some or all of your investment. In the past, companies that have experienced volatility in the market price of their securities have been subject to securities class action litigation. We may be the target of this type of litigation in the future, which could result in substantial costs and divert our management's attention.

***No public market for our common stock currently exists and an active trading market may not develop or be sustained following this offering.***

Prior to this initial public offering, there has been no public market for our common stock. An active trading market may not develop or be sustained following the completion of this offering. The lack of an active market may impair your ability to sell your shares at the time you wish to sell them or at a price that you consider reasonable. The lack of an active market may also reduce the fair market value or the trading price of your shares. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares and may impair our ability to acquire other companies or technologies by using our shares as consideration.

***We are an emerging growth company, and we cannot be certain if the reduced reporting requirements applicable to emerging growth companies will make our common stock less attractive to investors.***

We are an emerging growth company, as defined in the Jumpstart Our Business Startups Act, or the JOBS Act, enacted in April 2012. For as long as we continue to be an emerging growth company, we may take advantage of exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies, including not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, as amended, or the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in this prospectus and our periodic reports and proxy statements and exemptions from the requirements of holding nonbinding advisory votes on executive compensation and stockholder approval of any golden parachute payments not previously approved. We could be an emerging growth company for up to five years following the year in which we complete this offering, although circumstances could cause us to lose that status earlier. We will remain an emerging growth company until the earlier of (1) the last day of the fiscal year (a) following the fifth anniversary of the completion of this offering, (b) in which we have total annual gross revenue of at least \$1 billion or (c) in which we are deemed to be a large accelerated filer, which requires the market value of our common stock that is held by non-affiliates to exceed \$700 million as of the prior June 30th, and (2) the date on which we have issued more than \$1 billion in non-convertible debt during the prior three-year period. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

***As a result of becoming a public company, we will be obligated to develop and maintain a system of effective internal control over financial reporting. We may not complete our analysis of our internal control over financial reporting in a timely manner, or these internal controls may not be determined to be effective, which may harm investor confidence in our company and, as a result, the value of our common stock.***

We will be required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting in the second annual report we file with the U.S. Securities and Exchange Commission, or SEC. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. However, our auditors will not be required to formally attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 until we are no longer an “emerging growth company” as defined in the JOBS Act if we take advantage of the exemptions available to us through the JOBS Act.

We are in the very early stages of the costly and challenging process of compiling the system and process documentation necessary to perform the evaluation needed to comply with Section 404. In this regard, we will need to continue to dedicate internal resources, engage outside consultants and adopt a detailed work plan to assess and document the adequacy of internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing that controls are functioning as documented and implement a continuous reporting and improvement process for internal control over financial reporting. As we transition to the requirements of reporting as a public company, we may need to add additional finance staff. We may not be able to remediate any future material weaknesses, or to complete our evaluation, testing and any required remediation in a timely fashion. During the evaluation and testing process, if we identify one or more material weaknesses in our internal control over financial reporting, we will be unable to assert that our internal controls are effective. If we are unable to assert that our internal control over financial reporting is effective, or if our auditors are unable to express an opinion on the effectiveness of our internal controls when they are required to issue such opinion, investors could lose confidence in the accuracy and completeness of our financial reports, which could harm our stock price.

***If securities or industry analysts do not publish research or reports about our business, or if they issue an adverse or misleading opinion regarding our stock, our stock price and trading volume could decline.***

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts publish about us or our business. We do not currently have and may never obtain research coverage by securities and industry analysts and we will have no control over any analysts that may choose to cover us. If no or few securities or industry analysts commence coverage of us, the trading price for our stock would be negatively impacted. In the event that we obtain securities or industry analyst coverage, if any of the analysts who cover us issue an adverse or misleading opinion regarding us, our business model, our intellectual property or our stock performance, or if operating results fail to meet the expectations of analysts, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

***We will incur increased costs as a result of operating as a public company and our management will be required to devote substantial time to new compliance initiatives and corporate governance practices.***

As a public company, and particularly after we are no longer an “emerging growth company,” we will incur significant legal, accounting and other expenses that we did not incur as a private company. The Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the listing requirements of the NASDAQ Stock Market and other applicable securities rules and regulations impose various requirements on public companies. Our management and other personnel will need to devote a substantial amount of time to compliance with these requirements. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. For example, we expect that these rules and regulations may make it more difficult and more expensive for us to obtain directors’ and officers’ liability insurance, which could make it more difficult for us to attract and retain qualified members of our board of directors. We cannot predict or estimate the amount of additional costs we will incur as a public company or the timing of such costs.

***We do not anticipate paying any cash dividends in the foreseeable future, and accordingly, stockholders must rely on stock appreciation for any return on their investment.***

After the completion of this offering, we do not anticipate declaring any cash dividends to holders of our common stock in the foreseeable future. In addition, our ability to pay cash dividends is currently prohibited by the terms of our existing credit agreement and may be prohibited by future credit agreements. As a result, capital appreciation, if any, of our common stock will be your sole source of gain for the foreseeable future.

***Our executive officers, directors and principal stockholders own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.***

Following this offering, our directors, executive officers and holders of more than 5% of our common stock, all of whom are represented on our board of directors, together with their affiliates will beneficially own % of the voting power of our outstanding capital stock. As a result, these stockholders will, immediately following this offering, be able to determine the outcome of matters submitted to our stockholders for approval. This ownership could affect the value of your shares of common stock by, for example, these stockholders electing to delay, defer or prevent a change in corporate control, merger, consolidation, takeover or other business combination. This concentration of ownership may also adversely affect the market price of our common stock.

***We may invest or spend the proceeds of this offering in ways with which you may not agree or in ways which may not yield a return.***

A portion of the net proceeds from this offering may be used for general corporate purposes, including working capital. We may also use a portion of the net proceeds to acquire complementary businesses, applications, services or technologies. However, we do not have any agreements or commitments for any acquisitions at this time. Our management will have considerable discretion in the application of the net proceeds, and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. The net proceeds may be invested with a view towards long-term benefits for our stockholders and this may not increase our operating results or market value. The failure by our management to apply these funds effectively may adversely affect the return on your investment.

***Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us more difficult, limit attempts by our stockholders to replace or remove our current management and limit the market price of our common stock.***

Provisions in our certificate of incorporation and bylaws, as amended and restated in connection with this offering, may have the effect of delaying or preventing a change in control or changes in our management. Our amended and restated certificate of incorporation and amended and restated bylaws will include provisions that:

- authorize our board of directors to issue preferred stock, without further stockholder action and with voting liquidation, dividend and other rights superior to our common stock;
- require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent, and limit the ability of our stockholders to call special meetings;
- establish an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for director nominees;
- establish that our board of directors is divided into three classes, with directors in each class serving three-year staggered terms;
- require the approval of holders of two-thirds of the shares entitled to vote at an election of directors to adopt, amend or repeal our bylaws or amend or repeal the provisions of our certificate of incorporation regarding the election and removal of directors and the ability of stockholders to take action by written consent or call a special meeting;



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- prohibit cumulative voting in the election of directors; and
- provide that vacancies on our board of directors may be filled only by the vote of a majority of directors then in office, even though less than a quorum.

These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the General Corporation Law of the State of Delaware, which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any “interested” stockholder for a period of three years following the date on which the stockholder became an “interested” stockholder. Any of the foregoing provisions could limit the price that investors might be willing to pay in the future for shares of our common stock, and they could deter potential acquirers of our company, thereby reducing the likelihood that you would receive a premium for your common stock in an acquisition.

***Our amended and restated certificate of incorporation will designate the Court of Chancery of the State of Delaware as the exclusive forum for certain litigation that may be initiated by our stockholders, which could limit our stockholders’ ability to obtain a favorable judicial forum for disputes with us.***

Pursuant to our amended and restated certificate of incorporation, as will be in effect upon the completion of this offering, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for (1) any derivative action or proceeding brought on our behalf, (2) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders, (3) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law, our amended and restated certificate of incorporation or our amended and restated bylaws or (4) any action asserting a claim governed by the internal affairs doctrine. Our amended and restated certificate of incorporation will further provide that any person or entity purchasing or otherwise acquiring any interest in shares of our common stock is deemed to have notice of and consented to the foregoing provision. The forum selection clause in our amended and restated certificate of incorporation may limit our stockholders’ ability to obtain a favorable judicial forum for disputes with us.

***Future sales of our common stock in the public market could cause our share price to decline.***

After this offering, there will be                      shares of our common stock outstanding. Sales of a substantial number of shares of our common stock in the public market after this offering, or the perception that these sales might occur, could depress the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. Of our issued and outstanding shares of our common stock, all of the shares sold in this offering will be freely transferrable without restrictions or further registration under the Securities Act, except for any shares acquired by our affiliates, as defined in Rule 144 under the Securities Act. The remaining                      shares outstanding after this offering will be restricted as a result of securities laws, lock-up agreements or other contractual restrictions that restrict transfers for 180 days after the date of this prospectus.

Additionally, following the completion of this offering, stockholders holding approximately        % of our common stock outstanding, will, after the expiration of the lock-up periods specified above, have the right, subject to various conditions and limitations, to include their shares of our common stock in registration statements relating to our securities. If the offer and sale of these shares are registered, they will be freely tradable without restriction under the Securities Act. Shares of common stock sold under such registration statements can be freely sold in the public market. In the event such registration rights are exercised and a large number of shares of common stock are sold in the public market, such sales could reduce the trading price of our common stock. See “Description of Capital Stock—Registration Rights” and “Shares Eligible for Future Sale—Lock-Up Agreements” for a more detailed description of these registration rights and the lock-up period.

We intend to file a registration statement on Form S-8 under the Securities Act to register the total number of shares of our common stock that may be issued under our equity incentive plans. See “Shares Eligible for Future

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Sale—Form S-8 Registration Statements” for a more detailed description of the shares of common stock that will be available for future sale upon the registration and issuance of such shares, subject to any applicable vesting or lock-up period or other restrictions provided under the terms of the applicable plan and/or the option agreements entered into with the option holders. In addition, in the future we may issue common stock or other securities if we need to raise additional capital. The number of new shares of our common stock issued in connection with raising additional capital could constitute a material portion of the then outstanding shares of our common stock.

***Purchasers in this offering will experience immediate and substantial dilution in the book value of their investment.***

The initial public offering price of our common stock will be substantially higher than the pro forma net tangible book value per share of our common stock, as of December 31, 2015, immediately after this offering. Therefore, if you purchase shares of our common stock in this offering, you will suffer immediate dilution of \$        per share, in net tangible book value after giving effect to the sale of common stock in this offering at an assumed public offering price of \$        per share, the midpoint of the estimated initial public offering price range set forth on the cover page of this prospectus. We have also issued options to acquire common stock at prices below the initial public offering price. To the extent outstanding options are ultimately exercised, there will be further dilution to investors who purchase shares in this offering. As a result of the dilution to investors purchasing shares in this offering, investors may receive significantly less than the purchase price paid in this offering, if anything, in the event of our liquidation. See “Dilution.”

## **SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus contains forward-looking statements that involve substantial risks and uncertainties. The forward-looking statements are contained principally in the sections of this prospectus entitled “Prospectus Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and “Business,” but are also contained elsewhere in this prospectus. In some cases, you can identify forward-looking statements by the words “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “might,” “objective,” “ongoing,” “plan,” “predict,” “project,” “potential,” “should,” “will,” or “would,” or the negative of these terms, or other comparable terminology intended to identify statements about the future. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from the information expressed or implied by these forward-looking statements. Although we believe that we have a reasonable basis for each forward-looking statement contained in this prospectus, we caution you that these statements are based on a combination of facts and factors currently known by us and our expectations of the future, about which we cannot be certain. Forward-looking statements include statements about:

- our ability to continue to add new customers, maintain existing customers and sell new applications to new and existing customers;
- the effects of increased competition as well as innovations by new and existing competitors in our market;
- our ability to adapt to technological change and effectively enhance, innovate and scale our applications;
- our ability to effectively manage or sustain our growth and to achieve profitability on an annual and consistent basis;
- potential acquisitions and integration of complementary business and technologies;
- our expected use of proceeds;
- our ability to maintain, or strengthen awareness of, our brand;
- perceived or actual integrity, reliability, quality or compatibility problems with our applications, including related to unscheduled downtime or outages;
- statements regarding future revenue, hiring plans, expenses, capital expenditures, capital requirements and stock performance;
- our ability to attract and retain qualified employees and key personnel and further expand our overall headcount;
- our ability to grow both domestically and internationally;
- our ability to stay abreast of new or modified laws and regulations that currently apply or become applicable to our business both in the United States and internationally;
- our ability to maintain, protect and enhance our intellectual property;
- costs associated with defending intellectual property infringement and other claims; and
- the future trading prices of our common stock and the impact of securities analysts’ reports on these prices.

We caution you that the foregoing list may not contain all of the forward-looking statements made in this prospectus.

You should refer to the “Risk Factors” section of this prospectus for a discussion of important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements.

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As a result of these factors, we cannot assure you that the forward-looking statements in this prospectus will prove to be accurate. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame or at all. We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. The Private Securities Litigation Reform Act of 1995 and Section 27A of the Securities Act of 1933, as amended, or the Securities Act, do not protect any forward-looking statements that we make in connection with this offering. In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this prospectus, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

You should read this prospectus and the documents that we reference in this prospectus and have filed as exhibits to the registration statement, of which this prospectus is a part, completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

## INDUSTRY AND MARKET DATA

Unless otherwise indicated, information contained in this prospectus concerning our industry and the market in which we operate, including our general expectations and market position, market opportunity and market size is based on information from various sources, including independent industry publications by Gartner, Inc., Frost & Sullivan and Markets and Markets. In presenting this information, we have also made assumptions based on such data and other similar sources, and on our knowledge of, and in our experience to date in, the markets for our applications. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates. Although neither we nor the underwriters have independently verified the accuracy or completeness of any third-party information, we believe the market position, market opportunity and market size information included in this prospectus is reliable. The industry in which we operate is subject to a high degree of uncertainty and risk due to a variety of factors, including those described in the “Risk Factors” section. These and other factors could cause results to differ materially from those expressed in the estimates made by the independent parties and by us.

## USE OF PROCEEDS

We estimate that the net proceeds from our issuance and sale of \_\_\_\_\_ shares of our common stock in this offering will be approximately \$ \_\_\_\_\_ million, based upon an assumed initial public offering price of \$ \_\_\_\_\_ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any of the proceeds from the sale of shares by the selling stockholders, although we will bear the costs, other than underwriting discounts and commissions, associated with those sales.

Each \$1.00 increase or decrease in the assumed initial public offering price of \$ \_\_\_\_\_ per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease the net proceeds to us from this offering by approximately \$ \_\_\_\_\_ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and commissions payable by us. We may also increase or decrease the number of shares we are offering. A 1,000,000 share increase or decrease in the number of shares offered by us would increase or decrease the net proceeds to us from this offering by approximately \$ \_\_\_\_\_ million, at the assumed initial public offering price, and after deducting underwriting discounts and commissions payable by us. We do not expect that a change in the initial price to the public or the number of shares by these amounts would have a material effect on uses of the proceeds from this offering, although it may accelerate the time at which we will need to seek additional capital.

The principal purposes of this offering are to increase our financial flexibility, create a public market for our common stock and facilitate our future access to the capital markets. Although we have not yet determined with certainty the manner in which we will allocate the net proceeds of this offering, we expect to use the net proceeds from this offering for working capital and other general corporate purposes, including investments in sales and marketing in the United States and internationally and in research and development. We also intend to use approximately \$10.0 million of the net proceeds to pay all outstanding principal and interest under our revolving line of credit with Western Alliance Bank, which carries a current interest rate of the prime rate, but in no event less than 3.25%, plus 0.75% and terminates in June 2018. We may also use a portion of the proceeds from this offering for acquisitions or strategic investments in complementary businesses or technologies, although we do not currently have any plans for any such acquisitions or investments. We have not allocated specific amounts of net proceeds for any of these purposes.

The expected use of net proceeds from this offering represents our intentions based upon our present plans and business conditions. We cannot predict with certainty all of the particular uses for the proceeds of this offering or the amounts that we will actually spend on the uses set forth above. Accordingly, our management will have significant flexibility in applying the net proceeds of this offering. The timing and amount of our actual expenditures will be based on many factors, including cash flows from operations and the anticipated growth of our business. Pending their use, we intend to invest the net proceeds of this offering in a variety of capital-preservation investments, including short- and intermediate-term, interest-bearing, investment-grade securities.

## **DIVIDEND POLICY**

We have never declared or paid any dividends on our capital stock. We currently intend to retain all available funds and any future earnings for the operation and expansion of our business and, therefore, we do not anticipate declaring or paying cash dividends in the foreseeable future. The payment of dividends will be at the discretion of our board of directors and will depend on our results of operations, capital requirements, financial condition, prospects, contractual arrangements, any limitations on payment of dividends present in our current and future debt agreements, and other factors that our board of directors may deem relevant. We are subject to several covenants under our debt arrangements that place restrictions on our ability to pay dividends.

## CAPITALIZATION

The following table sets forth our cash and our capitalization as of December 31, 2015:

- on an actual basis;
- on a pro forma basis as adjusted to reflect (1) the conversion of all outstanding shares of our class A common stock and preferred stock into an aggregate of 54,735,950 shares of common stock immediately prior to the closing of this offering and (2) the filing of our amended and restated certificate of incorporation, which will become effective immediately prior to the closing of this offering; and
- on a pro forma as adjusted basis to reflect (1) the sale of                      shares of common stock in this offering at an assumed initial public offering price of \$                      per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, (2) repayment of principal and interest under our revolving line of credit and (3) our write-off of the associated debt issuance costs.

You should read this table together with “Selected Consolidated Financial Statements,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and the related notes appearing elsewhere in this prospectus.

|   | As of December 31, 2015 |   |              |
|---|-------------------------|---|--------------|
|   | Actual                  | Pro Forma                                       | Pro Forma As |
|   | (unaudited)             | (in thousands, except share and per share data) | Adjusted(1)  |
| Cash  | \$ 8,578                | \$ 8,578  | \$           |
| Debt and capital lease obligations  | 17,076                  | 17,076  |              |
| Stockholders’ deficit:  |                         |   |              |
| Series A and A-1 convertible preferred stock, \$0.001 par value per share; 50,000,000 shares authorized, 48,041,096 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted   | 48                      | —   | —            |
| Class A common stock, \$0.001 par value per share; 8,841,040 shares authorized, 6,694,854 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted   | 7                       | —   | —            |
| Preferred stock, \$0.001 par value per share; no shares authorized, issued or outstanding, actual; 10,000,000 shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted   | —                       | —   | —            |
| Common stock, \$0.001 par value per share; 125,000,000 shares authorized, 63,865,705 shares issued and outstanding, actual;                      shares authorized, 118,601,655 shares issued and outstanding, pro forma;                      shares authorized,                      shares issued and outstanding, pro forma as adjusted | 64                      | 119   |              |
| Additional paid-in capital  | 62,175                  | 62,175  |              |
| Accumulated deficit   | (78,332)                | (78,332)  |              |
| Accumulated other comprehensive loss  | (13)                    | (13)  |              |
| Total stockholders’ deficit   | (16,051)                | (16,051)  |              |
| Total capitalization  | \$ 1,025                | \$ 1,025  | \$           |

- (1) The pro forma as adjusted information set forth above is illustrative only and will change based on the actual initial public offering price and other terms of this offering determined at pricing. Each \$1.00 increase or decrease in the assumed initial public offering price



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of \$        per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease pro forma as adjusted cash, additional paid-in capital, total stockholders' (deficit) equity and total capitalization by approximately \$        million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting underwriting discounts and commissions payable by us. We may also increase or decrease the number of shares we are offering. A 1,000,000 share increase or decrease in the number of shares offered by us would increase or decrease pro forma as adjusted cash, additional paid-in capital, total stockholders' (deficit) equity and total capitalization by approximately \$        million, at the assumed initial public offering price, and after deducting underwriting discounts and commissions payable by us.

The number of shares of our common stock shown as issued and outstanding on a pro forma as adjusted basis in the table above is based on 118,601,655 shares of common stock outstanding as of December 31, 2015, and excludes:

- 10,474,299 shares of common stock issuable upon the exercise of options outstanding as of December 31, 2015, at a weighted-average exercise price of \$1.51 per share;
- 749,712 shares of common stock issuable upon the exercise of warrants outstanding as of December 31, 2015, at an exercise price of \$0.4335 per share, which warrants, prior to the completion of this offering, are exercisable to purchase shares of our Series A-1 preferred stock;
- shares of our common stock reserved for future issuance pursuant to our 2016 Equity Incentive Plan, which will become effective prior to the completion of this offering and will include provisions that automatically increase the number of shares of common stock reserved for issuance thereunder each year; and
- shares of common stock reserved for future issuance under our 2016 Employee Stock Purchase Plan, which will become effective prior to the completion of this offering and will include provisions that automatically increase the number of shares of common stock reserved for issuance thereunder each year.

## DILUTION

If you invest in our common stock, your interest will be diluted to the extent of the difference between the initial public offering price per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock immediately after the completion of this offering.

Our historical net tangible book value as of December 31, 2015 was \$(28.0) million, or \$(0.40) per share of common stock. Our historical net tangible book value per share represents our total tangible assets less our total liabilities and preferred stock (which is not included within stockholders' deficit, divided by the number of shares of common stock outstanding as of December 31, 2015.

Our pro forma net tangible book value as of December 31, 2015 was \$(28.0) million, or \$(0.24) per share of common stock. Pro forma net tangible book value per share represents our total tangible assets less our total liabilities, divided by the number of shares of common stock outstanding as of December 31, 2015, after giving effect to the conversion of all of our outstanding shares of our class A common stock and preferred stock into an aggregate of 54,735,950 shares of common stock immediately prior to the closing of this offering.

Our pro forma as adjusted net tangible book value represents our pro forma net tangible book value, plus the effect of (1) the sale of \_\_\_\_\_ shares of common stock in this offering at an assumed initial public offering price of \$ \_\_\_\_\_ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, (2) repayment of principal and interest under our revolving line of credit and (3) our write-off of the associated debt issuance costs. Our pro forma as adjusted net tangible book value as of December 31, 2015 was \$ \_\_\_\_\_ million, or \$ \_\_\_\_\_ per share of common stock. This amount represents an immediate increase in pro forma as adjusted net tangible book value of \$ \_\_\_\_\_ per share to our existing stockholders and an immediate dilution of \$ \_\_\_\_\_ per share to investors participating in this offering. We determine dilution per share to investors participating in this offering by subtracting pro forma as adjusted net tangible book value per share after this offering from the assumed initial public offering price per share paid by investors participating in this offering.

The following table illustrates this dilution on a per share basis to new investors:

|  |           |
|--|-----------|
| Assumed initial public offering price per share  | \$        |
| Historical net tangible book value per share as of December 31, 2015   | \$ (0.40) |
| Increase per share attributable to the pro forma transactions described above  |           |
| Pro forma net tangible book value per share as of December 31, 2015  |           |
| Increase in pro forma net tangible book value per share attributed to new investors purchasing shares from us in this offering |           |
| Pro forma as adjusted net tangible book value per share after giving effect to this offering                                   |           |
| Dilution in pro forma as adjusted net tangible book value per share to new investors in this offering                          | \$        |

The dilution information discussed above is illustrative only and will change based on the actual initial public offering price and other terms of this offering determined at pricing. Each \$1.00 increase or decrease in the assumed initial public offering price of \$ \_\_\_\_\_ per share, the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease the pro forma as adjusted net tangible book value per share by \$ \_\_\_\_\_ per share and the dilution per share to investors participating in this offering by \$ \_\_\_\_\_ per share, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting underwriting discounts and commissions payable by us, after repayment of principal and interest under our revolving line of credit and our write-off of the associated debt issuance costs. We may also increase or decrease the number of shares we are offering. A 1,000,000 share increase in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase the pro forma as adjusted net tangible book value per share by \$ \_\_\_\_\_ and decrease the dilution per share to investors participating in this offering by \$ \_\_\_\_\_, at the assumed initial public offering price of \$ \_\_\_\_\_ per share, the midpoint of the price range set forth on the cover page of this

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prospectus, and after deducting underwriting discounts and commissions payable by us, after repayment of principal and interest under our revolving line of credit and our write-off of the associated debt issuance costs. A 1,000,000 share decrease in the number of shares offered by us, as set forth on the cover page of this prospectus, would decrease the pro forma as adjusted net tangible book value per share after this offering by \$ and increase the dilution per share to new investors participating in this offering by \$ , at the assumed initial public offering price of \$ per share, the midpoint of the price range set forth on the cover page of this prospectus, and after deducting underwriting discounts and commissions payable by us, after repayment of principal and interest under our revolving line of credit and our write-off of the associated debt issuance costs. The pro forma as adjusted information discussed above is illustrative only and will adjust based on the actual initial price to public and other terms of this offering determined at pricing.

The following table summarizes as of December 31, 2015, on the pro forma as adjusted basis described above, the number of shares of our common stock, the total consideration and the average price per share (1) paid to us by our existing stockholders and (2) to be paid by investors purchasing our common stock in this offering at an assumed initial public offering price of \$ per share, the midpoint of the price range set forth on the cover page of this prospectus, before deducting underwriting discounts and commissions and estimated offering expenses payable by us.

|                       | Shares Purchased |         | Total Consideration |         | Weighted-Average Price Per Share |
|-----------------------|------------------|---------|---------------------|---------|----------------------------------|
|                       | Number           | Percent | Amount              | Percent |                                  |
| Existing stockholders |                  | %       | \$                  | %       | \$                               |
| New investors         |                  |         |                     |         |                                  |
| Total                 |                  | 100.0%  | \$                  | 100.0%  | \$                               |

The foregoing table does not reflect the sales by existing stockholders in connection with sales made by them in this offering. Sales by the selling stockholders in this offering will reduce the number of shares held by existing stockholders to shares, or % of the total number of shares of our common stock outstanding after this offering, and will increase the number of shares held by new investors to shares, or % of the total number of shares of our common stock outstanding after this offering.

The foregoing table and calculations above are based on 118,601,655 shares of common stock outstanding as of December 31, 2015, and exclude:

- 10,474,299 shares of common stock issuable upon the exercise of options outstanding as of December 31, 2015, at a weighted-average exercise price of \$1.51 per share;
- 749,712 shares of common stock issuable upon the exercise of warrants outstanding as of December 31, 2015, at an exercise price of \$0.4335 per share, which warrants, prior to the completion of this offering, are exercisable to purchase shares of our Series A-1 preferred stock;
- shares of our common stock reserved for future issuance pursuant to our 2016 Equity Incentive Plan, which will become effective prior to the completion of this offering and will include provisions that automatically increase the number of shares of common stock reserved for issuance thereunder each year; and
- shares of common stock reserved for future issuance under our 2016 Employee Stock Purchase Plan, which will become effective prior to the completion of this offering and will include provisions that automatically increase the number of shares of common stock reserved for issuance thereunder each year.

To the extent that options or warrants are exercised, new options or other securities are issued under our equity incentive plans, or we issue additional shares of common stock in the future, there will be further dilution to investors participating in this offering. In addition, we may choose to raise additional capital because of market conditions or strategic considerations, even if we believe that we have sufficient funds for our current or future operating plans. If we raise additional capital through the sale of equity or convertible debt securities, the issuance of these securities could result in further dilution to our stockholders.

## SELECTED CONSOLIDATED FINANCIAL DATA

We derived the selected consolidated statements of operations data for the years ended December 31, 2013, 2014 and 2015 and the selected consolidated balance sheet data as of December 31, 2014 and 2015 from our audited consolidated financial statements included elsewhere in this prospectus. We derived the selected consolidated statement of operations data for the year ended December 31, 2012 from our audited consolidated financial statements not included in this prospectus. Our historical results are not necessarily indicative of the results to be expected in the future.

When you read this selected consolidated financial data, it is important that you read it together with the historical consolidated financial statements and related notes to those statements, as well as “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” included elsewhere in this prospectus.

|  | Year Ended<br>December 31,                         |            |            |             |
|--|--|------------|------------|-------------|
|  | 2012   | 2013       | 2014       | 2015        |
|  | (in thousands, except share and<br>per share data) |            |            |             |
| <b>Consolidated Statements of Operations Data:</b>   |  |            |            |             |
| Revenue  | \$ 23,361  | \$ 30,040  | \$ 42,421  | \$ 58,720   |
| Cost of revenue:(1)  | 7,570  | 8,699      | 12,089     | 19,789      |
| Gross profit   | 15,791   | 21,341     | 30,332     | 38,931      |
| Operating expenses: (1)  |  |            |            |             |
| Sales and marketing  | 7,998  | 11,695     | 15,818     | 25,925      |
| Research and development   | 5,057  | 5,697      | 7,365      | 11,521      |
| General and administrative   | 7,371  | 4,352      | 7,435      | 12,272      |
| Total operating expense  | 20,426   | 21,744     | 30,618     | 49,718      |
| Operating loss   | (4,635)  | (403)      | (286)      | (10,787)    |
| Other expense, net   | 399  | 368        | 426        | 599         |
| Loss before (provision for) benefit from income taxes  | (5,034)  | (771)      | (712)      | (11,386)    |
| (Provision for) benefit from income taxes  | (57)   | (118)      | 89         | 562         |
| Net loss   | \$ (5,091)   | \$ (889)   | \$ (623)   | \$ (10,824) |
| Net loss attributable to common stockholders   | \$ (5,091)   | \$ (889)   | \$ (623)   | \$ (10,824) |
| Net loss per share attributable to common stockholders:(2)   |  |            |            |             |
| Basic  | \$ (0.09)  | \$ (0.01)  | \$ (0.01)  | \$ (0.15)   |
| Diluted  | \$ (0.09)  | \$ (0.01)  | \$ (0.01)  | \$ (0.15)   |
| Weighted-average common shares outstanding:(2)   |  |            |            |             |
| Basic  | 54,999,974   | 63,484,370 | 67,788,061 | 70,482,217  |
| Diluted  | 54,999,974   | 63,484,370 | 67,788,061 | 70,482,217  |
| Pro forma net loss per share attributable to common stockholders, basic and diluted<br>(unaudited):(3) |  |            |            | \$          |
| Pro forma weighted average common shares outstanding, basic and diluted (unaudited):(3)                |  |            |            |             |

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- (1) Includes stock-based compensation expense and depreciation and amortization expense as follows:

|   | Year Ended December 31, |                 |                 |                 |
|---|-------------------------|-----------------|-----------------|-----------------|
|   | 2012                    | 2013            | 2014            | 2015            |
|   | (in thousands)          |                 |                 |                 |
| Stock-based compensation expense:           |                         |                 |                 |                 |
| Cost of revenue                             | \$ 3                    | \$ 48           | \$ 82           | \$ 150          |
| Sales and marketing                         | 10                      | 82              | 120             | 315             |
| Research and development                    | 424                     | 28              | 147             | 297             |
| General and administrative                  | 1,859                   | 18              | 27              | 760             |
| Total stock-based compensation expense      | <u>\$ 2,296</u>         | <u>\$ 176</u>   | <u>\$ 376</u>   | <u>\$ 1,522</u> |
| Depreciation and amortization expense:      |                         |                 |                 |                 |
| Cost of revenue                             | \$ 2,481                | \$ 2,374        | \$ 1,615        | \$ 4,457        |
| Sales and marketing                         | 23                      | 46              | 101             | 227             |
| Research and development                    | 19                      | 16              | 31              | 134             |
| General and administrative                  | 9                       | 19              | 765             | 1,158           |
| Total depreciation and amortization expense | <u>\$ 2,532</u>         | <u>\$ 2,455</u> | <u>\$ 2,512</u> | <u>\$ 5,976</u> |

- (2) See notes (2) and (13) to our consolidated financial statements appearing elsewhere in this prospectus for further details on the calculation of basic and diluted net loss per share attributable to common stockholders.
- (3) Pro forma basic and diluted net loss per share represents net loss divided by the pro forma weighted-average shares of common stock outstanding and reflects (1) the repayment of \$ million of outstanding principal and accrued interest under our revolving line of credit from the proceeds from our sale of shares of common stock in this offering at an assumed initial public offering price of \$ per share, the midpoint of the price range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and (2) our write-off of the associated debt issuance costs. Pro forma weighted-average shares outstanding reflects the conversion of all outstanding shares of our class A common stock and preferred stock (using the if-converted method) into common stock as though the conversion had occurred on the later of the first day of the relevant period and the date of issuance.

|   | As of December 31, |          |
|---|--------------------|----------|
|   | 2014               | 2015     |
|   | (in thousands)     |          |
| <b>Consolidated Balance Sheet Data:</b> |                    |          |
| Cash                                    | \$ 4,412           | \$ 8,578 |
| Accounts receivable, net                | 11,252             | 15,699   |
| Total assets                            | 40,066             | 53,557   |
| Total deferred revenue                  | 28,844             | 40,467   |
| Total debt                              | 6,863              | 17,018   |
| Total liabilities                       | 45,393             | 69,608   |
| Convertible preferred stock             | 48                 | 48       |
| Class A common stock                    | 7                  | 7        |
| Common stock                            | 64                 | 64       |
| Accumulated deficit                     | (67,508)           | (78,332) |
| Total stockholders' deficit             | (5,327)            | (16,051) |

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated financial statements and the related notes and other financial information included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.*

### Overview

We are a global enterprise software company that provides applications which automate the delivery of critical information to help keep people safe and businesses running. During mission-critical business events or man-made or natural disasters, our SaaS-based platform enables our customers to quickly and reliably deliver intelligent, contextual messages to, and receive verification of delivery from, hundreds or millions of recipients, across multiple communications modalities such as voice, SMS and e-mail. Our applications enable the delivery of messages in near real-time to more than 100 different communication devices, in over 200 countries and territories, in multiple languages – all simultaneously. We automate the process of sending contextual notifications to multiple constituencies so that organizations can act quickly and confidently. Our enterprise critical communication applications, which include Mass Notification, Incident Management, IT Alerting, Secure Messaging, Community Engagement, Internet of Things and Safety Connection, are easy-to-use and deploy, secure, highly scalable and reliable. We believe that our broad suite of integrated, enterprise applications delivered via a single global platform is a significant competitive advantage.

Our customer base has grown from 867 customers at the end of 2011 to more than 2,700 customers as of March 31, 2016. As of March 31, 2016, our customers were based in 21 countries and included eight of the 10 largest U.S. cities, seven of the 10 largest U.S.-based investment banks, 24 of the 25 busiest North American airports, six of the 10 largest global auto makers and four of the 10 largest U.S.-based health care providers. We provide our applications to customers of varying sizes, including enterprises, small businesses, non-profit organizations, educational institutions and governmental agencies. Our customers span a wide variety of industries including technology, energy, financial services, healthcare and life sciences, manufacturing, media and entertainment, retail, higher education and professional services.

We sell all of our critical communications applications on a subscription basis. We generally enter into contracts that range from one to three years in length, with an average contract duration of 2.0 years as of December 31, 2015, and generally bill and collect payment annually in advance. We derive most of our revenue from subscriptions to applications. Our subscription revenue represented 96%, 97% and 95% of our total revenue in 2013, 2014 and 2015, respectively. Historically, we derived more than 90% of our revenue in each of the last three fiscal years from sales of our Mass Notification application. Our pricing model is based on the number of applications subscribed to and, per application, the number of people, locations and things connected to our platform as well as the volume of communications. We also offer premium services including data feeds for social media, threat intelligence and weather. We generate additional revenue by expanding the number of applications that our customers subscribe to and the number of contacts and devices connected to our platform.

We generated revenue of \$23.4 million, \$30.0 million, \$42.4 million and \$58.7 million in 2012, 2013, 2014 and 2015, respectively, representing year-over-year increases of 29% in 2013, 41% in 2014 and 38% in 2015. We had net losses of \$0.9 million, \$0.6 million and \$10.8 million in 2013, 2014 and 2015, respectively. Our adjusted EBITDA, which is a measure that is not calculated and presented in accordance with generally accepted accounting principles in the United States, or GAAP, decreased from \$2.2 million to \$(3.4) million from 2013 to 2015. See note 2 to the table contained in "Summary Consolidated Financial and Other Data—Key Metrics" for a

reconciliation of adjusted EBITDA to net loss, the most directly comparable financial measure calculated and presented in accordance with GAAP.

As of December 31, 2014 and 2015, 14% and 17% of our customers, respectively, were located outside of the United States and these customers generated 14% of our total revenue for each of 2014 and 2015. We opened our first international office in Windsor, England in September 2012 as part of our geographic expansion and, in March 2014, we acquired Vocal Limited, or Vocal, a mass notification company based in Colchester, England.

We have focused on rapidly growing our business and believe that the future growth of our business is dependent on many factors, including our ability to increase the functionality of our platform and applications, expand our customer base, accelerate adoption of our applications beyond Mass Notification within our existing customer base and expand our international presence. Our future growth will also depend on the growth in the market for critical communications solutions and our ability to effectively compete. In order to further penetrate the market for critical communications solutions and capitalize on what we believe to be a significant opportunity, we intend to continue to invest in research and development, build-out our data center infrastructure and services capabilities and hire additional sales representatives, both domestically and internationally, to drive sales to new customers and incremental sales of new applications to existing customers. Nevertheless, we expect to continue to incur losses in the near term and, if we are unable to achieve our growth objectives, we may not be able to achieve profitability.

### **Recent Acquisitions**

We have in the past pursued, and plan to selectively pursue in the future, acquisitions of complementary businesses, technologies and teams that allow us to add new features and functionalities to our platform and accelerate the pace at which we can bring new applications and features to market.

In March 2014, we acquired Vocal for cash consideration of \$2.0 million, notes payable of \$4.3 million and 2,252,451 shares of our common stock. Vocal is a United Kingdom-based provider of emergency notification services that help enterprises and governmental entities communicate, plan and manage their responses to any business-affecting situation or day-to-day communication requirement.

In December 2014, we acquired technology through an acquisition from Tapestry Telemed LLC, or Telemed, for cash consideration of \$1.4 million, notes payable of \$1.4 million and 693,140 shares of our common stock. The technology, which we refer to as HipaaBridge, was acquired in order for us to develop an application that provides secure messaging within health care organizations in a manner intended to comply with the requirements of the federal Health Insurance Portability and Accountability Act, or HIPAA.

In December 2014, we acquired the assets of Nixle LLC, or Nixle, for cash consideration of \$1.5 million and 1,858,275 shares of our common stock. The Nixle notification service allows governmental agencies to send notification messages to local residents via phone, email and the web.

### **Presentation of Financial Statements**

Our consolidated financial statements include the accounts of our wholly-owned subsidiaries. Business acquisitions are included in our consolidated financial statements from the date of the acquisition. Our purchase accounting resulted in all assets and liabilities of acquired businesses being recorded at their estimated fair values on the acquisition dates. All intercompany balances and transactions have been eliminated in consolidation.

We report our financial results as one operating segment. Our operating results are regularly reviewed on a consolidated basis by our chief executive officer, who is our chief operating decision maker, principally to make strategic decisions regarding how we allocate our resources and to assess our consolidated operating performance.

## Key Metrics

We regularly monitor a number of financial and operating metrics in order to measure our current performance and estimate our future performance. Our key business metrics may be calculated in a manner different than similar key business metrics used by other companies.

|                        | Year Ended December 31, |          |           |
|------------------------|-------------------------|----------|-----------|
|                        | 2013                    | 2014     | 2015      |
|                        | (dollars in thousands)  |          |           |
| Revenue retention rate | 112%                    | 111%     | 115%      |
| Adjusted EBITDA        | \$ 2,152                | \$ 2,524 | \$(3,351) |
| Adjusted gross margin  | \$21,412                | \$30,663 | \$ 41,084 |
| Free cash flow         | \$ 2,548                | \$ 3,884 | \$(3,012) |

- Revenue Retention Rate.** We calculate our revenue retention rate by dividing (1) total revenue in the current 12-month period from those customers who were customers during the prior 12-month period by (2) total revenue from all customers in the prior 12-month period. For the purposes of calculating our revenue retention rate, we count as customers all entities with whom we had contracts in the applicable period other than (1) customers of our wholly-owned subsidiary, Microtech, which generates an immaterial amount of our revenue in any given year and (2) in the first year following our acquisition of another business, customers that we acquired in connection with such acquisition. We believe that our ability to retain our customers and expand their use of our solutions over time is an indicator of the stability of our revenue base and the long-term value of our customer relationships. Our revenue retention rate provides insight into the impact on current period revenue of the number of new customers acquired during the prior 12-month period, the timing of our implementation of those new customers, growth in the usage of our solutions by our existing customers and customer attrition. If our revenue retention rate for a period exceeds 100%, this means that the revenue retained during the period including upsells more than offset the revenue that we lost from customers that did not renew their contracts during the period. Our revenue retention rate may decline or fluctuate as a result of a number of factors, including customers' satisfaction or dissatisfaction with our platform and applications, pricing, economic conditions or overall reductions in our customers' spending levels.
- Adjusted EBITDA.** Adjusted EBITDA represents our net loss before interest income and interest expense, income tax expense and benefit, depreciation and amortization expense and stock-based compensation expense. We do not consider these items to be indicative of our core operating performance. The items that are non-cash include depreciation and amortization expense and stock-based compensation expense. Adjusted EBITDA is a key measure used by management to understand and evaluate our core operating performance and trends and to generate future operating plans, make strategic decisions regarding the allocation of capital and invest in initiatives that are focused on cultivating new markets for our solution. In particular, the exclusion of certain expenses in calculating adjusted EBITDA facilitates comparisons of our operating performance on a period-to-period basis. Adjusted EBITDA is not a measure calculated in accordance with GAAP. See note 2 to the table contained in "Summary Consolidated Financial and Other Data—Key Metrics" for a reconciliation of adjusted EBITDA to net loss, the most directly comparable financial measure calculated and presented in accordance with GAAP for 2013, 2014 and 2015, and a discussion of the limitations of adjusted EBITDA.
- Adjusted Gross Margin.** Adjusted gross margin represents gross profit plus stock-based compensation and amortization expenses related to acquisitions. Adjusted gross margin is a key measure used by management to understand and evaluate our core operating performance and trends and to generate future operating plans. The exclusion of stock-based compensation and amortization expenses related to acquisitions facilitates comparisons of our operating performance on a period-to-period basis. In the near term, we expect these expenses to continue to negatively impact our gross profit. Adjusted gross margin is not a measure calculated in accordance with GAAP. See note 3 to the table contained in



“Summary Consolidated Financial and Other Data—Key Metrics” for a reconciliation of adjusted gross margin and a reconciliation of adjusted gross margin to gross profit, the most comparable GAAP measurement, for 2013, 2014 and 2015, and a discussion of the limitations of adjusted gross margin.

- **Free Cash Flow.** Free cash flow represents net cash provided by operating activities minus capital expenditures and capitalized software development costs. Free cash flow is a key measure used by management to understand and evaluate our core operating performance and trends and to generate future operating plans. The exclusion of capital expenditures and amounts capitalized for internally- developed software facilitates comparisons of our operating performance on a period-to-period basis and excludes items that we do not consider to be indicative of our core operating performance. Free cash flow is not a measure calculated in accordance with GAAP. See note 4 to the table contained in “Summary Consolidated Financial and Other Data—Key Metrics” for a reconciliation of free cash flow to net cash for operating activities, the most comparable GAAP measurement, for 2013, 2014 and 2015, and a discussion of the limitations of free cash flow.

## Components of Results of Operations

### Revenue

We derive substantially all of our revenue from the sale of subscriptions to our critical communications applications.

We generally bill and collect payment for our subscriptions annually in advance. All revenue billed in advance of services being delivered is recorded in deferred revenue. The initial subscription period typically ranges from one to three years. We offer varying levels of customer support based on customer needs and the complexity of their businesses, including the level of usage by a customer in terms of minutes or the amount of data used to transmit the notifications. Our pricing model is based on the number of applications subscribed to and, per application, the number of people, locations and things connected to our platform as well as the volume of communications. We also offer premium services including data feeds for social media, threat intelligence and weather. We generate additional revenue by expanding the number of premium features and applications that our customers subscribe to and the number of contacts connected to our platform.

We generate an immaterial amount of revenue from set-up fees, which consist of participant process mapping, configuration, customer data migration and integration. We also sell professional services, which have been immaterial to date.

### Cost of Revenue

Cost of revenue includes expenses related to the fulfillment of our subscription services, consisting primarily of employee-related expenses for data center operations and customer support, including salaries, bonuses, benefits and stock-based compensation expense. Cost of revenue also includes hosting costs, messaging costs and depreciation and amortization. As we add data center capacity and support personnel in advance of anticipated growth, our cost of revenue will increase and, if anticipated revenue growth does not occur, our gross profit will be adversely affected.

### Operating Expenses

Operating expenses consist of sales and marketing, research and development and general and administrative expenses. Salaries, bonuses, stock-based compensation expense and other personnel costs are the most significant components of each of these expense categories. We include stock-based compensation expense incurred in connection with the grant of stock options to the applicable operating expense category based on the equity award recipient’s functional area.

***Sales and Marketing***

Sales and marketing expense primarily consists of employee-related expenses for sales, marketing and public relations employees, including salaries, bonuses, commissions, benefits and stock-based compensation expense. Sales and marketing expense also includes trade show, market research, advertising and other related marketing expense as well as office related costs to support sales. We defer certain sales commissions related to acquiring new customers and amortize these expenses ratably over the term of the corresponding subscription agreement. We plan to continue to expand our sales and marketing functions to grow our customer base and increase sales to existing customers. This growth will include adding sales personnel and expanding our marketing activities to continue to generate additional leads and build brand awareness. In the near term, we expect our sales and marketing expense to increase on an absolute dollars basis as we hire new sales representatives in the United States and worldwide and grow our marketing staff.

***Research and Development***

Research and development expense primarily consists of employee-related expenses for research and development staff, including salaries, bonuses, benefits and stock-based compensation expense. Research and development expense also includes the cost of certain third-party service providers, office related costs to support research and development activities and hosting costs. We capitalize certain software development costs that are attributable to developing new applications and adding incremental functionality to our platform and amortize these costs over the estimated life of the new application or incremental functionality, which is generally three years. We focus our research and development efforts on improving our applications, developing new applications and delivering new functionality. In the near term, we expect our research and development expense to increase on an absolute dollar basis as we continue to increase the functionality of our platform and applications.

***General and Administrative***

General and administrative expense primarily consists of employee-related expenses for administrative, legal, finance and human resource personnel, including salaries, bonuses, benefits and stock-based compensation expense. General and administrative expense also includes professional fees, insurance premiums, corporate expenses, transaction-related costs, facility costs, depreciation and amortization and software license costs. In the near term, we expect our general and administrative expense to increase on an absolute dollar basis as we incur the costs associated with being a publicly traded company.

***Interest Income***

Interest income consists of interest earned on our cash balances held at financial institutions.

***Interest Expense***

Interest expense consists of interest on our outstanding debt obligations, interest on our capital leases and accretion of interest resulting from a discount on the fair value of notes payable issued in connection with the acquisition of Vocal and the acquisition of the HipaaBridge technology from Telemed.

***Other Expense, Net***

Other expense, net consists primarily of realized foreign currency gains and losses. The acquisition of Vocal in 2014 has increased our exposure to foreign currencies, particularly the British pound.

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### Results of Operations

The following table sets forth our selected consolidated statements of operations data:

|   | Year Ended<br>December 31, |           |             |
|---|----------------------------|-----------|-------------|
|   | 2013                       | 2014      | 2015        |
|   | (in thousands)             |           |             |
| <b>Consolidated Statements of Operations Data:</b>    |                            |           |             |
| Revenue   | \$ 30,040                  | \$ 42,421 | \$ 58,720   |
| Cost of revenue:(1)                                   | 8,699                      | 12,089    | 19,789      |
| Gross profit  | 21,341                     | 30,332    | 38,931      |
| Operating expenses:(1)                                |                            |           |             |
| Sales and marketing                                   | 11,695                     | 15,818    | 25,925      |
| Research and development                              | 5,697                      | 7,365     | 11,521      |
| General and administrative                            | 4,352                      | 7,435     | 12,272      |
| Total operating expense                               | 21,744                     | 30,618    | 49,718      |
| Operating loss  | (403)                      | (286)     | (10,787)    |
| Other expense, net                                    | 368                        | 426       | 599         |
| Loss before (provision for) benefit from income taxes | (771)                      | (712)     | (11,386)    |
| (Provision for) benefit from income taxes             | (118)                      | 89        | 562         |
| Net loss  | \$ (889)                   | \$ (623)  | \$ (10,824) |

(1) Includes stock-based compensation expense and depreciation and amortization expense as follows:

|   | Year Ended<br>December 31, |                 |                 |
|---|----------------------------|-----------------|-----------------|
|   | 2013                       | 2014            | 2015            |
|   | (in thousands)             |                 |                 |
| Stock-based compensation expense:           |                            |                 |                 |
| Cost of revenue                             | \$ 48                      | \$ 82           | \$ 150          |
| Sales and marketing                         | 82                         | 120             | 315             |
| Research and development                    | 28                         | 147             | 297             |
| General and administrative                  | 18                         | 27              | 760             |
| Total stock-based compensation expense      | <u>\$ 176</u>              | <u>\$ 376</u>   | <u>\$ 1,522</u> |
| Depreciation and amortization expense:      |                            |                 |                 |
| Cost of revenue                             | \$ 2,374                   | \$ 1,615        | \$ 4,457        |
| Sales and marketing                         | 46                         | 101             | 227             |
| Research and development                    | 16                         | 31              | 134             |
| General and administrative                  | 19                         | 765             | 1,158           |
| Total depreciation and amortization expense | <u>\$ 2,455</u>            | <u>\$ 2,512</u> | <u>\$ 5,976</u> |

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The following table sets forth our selected consolidated statements of operations data expressed as a percentage of total revenue:

|   | Year Ended<br>December 31, |      |       |
|---|----------------------------|------|-------|
|   | 2013                       | 2014 | 2015  |
| <b>Consolidated Statements of Operations Data:</b>    |                            |      |       |
| Revenue   | 100%                       | 100% | 100%  |
| Cost of revenue:                                      | 29                         | 28   | 34    |
| Gross profit  | 71                         | 72   | 66    |
| Operating expenses:                                   |                            |      |       |
| Sales and marketing                                   | 39                         | 37   | 44    |
| Research and development                              | 19                         | 17   | 20    |
| General and administrative                            | 14                         | 18   | 20    |
| Total operating expense                               | 72                         | 72   | 84    |
| Operating loss  | (1)                        | —    | (18)  |
| Other expense, net                                    | 1                          | 1    | 1     |
| Loss before (provision for) benefit from income taxes | (2)                        | (1)  | (19)  |
| (Provision for) benefit from income taxes             | —                          | —    | 1     |
| Net loss  | (2)%                       | (1)% | (18)% |

### Years Ended December 31, 2013, 2014 and 2015

#### Revenue

|                        | Year Ended December 31, |           |          | 2013 v. 2014 Change |       | 2014 v. 2015 Change |       |
|------------------------|-------------------------|-----------|----------|---------------------|-------|---------------------|-------|
|                        | 2013                    | 2014      | 2015     | \$                  | %     | \$                  | %     |
| (dollars in thousands) |                         |           |          |                     |       |                     |       |
| Revenue                | \$ 30,040               | \$ 42,421 | \$58,720 | \$ 12,381           | 41.2% | \$ 16,299           | 38.4% |

#### 2014 Compared to 2015

Revenue increased by \$16.3 million in 2015 compared to 2014. The increase was primarily due to a \$14.0 million increase in sales of our solutions driven by expansion of our customer base from 2,167 customers as of December 31, 2014 to 2,662 as of December 31, 2015, including increased sales to larger organizations with greater numbers of contacts and locations. In 2015, we also had a \$2.3 million increase in revenue attributable to the acquisition of Nixle, which occurred in December 2014.

#### 2013 Compared to 2014

Revenue increased by \$12.4 million in 2014 compared to 2013. The increase was primarily due to a \$9.2 million increase in sales of our solutions driven by the expansion of our customer base and increased sales to larger organizations with greater numbers of contacts and locations, as well as \$3.2 million of revenue attributable to the acquisition of Vocal. We grew our customer base from 1,285 as of December 31, 2013 to 2,167 as of December 31, 2014, inclusive of 338 customers acquired in connection with our acquisition of Vocal and 277 customers acquired in connection with our acquisition of Nixle in March 2014 and December 2014, respectively.

#### Cost of Revenue

|                        | Year Ended December 31, |          |          | 2013 v. 2014 Change |       | 2014 v. 2015 Change |       |
|------------------------|-------------------------|----------|----------|---------------------|-------|---------------------|-------|
|                        | 2013                    | 2014     | 2015     | \$                  | %     | \$                  | %     |
| (dollars in thousands) |                         |          |          |                     |       |                     |       |
| Cost of revenue        | \$8,699                 | \$12,089 | \$19,789 | \$ 3,390            | 39.0% | \$ 7,700            | 63.7% |
| Gross margin %         | 71%                     | 72%      | 66%      |                     |       |                     |       |

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### *2014 Compared to 2015*

Cost of revenue increased by \$7.7 million in 2015 compared to 2014. The increase was primarily due to a \$2.7 million increase in employee-related costs associated with our increased headcount from 72 employees as of December 31, 2014 to 90 employees as of December 31, 2015. The remaining increase was principally the result of a \$2.8 million increase in depreciation and amortization expense attributable to our acquired intangible assets, a \$1.8 million increase in hosting and messaging costs and a \$0.3 million increase in office related expenses.

Gross margin percentage decreased due to an increase in amortization of acquired intangible assets and capitalized software, as well as our continued investment in personnel to support our growth.

### *2013 Compared to 2014*

Cost of revenue increased by \$3.4 million in 2014 compared to 2013. The increase was primarily due to a \$2.2 million increase in employee-related costs associated with our increase in headcount from 42 employees as of December 31, 2013 to 72 employees as of December 31, 2014. The remaining increase was principally the result of a \$1.8 million increase in hosting and messaging costs and a \$0.2 million increase in office related expenses. These increases were offset by a decrease in depreciation and amortization of \$0.8 million as a result of lower amortization of software development costs and our termination of a license with a vendor.

Gross margin percentage increased due to an increase in revenue and a decrease in the growth of infrastructure costs as a percentage of revenue.

## **Operating Expense**

### *Sales and Marketing Expense*

|                        | Year Ended December 31, |           |           | 2013 v. 2014 Change |       | 2014 v. 2015 Change |       |
|------------------------|-------------------------|-----------|-----------|---------------------|-------|---------------------|-------|
|                        | 2013                    | 2014      | 2015      | \$                  | %     | \$                  | %     |
| (dollars in thousands) |                         |           |           |                     |       |                     |       |
| Sales and marketing    | \$ 11,695               | \$ 15,818 | \$ 25,925 | \$ 4,123            | 35.3% | \$ 10,107           | 63.9% |
| % of revenue           | 39%                     | 37%       | 44%       |                     |       |                     |       |

### *2014 Compared to 2015*

Sales and marketing expense increased by \$10.1 million in 2015 compared to 2014. The increase was primarily due to a \$8.1 million increase in employee-related costs associated with our increased headcount from 104 employees as of December 31, 2014 to 157 employees as of December 31, 2015. The remaining increase was principally the result of a \$0.9 million increase in office related costs to support sales and a \$1.1 million increase in trade show and advertising costs.

### *2013 Compared to 2014*

Sales and marketing expense increased by \$4.1 million in 2014 compared to 2013. The increase was primarily due to a \$3.5 million increase in employee-related costs associated with our increased headcount from 69 employees as of December 31, 2013 to 104 employees as of December 31, 2014. The remaining increase was attributable to a \$0.2 million increase in office related costs to support sales and a \$0.4 million increase in trade show and marketing expenses.

### *Research and Development Expense*

|                          | Year Ended December 31, |          |           | 2013 v. 2014 Change |       | 2014 v. 2015 Change |       |
|--------------------------|-------------------------|----------|-----------|---------------------|-------|---------------------|-------|
|                          | 2013                    | 2014     | 2015      | \$                  | %     | \$                  | %     |
| (dollars in thousands)   |                         |          |           |                     |       |                     |       |
| Research and development | \$ 5,697                | \$ 7,365 | \$ 11,521 | \$ 1,668            | 29.3% | \$ 4,156            | 56.4% |
| % of revenue             | 19%                     | 17%      | 20%       |                     |       |                     |       |

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### *2014 Compared to 2015*

Research and development expense increased by \$4.2 million in 2015 compared to 2014. The increase was primarily due to a \$6.5 million increase in employee-related costs associated with our increased headcount from 83 employees as of December 31, 2014 to 109 employees as of December 31, 2015. The remaining increase was principally the result of a \$0.9 million increase in office and software related cost to support research and development activities. A total of \$4.8 million of internally-developed software costs during 2015 and \$1.6 million of internally-developed software costs during 2014 were capitalized, resulting in a reduction of the expense by \$3.2 million in 2015.

### *2013 Compared to 2014*

Research and development expense increased by \$1.7 million in 2014 compared to 2013. The increase was primarily due to a \$2.6 million increase in employee-related costs associated with our increased headcount from 54 employees as of December 31, 2013 to 83 employees as of December 31, 2014 and a \$0.2 million increase in office related expenses to support research and development activities. A total of \$1.7 million of internally-developed software costs during 2014 and \$0.8 million of internally-developed software costs during 2013 were capitalized, resulting in a reduction of the expense by \$0.9 million in 2014.

### *General and Administrative Expense*

|                            | Year Ended December 31, |          |           | 2013 v. 2014 Change |       | 2014 v. 2015 Change |       |
|----------------------------|-------------------------|----------|-----------|---------------------|-------|---------------------|-------|
|                            | 2013                    | 2014     | 2015      | \$                  | %     | \$                  | %     |
| (dollars in thousands)     |                         |          |           |                     |       |                     |       |
| General and administrative | \$ 4,352                | \$ 7,435 | \$ 12,272 | \$ 3,083            | 70.8% | \$ 4,837            | 62.4% |
| % of revenue               | 14%                     | 18%      | 20%       |                     |       |                     |       |

### *2014 Compared to 2015*

General and administrative expense increased by \$4.8 million in 2015 compared to 2014. The increase was primarily due to a \$2.5 million increase in employee-related costs associated with our increased headcount from 44 employees as of December 31, 2014 to 62 employees as of December 31, 2015. The remaining increase was the result of a \$1.7 million increase in professional fees due to increased legal, accounting and audit services to support our operations and our preparations to become a public company, a \$0.4 million increase in office related expenses and a \$0.4 million increase in depreciation and amortization expense related to equipment. These increases were offset by a \$0.2 million decrease in legal and transaction-related costs in 2015.

### *2013 Compared to 2014*

General and administrative expense increased by \$3.1 million in 2014 compared to 2013. The increase was primarily due to a \$1.6 million increase in employee-related costs associated with our increased headcount from 24 employees as of December 31, 2013 to 44 employees as of December 31, 2014. The remaining increase was attributable to a \$0.2 million increase in facility costs, as we opened new offices and expanded certain of our existing facilities to accommodate our increase in personnel, and a \$0.7 million increase in depreciation and amortization expense related to equipment and intangible assets, as well as \$0.6 million of transaction costs incurred in connection with the two acquisitions that we completed in 2014.

### *Other Expense, Net*

|                        | Year Ended December 31, |        |        | 2013 v. 2014 Change |       | 2014 v. 2015 Change |       |
|------------------------|-------------------------|--------|--------|---------------------|-------|---------------------|-------|
|                        | 2013                    | 2014   | 2015   | \$                  | %     | \$                  | %     |
| (dollars in thousands) |                         |        |        |                     |       |                     |       |
| Other expense, net     | \$ 368                  | \$ 426 | \$ 599 | \$ 58               | 15.8% | \$ 173              | 40.6% |
| % of revenue           | 1%                      | 1%     | 1%     |                     |       |                     |       |

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### *2014 Compared to 2015*

Other expense, net increased by \$0.2 million in 2015 compared to 2014 as a result of increased interest expense related to accretion of interest on our notes payable, interest expense due under our term loan and revolving line of credit.

### *2013 Compared to 2014*

Other expense, net remained relatively consistent and was not significant for 2013 or 2014.

## **Quarterly Results of Operations**

The following table sets forth our unaudited quarterly consolidated statements of operations data for each of the eight quarters in the period ended December 31, 2015. We have prepared the quarterly financial data on the same basis as the audited consolidated financial statements included in this prospectus. In our opinion, the quarterly financial data reflects all adjustments, consisting only of normal recurring adjustments, which we consider necessary for a fair presentation of this data. This quarterly financial data should be read in conjunction with our consolidated financial statements and related notes included elsewhere in this prospectus. Our historical results are not necessarily indicative of the results to be expected in the future.

|  | <b>Three Months Ended</b> |                          |                               |                              |                           |                          |                               |                              |
|--|---------------------------|--------------------------|-------------------------------|------------------------------|---------------------------|--------------------------|-------------------------------|------------------------------|
|  | <b>March 31,<br/>2014</b> | <b>June 30,<br/>2014</b> | <b>September 30,<br/>2014</b> | <b>December 31,<br/>2014</b> | <b>March 31,<br/>2015</b> | <b>June 30,<br/>2015</b> | <b>September 30,<br/>2015</b> | <b>December 31,<br/>2015</b> |
| <b>Consolidated Statements of Operations Data:</b>             |                           |                          |                               |                              |                           |                          |                               |                              |
| Revenue  | \$ 8,798                  | \$10,680                 | \$ 11,255                     | \$ 11,688                    | \$ 13,160                 | \$14,153                 | \$ 15,187                     | \$ 16,220                    |
| Cost of revenue:   | 2,350                     | 2,971                    | 3,353                         | 3,415                        | 4,126                     | 4,919                    | 5,165                         | 5,579                        |
| Gross profit   | 6,448                     | 7,709                    | 7,902                         | 8,273                        | 9,034                     | 9,234                    | 10,022                        | 10,641                       |
| Operating expenses:  |                           |                          |                               |                              |                           |                          |                               |                              |
| Sales and marketing  | 3,167                     | 3,874                    | 3,981                         | 4,796                        | 5,512                     | 5,825                    | 6,761                         | 7,827                        |
| Research and development                                       | 1,464                     | 1,612                    | 2,021                         | 2,268                        | 2,687                     | 2,782                    | 3,025                         | 3,027                        |
| General and administrative                                     | 1,352                     | 1,837                    | 1,738                         | 2,508                        | 2,041                     | 2,537                    | 3,863                         | 3,831                        |
| Total operating expense  | 5,983                     | 7,323                    | 7,740                         | 9,572                        | 10,240                    | 11,144                   | 13,649                        | 14,685                       |
| Operating income (loss)  | 465                       | 386                      | 162                           | (1,299)                      | (1,206)                   | (1,910)                  | (3,627)                       | (4,044)                      |
| Other income (expense), net                                    | (82)                      | (113)                    | (98)                          | (133)                        | (131)                     | (145)                    | (180)                         | (143)                        |
| Income (loss) before (provision for) benefit from income taxes | 383                       | 273                      | 64                            | (1,432)                      | (1,337)                   | (2,055)                  | (3,807)                       | (4,187)                      |
| (Provision for) benefit from income taxes                      | (57)                      | (41)                     | (9)                           | 196                          | (24)                      | 212                      | 186                           | 188                          |
| Net income (loss)  | <u>\$ 326</u>             | <u>\$ 232</u>            | <u>\$ 55</u>                  | <u>\$ (1,236)</u>            | <u>\$ (1,361)</u>         | <u>\$ (1,843)</u>        | <u>\$ (3,621)</u>             | <u>\$ (3,999)</u>            |

## **Quarterly Trends**

The sequential increases in our quarterly revenue was due primarily to increases in our number of new customers as well as increased revenue from existing customers as they expanded their use of our solutions.

Our operating expenses generally have increased sequentially for the periods presented due primarily to increases in headcount and other related expenses to support our growth. We anticipate our operating expenses will continue to increase in absolute dollar terms as we invest in the long-term growth of our business.

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Our gross profit has increased sequentially for the periods presented due primarily to greater growth in revenue than expenses, which expenses are primarily related to our increase in headcount as we invest in the growth of our business. This increase in revenue was partially offset by increases in amortization expense attributed to our acquisitions and capitalized software development costs.

### **Liquidity and Capital Resources**

To date, we have financed our operations primarily through cash from operating activities, along with equity issuances and debt financing arrangements. Our principal source of liquidity is cash totaling \$4.4 million and \$8.6 million as of December 31, 2014 and 2015, respectively.

We have incurred cumulative losses of \$78.3 million from our operations through December 31, 2015 and expect to incur additional losses in the future. We believe that our existing sources of liquidity will be sufficient to fund our operations for at least the next 12 months. However, our future capital requirements will depend on many factors, including our rate of revenue growth, the expansion of our sales and marketing activities and the timing and extent of our spending to support our research and development efforts. To the extent that existing cash and cash from operations are insufficient to fund our future activities, we may need to raise additional funds through public or private equity or debt financing. In the event that additional financing is required from outside sources, we may be unable to raise the funds on acceptable terms, if at all. If we are unable to raise additional capital when desired, our business, operating results and financial condition could be adversely affected.

The following table shows a summary of our cash flows for the years ended December 31, 2013, 2014 and 2015:

|   | Year Ended<br>December 31, |                 |                 |
|---|----------------------------|-----------------|-----------------|
|   | 2013                       | 2014            | 2015            |
|   | (in thousands)             |                 |                 |
| Cash at beginning of period                         | \$ 1,712                   | \$ 3,040        | \$ 4,412        |
| Net cash provided by operating activities           | 3,998                      | 7,716           | 4,392           |
| Net cash used in investing activities               | (1,335)                    | (4,136)         | (7,404)         |
| Net cash (used in) provided by financing activities | (1,352)                    | (2,120)         | 7,278           |
| Effects of exchange rates on cash                   | 17                         | (88)            | (100)           |
| Cash at end of period                               | <u>\$ 3,040</u>            | <u>\$ 4,412</u> | <u>\$ 8,578</u> |

As of December 31, 2015, \$1.4 million in cash was held by our consolidated foreign subsidiaries. We intend to use these funds for foreign operations and do not intend to repatriate these funds to the United States. In the future, if we were to repatriate unremitted earnings, we would be subject to income tax on the remittances.

### **Sources of Funds**

Since our inception, we have financed our operations in large part with equity issuances and debt financing arrangements, including net proceeds of \$42.5 million from the sale of equity securities.

#### *Credit Facilities*

In April 2013, we entered into an amendment to our existing credit facility agreement with Silicon Valley Bank, or the credit facility. The credit facility provided for advances under a formula-based revolving line of credit that matured on April 19, 2015. The revolving line of credit provided advances equal to 80% of eligible accounts receivable and was subject to sublimits for letters of credit, foreign exchange and cash management services, respectively. The maximum amount available under the line of credit was \$7.0 million, \$3.7 million of which was available under the credit facility as of December 31, 2014. As of December 31, 2014, \$3.0 million in principal was outstanding under the credit facility. In April 2015, the credit facility was extended until July 17, 2015, but was paid off in full on July 8, 2015.



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In June 2015, we entered into a loan and security agreement, or the loan agreement, with Western Alliance Bank (formerly known as Bridge Bank) and terminated the credit facility with Silicon Valley Bank. The loan agreement originally provided for a \$10.0 million revolving line of credit and the amount of the revolving line of credit was increased to \$15.0 million in February 2016. Availability under the revolving line of credit is subject to a formula based on monthly recurring revenue. There is a \$250,000 cash management sublimit and a \$250,000 international sublimit under the revolving line of credit for cash management services, foreign exchange and letters of credit. The advances under the revolving line of credit bear interest at a floating per annum rate equal to the prime rate, but in no event less than 3.25%, plus 0.75%. The revolving line of credit terminates on June 30, 2018, at which time the principal amount of all outstanding advances becomes due and payable. As of December 31, 2015, we had \$10.0 million outstanding under the revolving line of credit.

The loan agreement also provides for a \$5.0 million growth capital term loan. The term loan bears interest at a floating per annum rate equal to the prime rate, but in no event less than 3.25%, plus 1.75%. Interest on the term loan is payable monthly in arrears for the first 12 months. Thereafter, the term loan will be payable in thirty-six equal monthly installments of principal, plus all accrued interest, beginning on June 30, 2016. The term loan maturity date is June 30, 2019. The term loan may be prepaid at our option, subject to a prepayment fee equal to 2% of the principal amount being repaid if such prepayment occurs on or prior to the first anniversary of the closing date. As of December 31, 2015, we had \$5.0 million outstanding under the term loan.

Western Alliance Bank maintains a security interest in substantially all of our tangible and intangible assets, excluding intellectual property, to secure any outstanding amounts under the loan agreement. The loan agreement contains customary events of default, conditions to borrowing and covenants, including restrictions on our ability to dispose of assets, make acquisitions, incur debt, incur liens and make distributions and dividends to stockholders. The loan agreement also includes a financial covenant related to our recurring revenue renewal rate. During the continuance of an event of default, Western Alliance Bank may accelerate amounts outstanding, terminate the credit facility and foreclose on the collateral.

As of December 31, 2015, we were in compliance with all covenants in the loan agreement.

### ***Uses of Funds***

Our historical uses of cash have primarily consisted of cash used for operating activities, such as expansion of our sales and marketing operations, research and development activities and other working capital needs.

#### ***Operating Activities***

Our net loss and cash flows provided by operating activities are significantly influenced by our investments in headcount and infrastructure to support our growth, marketing and sponsorship expenses, and our ability to bill and collect in a timely manner. Our net loss has been significantly greater than our use of cash for operating activities due to the inclusion of non-cash expenses and charges.

Operating activities provided \$4.4 million in 2015, primarily from \$7.7 million in cash provided as a result of changes in operating assets and liabilities, which was increased by \$7.5 million of non-cash operating expenses and partially offset by our net loss of \$10.8 million. Specifically, we recognized non-cash charges aggregating \$6.0 million for depreciation and amortization of intangible assets, capitalized software development costs and property and equipment, \$1.5 million for stock-based compensation expense, \$0.1 million related to non-cash interest on notes payable and \$0.4 million for the increase in our accounts receivable provision, offset by a \$0.4 million decrease in our deferred income taxes. The change in operating assets and liabilities reflected a \$0.9 million increase in accounts payable due to timing of payments made to vendors, a \$11.6 million increase in deferred revenue and a \$1.2 million increase in accrued employee-related expenses due to timing of payments. These increases were partially offset by a \$4.8 million increase in accounts receivable, \$0.7 million increase in prepaid expenses as a result of the increase in upfront payments made for insurance services, a \$0.4 million increase in other assets due to timing of payments made for deferred IPO cost and commissions and a \$0.2 million decrease in accrued expenses due to the timing of payments made.

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Operating activities provided \$7.7 million in 2014, primarily from \$5.6 million cash provided as result of changes in operating assets and liabilities, which was increased by \$2.8 million of non-cash operating expenses, and partially offset by our net loss of \$0.6 million. Specifically, we recognized non-cash charges aggregating \$2.5 million for depreciation and amortization of intangible assets, capitalized software development costs and property and equipment, a \$0.2 million increase in our reserve for bad debts, a \$0.4 million increase in stock-based compensation expense and a \$0.3 million increase in deferred income taxes as a result of the Vocal acquisition. The change in operating assets and liabilities reflected a \$1.0 million increase in accounts receivable as a result of our increased revenue, a \$0.3 million increase in prepaid expenses primarily associated with our increased insurance spend and a \$0.2 million increase in other assets, partially offset by a \$1.6 million increase in accrued and employee-related expenses due to timing of payments made to vendors and employees and \$5.0 million increase in deferred revenue.

Operating activities provided \$4.0 million in 2013, primarily from \$2.7 million of non-cash operating expenses and \$2.2 million of net operating assets and liabilities, partially offset by our net loss of \$0.9 million. Specifically, we recognized non-cash charges aggregating \$2.5 million for depreciation and amortization of intangible assets, capitalized software development costs and property and equipment, \$0.2 million for stock-based compensation expense and \$0.1 million for our reserve for bad debts. The change in operating assets and liabilities reflected a \$2.1 million increase in accounts receivable as a result of our increased revenues and a \$0.1 million increase in prepaid expenses primarily associated with our increased insurance spend, partially offset by a \$1.5 million increase in accrued and employee-related expenses due to timing of payments made to vendors and employees and a \$3.0 million increase in deferred revenue.

### *Investing Activities*

Our investing activities consist primarily of payments for acquisitions of businesses and technologies and capital expenditures for capitalized software development costs, property and equipment expenses.

Investing activities used \$7.4 million in cash in 2015, primarily from our investment in software development of \$4.9 million and property and equipment of \$2.5 million.

Investing activities used \$4.1 million in 2014, primarily from net cash paid in acquisitions of \$0.3 million, our investment in software development of \$1.7 million and property and equipment of \$2.2 million.

Investing activities used \$1.3 million in 2013, primarily from our investment in software development of \$0.8 million and property and equipment of \$0.7 million, partially offset by the release of \$0.1 million in restricted cash.

### *Financing Activities*

Cash generated by financing activities includes borrowings under our term loan and credit facilities and proceeds from the issuance of common stock upon the exercise of employee stock options. Cash used in financing activities includes deferred initial public offering costs and payments on capital leases, notes payable and repayments of debt under our credit facilities.

Financing activities provided \$7.3 million in cash in 2015, primarily from proceeds from our term loan of \$5.0 million and proceeds from our line of credit of \$12.0 million, partially offset by a \$1.5 million payment to repurchase outstanding shares of our common stock, \$5.0 million in payments on our line of credit, \$1.8 million in payments on notes payable, \$1.4 million in payments attributed to deferred initial public offering costs and \$0.1 million in payments on capital leases.

Financing activities used \$2.1 million of cash in 2014, which reflects net payments of \$0.4 million on our line of credit, payment of notes payable related to the Vocal acquisition of \$1.9 million and payment of \$0.1 million of capital lease obligations, offset by proceeds of \$0.2 million from the exercise of stock options.

Financing activities used \$1.4 million of cash in 2013, which reflects net payments of \$1.2 million on our line of credit and payment of \$0.2 million of capital lease obligations.

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### Contractual Obligations and Commitments

The following table summarizes our commitments to settle contractual obligations as of December 31, 2015:

|                                 | Less than<br>1 Year | 1 to 3<br>Years  | 3 to 5<br>Years | More than<br>5 Years | Total            |
|---------------------------------|---------------------|------------------|-----------------|----------------------|------------------|
| (in thousands)                  |                     |                  |                 |                      |                  |
| Debt obligations <sup>(1)</sup> | \$ 2,851            | \$ 13,333        | \$ 833          | \$ —                 | \$ 17,018        |
| Capital leases <sup>(2)</sup>   | 58                  | —                | —               | —                    | 58               |
| Operating leases <sup>(3)</sup> | 1,317               | 645              | 101             | —                    | 2,063            |
| Total                           | <u>\$ 4,226</u>     | <u>\$ 13,978</u> | <u>\$ 934</u>   | <u>\$ —</u>          | <u>\$ 19,139</u> |

- (1) Includes principal payments on our line of credit, notes payable and term loan, excluding estimated cash interest payments of \$0.7 million in 2016, as described in notes (9) and (10) to our consolidated financial statements included in this prospectus.
- (2) Capital leases include future commitments associated with our acquisition of fixed assets.
- (3) Operating leases include total future minimum rent payments under non-cancelable operating lease agreements as described in note (17) of our consolidated financial statements included in this prospectus.

Future minimum operating lease payments have been reduced by future minimum sublease income of \$0.3 million.

In March 2016, we entered into a lease for our new executive offices in Pasadena, California that will increase our future minimum lease commitments over the next three years by \$1.0 million.

The commitment amounts in the table above are associated with contracts that are enforceable and legally binding and that specify all significant terms, including fixed or minimum services to be used, fixed, minimum or variable price provisions and the approximate timing of the actions under the contracts. The table does not include obligations under agreements that we can cancel without a significant penalty.

### Backlog

We sell all of our critical communications applications on a subscription basis. We generally enter into contracts that range from one to three years in length, with an average contract duration of 2.0 years as of December 31, 2015, and generally bill and collect payment annually in advance. Since we bill many of our customers at the beginning of each contract year, there can be amounts that we have not yet been contractually able to invoice. Until such time as these amounts are invoiced, they are not recorded in revenue, deferred revenue or elsewhere in our consolidated financial statements. As of December 31, 2015, the dollar amount of this backlog believed to be firm was \$39.3 million. We expect that the amount of backlog relative to the total value of our subscription agreements will change from year to year for several reasons, including the specific timing and duration of customer agreements, varying invoicing cycles of agreements, the specific timing of customer renewals and changes in customer financial circumstances. In addition, because revenue for any period is a function of revenue recognized from deferred revenue under contracts in existence at the beginning of the period, as well as contracts that are renewed and new customer contracts that are entered into during the period, backlog at the beginning of any period is not necessarily indicative of future performance. Our presentation of backlog may also differ from that of other companies in our industry. Due to these factors, as well as variances in billing arrangements with customers, we do not utilize backlog as a key management metric internally.

### Off-Balance Sheet Arrangements

We do not have any relationships with unconsolidated entities or financial partnerships, including entities sometimes referred to as structured finance or special purpose entities that were established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. We do not engage in off-balance sheet financing arrangements. In addition, we do not engage in trading activities involving non-exchange traded contracts.

### Critical Accounting Policies

Our consolidated financial statements are prepared in accordance with GAAP. The preparation of our consolidated financial statements require us to make estimates, assumptions and judgments that affect the reported amounts of revenue, assets, liabilities, costs and expenses. We base our estimates and assumptions on

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historical experience and other factors that we believe to be reasonable under the circumstances. We evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates. Our most critical accounting policies are summarized below. See note 2 to our consolidated financial statements beginning on page F-8 of this prospectus for a description of our other significant accounting policies.

### ***Revenue Recognition***

We derive substantially all of our revenue from contract subscription fees for use of our applications.

We recognize revenue in accordance with ASC Topic 605, *Revenue Recognition*, with respect to a transaction when all of the following conditions have been satisfied:

- persuasive evidence of an agreement exists;
- the service has been provided to the customer;
- fees are fixed or determinable; and
- the collection of the fees is reasonably assured and acceptance criteria, if any, have been met.

If any of these criteria are not met, revenue recognition is deferred until such time that all of the criteria are met.

Our subscription arrangements do not provide customers with the right to take possession of our software at any time.

### ***Subscription Revenue***

We recognize subscription revenue ratably over the initial subscription period committed by the customer commencing when the customer's environment has been created in our hosted environment. The initial subscription period is typically one to three years and the level of service provided each customer varies is based on the level of service required by the complexity of a customer's business.

### ***Other Revenue***

We recognize revenue for set-up fees, which historically have not been material to our financial statements. We have concluded that set-up fees do not meet the criteria for separation from our primary service as they do not have stand-alone value as we have historically not sold set-up fees separately. We charge set-up fees for substantially all new applications and services. These set-up fees are recognized ratably over the contractual period, which approximates the life of the application. We also sell professional services, which have been immaterial to date.

### ***Deferred Revenue***

Deferred revenue includes amounts collected or billed in excess of recognizable revenue. Such amounts are recognized by us over the life of the contract upon meeting the revenue recognition criteria. Deferred revenue that will be recognized during the succeeding 12-month period is recorded as current deferred revenue and the remaining portion is recorded as non-current deferred revenue. Because the mix of billing terms with customers can vary from period to period, the annualized value of the contracts that we enter into with our customers will not be completely reflected in deferred revenue at any single point in time.

### ***Business Combinations***

The results of businesses acquired in a business combination are included in our consolidated financial statements from the date of the acquisition. Purchase accounting results in assets and liabilities of an acquired business being recorded at their estimated fair values on the acquisition date. Any excess consideration over the fair value of assets acquired and liabilities assumed is recognized as goodwill.

We perform valuations of assets acquired and liabilities assumed on each acquisition accounted for as a business combination and allocate the purchase price to the tangible and intangible assets acquired and liabilities assumed

based on our best estimate of fair value. We determine the appropriate useful life of intangible assets by performing an analysis of cash flows based on historical experience of the acquired businesses. Intangible assets are amortized over their estimated useful lives based on the pattern in which the economic benefits associated with the asset are expected to be consumed, which to date has approximated the straight-line method of amortization.

Transaction costs associated with business combinations are expensed as incurred and are included in general and administrative expense in our consolidated statements of comprehensive loss.

### ***Goodwill***

Goodwill represents the excess of the aggregate purchase price paid over the fair value of the net assets acquired in our business combinations. Goodwill is not amortized and is tested for impairment at least annually or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Events or changes in circumstances that could trigger an impairment review include a significant adverse change in business climate, an adverse action or assessment by a regulator, unanticipated competition, a loss of key personnel, significant changes in the manner of our use of the acquired assets or the strategy for our overall business, significant negative industry or economic trends, or significant underperformance relative to expected historical or projected future results of operations.

We have the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying value, including goodwill. If, after assessing the totality of events or circumstances, we determine that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, additional impairment testing is not required. However, if we conclude otherwise, we are required to perform the first step of a two-step impairment test. Alternatively, we may elect to proceed directly to the first step of the two-step impairment test and bypass the qualitative assessment.

The first step of the impairment test involves comparing the estimated fair value of a reporting unit with its book value, including goodwill. If the estimated fair value exceeds book value, goodwill is considered not to be impaired and no additional steps are necessary. If, however, the fair value of the reporting unit is less than book value, the carrying amount of the goodwill is compared to its implied fair value. The estimate of implied fair value of goodwill may require valuations of certain internally generated and unrecognized intangible assets. If the carrying amount of goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to the excess. We test for goodwill impairment on November 30 of each year.

### ***Software Development Costs***

We capitalize the costs of software developed or obtained for internal use in accordance with ASC Topic 350-40, *Internal Use Software*. Capitalized software development costs consist of costs incurred during the application development stage and include purchased software licenses, implementation costs, consulting costs, and payroll-related costs for projects that qualify for capitalization. These costs relate to major new functionality. All other costs, primarily related to maintenance and minor software fixes, are expensed as incurred.

### ***Stock-Based Compensation***

We recognize stock-based compensation expense for stock-based compensation awards granted to our employees, directors, consultants and other service providers that can be settled in shares of our common stock. Compensation expense for stock-based compensation awards granted is based on the grant date fair value estimate for each award as determined by our board of directors or the compensation committee of our board of directors. We recognize these compensation costs on a straight-line basis over the requisite service period of the award, which is generally four years. As stock-based compensation expense recognized is based on awards ultimately expected to vest, such expense is reduced for estimated forfeitures.

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We estimate the fair value of stock-based compensation awards at the date of grant using the Black-Scholes option pricing model, which was developed for use in estimating the value of traded options that have no vesting restrictions and are freely transferable. The fair values generated by the model may not be indicative of the actual fair values of our awards as it does not consider other factors important to those stock-based payment awards, such as continued employment, periodic vesting requirements and limited transferability.

Determining the fair value of stock-based awards at the grant date requires judgment. We use the Black-Scholes option-pricing model to determine the fair value of stock options. The determination of the grant date fair value of options using an option-pricing model is affected by our estimated common stock fair value as well as assumptions regarding a number of other complex and subjective variables. These variables include the fair value of our common stock, the expected term of the options, our expected stock price volatility, risk-free interest rates, and expected dividends, which are estimated as follows:

- *Fair value of our common stock.* Because our stock is not publicly traded, we must estimate the fair value of common stock, as discussed in “— Common Stock Valuations” below.
- *Expected term.* The expected term represents the period that the stock-based compensation awards are expected to be outstanding. Since we did not have sufficient historical information to develop reasonable expectations about future exercise behavior, we use the simplified method to compute expected term, which represents the average of the time-to-vesting and the contractual life.
- *Expected volatility.* As we do not have a trading history for our common stock, the expected stock price volatility for our common stock was estimated by taking the average historic price volatility for industry peers based on daily price observations over a period equivalent to the expected term of the stock option grants. We did not rely on implied volatilities of traded options in our industry peers’ common stock because the volume of activity was relatively low. We intend to continue to consistently apply this process using the same or similar public companies until a sufficient amount of historical information regarding the volatility of our own common stock share price becomes available.
- *Risk-free interest rate.* The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for zero coupon U.S. Treasury notes with maturities approximately equal to the expected term of the options.
- *Expected dividend yield.* We have never declared or paid any cash dividends and do not presently plan to declare or pay cash dividends in the foreseeable future. Consequently, we used an expected dividend yield of zero.

If any of the assumptions used in the Black-Scholes model change significantly, stock-based compensation for future awards may differ materially compared with the awards granted previously.

The following table presents the weighted-average assumptions used to estimate the fair value of options granted during the periods presented:

|                         | Year Ended<br>December 31, |               |               |
|-------------------------|----------------------------|---------------|---------------|
|                         | 2013                       | 2014          | 2015          |
| Expected term (years)   | 5.53 - 7.03                | 5.89 - 6.13   | 5.09 - 6.15   |
| Expected volatility     | 65%                        | 51.7% - 69%   | 60%           |
| Risk-free interest rate | 0.91% - 2.14%              | 1.63% - 2.06% | 1.41% - 1.94% |
| Expected dividend yield | —%                         | —%            | —%            |

### **Common Stock Valuations**

The fair value of the common stock underlying our stock options was determined by our board of directors, which intended that all options granted have an exercise price that is not less than the estimated fair market value

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of a share of our common stock underlying those options on the date of grant. The valuations of our common stock were determined in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*. The assumptions we used in the valuation model were based on future expectations combined with management judgment. In the absence of a public trading market, our board of directors, with input from management, exercised significant judgment and considered numerous objective and subjective factors to determine the fair market value of our common stock as of the date of each option grant, including the following factors:

- contemporaneous third-party valuations performed at periodic intervals by a valuation firm;
- the prices, rights, preferences and privileges of our preferred stock relative to the common stock;
- the purchases of shares of preferred stock by unaffiliated venture capital firms;
- actual operating and financial performance and forecasts;
- present value of forecasted future cash flows;
- the likelihood of achieving a liquidity event, such as an initial public offering or a sale of our company given prevailing market conditions;
- any adjustment necessary to recognize a lack of marketability for our common stock;
- the market performance of comparable publicly-traded technology companies;
- the U.S. and global capital market conditions;
- our stage of development; and
- industry information such as market size and growth and our competitive position in the market.

We have granted stock options with the following exercise prices since January 1, 2014:

| <b>Grant Date</b> | <b>Number of Shares<br/>Underlying Awards</b> | <b>Exercise<br/>Price Per<br/>Share</b> | <b>Common<br/>Stock Fair<br/>Value Per<br/>Share at<br/>Grant Date</b> |
|-------------------|---|---|--|
| February 11, 2014 | 45,000  | \$ 1.22                                 | \$ 1.22  |
| May 8, 2014       | 222,500                                       | \$ 1.22                                 | \$ 1.22  |
| July 31, 2014     | 126,500                                       | \$ 1.22                                 | \$ 1.22  |
| October 21, 2014  | 285,500                                       | \$ 1.22                                 | \$ 1.22  |
| March 5, 2015     | 793,500                                       | \$ 1.63                                 | \$ 1.63  |
| April 22, 2015    | 1,506,500                                     | \$ 1.63                                 | \$ 1.63  |
| July 15, 2015     | 4,454,000                                     | \$ 2.37                                 | \$ 2.37  |
| October 19, 2015  | 90,000  | \$ 2.45                                 | \$ 2.32  |
| January 7, 2016   | 527,000                                       | \$ 2.55                                 | \$ 2.47  |

Based upon the assumed initial public offering price of \$        per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, the aggregate intrinsic value of options outstanding as of December 31, 2015 was \$        million, of which \$        million related to vested options and \$        million related to unvested options.

### *Common Stock Valuation Methodology*

In valuing our common stock, our board of directors determined the equity value of our business generally using a combination of the income approach and the market approach valuation methods.

The income approach estimates value based on the expectation of future cash flows that a company will generate, such as cash earnings, cost savings, tax deductions and the proceeds from disposition. These future cash flows

are discounted to their present values using a discount rate derived based on an analysis of the cost of capital of comparable publicly traded companies in similar lines of business, as of each valuation date, and is adjusted to reflect the risks inherent in our cash flows.

The market approach estimates the fair value of a company by applying market multiples of comparable publicly traded companies in a similar line of business. The market multiples are based on relevant metrics implied by the price that investors have paid for the equity of publicly traded companies. Given our significant focus on investing in and growing our business as well the financial metrics influencing the market values of the publicly traded companies examined, we primarily utilized the revenue multiple when performing valuation assessments under the market approach. When considering which companies to include as our comparable industry peer companies, we focused on U.S.-based publicly traded companies that were broadly comparable to us based on consideration of industry, market and line of business. From the comparable companies, a representative market value multiple was determined and applied to our operating results to estimate the value of our company. The market value multiple was determined based on consideration of multiples of revenue to each of the comparable companies' last 12-month revenue and the forecasted future 12-month revenue. In addition, the market approach considers merger and acquisition transactions involving companies similar to the company's business being valued. Multiples of revenue are calculated for these transactions and then applied to the business being valued, after reduction by an appropriate discount.

Historically, our equity value was determined using a weighted average combination of the income approach and the market approach. Once an equity value was determined, we utilized the option pricing method, or OPM, for all valuations prior to June 30, 2015 and subsequently used a hybrid method to allocate the total value of equity to various shares classes, which is a probability weighted expected return method, or PWERM, that incorporates the use of an OPM.

The OPM treats common stock and convertible preferred stock as call options on a company's enterprise value with exercise prices based on the liquidation preferences of the convertible preferred stock. The OPM prices the call option using the Black-Scholes model. The OPM is used when the range of possible future outcomes is difficult to predict.

The PWERM relies on a forward-looking analysis to predict the possible future value of a company. Under this method, discrete future outcomes, including an initial public offering, or IPO, and non-IPO scenarios, are weighted based on the estimated the probability of each scenario. The PWERM is used when discrete future outcomes can be predicted with reasonable certainty based on a probability distribution.

The hybrid method is generally preferred for a company expecting a liquidity event in the near future but where, due to market or other factors, the form of a liquidity event under one or more scenarios is uncertain. In the application of the hybrid method, we weighted scenarios under which the company would complete its public offering or a sale to allocate the value of equity under a near-term liquidity scenario and the OPM to allocate the value of equity under a long-term liquidity scenario. The equity values relied upon in the different scenarios within PWERM were based on (1) the weighted average indications of the enterprise value using the discounted cash flow method, which is an income approach, and the guideline public company method, which is a market approach, and (2) our expectation of the pre-money valuation that we needed to achieve to consider an IPO as a viable scenario.

#### *Contemporaneous Valuations*

To assist our board of directors with the determinations of the exercise price for our stock options and the fair market value of the common stock underlying the options, we obtained third-party valuations of our common stock as of January 31, 2014, January 31, 2015, April 30, 2015, June 30, 2015, August 31, 2015, October 31, 2015 and December 31, 2015. An analysis of our third-party valuations and determinations of the exercise prices and the fair value of the underlying common stock for our stock-based awards granted on or between the respective valuation dates are discussed further below.

*February through October 2014 Grants.* We obtained an independent third-party valuation of our common stock as of January 31, 2014. This valuation was determined using the OPM method. With respect to the OPM,



the enterprise value was determined by using a combination of income and market approaches, each weighted at 50% of the overall valuation. The income approach utilized a five-year cash flow forecast as the primary method for determining our enterprise value and applied a discount rate of 25%. This discount rate was based upon benchmark venture capital studies of required rates of return for investment in companies at similar stages of development, as well as an analysis of weighted-average costs of capital of comparable companies using a capital asset pricing model. The market approach was developed by applying revenue market multiples of comparable companies to our historical and forecasted revenue.

After a consideration of this valuation, our board of directors determined the fair market value of our common stock to be \$1.22 per share for each of the grants issued during 2014 and granted stock options with an exercise price of \$1.22 per share on each of these dates. This is the same fair value per share we used for financial reporting purposes. In connection with each such determination, our board of directors determined that there were no material changes in our business since January 31, 2014 or in the assumptions upon which the January 31, 2014 valuation was based that affected the fair market value of our common stock.

*March and April 2015 Grants.* We obtained an independent third-party valuation of our common stock as of January 31, 2015. This valuation was determined using the OPM method. With respect to the OPM, the enterprise value was determined by using a combination of income and market approaches, each weighted at 50% of the overall valuation. The income approach utilized a five-year cash flow forecast as the primary method for determining our enterprise value and applied a discount rate of 20%. This discount rate was based upon benchmark venture capital studies of required rates of return for investment in companies at similar stages of development, as well as an analysis of weighted-average costs of capital of comparable companies using a capital asset pricing model. The market approach was developed by applying revenue market multiples of comparable companies to our historical and forecasted revenue.

After a consideration of this valuation, our board of directors determined the fair market value of our common stock to be \$1.63 per share for each of the grants issued in March and April of 2015 and granted stock options with an exercise price of \$1.63 per share on each of these dates. This is the same fair value per share we used for financial reporting purposes. In connection with each such determination, our board of directors determined that there were no material changes in our business since January 31, 2015, or in the assumptions upon which the January 31, 2015 valuation was based that affected the fair value of our common stock.

*July 2015 Grants.* We obtained an independent third-party valuation of our common stock as of June 30, 2015. Given our continued growth and improving operational metrics as well as our plans to pursue an IPO, the valuation as of June 30, 2015 was determined using the hybrid method. This method uses a PWERM that was calculated assuming a 60% probability of an initial public offering within six months, a 20% probability of an initial public offering in one year, a 10% probability of a sale in approximately one year and a 10% probability of our continuing as a private company. For each scenario of the PWERM, a total equity value was determined by using a combination of income and market approaches. Total equity value under the income approach was estimated based on the present value of our future cash flows and a revenue multiple for the terminal value that was determined based upon a guideline public company analysis considering companies of relative size, growth and profitability at that future date. Total equity value under the market approach was estimated based on the application of market multiples to our last-twelve-months and forward-looking revenues, each of which was weighted at 50%. The equity values determined were allocated to the common stock under each PWERM scenario. Finally, the probability weighted indication for the common stock was then discounted for lack of marketability by 15%. For the purposes of the PWERM, we estimated an IPO date of between November 30, 2015 and June 30, 2016 and used a risk adjusted discount rate of 21%.

After a consideration of this valuation, our board of directors determined the fair value of our common stock to be \$2.37 per share as of June 30, 2015 and granted stock options with an exercise price of \$2.37 per share in July 2015. This is the same fair value per share we used for financial reporting purposes. The increase in the value from the prior valuation principally reflected our business outlook for 2015, an increase in industry multiples and our progress towards an initial public offering.

**October 2015 Grants.** We obtained an independent third-party valuation of our common stock as of August 31, 2015. Given our continued growth and improving operational metrics as well as our plans to pursue an IPO, the valuation as of August 31, 2015 was determined using the hybrid method. This method uses a PWERM that was calculated assuming a 60% probability of an initial public offering within six months, a 20% probability of an initial public offering within one year, a 10% probability of a sale within one year and a 10% probability of our continuing as a private company. For each scenario of the PWERM, a total equity value was determined by using a combination of income and market approaches. Total equity value under the income approach was estimated based on the present value of our future cash flows and a revenue multiple for the terminal value that was determined based upon a guideline public company analysis considering companies of relative size, growth and profitability at that future date. Total equity value under the market approach was estimated based on the application of market multiples to our last-twelve-months and forward-looking revenues, each of which was weighted at 50%. The equity values determined were allocated to the common stock under each PWERM scenario. Finally, the probability weighted indication for the common stock was then discounted for lack of marketability by 15%. For the purposes of the PWERM, we estimated an IPO date of between November 30, 2015 and June 30, 2016 and used a risk adjusted discount rate of 21%.

This third-party valuation indicated the fair market value of our common stock to be \$2.32 per share as of August 31, 2015, with the decrease in value from the prior valuation principally reflecting a decrease in industry multiples, partially offset by our progress towards an IPO. Nevertheless, our board of directors determined the fair value of our common stock to be \$2.45 per share as of August 31, 2015 and granted stock options with an exercise price of \$2.45 in October 2015.

**January 2016 Grants.** We obtained an independent third-party valuation of our common stock as of December 31, 2015. Given our continued growth and improving operational metrics as well as our plans to pursue an IPO, the valuation as of December 31, 2015 was determined using the hybrid method. This method uses a PWERM that was calculated assuming a 80% probability of an initial public offering within one year, a 10% probability of a sale within one year and a 10% probability of our continuing as a private company. For each scenario of the PWERM, a total equity value was determined by using a combination of income and market approaches. Total equity value under the income approach was estimated based on the present value of our future cash flows and a revenue multiple for the terminal value that was determined based upon a guideline public company analysis considering companies of relative size, growth and profitability at that future date. Total equity value under the market approach was estimated based on the application of market multiples to our last-twelve-months and forward-looking revenues, each of which was weighted at 50%. The equity values determined were allocated to the common stock under each PWERM scenario. Finally, the probability weighted indication for the common stock was then discounted for lack of marketability by 15%. For the purposes of the PWERM, we estimated an IPO date of between March 31, 2016 and July 31, 2016 and used a risk adjusted discount rate of 20%.

This third-party valuation indicated the fair market value of our common stock to be \$2.47 per share as of December 31, 2015. Nevertheless, our board of directors determined the fair market value of our common stock to be \$2.55 per share as of December 31, 2015 and granted stock options with an exercise price of \$2.55 in January 2016.

Following the closing of this offering, the fair value of our common stock will be determined based on the closing price of our common stock on the NASDAQ Global Market.

#### **Recent Accounting Pronouncements**

In May 2014, the Financial Accounting Standards Board issued Accounting Standards Update, or ASU, 2014-09, *Revenue from Contracts with Customers (Topic 606)*, which supersedes the revenue recognition in Accounting Standards Codification 605, *Revenue Recognition*. Under this guidance, revenue is recognized when promised goods or services are transferred to customers in an amount that reflects the consideration that is expected to be received for those goods or services. The updated standard will replace all existing revenue recognition guidance under GAAP when it becomes effective and permits the use of either the retrospective or cumulative effect transition method. This ASU is effective for annual periods beginning after December 15, 2017 and shall be

applied either retrospectively to each period presented or as a cumulative-effect adjustment as of the date of adoption. Early adoption for annual period beginning after December 15, 2016 would be permitted. We are evaluating the potential impact of this adoption on our consolidated financial statements.

In August 2014, the FASB issued ASU 2014-15, *Disclosure of Uncertainties About an Entity's Ability to Continue as a Going Concern*. This standard update provides guidance around management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. The new guidance is effective for all annual and interim periods ending after December 15, 2016. The adoption of this guidance is not expected to have a material impact on our financial statements.

In November 2015, the FASB issued ASU 2015-17, *Income Taxes (Topic 740): Balance Sheet Classification of Deferred Taxes*. This standard amends the accounting for income taxes and requires all deferred tax assets and liabilities to be classified as non-current on the balance sheet. The new standard is effective for reporting periods beginning after December 15, 2016, with early adoption permitted. The standard may be adopted either prospectively or retrospectively. We elected to adopt the accounting standard retrospectively in 2015.

In April 2015, the FASB issued ASU 2015-03, *Interest—Imputation of Interest (Subtopic 835-30): Simplifying the Presentation of Debt Issuance Costs*. ASU 2015-03 provides accounting guidance regarding financial statement presentation of debt issuance costs related to a recognized debt liability. The guidance states that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of the debt liability, consistent with that of debt discounts. Given the absence of authoritative guidance within ASU 2015-03 for debt issuance costs related to line-of-credit arrangements, the SEC staff would not object to an entity deferring and presenting debt issuance costs as an asset and subsequently amortizing the deferred debt issuance costs ratably over the term of the line-of-credit arrangement, regardless of whether there are any outstanding borrowings on the line-of-credit arrangement. This ASU is effective for annual periods and interim periods within those annual periods, beginning after December 15, 2015. Early adoption is permitted, but only for financial statements which have not been previously issued. An entity should apply this guidance on a retrospective basis wherein the balance sheet of each individual period be adjusted to reflect the period-specific effect of the new guidance. Upon transition, an entity is required to comply with the appropriate disclosures associated with a change in accounting principle. We are evaluating the potential impact of this adoption on our consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02: *Leases (Topic 842)*. The amendments in this update require lessees, among other things, to recognize lease assets and lease liabilities on the balance sheet for those leases classified as operating leases under previous authoritative guidance. This update also introduces new disclosure requirements for leasing arrangements. ASU 2016-02 will be effective in fiscal year 2019, but early application is permitted. We are evaluating the potential impact of this update on our consolidated financial statements.

#### **Qualitative and Quantitative 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 the result of fluctuations in interest rates and foreign exchange rates as well as, to a lesser extent, inflation.

#### **Interest Rate Risk**

We are exposed to interest rate risk in the ordinary course of our business. Our cash includes cash in readily available checking and money market accounts and marketable securities. These securities are not dependent on interest rate fluctuations that may cause the principal amount of these assets to fluctuate. Additionally, the interest rate on our notes payable loans are fixed and not subject to changes in market interest rates.

We had cash of \$8.6 million as of December 31, 2015, which consists entirely of bank deposits. To date, fluctuations in interest income have not been significant. We also had total outstanding debt subject to interest

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rate risk of \$15.0 million as of December 31, 2015, which is due within four years. Amounts outstanding under our credit facility carry a variable interest rate of the prime rate, but in no event less than 3.25%, plus 0.75%. Amounts outstanding under our growth capital term loan carry a variable interest rate of the prime rate, but in no event less than 3.25%, plus 1.75%. As of December 31, 2015, the applicable prime rate was 3.50%. We monitor our cost of borrowing under our credit facility, taking into account our funding requirements, and our expectation for short-term rates in the future.

We do not enter into investments for trading or speculative purposes and have not used any derivative financial instruments to manage our interest rate risk exposure. Although our credit facility and term loan have variable interest rates, a hypothetical 10% change in interest rates during any of the periods presented would not have had a material impact on our financial statements.

### ***Foreign Currency Exchange Risk***

We have foreign currency risks related to our revenue and operating expenses denominated in currencies other than our functional currency, the U.S. dollar, principally British pounds. Movements in foreign currencies in which we transact business could significantly affect future net earnings. For example, if the average value of the British pound had been 10% higher relative to the U.S. dollar during 2015, our operating expenses would have increased by \$0.4 million and if the average value of the British pound had been 10% higher relative to the U.S. dollar during 2014, our operating expenses would have increased by \$0.2 million. To date, we have not engaged in any hedging strategies. As our international operations grow, we will continue to reassess our approach to manage our risk relating to fluctuations in foreign currency rate.

### ***Inflation Risk***

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

### **JOBS Act Transition Period**

In April 2012, the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, was enacted. Section 107 of the JOBS Act provides that an “emerging growth company” can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. Thus, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have irrevocably elected not to avail ourselves of this extended transition period and, as a result, we will adopt new or revised accounting standards on the relevant dates on which adoption of such standards is required for other public companies.

We are in the process of evaluating the benefits of relying on other exemptions and reduced reporting requirements under the JOBS Act. Subject to certain conditions, as an emerging growth company, we may rely on certain of these exemptions, including without limitation, (i) providing an auditor’s attestation report on our system of internal controls over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act and (ii) complying with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements, known as the auditor discussion and analysis. We will remain an emerging growth company until the earlier to occur of (1) the last day of the fiscal year (a) following the fifth anniversary of the completion of this offering, (b) in which we have total annual gross revenues of at least \$1.0 billion or (c) in which we are deemed to be a “large accelerated filer” under the rules of the U.S. Securities and Exchange Commission, which means the market value of our common stock that is held by non-affiliates exceeds \$700 million as of the prior June 30th, and (2) the date on which we have issued more than \$1.0 billion in non-convertible debt during the prior three-year period.

## BUSINESS

### Overview

We are a global enterprise software company that provides applications which automate the delivery of critical information to help keep people safe and businesses running. During mission-critical business events or man-made or natural disasters, our SaaS-based platform enables our customers to quickly and reliably deliver intelligent, contextual messages to, and receive verification of delivery from, hundreds or millions of recipients, across multiple communications modalities such as voice, SMS and e-mail. Our applications enable the delivery of messages in near real-time to more than 100 different communication devices, in over 200 countries and territories, in multiple languages – all simultaneously. We automate the process of sending contextual notifications to multiple constituencies so that organizations can act quickly and confidently. Our enterprise critical communications applications, which include Mass Notification, Incident Management, IT Alerting, Secure Messaging, Community Engagement, Internet of Things and Safety Connection, are easy-to-use and deploy, secure, highly scalable and reliable. We believe that our broad suite of integrated, enterprise applications delivered via a single global platform is a significant competitive advantage.

In critical situations, the speed at which information is transmitted and accessed is essential. From the early days of manual call trees and simple outdoor sirens, mass communications have evolved with advances in technology to include system-generated calls, text messages, emails, social media and outdoor digital signage. The proliferation of mobile and digital communications has increased the number of ways in which people receive and transmit information and the volume of information that they must process. During mission-critical business events or man-made or natural disasters, the ability to enable secure, scalable, reliable and automated communications to people can be essential to saving lives, saving money and protecting assets.

The severity, complexity and frequency of these critical events, their implications for business performance and personal safety, and regulatory and compliance challenges are increasing. The need for active shooter preparedness and public safety protection from terrorist attacks, as well as notifications about IT outages, cyber incidents, severe weather conditions, missing persons, failing equipment and other urgent events, drive the need for a secure, scalable and reliable notification system that can be operated quickly and easily. In addition, there has been a rapid proliferation of connected devices and networked physical objects – the Internet of Things, or IoT – that have the capability to communicate information about status and environment and generate data that enables individuals and enterprises to intervene. These dynamics have led to a growing need for enterprise critical communications solutions that can deliver comprehensive yet targeted and contextually relevant content that facilitates the desired outcomes in critical situations and overcomes the information overload that individuals face. We estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, that the market for critical communications solutions represented a \$6.2 billion worldwide opportunity in 2015 and is expected to grow to \$17.8 billion in 2020.

Following the tragic events of 9/11, Everbridge was founded with a vision of helping people communicate effectively in critical situations. Our SaaS-based critical communications platform is built on a secure, scalable and reliable infrastructure with multiple layers of redundancy to enable the rapid delivery of critical communications, with near real-time verification, over numerous devices and contact paths. We deliver communications to more than 200 countries and territories, which are available in 14 languages and dialects, and delivered 1.1 billion communications in 2015. Our Mass Notification application is our most established application and enables enterprises and governmental entities to send contextually aware notifications to individuals or groups to keep them informed before, during and after natural or man-made disasters and other emergencies. For example, during Hurricane Sandy, our Mass Notification application was used along the U.S. East Coast to deliver more than eight million communications. By automating the delivery of these types of critical communications, we enable customers to increase the speed and accuracy of their response and reduce associated costs. Importantly, given the pressure and anxiety most people experience in critical situations, our Mass Notification application provides a simple user interface and automated workflows for ease of use. The expertise that we garnered developing our Mass Notification application and our customers' reliance on our solutions led us to leverage our platform to deploy solutions for additional critical communications use cases. In

turn, we have developed a full suite of enterprise-scale applications that enable our customers to deliver contextually relevant communications during critical situations, whether to a broad audience or to a targeted subset of individuals, globally or locally, and accounting for cultural, linguistic, regulatory and technological differences. As all of our applications leverage our critical communications platform, customers can use a single contacts database, rules engine of algorithms and hierarchies and user interface to accomplish multiple objectives. Our applications are easy-to-use and deploy and require limited implementation services.

The following situations reflect examples of how our applications enable and optimize critical communications processes:

- When a hurricane is imminent, local emergency management departments can alert affected communities and available emergency responders of the impending storm with relevant instructions such as safety and evacuation instructions and organizations can alert employees of office closings and provide other safety instructions.
- When IT systems fail, IT administrators can alert and escalate the specific IT resources required to quickly provide systems restoration, automate a conference bridge and notify affected employees and customers.
- When a cyber incident shuts down an IT network, management can alert employees of the network shutdown via a secure, alternate communication path.
- When an active shooter situation or terrorist attack occurs, organizations can quickly identify employees in the affected area, including employees not at their usual business location, in order to confirm that they are safe and provide instructions.
- When a physician has two coinciding commitments in different locations, he or she can conduct a virtual interactive patient consultation from a wireless device from any location using our secure messaging and video solution that is designed to be HIPAA-compliant.
- When a power line is down, utility workers can activate incident management templates to alert affected customers and responders in a coordinated, error-free fashion.
- When engine readings in critical equipment detect a malfunction, technicians with the right skills can be automatically alerted and quickly deployed to minimize downtime, improving efficiency and avoiding revenue loss.
- When readings from an implanted medical device are abnormal, that information can be automatically routed to the individual's healthcare provider to enable timely medical care.
- When a young child goes missing, residents can communicate with their neighbors and local officials to coordinate efforts to locate and return the child.
- When a financial services firm experiences disruptions, clients can be promptly notified and audit confirmations can be provided to document delivery.

Our customer base has grown from 867 customers at the end of 2011 to more than 2,700 customers as of March 31, 2016. As of March 31, 2016, our customers were based in 21 countries and included eight of the 10 largest U.S. cities, seven of the 10 largest U.S.-based investment banks, 24 of the 25 busiest North American airports, six of the 10 largest global auto makers and four of the 10 largest U.S.-based health care providers. We provide products and services to customers of varying sizes, including enterprises, small businesses, non-profit organizations, educational institutions and government agencies. Our customers span a wide variety of industries including technology, energy, financial services, healthcare and life sciences, manufacturing, media and entertainment, retail, higher education and professional services.

We derive substantially all of our revenue from subscriptions to our critical communications applications, which represented 96%, 97% and 95% of our total revenue in 2013, 2014 and 2015, respectively. Historically, we

derived more than 90% of our revenue in each of the last three fiscal years from sales of our Mass Notification application. Our pricing model is based on the number of applications subscribed to and, per application, the number of people, locations and things connected to our platform, as well as the volume of communications. We also offer premium services including data feeds for social media, threat intelligence and weather. We generate additional revenue by expanding the number of applications, number of contacts and number of devices that our customers purchase over time.

We generated revenue of \$23.4 million in 2012, \$30.0 million in 2013, \$42.4 million in 2014 and \$58.7 million in 2015, representing year-over-year increases of 29% in 2013, 41% in 2014 and 38% in 2015. We had net losses of \$0.9 million, \$0.6 million and \$10.8 million in 2013, 2014 and 2015, respectively. Our adjusted EBITDA, which is a measure that is not calculated and presented in accordance with generally accepted accounting principles in the United States, or GAAP, decreased from \$2.2 million to \$(3.4) million from 2013 to 2015. See note 2 to the table contained in “Summary Consolidated Financial and Other Data—Key Metrics” for a reconciliation of adjusted EBITDA to net loss, the most directly comparable financial measure calculated and presented in accordance with GAAP.

## **Industry Background**

Over the past two decades, critical communications methods have evolved rapidly, in tandem with advances in technology, to include system-generated voice calls, text messages, emails, social media and outdoor digital signage. In critical situations, the speed at which information is transmitted and accessed is essential.

### ***Key Trends Driving a Fundamental Shift in Communications***

Key business and technology trends continue to shift both the fundamental way that organizations communicate with relevant stakeholders and how individuals regularly consume information. People increasingly consume most of their information through mobile devices and applications as well as social media and other digital channels. Increasingly, less information is shared using traditional “analog” communication methods, such as printed media, television and landline telephones. The proliferation of mobile and digital communications, as well as the emergence of the IoT, has accelerated the speed at which people communicate, exponentially increasing the volume of communications that individuals must process. As a result of these dynamics, it has become imperative that communications be appropriately contextualized, meaningful and actionable.

In light of these trends, communications have become one of the most important areas of technology investment. In a 2015 report, Gartner, Inc. estimates that \$1.5 trillion, or 42.5%, of information technology, or IT, expenditure was for communications in 2015. Organizations are reaping the benefits of digital communications to more easily and relevantly interact with their target constituents including customers, partners, employees, residents and other key stakeholders. Likewise, as IT innovation continues to shift to on-demand models, organizations have increasingly migrated from on-premises software to cloud-based solutions in order to improve agility and efficiency when seeking to communicate with their global, mobile, distributed stakeholders.

In order to connect people across disparate communication modalities in diverse locations, organizations are increasingly investing in technologies that unify different analog and digital real-time and non-real-time communications. The integration of real-time enterprise communication services such as instant messaging and voice and video conferencing with non-real-time communication services such as voicemail, facsimile and e-mail can provide a consistent and unified user experience across multiple devices and media types.

Governmental entities and enterprises also face increasing threats to the safety of their geographically disparate and constantly mobile residents and employees. According to the Institute of Economics and Peace’s Global Terrorism Index, more people died globally from terrorist attacks in 2014 than in any prior year, and in recent months the world has witnessed devastating attacks in Paris, Brussels, San Bernardino, Istanbul and other global cities. In addition, global reinsurer Swiss Reinsurance Company Ltd. found that the cost of disaster events, including man-made and severe weather incidents, reached \$85 billion worldwide in 2015.

During mission-critical business events or man-made or natural disasters, the ability to communicate life-saving or damage-mitigating information is crucial. Speed, security, scalability and reliability of communications is essential. The severity, complexity and frequency of these critical events, their implications for business performance or personal safety and rising regulatory and compliance challenges are driving demand for critical communications solutions, which we estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, represented a \$6.3 billion worldwide market opportunity in 2015.

### ***Evolution of Critical Communications***

Traditional solutions for critical communications have not kept pace with the increasingly digital world, the evolving threat landscape and the opportunity to leverage technological innovation to more effectively communicate with people. These solutions are often developed in-house or are not truly enterprise in scale, leaving many organizations to use analog, manual, one-way and people-based modalities to communicate with relevant stakeholders. These solutions lack the scale to reliably address the breadth of the different critical challenges that organizations increasingly face, the sophistication required to address evolving needs associated with automated workflows and the ability to rapidly deliver messages that are tailored to multiple, specific audiences, in precise locations, using a variety of different communication modalities.

Organizations today require a solution that is engineered for modern critical communications. While traditional mass notification solutions are designed to support infrequent one-way messages, new targeted and contextually relevant critical communications systems must be deployed to deliver interactive support for a far broader range of incidents, both operational and emergency-oriented in nature. Global threats have increased in complexity—from the failure of data centers to more sophisticated cyber incidents and terrorist threats. At the same time, more routine, everyday situations such as those involving IT operations, incident response teams or colleagues that need to converse securely also require a solution that can quickly and contextually reach anyone on any device, anywhere, at any time. As a result of these dynamics, it has become imperative that communications be appropriately contextualized, meaningful and actionable in order to overcome the profound information overload and enable the desired outcome in critical situations to be achieved.

### ***Requirements of Effective Critical Communications Solutions***

In order to deliver effective critical communications solutions, several requirements must be met:

- ***Comprehensive Solution.*** Organizations require an enterprise-scale, comprehensive solution that can deliver intelligent, contextual messages across multiple communications modalities and be operated from desktop or mobile devices to address their diverse critical communications needs. Traditional providers largely offer point-based products to address a single customer communication challenge, rather than a unified platform with applications that address a wide range of inter-connected critical communications requirements including enabling delivery to a wide variety of device types and geographic locations.
- ***Scalability and Speed.*** Organizations require a solution that is agile and flexible enough to reach individuals at both high volume/low frequency intervals, such as emergency mass notification situations, and low volume/high frequency intervals, such as for IT alerting and secure messaging. Critical communications must be capable of delivering tens of millions of communications in near real-time and be architected with redundant delivery pathways to maximize verification and confirmation of receipt of these communications. Traditional products often deliver only one-way “blast” messages and fail to provide reliable infrastructure to support the rapid delivery of communications at the appropriate volume, on any device, to any location around the globe.
- ***Enterprise-Grade Reliability.*** Given the inherent nature of critical communications, organizations require a solution that is robust, resilient and highly redundant, with a high level of assured uptime and a low degree of fault tolerance. Organizations expect multiple layers of redundancy and a horizontal



scaling model across infrastructure to deliver high availability and performance as well as redundant downstream communications providers to enable services to remain uninterrupted even if a particular provider encounters technical difficulties.

- **Security and Regulatory Compliance.** Organizations require a solution that is architected to ensure secure communications given the significance of the content being distributed and the regulatory requirements that apply to the sensitive data being transmitted. These rigorous security and compliance requirements apply to financial services firms, healthcare institutions, the U.S. federal government and other regulated industries, including facilitating compliance with FINRA and HIPAA standards and the privacy and data protection laws and requirements of states and foreign jurisdictions, including, those of the European Union.
- **Intelligent Communication and Contextual Personalization.** Organizations require sophisticated, intelligent technology that can tailor both the content of communications and the modalities through which they are delivered based on differing individual preferences and roles and responsibilities within the organization. For example, rather than a one-way “blast” message streamed to the masses, technology should enable communications to be tailored to the intended recipient, through any communication modality, to any geography, with contextualized and personalized content relevant to the specific critical situation. Traditional products also do not typically incorporate business rules, workflows and logic to enable contextual and effective communications. These products also generally lack the ability to effectively verify and confirm delivery and receipt of critical communications, failing to enable collaboration during a critical event to ensure that the desired action is successfully taken.
- **Ease-of-Use.** Given the need for speed and the pressure and anxiety most people experience in critical situations, organizations require a solution that is simple and easy-to-use, particularly when lives and property are at risk. For emergencies, simple user interfaces, automated best practice workflows and ease of use are essential. For operational incidents, applications to meet compliance, security and workflow demands of IT departments and other response teams are critical.
- **Real-Time and After-Event Reporting and Analytics.** Critical communications by their very definition are of significance to people and businesses and therefore require the highest level of insight and preparation. To ensure that organizations can deliver appropriate communications during critical events, a solution should provide detailed, timely and compliant reporting and analytics to optimize the overall communication process. These solutions should also provide a historical record of past communication events for users who have compliance and regulatory reporting needs. In addition, organizations typically have differentiated reporting requirements based on use cases and management preferences. Critical communications solutions must enable users to easily create and manage many different custom reports throughout the critical communications lifecycle.
- **Global Reach and Local Expertise.** Global communications require a “local” approach to deal with the complexity of varying cultural preferences, languages and device types, as well as technical and regulatory requirements. With increasingly global workforces, customers demand solutions that can seamlessly overcome geographic boundaries.
- **Dynamic Technology.** As contact pathways continue to expand and communication endpoints continue to proliferate with the growth of internet connectivity across multiple devices and things, customers demand dynamic solutions that can keep pace with technological advances and address new communication use cases with minimal incremental investment.

## Our Market Opportunity

There is a significant demand for critical communications that meets the above requirements. We estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, that the market for critical communications solutions represented a \$6.2 billion worldwide

opportunity in 2015. This consists of an estimated addressable market of \$2.4 billion in North America and \$3.8 billion outside of North America. As the adoption of targeted and contextually aware critical communications solutions continues to expand and take hold across a broader cross-section of organizations and industry verticals, we estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, that our addressable market will grow at a compound annual growth rate of 23.5% to \$17.8 billion in 2020.

More specifically, Markets and Markets estimates that the market for mass notification software and services was \$1.7 billion in 2015 and is projected to grow at a compound annual growth rate of 20.9% to \$4.4 billion in 2020. Further, Frost & Sullivan estimates that: (1) the market for IT service alerting was \$183 million in 2015 and is projected to grow at a compound annual growth rate of 32.7% to \$753 million in 2020; (2) the market for telemedicine was \$374 million in 2015 and is projected to grow at a compound annual growth rate of 15.0% to \$752 million in 2020; (3) the market for secure mobile messaging was \$325 million in 2015 and is projected to grow at a compound annual growth rate of 16.4% to \$694 million in 2020; (4) the market for community engagement was \$122 million in 2015 and is projected to grow at a compound annual growth rate of 33.4% to \$516 million in 2020; (5) the market for physical security and information management was \$247 million in 2015 and is projected to grow at a compound annual growth rate of 19.5% to \$601 million in 2020; and (6) the market for internet of things was \$3.3 billion in 2015 and is projected to grow at a compound annual growth rate of 24.6% to \$9.9 billion in 2020.

### Key Benefits of Our Solutions and Competitive Strengths

Everbridge was founded with a vision to help organizations communicate quickly and reliably to deliver the right message to the right people, on the right device, in the right location, at the right time during mission-critical business events or man-made or natural disasters. Our critical communications platform enables enterprises and governmental entities to communicate quickly and securely with key stakeholders during critical situations through a variety of applications. Key benefits of our solutions and competitive strengths include the following:

- **Comprehensive, Enterprise-Scale Platform.** The core of our solutions is our SaaS-based critical communications platform, which provides multiple layers of redundancy to assure uptime and delivery of communications regardless of volume or throughput requirements. The platform is dynamic, secure, scalable and reliable, enabling the delivery and verification of tens of millions of different communications virtually anywhere, in any volume, in near real-time. In 2015, we delivered 1.1 billion communications, or over 30 communications per second, through our globally distributed data centers. We leverage robust, automated rules, workflows, geo-targeting, and algorithms to optimize communication delivery. In addition, we leverage third-party and proprietary data feeds such as police and weather reports to provide organizations with critical and pertinent situational information. Once implemented, our platform provides an environment that makes it easy for enterprises and governmental entities to standardize their critical communications. This standardization enables them to reduce costs and increase the efficiency of multiple critical communications processes.
- **Out-of-the-Box, Scalable and Mobile Applications.** Our SaaS-based applications are out-of-the box, enterprise-ready and can be utilized without customer development, testing or ongoing maintenance. Regardless of a customer or prospect's size or needs, our applications are built to scale to its largest and most complex critical communication requirements. Our applications are accessible through a single login and leverage our secure, reliable and resilient platform with a common and intuitive user interface. Our applications are also built for mobile use, delivering key application functionality through common wireless devices, untethering our customers from the desktop. Our SaaS-based platform is updated on a regular basis with new features and functions, with minimal impact to our customers, enabling them to easily take advantage of new capabilities.
- **Contextual Communications.** We enable intelligence and personalization in the critical communications process by delivering contextual communications. Our customers can deliver and escalate critical communications broadly to a mass population or to a targeted subset of individuals

based on geographic location, skill level, role and communication modality preferences for rich, two-way collaboration. Communications can be initiated through an automated process combining rules and situational intelligence or through a manual process directed by an end user, each with a rich critical communications output.

- **Large, Dynamic and Rich Communications Data Asset.** As of March 31, 2016, our data asset consists of our contacts databases that manage approximately 100 million contact profiles and connections from more than 2,700 customers based in 21 countries. Our contacts databases, which we refer to as contact stores, are initially created through an upload of contacts from the customer and automatically updated with the most current contact information provided by the customer or by individuals who opt-in to receive notification from our Community Engagement application. This eliminates the need for time consuming manual updates and reduces the likelihood of missing or out-of-date information. Contact profiles are also simultaneously enriched by geographic, situational and other real-time data. Our contact stores are repositories for all contact details, attributes and business rules and preferences, such as a person's last-known location, expected location, language spoken, special needs, technical certifications and on-call status.
- **Robust Security, Industry Certification and Compliance.** Our platform is built on a secure and resilient infrastructure with multiple layers of redundancy. Many of our enterprise applications are designed to meet rigorous security and compliance requirements for financial services firms, healthcare institutions, the U.S. federal government and other regulated industries, including facilitating compliance with standards imposed by FINRA and HIPAA. Our solutions received designation under the Support Anti-terrorism by Fostering Effective Technology Act of 2002, or SAFETY ACT, and certification by U.S. Department of Homeland Security, or DHS, that places us on the approved product list for homeland security. Our solutions are also accredited under the Federal Information Security Management Act of 2002, or FISMA, and we are in the process of seeking accreditation under the Federal Risk and Authorization Management Program, or FedRAMP. Further, we maintain multiple local contact stores across North America and Europe to ensure that we meet local data privacy requirements, such as the data protection laws implemented by the European Union Member States under Directive 95/46 EC, and we seek to follow and comply with guidelines and rules established by local or national telecommunications regulatory bodies, such as the Telecom Regulatory Authority of India, or TRAI. In addition, we work directly with multiple telecommunications providers to ensure we meet local messaging requirements, which also vary by country.
- **Automated Workflows.** Our platform automates the workflows required to complete a critical notification, including establishing the individuals within an organization authorized to send messages, the groups of stakeholders to whom messages will be sent and the content of messages to be sent to different groups of relevant stakeholders, in each case based on incident type. We believe that this automation reduces the amount of time required to send critical notification as well as the associated cost. Our platform also enables customers to automatically establish procedures for improving the success of communication efforts. For example, if a voice message does not receive a live response, our platform can be programmed to automatically send a text or e-mail message to the intended recipient. Likewise, in the context of an IT outage, if the first individual contacted does not respond in a prescribed period of time, our platform can be programmed to automatically contact a second individual with a similar skill set.
- **Globally Local.** Our platform is designed to be utilized globally while accounting for local cultural, linguistic, regulatory and technological differences. We have relationships with suppliers and carriers in multiple countries to ensure delivery in compliance with local, technical and regulatory requirements. We have localized our user interface in 14 languages and dialects that are spoken by more than 60% of the world's population. We deliver communications to more than 200 countries and territories and work with multiple SMS providers to identify and overcome regulatory hurdles. We deploy and actively manage an optimal mix of redundant message-based communication paths to ensure high delivery and

response rates for text-based communications. Where applicable, we follow and comply with guidelines and rules established by local or national telecommunications regulatory bodies, which affords us a competitive differentiation.

- **Next-Generation, Open Architecture.** We developed our platform to easily integrate our applications with other systems. Our solutions provide open APIs and configurable integrations, enabling our platform to work with our customers' and partners' pre-existing processes and solutions, increasing the business value we deliver. This allows customers' to integrate third-party applications to configure solutions that best leverage our enterprise critical communications platform. As technology continues to evolve, our open next-generation platform allows us to rapidly integrate new innovations, such as IoT connected devices, and remain critical to our customers' ongoing and future needs.
- **Actionable Reporting and Analytics.** Our platform provides real-time dashboards, advanced map-based visualization, and ad-hoc reporting across notifications, incidents and contacts. This information is easily accessed for required after-event reviews, continuous communication process improvements and regulatory compliance. Our platform also provides longer term historical information on past communication events for users who have compliance and regulatory reporting needs.

## Our Growth Strategy

We intend to drive growth in our business by building on our position as a global provider of enterprise critical communications. Key elements of our growth strategy include:

- **Accelerate Our Acquisition of New Customers.** We believe that we are in the early stages of penetration of the large and growing market for targeted and contextually relevant critical communications. We intend to capitalize on our growing portfolio of applications and the technological advantages of our critical communications platform to continue to attract new customers. In parallel, we plan to attract new customers by investing in sales and marketing and expanding our channel partner relationships. We have grown our salesforce on average 41% per year over the last four years and we have grown our number of net new customers by 207% over that time.
- **Further Penetrate Our Existing Customers.** With revenue retention rates of over 110% for each of the last three years, we believe that there is a significant opportunity within our existing customer base to expand their use of our platform, both by selling to our existing customers new applications and features and selling to additional departments in their organizations. Our pricing model is based on the number of applications subscribed to and, per application, the number of people, locations and things connected to our platform as well as volume of communications, which allows us to capture more spend as our customers grow. While our platform currently includes seven different critical communications applications, one of these applications was introduced in the middle of 2014, three of these applications were introduced in 2015 and one was not introduced until 2016. Accordingly, we believe that we have a significant opportunity to increase the lifetime value of our customer relationships as we educate customers about the benefits of our current and future applications that they do not already utilize. We have already begun to demonstrate success in this regard as these new applications, which include our IT Alerting, Secure Messaging, Community Engagement, Internet of Things and Safety Connection applications, are comprising an increasing proportion of our contracted sales, which represent the total dollar value of new agreements entered into within the period, exclusive of renewals, growing from 0% in the third quarter of 2014, to 24% in the fourth quarter of 2014, 36% in the first quarter of 2015, 26% in the second quarter of 2015, 20% in the third quarter of 2015 and 27% in the fourth quarter of 2015.
- **Develop New Applications to Target New Markets and Use Cases.** Our platform is highly flexible and can support the development of new applications to meet evolving critical communications challenges. We intend to continue to develop new applications for use cases in a variety of new markets and leverage our platform and existing customer relationships as a source of new applications, industry use cases, features and solutions. We have a disciplined process for tracking, developing and releasing new applications and features that are designed to provide our customers with a strong value proposition.

- **Expand Our International Footprint.** We estimate, based on data from Frost & Sullivan, presented in an independent study commissioned by us, and data from Markets and Markets, that the market for critical communications solutions outside of North America was \$3.8 billion in 2015, and is expected to grow at a compound annual growth rate of 24.9% to \$11.5 billion in 2020. For the year ended December 31, 2015, approximately 14% of our revenue was derived from customers located outside of the United States and we therefore believe that we have a significant opportunity to grow our international footprint. We intend to continue to expand our local presence in regions such as Europe, the Middle East and Asia to leverage our relationships with local carriers and our ability to deliver messages to over 200 countries and territories in 14 languages and dialects, as well as expand our channel partnerships, in order to capitalize on this significant opportunity, and also to opportunistically consider expanding in other regions.
- **Maintain Our Technology and Thought Leadership.** We will continue to invest in our critical communications platform and our applications to maintain our technology leadership position. We believe we have a competitive advantage through our commitment to innovation and thought leadership that has enabled us to take market share from our competitors and accelerate our growth. For example, we continue to enhance Everbridge University as a comprehensive best practices and critical communications learning environment, which we believe provides substantial value to our customers and supports our industry position. To date, Everbridge University online sessions have grown to deliver over 590,000 lessons.
- **Opportunistically Pursue Acquisitions.** We plan to selectively pursue acquisitions of complementary businesses, technologies and teams that allow us to penetrate new markets and add features and functionalities to our platform. Our management team has completed a significant number of M&A transactions during their careers and we plan to leverage their proven track record of successfully sourcing, executing and integrating acquisitions as we pursue new opportunities.

## Our Platform

Since inception, our SaaS-based critical communications platform was architected on a single code base to deliver multi-tenant capability and the speed, scale and resilience necessary to communicate globally when a serious event occurs. Our platform is designed to address both the emergency and operational components of a critical communications program. Our platform is capable of providing two-way communications and verified delivery in accordance with our customers' escalation policies. Our platform has multi-modal communications reach, including redundant global SMS and voice delivery capabilities, and is designed to comply with local, technical and regulatory requirements, which we believe has provided us with a competitive advantage. For example, we believe that our early deployment of local SMS codes intended to comply with rules established by the TRAI allowed us to increase our SMS delivery success rates in India.

Additional core attributes of our platform include:

- Multi-tenant architecture that supports multiple layers of redundancy to maximize uptime and delivery of critical content, regardless of volume or throughput requirements.
- Dynamic spatial/geographic information system capability to geo-target communications by zip code, street address or a specific radius from a location.
- Support for two-way communications and alerting on over 100 different devices and endpoints, including landline and wireless phones, hand-held communication and other voice-capable devices, satellite, SMS, two-way radios, outdoor digital signage, sirens and internet enabled devices.
- Designed to meet rigorous security and compliance requirements for financial services firms, healthcare institutions, the U.S. federal government and other regulated industries, including facilitating compliance with health care requirements such as HIPAA privacy and security standards.
- Extensive set of APIs and configuration capabilities to allow customers and partners to easily integrate our platform with other systems. Our APIs' two-way invocation capabilities enable third-party systems to flexibly and easily integrate with our platform.

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- Supports easy-to-use native mobile applications, including multiple secure mobile applications for message initiation, management and reporting.
- Supports push notifications and two-way conversations that enable mobile users to send and receive secure messages such as text, pictures, videos and the users' current geographic locations.

### ***Our Contact Stores***

Our contact stores manage approximately 100 million contact profiles and connections from more than 2,700 customers based in 21 countries as of March 31, 2016. They are initially created through an upload of contacts from the customer and are automatically updated with the most current contact information provided by the customer or by individuals who opt-in to receive notification from our Community Engagement application. Our contact stores are simultaneously enriched by geographic, situational and other real-time data. Our contact stores are repositories for all contact details, attributes and business rules and preferences, such as a person's last-known location, expected location, language spoken, special needs, technical certifications and on-call status.

We leverage the data contained in our contact stores in a number of significant ways. Our data asset across multiple verticals enables us to develop best practices for reaching the intended contact, on the correct device, at the right location, at the appropriate time. We also use this data to better understand our customer base and their emerging use cases in order to improve our existing applications and develop new applications.

### ***Everbridge Publishing Network***

An important component of our platform is our Everbridge Publishing Network, which allows our customers to share relevant situational awareness information with each other. Public safety agencies, for example, can publish information to the Everbridge Publishing Network about incidents that might prove disruptive to the movement of people, goods and services for businesses within a certain area. If any of those businesses are also customers of ours, they will receive this information from a source they know is vetted and reliable, and will be able to take timely steps to mitigate or remediate the situation.

### ***Our Applications***

Through our critical communications platform, we deliver reliable enterprise-ready applications that provide organizations with the ability to deliver contextual communications in any volume, in near-real time. We have designed our applications' user interface to be easy to use. We understand that since some of our applications will be utilized to send large volumes of messages to key stakeholders during stressful situations, streamlining the user interface to reduce user errors and anxiety is essential. We conduct extensive usability testing and design reviews with our stakeholders, and have applied in our designs the lessons learned over more than a decade of working with critical communications users and professionals.

Our applications enable:

- Communications to key stakeholders during emergency situations.
- Corporate communications with customers and employees.
- Automated outreach to on-call personnel.
- Integration of physical security data with location awareness data gathered from travel, network and access systems to rapidly find and communicate with employees during disruptive events.
- Securely designed and efficiently implemented communications among healthcare providers and patients.
- Community engagement and collaboration with citizens and businesses.
- Workgroup collaboration on mobile devices.
- Critical IoT communications between machines and from machines to people.

Our applications include:

- **Mass Notification.** Our secure, scalable and reliable Mass Notification application is our most established application and enables enterprises and governmental entities to send contextually aware notifications to individuals or groups to keep them informed before, during and after natural or man-made disasters and other emergencies. We provide robust analytics, map-based targeting, flexible group management, distributed contact data, language localization, multiple options for contact data management and a globally-optimized approach to voice and SMS routing. We also support community engagement functionality, which provides a direct link between residents and emergency management departments with the goal of fostering public safety.
- **Incident Management.** Our Incident Management application enables organizations to automate workflows and make their communications contextually relevant using drag and drop business rules to determine who should be contacted, how they should be contacted and what information is required. We believe that this application decreases costly human errors and reduces downtime, while simultaneously capturing required compliance information. We also support cross-account collaboration and situational intelligence sharing during crises for corporations and communities.
- **IT Alerting.** Our IT Alerting application enables IT professionals to alert and communicate with key members of their teams during an IT incident or outage, including during a cyber security breach. The application integrates with IT service management platforms, including ServiceNow, and uses automatic escalation of alerts, on-call scheduling and mobile alerting to automate manual tasks and keep IT teams collaborating during an incident. We also provide real-time shift calendars with integrated on-call notifications to help users better manage employee resources and get the right message to the right person, at the right time through automated staffing. Taken together, our IT Alerting application has the potential to provide meaningful savings to organizations by reducing mean-time-to-repair as each minute of unplanned downtime costs organizations an average of approximately \$5,600, according to Gartner.
- **Secure Messaging.** Our Secure Messaging application meets the compliance and security requirements of organizations that need to provide an alternative way for their employees to communicate and share nonpublic information. A tailored version of our Secure Messaging application, HipaaBridge, is designed for medical professionals and facilitates HIPAA-compliant communications without the need for pagers and other single use devices, supporting the development of a “connected” hospital. HipaaBridge also facilitates telemedicine by allowing medical professionals to hold video conferences with patients and other medical professionals as well as share medical imaging, lab results and other critical information. Our Secure Messaging application also enables financial services organizations’ employees and customers to securely communicate via text, voice, and video, while remaining FINRA compliant.
- **Community Engagement.** Our Community Engagement application integrates emergency management and community outreach by providing local governments with a unified solution to connect residents to both their public safety department, public information resources, and neighbors via social media and mobile applications. This creates a stronger and more engaged community improving the communication reach for emergency personnel, while providing residents with real-time emergency and community information, and allows residents to anonymously opt-in and provide tips. For example, the City of Philadelphia experienced a 70% increase in opt-ins in 2015 with our Community Engagement application.
- **Internet of Things.** Our Internet of Things application enables customers to extend traditional machine-to-machine communication to people when required. Through our secure communications channels, our critical communications engine can integrate directly with medical devices, workplace security controls, public infrastructure and other systems to either activate the device, confirm activation, or mobilize people for interaction and response.

- **Safety Connection.** Our Safety Connection application, which we launched in April 2016, enables organizations to locate people who are traveling or operating in the field in order to determine if they are safe or in need of assistance during man-made or natural disasters or other critical events. The application aggregates near real-time data from multiple sources, including building access control systems, wired and wireless network access points, travel management systems and mobile application check-ins, such that messages can be sent based on the last known location of employees, contractors, visitors or residents. Our Safety Connection application is the first of several applications we intend to introduce that leverage IoT data from machine systems to improve safety and business operations.

## Our Technology

The design and development of our critical communications platform includes the following key attributes:

- **Robust, Enterprise-Grade Scalability and Reliability.** Given the mission-critical nature of our solutions, our multi-tenant platform was designed to provide a robust, high level of resiliency, scalability and redundancy. We use multiple geographically distributed service providers and communications carriers to achieve a high degree of redundancy, fault tolerance and cost-effective operations. We have multiple layers of redundancy and a horizontal scaling model across our infrastructure to deliver high availability and performance. Our redundant data centers are located in Los Angeles, California; Denver, Colorado; San Francisco, California; and Toronto, Canada as well as in Germany, the United Kingdom and the Netherlands. Similarly, we leverage redundant downstream communications providers to enable our services to remain uninterrupted even if a particular provider encounters technical difficulties.
- **Multi-Modal, Globally Local Communications Delivery.** We optimize international call routing across hundreds of telecommunications providers to enable higher voice quality, improved delivery rates during emergencies and the ability to configure local caller IDs to improve recognition and answer rates. We also work with multiple SMS providers to identify regulatory hurdles and deploy and actively manage an optimal mix of national and international SMS codes to ensure high delivery and response rates.
- **Security and Compliance.** Our security and data protection policies and controls are based on the Federal Information Security Management Act risk management framework defined by the National Institute of Standards and Technology, or NIST, special publication, or SP, 800-37. To meet the rigorous standards of our enterprise and government customers, an independent and accredited third-party security assessment firm annually verifies our compliance with over 800 security and data protection requirements detailed in NIST SP 800-53. Through this process, we map our compliance with other security and data privacy frameworks including ISO 27001 and HIPAA. In addition, we hold certifications including SysTrust Statement on Standards for Attestation Engagements No. 16, Service Operations Controls 2 & 3 and operate in accordance with the TRUSTe Data Privacy Seal for personal data. We have also been awarded approvals by DHS that enable us to receive priority treatment for vital voice and data circuits or other telecommunications services. Most recently, our critical communications solutions received designation under the SAFETY ACT and certification by DHS that places us on the approved product list for homeland security and provides us with the highest level of liability protection available under the SAFETY ACT. The certification similarly protects our customers from legal liability claims arising from acts of terrorism, as contemplated by the SAFETY ACT. Further, our solutions are also accredited under FISMA and we are in the process of seeking accreditation under FedRAMP.
- **Hybrid Infrastructure.** To provide highly scalable and global solutions, we employ redundant, geographically diverse production implementations of our platform infrastructure in multiple SOC 2-compliant data center facilities in North America and Europe. Within each data center, we utilize a hybrid-cloud architecture that enables us to leverage both proprietary and third-party infrastructure services to enable “on-demand” capacity and performance without substantial upfront investment. Our



hybrid-cloud architecture enables our customers to select the location in which to store their contact data, allowing for compliance with local and international data privacy laws. Our architecture also enables our platform to dynamically determine the best location from which to deliver critical communications on behalf of our customers and solves many international communications delivery challenges by utilizing in-country or in-region telephony, messaging and data communication providers. Our infrastructure is continuously maintained and monitored by dedicated engineers based in redundant network operations centers in the Los Angeles and Boston areas.

- **Dynamic Location Detection.** Our platform can create and update dynamic data sets containing a contact's last-known location, including the airport, street, building floor or conference room at which the contact was most recently present. Multiple data sources can be aggregated including building access control and badging systems, wired and wireless network access points, and corporate travel management and office hoteling systems. This data is used to best locate a contact in an emergency or critical business situation, independent of the contact's home or office location. Contacts can also share their location via a three-in-one mobile panic button application, which sends a panic message to the applicable organization's security team, and also includes the ability to send audio and video content, to check-in to capture and report geo-location data and to establish a safe corridor through a potentially unsafe area.

## Our Comprehensive Customer Support Services

We are committed to the success of our customers. We demonstrate this commitment by offering a comprehensive set of support services to help our customers get started quickly, follow best practices, and realize on-going value from our critical communications solution. Our support services include:

- **Rapid Onboarding.** We leverage a proven methodology and domain expertise, honed through thousands of customer onboardings worldwide, to enable rapid use of our platform and compliance with industry best practices. Promptly after a customer purchases one or more of our applications, our dedicated onboarding team begins to configure our solutions to meet the customer's needs, including specific messages and scenarios, ad-hoc report templates and incident management reviews. The onboarding service incorporates years of critical communications experiences, including our critical communications certification training through Everbridge University, to improve customer success.
- **Everbridge University.** We offer online education, training and professional development through Everbridge University, with role-based training modules that can be customized to meet a customer's needs and that can facilitate formalized knowledge transfer and ensure ongoing self-sufficiency. Everbridge University is available anytime, online and is configured for self-paced use. To date, Everbridge University has delivered over 590,000 online training lessons.
- **Dedicated Account Management.** We assign dedicated account managers to all customers. Our account managers work exclusively with customers in a specific industry so they understand the applicable needs and challenges. They act as informed guides to help our customers make effective decisions in deploying our applications. Account managers perform regular service reviews and post-incident analyses of customer communications to incorporate communication best practices, and recommend additional applications to meet the customer's critical communications needs.
- **24/7 Technical Support & Emergency Live Operator Service.** We have established geographically redundant technical support centers in the Los Angeles, California; Boston, Massachusetts; and London, United Kingdom areas. From these support centers, we offer our customers 24/7 support by phone, email or through our online support center. In addition, our support centers offer a 24/7 emergency live operator service to assist customers with sending critical communications.
- **Premium Support Services.** With an understanding of the critical role that our solution plays, we have invested in assembling an expert professional services organization to deliver premium support service

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packages to our customers. Our professional services team includes certified emergency management and critical communications practitioners. Our premium support services address the unique challenges of customers' organizational structures, operational requirements, implementation and training needs. We believe that we help customers achieve faster time-to-value by providing on-site project management, consultation with a certified critical communications professional, creation of client-specific message and scenarios, development of ad-hoc report templates and on-site emergency and incident management reviews.

### **Our Customers**

Our customer base has grown from 867 customers at the end of 2011 to more than 2,700 customers as of March 31, 2016. We define a customer as a contracting entity from which we generated \$100 or more of revenue in the prior month, either directly or through a channel partner. We do not include customers of our wholly-owned subsidiary, Microtech, which generates an immaterial amount of our revenue in any given year. At the end of 2011 we had 20 customers with contracts valued at \$100,000 or more, whereas as of March 31, 2016 we had 102 customers with contracts valued at \$100,000 or more, including seven customers with contracts in excess of \$500,000. As of March 31, 2016, our customers were based in 21 countries and included eight of the 10 largest U.S. cities, seven of the 10 largest U.S.-based investment banks, 24 of the 25 busiest North American airports, six of the 10 largest global auto makers and four of the 10 largest U.S.-based health care providers. We provide solutions to customers of varying sizes, including enterprises, small businesses, non-profit organizations, educational institutions and government agencies. Our customers span a wide variety of industries including technology, energy, financial services, transportation, healthcare and life sciences, manufacturing, media and entertainment, retail, higher education and professional services. No customer contributed more than 3% of our total revenue in 2015.

Some of our representative customers by sector include the following:

#### **Enterprise**

Alexion Pharmaceuticals  
Cardtronics  
Choice Hotels  
Customers Bank  
Digital Realty  
DTE Energy  
EnerNOC  
Ericsson  
Express Scripts  
KOR Energy  
Pearson  
Sierra Nevada  
Uber  
Xerox

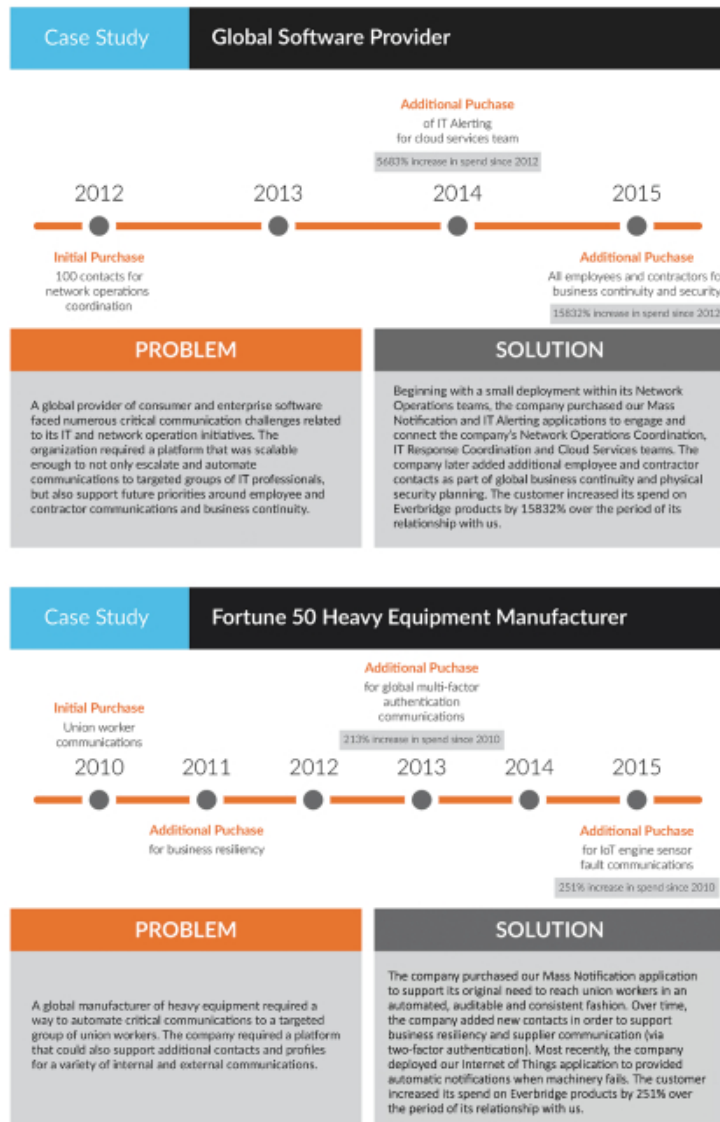
#### **Healthcare**

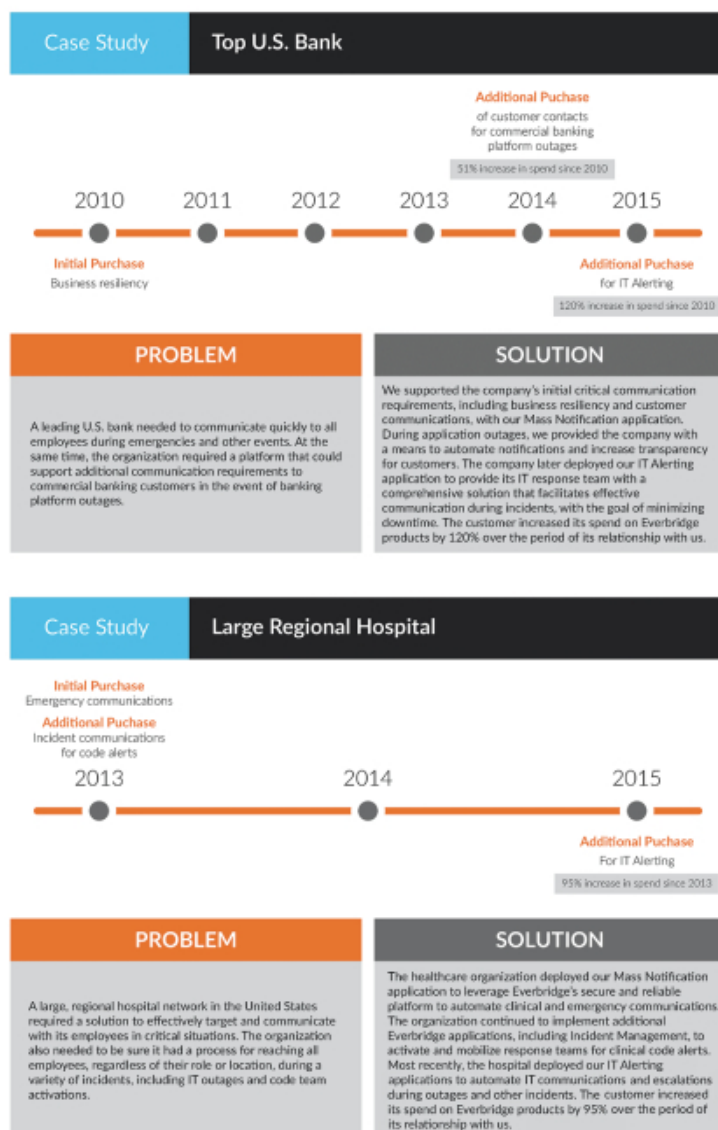
Alexian Brothers Medical Center  
Boston Children's Hospital  
Catholic Health Initiatives  
Children's Hospital of Philadelphia  
Covenant Health System  
Florida Health  
Hawaii Pacific Health  
Molina Healthcare  
Penrose St. Francis Health Services  
Spectrum Health  
Vanderbilt University Medical Center

#### **State and Local Government**

City of Boston  
City of Torrance  
Los Angeles Police Department  
Muskingum Watershed Conservancy District  
Northeast Region Community Awareness  
Emergency Response  
University of Louisiana System

## Everbridge Case Studies





## Sales and Marketing

Our sales and marketing organizations collaborate to create brand preference, efficiently and effectively generate leads, build a strong sales pipeline and cultivate customer relationships to help drive revenue growth. Our go-to-market strategy consists of a strong thought-leadership program, digital marketing engine and a diversified sales organization designed to efficiently sell across vertical markets to organizations of all sizes. We have dedicated sales teams focused on corporate customers, government customers and healthcare organizations, which covers U.S. federal, state and local governmental entities.

We believe that our sales and marketing model is economically compelling. We spent \$0.93 to generate each \$1.00 of new sales in 2015, which reflects our sales and marketing expense incurred in 2015 (other than expense related to full-time employees dedicated to client retention) compared to 12 months of contract value for

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contracts entered into in 2015, and \$0.06 to renew each \$1.00 of renewal sales in 2015, which reflects our sales and marketing expense related to full-time employees dedicated to client retention compared to 12 months of contract value for contracts renewed in 2015.

### ***Sales***

We sell our solutions through our telephone and direct inside sales teams, a direct field sales team and a growing partner channel. Our global sales teams focus on both new customer acquisition and up-selling and cross-selling additional and new offerings, respectively, to our existing customers. Our sales teams are organized by geography, consisting of the Americas; Europe, the Middle East and Africa, or EMEA; as well as by target organization size. Our inside sales team focuses typically on small and middle-market transactions, while larger or more complex transactions are generally handled by our direct field sales teams. Our highly trained sales engineers help define customer use cases, manage pilots and train channel partners.

In addition to the vertical and geographic distribution of our salesforce, we have dedicated teams of account executives focused on net new accounts, account managers responsible for renewal and growth of existing accounts, and business development representatives targeting new and growth business opportunity creation. Our sales representatives use phone, email and web meetings to interact with prospects and customers. In 2015, we made a significant investment in our sales organization, growing our headcount by 51%. We intend to continue to invest in building our global sales and go-to-market organizations.

We also sell through channel partners both domestically and internationally. To help integrate our applications with other third-party services and take advantage of current and emerging technologies, we seek to enter into alliances with leading technology companies.

### ***Marketing***

We focus our marketing efforts on increasing the strength of the Everbridge brand, communicating product advantages and business benefits, generating leads for our salesforce and channel partners and driving product adoption. We deliver targeted content to demonstrate our thought leadership in critical communications best practices and use digital advertising methods to drive conversion of potential prospects, which convert to opportunities for our sales organization.

Our marketing team focuses on inbound marketing through our industry-leading content, resources, and sharing customer best practices. We rely on multiple marketing and sales automation tools to efficiently market to, and automatically identify qualified individuals using product and industry specific criteria. We use multiple marketing tactics to engage with prospective customers including: email marketing, event marketing, print and digital advertising, and webinar events. We engage with existing customers to provide vertically-based education and awareness and to promote expanded use of our current and new software offerings within these customers. We also host regional and national events to engage both customers and prospects, deliver product training and foster community.

### ***Research and Development***

We invest substantial resources in research and development and leverage offshore development in multiple geographies to implement a “follow the sun” engineering strategy and to increase the efficiency of our overall development efforts. We enhance our core technology platform and applications, develop new end market-specific solutions and applications, and conduct application and quality assurance testing. Our technical and engineering team monitors and tests our applications on a regular basis, and we maintain a regular release process to refine, update, and enhance our existing applications. Research and development expense totaled \$5.7 million, \$7.4 million and \$11.5 million for 2013, 2014 and 2015, respectively.

## Our Competition

The market for critical communications solutions is highly fragmented, intensely competitive and constantly evolving. We compete with an array of established and emerging companies, many of whom are single product or single market focused, as well as in-house solutions. With the introduction of new technologies and market entrants, we expect that the competitive environment to remain intense going forward. The primary competitors for our Mass Notification and Incident Management applications include: BlackBerry Limited, Emergency Communications Network, F24 AG, Enera Inc., Nuance Communications, Inc., SWN Communications Inc., SunGard Data Systems Inc. and xMatters, Inc. The primary competitors for our IT Alerting application include: PagerDuty, Inc. and xMatters, Inc. The primary competitors for our Secure Messaging application include: DocHalo, LLC, Spok, Inc., Perfect Serve, Inc. and TigerText, Inc.

We compete on the basis of a number of factors, including:

- product functionality, including local and multi-modal delivery in international markets;
- breadth of offerings;
- performance, security, scalability and reliability;
- compliance with local regulations and multi-language support;
- brand recognition, reputation and customer satisfaction;
- ease of implementation, use and maintenance; and
- total cost of ownership.

We believe that we compete favorably with respect to all of these factors and that we are well positioned as a leading provider of targeted and contextually relevant critical communications.

## Intellectual Property

Our future success and competitive position depend in part on our ability to protect our intellectual property and proprietary technologies. To safeguard these rights, we rely on a combination of patent, trademark, copyright and trade secret laws and contractual protections in the United States and other jurisdictions.

As of March 31, 2016, we had eight issued patents and five patent applications pending in the United States and one patent application pending under the European Patent Convention relating to our U.S. applications. We cannot assure you that any patents will issue from any patent applications, that patents that issue from such applications will give us the protection that we seek or that any such patents will not be challenged, invalidated, or circumvented. Any patents that may issue in the future from our pending or future patent applications may not provide sufficiently broad protection and may not be enforceable in actions against alleged infringers.

We have registered the “Everbridge” and “Nixle” names in the United States, and have registered the “Everbridge” name in the European Union. We have registrations and/or pending applications for additional marks in the United States; however, we cannot assure you that any future trademark registrations will be issued for pending or future applications or that any registered trademarks will be enforceable or provide adequate protection of our proprietary rights.

We also license software from third parties for integration into our offerings, including open source software and other software available on commercially reasonable terms. We cannot assure you that such third parties will maintain such software or continue to make it available.

We are the registered holder of a variety of domestic and international domain names that include everbridge.com, as well as similar variations on that name.

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In order to protect our unpatented proprietary technologies and processes, we rely on trade secret laws and confidentiality agreements with our employees, consultants, vendors and others. Despite our efforts to protect our proprietary technology and trade secrets, unauthorized parties may attempt to misappropriate, reverse engineer or otherwise obtain and use them. In addition, others may independently discover our trade secrets, in which case we would not be able to assert trade secret rights, or develop similar technologies and processes. Further, the contractual provisions that we enter into may not prevent unauthorized use or disclosure of our proprietary technology or intellectual property rights and may not provide an adequate remedy in the event of unauthorized use or disclosure of our proprietary technology or intellectual property rights.

If we become more successful, we believe that competitors will be more likely to try to develop solutions that are similar to ours and that may infringe our proprietary rights. It may also be more likely that competitors or other third parties will claim that our solutions infringe their proprietary rights.

Patent and other intellectual property disputes are common in our industry and we have been involved in such disputes from time to time in the ordinary course of our business. Some companies, including some of our competitors, own large numbers of patents, copyrights and trademarks, which they may use to assert claims against us. Third parties may in the future assert claims of infringement, misappropriation or other violations of intellectual property rights against us. They may also assert such claims against our customers whom we typically indemnify against claims that our solution infringes, misappropriates or otherwise violates the intellectual property rights of third parties. As the numbers of products and competitors in our market increase and overlaps occur, claims of infringement, misappropriation and other violations of intellectual property rights may increase. Any claim of infringement, misappropriation or other violation of intellectual property rights by a third party, even those without merit, could cause us to incur substantial costs defending against the claim and could distract our management from our business.

### **Culture and Employees**

We believe that our culture has been a key contributor to our success to-date and that the critical nature of the solutions that we provide promotes a sense of greater purpose and fulfillment in our employees. We have invested in building a strong corporate culture and believe it is one of our most important and sustainable sources of competitive advantage.

As of March 31, 2016, we had 423 full-time employees, including 93 in data center operations and customer support, 162 in sales and marketing, 109 in research and development and 59 in general and administrative. As of March 31, 2016, we had 327 full-time employees in the United States and 96 full-time employees internationally. None of our U.S. employees are covered by collective bargaining agreements. We believe our employee relations are good and we have not experienced any work stoppages.

### **Facilities**

Our principal executive offices are located in Burlington, Massachusetts, where we occupy an approximately 35,000 square-foot facility under a lease expiring on May 30, 2017, and in Glendale, California, where we occupy an approximately 14,000 square-foot facility under a lease expiring on May 31, 2016. We have executed a lease for an approximately 19,000 square-foot facility in Pasadena, California that expires on June 30, 2018. We also have offices in San Francisco, California; Windsor, United Kingdom; Colchester, United Kingdom and Beijing, China.

### **Legal Proceedings**

From time to time we may become involved in legal proceedings or be subject to claims arising in the ordinary course of our business. We are not presently a party to any legal proceedings that, if determined adversely to us, would individually or taken together have a material adverse effect on our business, operating results, financial condition or cash flows. Regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

## MANAGEMENT

### Executive Officers and Directors

The following table sets forth information concerning our executive officers and directors as of March 31, 2016:

| Name                          | Age | Position(s)   |
|-------------------------------|-----|---|
| <b>Executive Officers</b>     |     |   |
| Jaime Ellertson               | 58  | President, Chief Executive Officer and Chairman of the Board of Directors |
| Kenneth S. Goldman            | 57  | Senior Vice President, Chief Financial Officer and Treasurer              |
| Imad Mouline                  | 45  | Senior Vice President and Chief Technology Officer                        |
| Joel Rosen                    | 58  | Chief Marketing Officer   |
| Elliot J. Mark                | 50  | Senior Vice President and General Counsel                                 |
| Scott Burnett                 | 49  | Senior Vice President, Operations   |
| Yuan Cheng                    | 44  | Senior Vice President, Engineering  |
| Nicholas Hawkins              | 53  | Managing Director, EMEA   |
| Gary Phillips                 | 56  | Senior Vice President, Sales  |
| <b>Non-Employee Directors</b> |     |   |
| Richard D'Amore               | 62  | Director  |
| Bruns Grayson                 | 68  | Director  |
| David Henshall                | 47  | Director  |
| Kent Mathy                    | 56  | Director  |
| Cinta Putra                   | 50  | Director  |

### Executive Officers

*Jaime Ellertson* has served as our President and Chief Executive Officer since September 2011 and as Chairman of our board of directors since March 2011, after joining our board of directors in April 2010. From November 2010 to September 2011, Mr. Ellertson was Chief Executive Officer and chairman of the board of directors of CloudFloor Corporation, a provider of cloud solutions, which we acquired in 2011. Previously, Mr. Ellertson served as the Chief Executive Officer and President and as a member of the board of directors of Gomez Inc., a company specializing in monitoring and managing website data and web application performance, from December 2005 to October 2010. From 2000 to July 2005, Mr. Ellertson served as Chief Executive Officer and President and as a member of the board of directors of S1 Corporation, a software provider to the financial services marketplace, which was acquired by ACI Worldwide Inc. He also previously served as chairman of the board of directors and Chief Executive Officer of Interleaf, Inc., a provider of software tools for e-content management, from 1997 until its acquisition by BroadVision, Inc. in April 2000, after which he served as Executive Vice President and General Manager of Worldwide Strategic Operations for BroadVision, a provider of self-service applications, until November 2000. Earlier in his career, Mr. Ellertson founded several software companies including Openware Technologies Inc., Document Automation Corporation and Purview Technologies Inc. Since June 2014, Mr. Ellertson has served as chairman of the board of directors of hVIVO PLC, a viral challenge and services company, and since August 2012, Mr. Ellertson has served as a member of the board of directors of PeopleFluent, a provider of human capital management software and services. From December 2010 to December 2014, Mr. Ellertson served as a member of the board of director of Qvidian, a provider of cloud-based sales execution solutions. Our board of directors believes that Mr. Ellertson's business expertise and his daily insight into corporate matters as our Chief Executive Officer qualify him to serve on our board of directors.

*Kenneth S. Goldman* has served as our Senior Vice President and Chief Financial Officer since April 2015. From July 2014 to March 2015, Mr. Goldman was Executive Vice President and Chief Financial Officer of Fiksu, Inc., a provider of mobile application marketing technologies. Previously, Mr. Goldman served as Executive Vice President and Chief Financial Officer of Black Duck Software, Inc., an open source software solutions provider, from March 2008 to July 2014, as Senior Vice President, Chief Financial Officer and a member of the board of directors of Salary.com, a provider of compensation management software, from March 2006 to February 2008, as a



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principal and Mirus Capital Advisors, Inc., an investment banking firm, from April 2004 to March 2006. Earlier in his career, Mr. Goldman held financial executive leadership positions at LODESTAR Corporation, a provider of software solutions for energy market participants that was acquired by Oracle Corporation, Student Advantage, Inc., a provider of marketing and commerce solutions aimed at college students, and MediaMap, Inc., a provider of workflow and database management solutions that was acquired by Cision, Inc. Mr. Goldman began his career at KPMG LLP. He is a CPA and holds a B.S. in accounting and managerial law & public policy, from the Martin J. Whitman School of Management at Syracuse University.

*Imad Mouline* has served as our Senior Vice President and Chief Technology Officer since September 2011. From March 2011 to September 2011, Mr. Mouline was Chief Technology Officer of CloudFloor. Previously, Mr. Mouline served as Chief Technology Officer of Compuware Corporation's Application Performance Management Solutions division from November 2009 to March 2011, as Chief Technology Officer of Gomez from January 2006 to November 2009 and as Chief Technology Officer of S1 from June 2001 to October 2005. Earlier in his career, Mr. Mouline held positions at BroadVision and Interleaf. Mr. Mouline holds an S.B. in Management Science / Information Technology from the Massachusetts Institute of Technology.

*Joel Rosen* has served as our Chief Marketing Officer since January 2016. From September 2013 to October 2015, Mr. Rosen served as Executive Vice President, Product and Marketing of Endurance International Group, Inc., a web hosting company. Previously, Mr. Rosen was a principal at Landmark Associates, a consulting company, from September 2008 to September 2013, was President and Chief Executive Officer of Tizor Systems, Inc., a data security company which was subsequently acquired by Netezza Corp., from June 2006 to August 2008 and was a partner at Charles River Ventures, a venture capital firm, from September 2001 to June 2005. Earlier in his career, Mr. Rosen was President and Chief Executive Officer of NaviSite Inc., a web hosting company which was subsequently acquired by Time Warner Cable Inc., and also held positions at Aspen Technology, Inc., a software solutions provider for process manufacturers, and at Bain & Company, a management consulting firm. Mr. Rosen holds a B.A. in economics from Harvard University and an M.B.A. from Harvard Business School.

*Elliot J. Mark* has served as our Senior Vice President and General Counsel since November 2015. From September 2010 to November 2015, Mr. Mark served as Vice President and General Counsel of Northern Power Systems Corp., a designer and manufacturer of wind turbines and power converters. Previously, Mr. Mark served as General Counsel of Gomez from May 2009 to February 2010, as Senior Vice President and General Counsel of Salary.com from October 2006 to January 2009 and as Senior Vice President and General Counsel of Viisage Technology, Inc., a provider of identity verification technology which merged with Identix Incorporated, from August 2003 to September 2006. Earlier in his career, Mr. Mark held positions at eRoom Technology Inc., a provider of collaboration software, SimPlayer.com Ltd., a sports media technology company, Arthur D. Little Inc., a management consulting firm, and Molten Metal Technology Inc., a recycling technology company. Mr. Mark holds a B.A. in international relations from Wesleyan University and a J.D. from Georgetown University Law Center.

*Scott Burnett* has served as our Senior Vice President, Operations since March 2013. From March 2011 to March 2013, Mr. Burnett served as Executive Vice President, Product Development, Engineering and Operations for Axeda Corporation, a provider of software for connected products that was acquired by PTC. Previously, Mr. Burnett served as Vice President, Global Engineering and Operations of Compuware's Application Performance Management Solutions division from January 2010 to March 2011 and as Vice President, Global Engineering and Operations of Gomez, from September 2007 to January 2010. Earlier in his career, Mr. Burnett held positions at Arbor Networks, a provider of network security solutions, ModusLink Global Solutions, Inc. (formerly CMGI, Inc.), an Internet investment and holding company, and Liberty Global plc, a telecommunications company. Mr. Burnett holds a B.S.E.E. in electrical engineering and computer science from the Georgia Institute of Technology and an M.S.E.E. in electrical engineering and communication systems management from Southern Methodist University.

*Yuan Cheng* has served as our Senior Vice President, Engineering since April 2012. From March 2011 to April 2012, Mr. Cheng served as Chief Executive Officer of Hypersun Group Ltd., an internet and software

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engineering services firm, which we acquired in 2012. Previously, Mr. Cheng served as General Manager of Gomez’s China operations from March 2006 to February 2011 and as manager of the BroadVision Commerce product at BroadVision from January 2001 to January 2006. Mr. Cheng holds a B.E. in precision instruments from Tsinghua University and a Ph.D. in mechanical engineering from the Massachusetts Institute of Technology.

*Nicholas Hawkins* has served as our Senior Vice President, Europe since April 2015. From March 2012 to March 2015, Mr. Hawkins served as Vice President of Sales, EMEA at Trustwave Holdings, Inc., an information security company, from January 2010 to January 2012, Mr. Hawkins served as Vice President, EMEA Managed Service Products at M86 Security Ltd., an information security company, and from January 2008 to December 2009, Mr. Hawkins served as Vice President, EMEA Sales at M86 Security. Earlier in his career, Mr. Hawkins held sales positions at Marshal Systems Ltd., a global information security company, and MessageLabs, an integrated messaging and web security services company that was acquired by Symantec Corporation. Mr. Hawkins joined the Metropolitan Police in 1980 and served as an operational police officer in London for 10 years.

*Gary Phillips* has served as our Senior Vice President, Sales since January 2012. From March 2010 to December 2011, Mr. Phillips served Vice President, North American Sales of Compuware’s Application Performance Management Solutions division and as Vice President, North American Sales of Gomez from September 2009 to March 2010. Previously, Mr. Phillips served as Chief Executive Officer of Marathon Technologies Corp., a software and network technology company, from May 2005 to July 2009. Earlier in his career, Mr. Phillips held positions at Avaki, a provider of enterprise network solutions, BroadVision and Interleaf, a provider of software products for the publishing industry. Mr. Phillips holds a B.S. in business administration and marketing from Plymouth State University.

### **Non-Employee Directors**

*Richard D’Amore* has served as a member of our board of directors since April 2015. Mr. D’Amore has been a General Partner of North Bridge Venture Partners, an early-stage venture capital and growth equity firm, since its inception in 1994. From 1982 until starting North Bridge, Mr. D’Amore served in various roles at Hambro International Equity Partners. Previously, Mr. D’Amore worked as a consultant at Bain and Company and as a certified public accountant with Arthur Young and Company. Mr. D’Amore has served as a member of the board of directors of Veeco Instruments, Inc., a developer and manufacturer of electronics equipment, since 1990. From 1997 to 2010, Mr. D’Amore served as a member of the board of directors of Phase Forward Incorporated, a provider of software solutions for clinical trial and drug safety monitoring that was acquired by Oracle Corporation, from December 1997 to August 2010. Mr. D’Amore holds a B.S. in business from Northeastern University and an M.B.A. from Harvard Business School. Our board of directors believes that Mr. D’Amore’s broad entrepreneurial experience and his extensive service on public company boards qualify him to serve on our board of directors.

*Bruns Grayson* has served as a member of our board of directors since 2011. Mr. Grayson is a managing partner at ABS Ventures, a venture capital firm, where he has managed all of the firm’s venture capital partnerships since 1983. Mr. Grayson began his career as a venture capitalist in 1981 at Adler & Co., a venture capital firm. Previously, Mr. Grayson was an associate at McKinsey and Co., a management consulting firm. From May 2009 to December 2013, Mr. Grayson served as a member of the board of directors of Active Network, Inc., a provider of cloud computing applications. Mr. Grayson holds a B.A. in history from Harvard College, an M.A. in politics and philosophy from Oxford University and a J.D. from the University of Virginia Law School. Our board of directors believes that Mr. Grayson’s experience investing in technology business and his service on numerous private and public company boards qualify him to serve on our board of directors.

*David Henshall* has served a member of our board of directors since July 2015. Mr. Henshall has served as Executive Vice President and Chief Financial Officer of Citrix Systems, Inc., a provider of workplace mobility solutions, since September 2011 and as Citrix’s Chief Operating Officer since February 2014. Mr. Henshall served as Citrix’s Acting Chief Executive Officer and President from October 2013 to February 2014. From

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January 2006 to September 2011, Mr. Henshall served as Citrix's Senior Vice President and Chief Financial Officer, and from April 2003 to January 2006, he served as Citrix's Vice President and Chief Financial Officer. Our board of directors believes that Mr. Henshall's financial expertise and experience on the technology industry qualify him to serve on our board of directors.

*Kent Mathy* has served as a member of our board of directors since August 2012. Since November 2013, Mr. Mathy has served as a President, Southeast Region of AT&T Mobility. From November 2008 to November 2013, Mr. Mathy was President, North Central Region for AT&T Mobility, and from December 2007 to November 2008, he was President, Small Business for AT&T Mobility. From January 2003 to December 2007, he was President, Business Markets Group at the former Cingular Wireless. Earlier in his career, Mr. Mathy held a variety of management positions at AT&T over a period of 18 years. Mr. Mathy holds a B.A. in marketing from the University of Wisconsin-Oshkosh and attended the University of Michigan, Executive Program in 1993. Our board of directors believes Mr. Mathy's experience in the telecommunications industry qualifies him to serve on our board of directors.

*Cinta Putra* has served as a member of our board of directors since November 2002. Ms. Putra was a co-founder of Everbridge and served as our Chief Executive Officer from November 2002 to September 2011 and as our Chief Financial Officer and Senior Vice President, Business Operations from September 2011 to November 2014. Our board of directors believes that Ms. Putra's deep understanding of our business and technology and her role as a co-founder of our company qualify her to serve on our board of directors.

### **Family Relationships**

There are no family relationships among any of our executive officers or directors.

### **Board Composition**

Our board of directors currently consists of six members. Each director is currently elected to the board of directors for a one-year term, to serve until the election and qualification of a successor director at our annual meeting of stockholders, or until the director's earlier removal, resignation or death.

All of our directors currently serve on the board of directors pursuant to the voting provisions of a voting agreement between us and several of our stockholders. This agreement will terminate upon the completion of this offering, after which there will be no further contractual obligations regarding the election of our directors.

In accordance with our amended and restated certificate of incorporation, which will become effective immediately prior to completion of this offering, our board of directors will be divided into three classes with staggered three-year terms. At each annual meeting of stockholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election. Our directors will be divided among the three classes as follows:

- Class I, which will consist of Mr. Ellertson and Ms. Putra, and whose term will expire at our first annual meeting of stockholders to be held after the completion of this offering;
- Class II, which will consist of Messrs. Henshall and Mathy and whose term will expire at our second annual meeting of stockholders to be held after the completion of this offering; and
- Class III, which will consist of Messrs. D'Amore and Grayson, and whose term will expire at our third annual meeting of stockholders to be held after the completion of this offering.

Our amended and restated bylaws, which will become effective upon completion of this offering, will provide that the authorized number of directors may be changed only by resolution approved by a majority of our board of directors. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors.

The division of our board of directors into three classes with staggered three-year terms may delay or prevent a change of our management or a change in control.

## **Director Independence**

Our board of directors has undertaken a review of the independence of the directors and considered whether any director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her responsibilities. Based upon information requested from and provided by each director concerning such director's background, employment and affiliations, including family relationships, our board of directors determined that Messrs. D'Amore, Grayson, Henshall and Mathy representing four of our six directors, are "independent directors" as defined under current rules and regulations of the SEC and the listing standards of the NASDAQ Stock Market. In making these determinations, our board of directors considered the current and prior relationships that each non-employee director has with our company and all other facts and circumstances that our board of directors deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director and the transactions involving them described in "Certain Relationships and Related Party Transactions."

## **Lead Independent Director**

Our corporate governance guidelines provide that one of our independent directors shall serve as a lead independent director at any time when an independent director is not serving as the chairman of the board of directors. Our board of directors has appointed Mr. Grayson, effective upon the completion of this offering, to serve as our lead independent director. As lead independent director, Mr. Grayson will preside over periodic meetings of our independent directors, coordinate activities of the independent directors and perform such additional duties as our board of directors may otherwise determine and delegate.

## **Board Committees**

Our board of directors has established an audit committee and a compensation committee and intends to establish a nominating and corporate governance committee in connection with this offering, each of which has the composition and responsibilities described below. From time to time, our board of directors may establish other committees to facilitate the management of our business.

### ***Audit Committee***

Our audit committee consists of three directors, Messrs. D'Amore, Henshall and Mathy, each of whom our board of directors has determined satisfies the independence requirements for audit committee members under the listing standards of the NASDAQ Stock Market and Rule 10A-3 of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Each member of our audit committee meets the financial literacy requirements of the listing standards of the NASDAQ Stock Market. Mr. D'Amore is the chairman of the audit committee and our board of directors has determined that Mr. D'Amore is an audit committee "financial expert" as defined by Item 407(d) of Regulation S-K under the Securities Act. The principal duties and responsibilities of our audit committee include, among other things:

- selecting a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;
- helping to ensure the independence and performance of the independent registered public accounting firm;
- discussing the scope and results of the audit with the independent registered public accounting firm, and reviewing, with management and the independent accountants, our interim and year-end operating results;
- developing procedures for employees to submit concerns anonymously about questionable accounting or audit matters;
- reviewing our policies on risk assessment and risk management;

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- reviewing related party transactions;
- obtaining and reviewing a report by the independent registered public accounting firm at least annually, that describes our internal quality-control procedures, any material issues with such procedures, and any steps taken to deal with such issues when required by applicable law; and
- approving (or, as permitted, pre-approving) all audit and all permissible non-audit services, other than de minimis non-audit services, to be performed by the independent registered public accounting firm.

Our audit committee will operate under a written charter, to be effective immediately prior to the completion of this offering that satisfies the applicable rules of the SEC and the listing standards of the NASDAQ Stock Market.

### ***Compensation Committee***

Our compensation committee consists of three directors, Messrs. D'Amore, Grayson and Mathy, each of whom our board of directors has determined is a non-employee member of our board of directors as defined in Rule 16b-3 under the Exchange Act and an outside director as that term is defined in Section 162(m) of the Internal Revenue Code of 1986, as amended, or the Code. Mr. Grayson is the chairman of the compensation committee. The composition of our compensation committee meets the requirements for independence under current listing standards of the NASDAQ Stock Market and current SEC rules and regulations. The principal duties and responsibilities of our compensation committee include, among other things:

- reviewing and approving, or recommending that our board of directors approve, the compensation of our executive officers;
- reviewing and recommending to our board of directors the compensation of our directors;
- reviewing and approving, or recommending that our board of directors approve, the terms of compensatory arrangements with our executive officers;
- administering our stock and equity incentive plans;
- reviewing and approving, or recommending that our board of directors approve, incentive compensation and equity plans; and
- reviewing and establishing general policies relating to compensation and benefits of our employees and reviewing our overall compensation philosophy.

Our compensation committee will operate under a written charter, to be effective immediately prior to the completion of this offering, that satisfies the applicable rules of the SEC and the listing standards of the NASDAQ Stock Market.

### ***Nominating and Corporate Governance Committee***

Our nominating and corporate governance committee, which will be established prior to the completion of this offering, will consist of three directors, Messrs. Grayson, Henshall and Mathy. Mr. Henshall will be the chairman of the nominating and corporate governance committee. The composition of our nominating and governance committee meets the requirements for independence under current listing standards of the NASDAQ Stock Market and current SEC rules and regulations. The nominating and corporate governance committee's responsibilities include, among other things:

- identifying, evaluating and selecting, or recommending that our board of directors approve, nominees for election to our board of directors and its committees;
- evaluating the performance of our board of directors and of individual directors;

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- considering and making recommendations to our board of directors regarding the composition of our board of directors and its committees;
- reviewing developments in corporate governance practices;
- evaluating the adequacy of our corporate governance practices and reporting;
- developing and making recommendations to our board of directors regarding corporate governance guidelines and matters; and
- overseeing an annual evaluation of the board's performance.

Our nominating and governance committee will operate under a written charter, to be effective immediately prior to the completion of this offering, that satisfies the applicable rules of the SEC and the listing standards of the NASDAQ Stock Market.

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

In connection with this offering, we intend to adopt a Code of Business Conduct and Ethics, or the Code of Conduct, applicable to all of our employees, executive officers and directors. Following the completion of this offering, the Code of Conduct will be available on our website at [www.everbridge.com](http://www.everbridge.com). The nominating and corporate governance committee of our board of directors will be responsible for overseeing the Code of Conduct and must approve any waivers of the Code of Conduct for employees, executive officers and directors. We expect that any amendments to the Code of Conduct, or any waivers of its requirements, will be disclosed on our website.

### **Compensation Committee Interlocks and Insider Participation**

None of our executive officers currently serves, or in the past year has served, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving on our board of directors or compensation committee. None of the members of our compensation committee is an officer or employee of our company, nor have they ever been an officer or employee of our company.

## EXECUTIVE AND DIRECTOR COMPENSATION

### 2015 Summary Compensation Table

The following table sets forth information regarding compensation earned with respect to the year ended December 31, 2015 by our principal executive officer and the next two most highly compensated executive officers in 2015. These individuals are our named executive officers for 2015.

| Name and Principal Position  | Year | Salary    | Option Awards <sup>(1)</sup> | Non-equity Incentive Plan Compensation <sup>(2)</sup> | All Other Compensation   | Total       |
|--|------|-----------|------------------------------|---|--------------------------|-------------|
| Jaime Ellertson <sup>(3)</sup>   | 2015 | \$250,000 | \$ 4,040,226                 | \$ (4)  | \$ 25,912 <sup>(5)</sup> | \$4,316,138 |
| <i>President, Chief Executive Officer and Chairman of the Board of Directors</i> | 2014 | 250,000   | —                            | 214,800   | 75,000 <sup>(5)</sup>    | 539,800     |
| Kenneth S. Goldman   | 2015 | 197,917   | 971,300                      | (4)   | —                        | 1,169,217   |
| <i>Senior Vice President, Chief Financial Officer and Treasurer</i>              |      |           |                              |   |                          |             |
| Nicholas Hawkins <sup>(6)</sup>  | 2015 | 133,656   | 433,800                      | (4)   | —                        | 567,456     |
| <i>Managing Director, EMEA</i>   |      |           |                              |   |                          |             |

- (1) This column reflects the full grant date fair value of options granted during the year as measured pursuant to Financial Accounting Standard Board Accounting Standards Codification Topic 718 (ASC 718) as stock-based compensation in our consolidated financial statements. Unlike the calculations contained in our consolidated financial statements, this calculation does not give effect to any estimate of forfeitures related to service-based vesting, but assumes that the named executive officer will perform the requisite service for the award to vest in full. The assumptions we used in valuing options are described in note (12) to our consolidated financial statements included in this prospectus.
- (2) See “—Employment Arrangements—2014 Bonus Plan” and “—Employment Arrangements—2015 Bonus Plan” below for descriptions of the material terms of the plans pursuant to which this compensation was awarded.
- (3) Mr. Ellertson is also a member of our board of directors, but did not receive any additional compensation in his capacity as a director.
- (4) Bonuses awarded pursuant to our 2015 management incentive plan are not yet calculable but are expected to be determined in the second quarter of 2016.
- (5) Includes amounts paid to Mr. Ellertson for company use of his primary residence, vacation residence and boat for company-related events.
- (6) Mr. Hawkins’ compensation is paid in British pounds; all amounts have been converted to U.S. dollars based on the inverse noon buying rate of the Federal Reserve Bank of New York for the British pound on December 31, 2015.

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### Outstanding Equity Awards as of December 31, 2015

The following table sets forth certain information about outstanding equity awards granted to our named executive officers that remain outstanding as of December 31, 2015.

| Name               | Grant Date | Option awards(1)  |   |                               |                        |
|--------------------|------------|---|---|-------------------------------|------------------------|
|                    |            | Number of Securities Underlying Unexercised Options (#) Exercisable | Number of Securities Underlying Unexercised Options (#) Unexercisable | Option Exercise Price(2) (\$) | Option Expiration Date |
| Jaime Ellertson    | 3/1/2011   | 25,000  | —   | 0.23                          | 3/1/2021               |
|                    | 7/15/2015  | —   | 2,997,200(3)  | 2.37                          | 7/15/2025              |
| Kenneth S. Goldman | 4/22/2015  | —   | 950,000(4)  | 1.63                          | 4/22/2025              |
|                    | 7/15/2015  | —   | 75,000(5)   | 2.37                          | 7/15/2025              |
| Nicholas Hawkins   | 4/22/2015  | —   | 400,000(6)  | 1.63                          | 4/22/2025              |
|                    | 7/15/2015  | —   | 50,000(7)   | 2.37                          | 7/15/2025              |

- (1) All of the option awards listed in the table above were granted under our 2008 Equity Incentive Plan, the terms of which are described below under “—Equity Incentive Plans.”
- (2) All of the option awards listed in the table above were granted with a per share exercise price equal to the fair market value of one share of our common stock on the date of grant, as determined in good faith by our board of directors with the assistance of a third-party valuation expert.
- (3) Option vests over a four-year period as to 25% of the common stock underlying the option on July 15, 2016 and as to 75% of the common stock underlying the option in 12 equal quarterly installments at the end of each three-month period thereafter, subject to Mr. Ellertson’s continuous service through each vesting date.
- (4) Option vests over a four-year period as to 25% of the common stock underlying the option on April 1, 2016 and as to 75% of the common stock underlying the option in 12 equal quarterly installments at the end of each three-month period thereafter, subject to Mr. Goldman’s continuous service through each vesting date.
- (5) Option vests over a four-year period as to 25% of the common stock underlying the option on July 15, 2016 and as to 75% of the common stock underlying the option in 12 equal quarterly installments at the end of each three-month period thereafter, subject to Mr. Goldman’s continuous service through each vesting date.
- (6) Option vests over a four-year period as to 25% of the common stock underlying the option on April 20, 2016 and as to 75% of the common stock underlying the option in 12 equal quarterly installments at the end of each three-month period thereafter, subject to Mr. Hawkins’ continuous service through each vesting date.
- (7) Option vests over a four-year period as to 25% of the common stock underlying the option on July 15, 2016 and as to 75% of the common stock underlying the option in 12 equal quarterly installments at the end of each three-month period thereafter, subject to Mr. Hawkins’ continuous service through each vesting date.

See “—Potential Payments upon Termination or Change of Control” for a description of vesting acceleration applicable to stock options held by our named executive officers.

### Employment Arrangements

Below are written descriptions of our employment agreements or offer letters, as applicable, with each of our named executive officers. Each of our named executive officers’ employment is “at will” and may be terminated at any time.

*Jaime Ellertson.* We entered into an offer letter agreement with Mr. Ellertson in July 2012 setting forth the terms of his employment. Mr. Ellertson was entitled to an initial annual base salary of \$250,000, which has not been subsequently increased. Pursuant to the agreement, Mr. Ellertson was granted a restricted stock award of 7,770,361 shares of our common stock in July 2012. Mr. Ellertson is also eligible to receive annual performance bonuses pursuant to the company bonus plans described below, with a target bonus of \$200,000 for 2015. Mr. Ellertson’s offer letter agreement also provides for certain severance benefits, the terms of which are described below under “—Potential Payments Upon Termination or Change of Control.”



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*Kenneth S. Goldman.* We entered into an offer letter agreement with Mr. Goldman in April 2015 setting forth the terms of his employment. Mr. Goldman was entitled to an initial annual base salary of \$250,000, which was increased in August 2015 to \$275,000. Pursuant to the agreement, Mr. Goldman was granted a stock option to purchase 950,000 shares of our common stock in April 2015 that is subject to vesting as to 25% of the underlying shares on April 1, 2016 and as to the remaining shares in equal quarterly installments over 12 quarters thereafter, subject to Mr. Goldman’s continued service. Mr. Goldman is also eligible to receive annual performance bonuses pursuant to the company bonus plans described below, with an initial target bonus of \$80,000 for 2015, which was increased in August 2015 to \$100,000 for 2015. Mr. Goldman’s employment agreement also provides for certain severance benefits, the terms of which are described below under “—Potential Payments Upon Termination or Change on Control.”

*Nicholas Hawkins.* We entered into an employment agreement with Mr. Hawkins in December 2014 setting forth the terms of his employment. Mr. Hawkins was entitled to an initial base salary of approximately \$192,000, which has not been subsequently increased. Pursuant to the agreement, Mr. Hawkins was granted a stock option to purchase 400,000 shares of our common stock in April 2015 that is subject to vesting as to 25% of the underlying shares on April 20, 2016 and as to the remaining shares in equal quarterly installments over 12 quarters thereafter, subject to Mr. Hawkins’ continued service. Mr. Hawkins is also eligible to receive annual performance bonuses pursuant to the company bonus plans described below, with an initial target bonus of approximately \$192,000 for 2015. Mr. Hawkins’ employment agreement also provides for certain accelerated vesting benefits, the terms of which are described below under “—Potential Payments Upon Termination or Change on Control.”

### **2014 Bonus Plan**

In 2014, our executive officers were eligible to participate in our 2014 management incentive plan, or the 2014 bonus plan. Bonuses were measured as of December 31, 2014 and paid in June 2015. The 2014 bonus plan was designed to motivate and reward executives for the attainment of company-wide performance goals. The annual cash target for Mr. Ellertson was set at \$200,000, 65% of which was subject to the achievement of certain sales targets and 35% of which was subject to the achievement of other company objectives. Mr. Ellertson was eligible to receive more than 100% of his target bonus if the company’s performance exceeded the targets set forth in the 2014 bonus plan. Mr. Ellertson received a bonus of \$214,800 pursuant to the 2014 bonus plan.

### **2015 Bonus Plan**

Messrs. Ellertson, Goldman and Hawkins are eligible to participate in our 2015 management incentive plan, or the 2015 bonus plan. Bonuses are measured as of December 31, 2015 and are expected to be calculated in the first quarter of this year and paid in April 2016. The 2015 bonus plan is designed to motivate and reward executives for the attainment of company-wide performance goals. The annual cash targets for Messrs. Ellertson, Goldman and Hawkins were set at \$200,000, \$100,000 and approximately \$192,000 respectively, 65% of which is subject to the achievement of certain sales targets and 35% of which is subject to the achievement of other company objectives. Messrs. Ellertson, Goldman and Hawkins are eligible to receive more than 100% of their target bonuses if the company’s performance exceeds the targets set forth in the 2015 bonus plan.

### **Potential Payments Upon Termination or Change of Control**

Regardless of the manner in which a named executive officer’s service terminates, the named executive officer is entitled to receive amounts earned during his term of service, including salary.

*Jaime Ellertson.* Pursuant to his offer letter agreement, if Mr. Ellertson’s employment with us ends due to his resignation for “good reason” or his termination by us other than for “cause,” he is entitled to (1) continued payment of his base salary for twelve months following his termination and (2) payment of premiums for continued health benefits under either the Company’s sponsored health care program, or COBRA, for twelve months. If Mr. Ellertson’s employment with us ends due to his death or disability, he (or his estate in the event of death) is entitled to continued payment of his base salary for six months following the termination of his employment. Mr. Ellertson’s benefits are conditioned, among other things, on his complying with his post-termination obligations

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under his offer letter agreement and signing a general release of claims in our favor. In addition, if our company undergoes a change of control and Mr. Ellertson undergoes an involuntary termination of his employment with us or our successor within 12 months following such change of control, 2,997,200 of Mr. Ellertson's outstanding stock options will vest as to 100% of the then-unvested underlying shares of common stock.

*Kenneth S. Goldman.* Pursuant to his offer letter agreement, if Mr. Goldman's employment with us ends due to his resignation for "good reason" or his termination by us other than for "cause," he is entitled to (1) continued payment of his base salary for three months following his termination if his employment with us ends before April 13, 2016 or for six months following his termination if his employment with us ends on or after April 13, 2016 and (2) payment of premiums for continued health benefits under either the Company's sponsored health care program, or COBRA, for the severance period. If Mr. Goldman's employment with us ends due to his death or disability, he (or his estate in the event of death) is entitled to continued payment of his base salary for three months following the termination of his employment. Mr. Goldman's benefits are conditioned, among other things, on his complying with his post-termination obligations under his offer letter agreement and signing a general release of claims in our favor. In addition, if our company undergoes a change of control, 950,000 of Mr. Goldman's outstanding stock options will vest as to (1) a fraction of the then-unvested underlying shares of common stock equal to the number of months of Mr. Goldman's full-time employment with us divided by forty eight, plus (2) 50% of the remaining then-unvested underlying shares of common stock. In the event that, after giving effect to the accelerated vesting above, our successor does not assume or convert all of Mr. Goldman's remaining unvested shares, or does not offer him equivalently valued options and incentives, Mr. Goldman's outstanding stock options will vest as to all of the then-unvested underlying shares of common stock. Furthermore, if our company undergoes a change of control and Mr. Goldman undergoes an involuntary termination of his employment with us or our successor within 12 months following such change of control, an additional 75,000 of Mr. Goldman's outstanding stock options will vest as to 100% of the then-unvested underlying shares of common stock.

*Nicholas Hawkins.* If our company undergoes a change of control and our successor does not assume or replace Mr. Hawkins' outstanding stock options with equivalently valued options and incentives, 400,000 of Mr. Hawkins' outstanding stock options will vest as to 25% of the then-unvested underlying shares of common stock. If Mr. Hawkins' outstanding stock options are assumed by our successor and if Mr. Hawkins' employment with our successor ends within 12 months following such change of control due to his termination by our successor other than for "misconduct," these options will vest as to all of the then-unvested underlying shares of common stock. Furthermore, if our company undergoes a change of control and Mr. Hawkins undergoes an involuntary termination of his employment with us or our successor within 12 months following such change of control, an additional 50,000 of Mr. Hawkins' outstanding stock options will vest as to 100% of the then-unvested underlying shares of common stock.

### **Non-Employee Director Compensation**

Historically, we have provided equity-based compensation to certain of our independent directors for the time and effort necessary to serve as a member of our board of directors. However, our directors are not currently entitled to receive any compensation in connection with their service on our board of directors, except for reimbursement of direct expenses incurred in connection with attending meetings of the board or committees thereof.

We expect that our board of directors will adopt a director compensation policy for non-employee directors to be effective upon the completion of this offering.

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### 2015 Director Compensation Table

The following table sets forth information regarding the compensation earned for service on our board of directors during the year ended December 31, 2015 by our directors who were not also our employees. Jaime Ellertson, our President and Chief Executive Officer, is also a member of our board of directors, but did not receive any additional compensation for his service as a director. Mr. Ellertson's compensation as an executive officer is set forth above under "Executive and Director Compensation—2015 Summary Compensation Table."

| Name            | Fees Earned or Paid in Cash (\$) | Option Awards (\$)(1)<br>(2) | All Other Compensation (\$) | Total (\$) |
|-----------------|----------------------------------|------------------------------|-----------------------------|------------|
| Richard D'Amore | —                                | \$ 131,800                   | —                           | \$131,800  |
| Bruns Grayson   | —                                | 131,800                      | —                           | 131,800    |
| David Henshall  | —                                | 131,800                      | —                           | 131,800    |
| Kent Mathy      | —                                | —                            | —                           | —          |
| Cinta Putra     | —                                | —                            | —                           | —          |

(1) This column reflects the full grant date fair value for options granted during the year as measured pursuant to Financial Accounting Standard Board Accounting Standards Codification Topic 718 (ASC 718) as stock-based compensation in our consolidated financial statements. Unlike the calculations contained in our consolidated financial statements, this calculation does not give effect to any estimate of forfeitures related to service-based vesting, but assumes that directors will perform the requisite service for the award to vest in full. The assumptions we used in valuing options are described in note (12) to our consolidated financial statements included in this prospectus.

(2) The table below shows the aggregate number of option awards outstanding for each of our non-employee directors as of December 31, 2015:

| Name                           | Option Awards (#) |
|--------------------------------|-------------------|
| Richard D'Amore <sup>(1)</sup> | 100,000           |
| Bruns Grayson <sup>(1)</sup>   | 100,000           |
| David Henshall <sup>(1)</sup>  | 100,000           |
| Kent Mathy <sup>(2)</sup>      | 305,839           |
| Cinta Putra                    | —                 |

(1) Option vests over a three-year period in 12 equal quarterly installments beginning on July 15, 2015, subject to the recipient's continued service on our board of directors through each vesting date. Option will vest in full upon our company undergoing a change of control.

(2) Option is vested in full.

### Equity Incentive Plans

#### 2016 Equity Incentive Plan

We expect that our board of directors will adopt and our stockholders will approve prior to the completion of this offering our 2016 Equity Incentive Plan, or 2016 Plan. We do not expect to utilize our 2016 Plan until after the completion of this offering, at which point no further grants will be made under our 2008 Equity Incentive Plan, or 2008 Plan, as described below under "2008 Equity Incentive Plan." No awards have been granted and no shares of our common stock have been issued under our 2016 Plan.

**Stock Awards.** The 2016 Plan provides for the grant of incentive stock options within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended, or the Code, nonstatutory stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance-based stock awards, and other forms of equity compensation, which are collectively referred to as stock awards. Additionally, the 2016 Plan provides for the grant of performance cash awards. Incentive stock options may be granted only to employees. All other awards may be granted to employees, including officers, and to non-employee directors and consultants.

**Share Reserve.** Initially, the aggregate number of shares of our common stock that may be issued pursuant to stock awards under the 2016 Plan after the 2016 Plan becomes effective is the sum of (1)                shares and

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(2) the number of shares reserved for issuance under our 2008 Plan at the time our 2016 Plan becomes effective. Additionally, any shares subject to stock options or other stock awards granted under our 2008 Plan that would have otherwise returned to our 2008 Plan (such as upon the expiration or termination of a stock award prior to vesting) will be added to, and available for issuance under, our 2016 Plan and the number of shares of our common stock reserved for issuance under our 2016 Plan will automatically increase on January 1 of each year, beginning on January 1, 2017 (assuming the 2016 Plan becomes effective before such date) and continuing through and including January 1, 2026, by % of the total number of shares of our capital stock outstanding on December 31 of the preceding calendar year, or a lesser number of shares determined by our board of directors. The maximum number of shares that may be issued upon the exercise of incentive stock options under our 2016 Plan is shares.

No person may be granted stock awards covering more than shares of our common stock under our 2016 Plan during any calendar year pursuant to stock options, stock appreciation rights and other stock awards whose value is determined by reference to an increase over an exercise or strike price of at least 100% of the fair market value on the date the stock award is granted. Additionally, no person may be granted in a calendar year a performance stock award covering more than shares or a performance cash award having a maximum value in excess of \$. Such limitations are designed to help assure that any deductions to which we would otherwise be entitled with respect to such awards will not be subject to the \$1,000,000 limitation on the income tax deductibility of compensation paid to any covered executive officer imposed by Section 162(m) of the Code.

If a stock award granted under the 2016 Plan expires or otherwise terminates without being exercised in full, or is settled in cash, the shares of our common stock not acquired pursuant to the stock award again will become available for subsequent issuance under the 2016 Plan. In addition, the following types of shares under the 2016 Plan may become available for the grant of new stock awards under the 2016 Plan: (1) shares that are forfeited to or repurchased by us prior to becoming fully vested; (2) shares withheld to satisfy income or employment withholding taxes; or (3) shares used to pay the exercise or purchase price of a stock award. Shares issued under the 2016 Plan may be previously unissued shares or reacquired shares bought by us on the open market.

*Administration.* Our board of directors, or a duly authorized committee thereof, has the authority to administer the 2016 Plan. Our board of directors may also delegate to one or more of our officers the authority to (1) designate employees (other than other officers) to be recipients of certain stock awards, (2) determine the number of shares of common stock to be subject to such stock awards, and (3) specify the other terms and conditions, including the strike price or purchase price and vesting schedule, applicable to such awards. Subject to the terms of the 2016 Plan, our board of directors or the authorized committee, referred to as the plan administrator, determines recipients, dates of grant, the numbers and types of stock awards to be granted and the terms and conditions of the stock awards, including the period of their exercisability and vesting schedule applicable to a stock award. Subject to the limitations set forth below, the plan administrator will also determine the exercise price, strike price or purchase price of awards granted and the types of consideration to be paid for the award.

The plan administrator has the authority to modify outstanding awards under our 2016 Plan. Subject to the terms of our 2016 Plan, the plan administrator has the authority, without stockholder approval, to reduce the exercise, purchase or strike price of any outstanding stock award, cancel any outstanding stock award in exchange for new stock awards, cash or other consideration, or take any other action that is treated as a repricing under generally accepted accounting principles, with the consent of any adversely affected participant.

*Stock Options.* Incentive and nonstatutory stock options are evidenced by stock option agreements adopted by the plan administrator. The plan administrator determines the exercise price for a stock option, within the terms and conditions of the 2016 Plan, provided that the exercise price of a stock option generally cannot be less than 100% of the fair market value of our common stock on the date of grant. Options granted under the 2016 Plan vest at the rate specified by the plan administrator.

The plan administrator determines the term of stock options granted under the 2016 Plan, up to a maximum of 10 years. Unless the terms of an option holder's stock option agreement provide otherwise, if an option holder's

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service relationship with us, or any of our affiliates, ceases for any reason other than disability, death or cause, the option holder may generally exercise any vested options for a period of three months following the cessation of service. The option term will automatically be extended in the event that exercise of the option following such a termination of service is prohibited by applicable securities laws or our insider trading policy. If an option holder's service relationship with us or any of our affiliates ceases due to disability or death, or an optionholder dies within a certain period following cessation of service, the optionholder or a beneficiary may generally exercise any vested options for a period of 12 months in the event of disability and 18 months in the event of death. In the event of a termination for cause, options generally terminate immediately. In no event may an option be exercised beyond the expiration of its term.

Acceptable consideration for the purchase of common stock issued upon the exercise of a stock option will be determined by the plan administrator and may include (1) cash, check, bank draft or money order, (2) a broker-assisted cashless exercise, (3) the tender of shares of our common stock previously owned by the optionholder, (4) a net exercise of the option if it is a nonqualified stock option, and (5) other legal consideration approved by the plan administrator.

Unless the plan administrator provides otherwise, options generally are not transferable except by will, the laws of descent and distribution, or pursuant to a domestic relations order. An optionholder may designate a beneficiary, however, who may exercise the option following the option holder's death.

***Tax Limitations on Incentive Stock Options.*** The aggregate fair market value, determined at the time of grant, of our common stock with respect to incentive stock options that are exercisable for the first time by an optionholder during any calendar year under all of our stock plans may not exceed \$100,000. Options or portions thereof that exceed such limit will be treated as nonqualified stock options. No incentive stock option may be granted to any person who, at the time of the grant, owns or is deemed to own stock possessing more than 10% of our total combined voting power or that of any of our affiliates unless (1) the option exercise price is at least 110% of the fair market value of the stock subject to the option on the date of grant and (2) the term of the incentive stock option does not exceed five years from the date of grant.

***Restricted Stock Awards.*** Restricted stock awards are evidenced by restricted stock award agreements adopted by the plan administrator. Restricted stock awards may be granted in consideration for (1) cash, check, bank draft or money order, (2) services rendered to us or our affiliates, or (3) any other form of legal consideration. Common stock acquired under a restricted stock award may, but need not, be subject to a share repurchase option in our favor in accordance with a vesting schedule as determined by the plan administrator. Rights to acquire shares under a restricted stock award may be transferred only upon such terms and conditions as set by the plan administrator. Except as otherwise provided in the applicable award agreement, restricted stock awards that have not vested will be forfeited upon the participant's cessation of continuous service for any reason.

***Restricted Stock Unit Awards.*** Restricted stock unit awards are evidenced by restricted stock unit award agreements adopted by the plan administrator. Restricted stock unit awards may be granted in consideration for any form of legal consideration or for no consideration. A restricted stock unit award may be settled by cash, delivery of stock, a combination of cash and stock as deemed appropriate by the plan administrator, or in any other form of consideration set forth in the restricted stock unit award agreement. Additionally, dividend equivalents may be credited in respect of shares covered by a restricted stock unit award. Rights under a restricted stock units award may be transferred only upon such terms and conditions as set by the plan administrator. Restricted stock unit awards may be subject to vesting as determined by the plan administrator. Except as otherwise provided in the applicable award agreement, restricted stock units that have not vested will be forfeited upon the participant's cessation of continuous service for any reason.

***Stock Appreciation Rights.*** Stock appreciation rights are evidenced by stock appreciation grant agreements adopted by the plan administrator. The plan administrator determines the strike price for a stock appreciation right, which generally cannot be less than 100% of the fair market value of our common stock on the date of grant. Upon the exercise of a stock appreciation right, we will pay the participant an amount in cash or stock equal to (1) the excess of the per share fair market value of our common stock on the date of exercise over the

strike price, multiplied by (2) the number of shares of common stock with respect to which the stock appreciation right is exercised. A stock appreciation right granted under the 2016 Plan vests at the rate specified in the stock appreciation right agreement as determined by the plan administrator.

The plan administrator determines the term of stock appreciation rights granted under the 2016 Plan, up to a maximum of ten years. Unless the terms of a participant's stock appreciation right agreement provides otherwise, if a participant's service relationship with us or any of our affiliates ceases for any reason other than cause, disability or death, the participant may generally exercise any vested stock appreciation right for a period of three months following the cessation of service. The stock appreciation right term will be further extended in the event that exercise of the stock appreciation right following such a termination of service is prohibited by applicable securities laws. If a participant's service relationship with us, or any of our affiliates, ceases due to disability or death, or a participant dies within a certain period following cessation of service, the participant or a beneficiary may generally exercise any vested stock appreciation right for a period of 12 months in the event of disability and 18 months in the event of death. In the event of a termination for cause, stock appreciation rights generally terminate immediately upon the occurrence of the event giving rise to the termination of the individual for cause. In no event may a stock appreciation right be exercised beyond the expiration of its term.

Unless the plan administrator provides otherwise, stock appreciation rights generally are not transferable except by will, the laws of descent and distribution, or pursuant to a domestic relations order. A stock appreciation right holder may designate a beneficiary, however, who may exercise the stock appreciation right following the holder's death.

*Performance Awards.* The 2016 Plan permits the grant of performance-based stock and cash awards that may qualify as performance-based compensation that is not subject to the \$1,000,000 limitation on the income tax deductibility of compensation paid to a covered executive officer imposed by Section 162(m) of the Code. To help assure that the compensation attributable to certain types of performance-based awards will so qualify, our compensation committee can structure such awards so that stock or cash will be issued or paid pursuant to such award only after the achievement of certain pre-established performance goals during a designated performance period.

The performance goals that may be selected include one or more of the following: (1) earnings (including earnings per share and net earnings); (2) earnings before interest, taxes and depreciation; (3) earnings before interest, taxes, depreciation and amortization; (4) total stockholder return; (5) return on equity or average stockholders' equity; (6) return on assets, investment, or capital employed; (7) stock price; (8) margin (including gross margin); (9) income (before or after taxes); (10) operating income; (11) operating income after taxes; (12) pre-tax profit; (13) operating cash flow; (14) sales or revenue targets; (15) increases in revenue or product revenue; (16) expenses and cost reduction goals; (17) improvement in or attainment of working capital levels; (18) economic value added (or an equivalent metric); (19) market share; (20) cash flow; (21) cash flow per share; (22) share price performance; (23) debt reduction; (24) implementation or completion of projects or processes; (25) subscriber satisfaction; (26) stockholders' equity; (27) capital expenditures; (28) debt levels; (29) operating profit or net operating profit; (30) workforce diversity; (31) growth of net income or operating income; (32) billings; and (33) to the extent that an award is not intended to comply with Section 162(m) of the Code, other measures of performance selected by our board of directors.

The performance goals may be based on company-wide performance or performance of one or more business units, divisions, affiliates, or business segments, and may be either absolute or relative to the performance of one or more comparable companies or the performance of one or more relevant indices. Unless specified otherwise (1) in the award agreement at the time the award is granted or (2) in such other document setting forth the performance goals at the time the goals are established, we will appropriately make adjustments in the method of calculating the attainment of performance goals as follows: (a) to exclude restructuring and/or certain other specified nonrecurring charges; (b) to exclude exchange rate effects, as applicable, for non-U.S. dollar denominated goals; (c) to exclude the effects of changes to generally accepted accounting principles; (d) to exclude the effects of any statutory adjustments to corporate tax rates; and (e) to exclude the effects of any

“extraordinary items” as determined under generally accepted accounting principles. In addition, we retain the discretion to reduce or eliminate the compensation or economic benefit due upon attainment of the goals. The performance goals may differ from participant to participant and from award to award.

*Other Stock Awards.* The plan administrator may grant other awards based in whole or in part by reference to our common stock. The plan administrator will set the number of shares under the stock award and all other terms and conditions of such awards.

*Changes to Capital Structure.* In the event that there is a specified type of change in our capital structure, such as a stock split or recapitalization, appropriate adjustments will be made to (1) the class and maximum number of shares reserved for issuance under the 2016 Plan, (2) the class and maximum number of shares by which the share reserve may increase automatically each year, (3) the class and maximum number of shares that may be issued upon the exercise of incentive stock options, (4) the class and maximum number of shares subject to stock awards that can be granted in a calendar year or as performance stock awards (as established under the 2016 Plan pursuant to Section 162(m) of the Code) and (5) the class and number of shares and exercise price, strike price, or purchase price, if applicable, of all outstanding stock awards.

*Corporate Transactions.* In the event of certain specified significant corporate transactions, the plan administrator has the discretion to take any of the following actions with respect to stock awards:

- arrange for the assumption, continuation or substitution of a stock award by a surviving or acquiring entity or parent company;
- arrange for the assignment of any reacquisition or repurchase rights held by us to the surviving or acquiring entity or parent company;
- accelerate the vesting of the stock award and provide for its termination prior to the effective time of the corporate transaction;
- arrange for the lapse of any reacquisition or repurchase right held by us;
- cancel or arrange for the cancellation of the stock award in exchange for such cash consideration, if any, as our board of directors may deem appropriate or for no consideration; or
- make a payment equal to the excess of (1) the value of the property the participant would have received upon exercise of the stock award over (2) the exercise price or strike price otherwise payable in connection with the stock award.

Our plan administrator is not obligated to treat all stock awards, even those that are of the same type, in the same manner.

Under the 2016 Plan, a significant corporate transaction is generally the consummation of (1) a sale or other disposition of all or substantially all of our consolidated assets, (2) a sale or other disposition of at least 50% of our outstanding securities, (3) a merger, consolidation or similar transaction following which we are not the surviving corporation, or (4) a merger, consolidation or similar transaction following which we are the surviving corporation but the shares of our common stock outstanding immediately prior to such transaction are converted or exchanged into other property by virtue of the transaction.

*Change in Control.* The plan administrator may provide, in an individual award agreement or in any other written agreement between a participant and us that the stock award will be subject to additional acceleration of vesting and exercisability or settlement in the event of a change in control. Under the 2016 Plan, a change in control is generally (1) the acquisition by a person or entity of more than 50% of our combined voting power other than by merger, consolidation or similar transaction; (2) a consummated merger, consolidation or similar transaction immediately after which our stockholders cease to own more than 50% of the combined voting power of the surviving entity; or (3) a consummated sale, lease or exclusive license or other disposition of all or substantially all of our consolidated assets.

*Amendment and Termination.* Our board of directors has the authority to amend, suspend, or terminate our 2016 Plan, provided that such action does not materially impair the existing rights of any participant without such participant's written consent and provided further that certain types of amendments will require the approval of our stockholders. No incentive stock options may be granted after the tenth anniversary of the date our board of directors adopted our 2016 Plan.

### **2008 Equity Incentive Plan**

Our 2008 Equity Incentive Plan, or 2008 Plan, was adopted by our board of directors on March 12, 2008 and approved by our stockholders on May 12, 2008. As of December 31, 2015, 6,741,010 shares of our common stock have been issued pursuant to the exercise of options granted under our 2008 Plan, options to purchase 10,474,299 shares of our common stock were outstanding at a weighted-average exercise price of \$1.51 per share and 1,335,746 shares remained available for future grant under our 2008 Plan. Following this offering, no further grants will be made under our 2008 Plan and all outstanding stock awards granted under our 2008 Plan will continue to be governed by the terms of our 2008 Plan.

*Stock Awards.* Our 2008 Plan provides for the grant of incentive stock options, nonqualified stock options, stock bonuses and rights to acquire restricted stock, referred to collectively as stock awards, to employees, non-employee directors and consultants providing services to us or our affiliates. The exercise price of stock options may not be less than the fair market value of the stock on the date of grant.

*Share Reserve.* The aggregate number of shares of our common stock reserved for issuance pursuant to stock awards under the 2008 Plan is 18,551,055 shares, subject to adjustment as provided in the 2008 Plan.

*Changes to Capital Structure.* In the event that there is a specified type of change in our capital structure, such as a stock split or recapitalization, appropriate adjustments will be made by the board of directors to (1) the class and number of shares available for future grants under the 2008 Plan and (2) the class and number of shares covered by, and the exercise or purchase price of, each outstanding stock award.

*Administration.* Our board of directors, or a duly authorized committee thereof, each referred to as the plan administrator, has the authority to administer the 2008 Plan. Subject to the terms of the 2008 Plan, the plan administrator may determine recipients, dates of grant, the numbers and types of stock awards to be granted and the terms and conditions of the stock awards, including the period of their exercisability and vesting schedule applicable to a stock award. Subject to the terms of the 2008 Plan, the plan administrator has full authority and discretion to interpret the 2008 Plan, prescribe and rescind rules and regulations related to it, and to amend, terminate or discontinue the 2008 Plan. The board of directors may also delegate authority to one of our officers to designate certain non-officer employees to receive stock awards and to determine the number shares subject to those awards, subject to limits imposed by the board of directors.

*Change in Control.* In the event of a Change in Control, the plan administrator has the discretion to provide for the assumption of stock awards, the issuance of comparable securities under an incentive program, or, in the case of options, settlement in cash or other property to the extent that the options are vested and have an exercise price less than the price paid per share in the Change in Control. The plan administrator may also accelerate the exercisability or vesting of stock awards. Outstanding options that are not assumed in a Change in Control will terminate as of the Change in Control.

Under the 2008 Plan, a Change in Control is generally defined as the consummation of (1) the sale of voting securities of the Company in which the holders of the voting securities immediately prior to the transaction hold less than 20% of the total combined voting power of the voting securities of the Company or acquiring entity immediately after the transaction; (2) a merger in which the Company is not the surviving entity, unless holders of the Company's voting securities immediately prior to the transaction hold more than 50% of the combined voting power of the voting securities of the surviving entity or its parent immediately after the transaction; (3) a reverse merger in which the Company is the surviving entity but holders of the Company's voting securities immediately prior to the transaction hold less than 50% of the combined voting power of the voting securities of



the Company or acquiring entity immediately after the transaction; or (4) the sale, transfer or disposition of all or substantially all of the assets of the Company, except where the holders of the Company's voting securities immediately prior to the transaction receive as a distribution securities possessing more than 50% of the total combined voting power of all outstanding voting securities of the acquiring entity immediately after the transaction.

*Amendment and Termination.* As noted above, in connection with this offering, our 2008 Plan will be terminated and no further stock awards will be granted thereunder. All outstanding stock awards under the 2008 Plan will continue to be governed by their existing terms.

## **2016 Employee Stock Purchase Plan**

We expect that our board will adopt and our stockholders will approve prior to the closing of this offering our 2016 Employee Stock Purchase Plan, or our 2016 ESPP. We do not expect to grant purchase rights under our 2016 ESPP until after the closing of this offering.

*Share Reserve.* The maximum number of shares of our common stock that may be issued under our 2016 ESPP is shares. Additionally, the number of shares of our common stock reserved for issuance under our 2016 ESPP will automatically increase on January 1 of each year, beginning on January 1, 2017 (assuming the 2016 ESPP becomes effective before such date) and continuing through and including January 1, 2026, by the lesser of (1) % of the total number of shares of our common stock outstanding on December 31 of the preceding calendar year, (2) shares of our common stock or (3) such lesser number of shares of common stock as determined by our board of directors. Shares subject to purchase rights granted under our 2016 Plan that terminate without having been exercised in full will not reduce the number of shares available for issuance under our 2016 ESPP.

*Administration.* Our board of directors, or a duly authorized committee thereof, will administer our 2016 ESPP. Our board of directors has delegated its authority to administer our 2016 ESPP to our compensation committee under the terms of the compensation committee's charter.

*Limitations.* Our employees, including executive officers, and the employees of any of our designated affiliates will be eligible to participate in our 2016 ESPP, provided they may have to satisfy one or more of the following service requirements before participating in our 2016 ESPP, as determined by the administrator: (1) customary employment with us or one of our affiliates for more than 20 hours per week and more than five months per calendar year or (2) continuous employment with us or one of our affiliates for a minimum period of time, not to exceed two years, prior to the first date of an offering. An employee may not be granted rights to purchase stock under our 2016 ESPP (a) if such employee immediately after the grant would own stock possessing 5% or more of the total combined voting power or value of all classes of our common stock or (b) to the extent that such rights would accrue at a rate that exceeds \$25,000 worth of our stock for each calendar year that the rights remain outstanding.

Our 2016 ESPP is intended to qualify as an employee stock purchase plan under Section 423 of the Code. The administrator may specify offerings with a duration of not more than 27 months, and may specify one or more shorter purchase periods within each offering. Each offering will have one or more purchase dates on which shares of our common stock will be purchased for the employees who are participating in the offering. The administrator, in its discretion, will determine the terms of offerings under our 2016 ESPP.

A participant may not transfer purchase rights under our 2016 ESPP other than by will, the laws of descent and distribution or as otherwise provided under our 2016 ESPP.

*Payroll Deductions.* Our 2016 ESPP permits participants to purchase shares of our common stock through payroll deductions up to 15% of their earnings. Unless otherwise determined by the administrator, the purchase price of the shares will be 85% of the lower of the fair market value of our common stock on the first day of an offering or on the date of purchase. Participants may end their participation at any time during an offering and

will be paid their accrued contributions that have not yet been used to purchase shares. Participation ends automatically upon termination of employment with us.

*Corporate Transactions.* In the event of certain specified significant corporate transactions, such as our merger or change in control, a successor corporation may assume, continue or substitute each outstanding purchase right. If the successor corporation does not assume, continue or substitute for the outstanding purchase rights, the offering in progress will be shortened and a new exercise date will be set. The participants' purchase rights will be exercised on the new exercise date and such purchase rights will terminate immediately thereafter.

*Amendment and Termination.* Our board of directors has the authority to amend, suspend or terminate our 2016 ESPP, at any time and for any reason, provided certain types of amendments will require the approval of our stockholders. Our 2016 ESPP will remain in effect until terminated by our board of directors in accordance with the terms of the 2016 ESPP.

#### **401(k) Plan**

We maintain a defined contribution retirement plan that provides eligible U.S. employees with an opportunity to save for retirement on a tax advantaged basis. Eligible employees may defer eligible compensation on a pre-tax basis, up to the statutorily prescribed annual limits on contributions under the Internal Revenue Code of 1986, as amended. Contributions are allocated to each participant's individual account and are then invested in selected investment alternatives according to the participants' directions. Employees are immediately and fully vested in their contributions. The 401(k) plan is intended to be qualified under Section 401(a) of the Code with the 401(k) plan's related trust intended to be tax exempt under Section 501(a) of the Code. As a tax-qualified retirement plan, contributions to the 401(k) plan and earnings on those contributions are not taxable to the employees until distributed from the 401(k) plan.

#### **Limitations on Liability and Indemnification Matters**

Upon completion of this offering, our amended and restated certificate of incorporation will contain provisions that limit the liability of our current and former directors for monetary damages to the fullest extent permitted by Delaware law. Delaware law provides that directors of a corporation will not be personally liable for monetary damages for any breach of fiduciary duties as directors, except liability for:

- any breach of the director's duty of loyalty to the corporation or its stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law; or
- any transaction from which the director derived an improper personal benefit.

This limitation of liability does not apply to liabilities arising under federal securities laws and does not affect the availability of equitable remedies such as injunctive relief or rescission.

Our amended and restated certificate of incorporation and our amended and restated bylaws to be in effect upon the completion of this offering will provide that we are required to indemnify our directors to the fullest extent permitted by Delaware law. Our amended and restated bylaws will also provide that, upon satisfaction of certain conditions, we are required to advance expenses incurred by a director in advance of the final disposition of any action or proceeding, and permit us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law. Our amended and restated bylaws will also provide our board of directors with discretion to indemnify our officers and employees when determined appropriate by our board of directors. We have entered and expect to continue to enter into

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agreements to indemnify our directors, executive officers and other employees as determined by the board of directors. With certain exceptions, these agreements provide for indemnification for related expenses including, among other things, attorneys' fees, judgments, fines and settlement amounts incurred by any of these individuals in any action or proceeding. We believe that these provisions and agreements are necessary to attract and retain qualified persons as directors and officers. We also maintain customary directors' and officers' liability insurance.

The limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws to be in effect upon the completion of this offering may discourage stockholders from bringing a lawsuit against our directors for breach of their fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and officers as required by these indemnification provisions. At present, there is no pending litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought and we are not aware of any threatened litigation that may result in claims for indemnification.

### **Rule 10b5-1 Sales Plans**

Our directors and executive officers may adopt written plans, known as Rule 10b5-1 plans, in which they will contract with a broker to buy or sell shares of our common stock on a periodic basis. Under a Rule 10b5-1 plan, a broker executes trades pursuant to parameters established by the director or executive officer when entering into the plan, without further direction from them. The director or executive officer may amend a Rule 10b5-1 plan in some circumstances and may terminate a plan at any time. Our directors and executive officers also may buy or sell additional shares outside of a Rule 10b5-1 plan when they are not in possession of material nonpublic information subject to compliance with the terms of our insider trading policy. Prior to 180 days after the date of this offering, subject to early termination, the sale of any shares under such plan would be subject to the lock-up agreement that the director or executive officer has entered into with the underwriters.

## **CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS**

The following is a summary of transactions since January 1, 2013 to which we have been a participant in which the amount involved exceeded or will exceed \$120,000, and in which any of our then directors, executive officers or holders of more than 5% of any class of our capital stock at the time of such transaction, or any members of their immediate family, had or will have a direct or indirect material interest, other than compensation arrangements which are described in “Executive and Director Compensation.”

### **Investors’ Rights, Voting and Co-Sale Agreements**

In connection with our preferred stock financings, we entered into investors’ rights, voting and right of first refusal and co-sale agreements containing registration rights, information rights, voting rights and rights of first refusal, among other things, with certain holders of our preferred stock, certain holders of our class A common stock and certain holders of our common stock. These stockholder agreements will terminate upon the closing of this offering, except for the registration rights granted under our investors’ rights agreement, as more fully described in “Description of Capital Stock—Registration Rights.”

Cinta Putra, Jaime Ellertson and ABS Ventures IX L.P. are parties to our investors’ rights agreement, voting agreement and right of first refusal and co-sale agreement. Imad Mouline and Steve Kirchmeier, Ms. Putra’s spouse, are parties to our voting agreement and right of first refusal and co-sale agreement.

### **Employment Arrangements and Separation Agreements**

We have entered into employment agreements or offer letters with our executive officers. For more information regarding these agreements with our named executive officers, see “Executive and Director Compensation—Employment Arrangements.”

We entered into a separation agreement with Cinta Putra, our former Chief Financial Officer and Senior Vice President, Business Operations, in November 2014. Pursuant to the agreement, in exchange for a general release of all claims in our favor, we paid (1) cash severance of \$125,000 to Ms. Putra in a lump sum, (2) the premiums for continued health benefits for Ms. Putra under COBRA for six months and (3) 100% of Ms. Putra’s 2014 performance bonus as if she had fully performed her full duties for the performance period.

Steve Kirchmeier, one of our co-founders, is employed by us as Associate Vice President of Sales. For the years ended December 31, 2013, December 31, 2014 and December 31, 2015, we paid Mr. Kirchmeier total cash compensation of approximately \$298,000, \$491,000 and \$479,000, respectively. Mr. Kirchmeier is also the husband of Cinta Putra, one of our co-founders and a member of our board of directors.

### **Stock Repurchases**

In January 2015, we repurchased 1,000,000 shares of common stock from Cinta Putra, a member of our board of directors, at a purchase price of \$1.50 per share for aggregate consideration of \$1,500,000.

### **Loans from Our Executive Officers**

In 2007, we issued a series of promissory notes in the aggregate principal amount of \$180,000 to Cinta Putra, a member of our board of directors who at that time was our Chief Financial Officer and Senior Vice President, Business Operations. The maturity date of each of the promissory notes, as amended, was January 21, 2012. The rate at which interest accrued on the loans fluctuated between 18% and 20% per annum. On September 9, 2013, we and Ms. Putra agreed to cancel the principal and interest due on the loans as payment for the exercise of options to purchase 2,568,507 shares of our common stock. At the time the loans were cancelled, the principal due on the loans totaled \$180,000 and the interest due totaled \$333,701.

### **Stock Option Grants to Directors and Executive Officers**

We have granted stock options to our certain of our directors and executive officers. For more information regarding the stock options and stock awards granted to our directors and named executive officers see “Executive and Director Compensation—Equity Incentive Plans.”

## **Indemnification Agreements**

We plan to enter into indemnification agreements with each of our directors and executive officers in connection with this offering.

The indemnification agreements and our amended and restated certificate of incorporation and amended and restated bylaws, each to be in effect upon the completion of this offering, require us to indemnify our directors and executive officers to the fullest extent permitted by Delaware law. For more information regarding these agreements, see “Executive and Director Compensation—Limitations on Liability and Indemnification Matters.”

## **Related Person Transaction Policy**

Prior to this offering, we have not had a formal policy regarding approval of transactions with related parties. Prior to the completion of this offering, we expect to adopt a related person transaction policy that sets forth our procedures for the identification, review, consideration and approval or ratification of related person transactions. The policy will become effective immediately upon the execution of the underwriting agreement for this offering. For purposes of our policy only, a related person transaction is a transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships, in which we and any related person are, were or will be participants in which the amount involved exceeds \$120,000. Transactions involving compensation for services provided to us as an employee or director are not covered by this policy. A related person is any executive officer, director or beneficial owner of more than 5% of any class of our voting securities, including any of their immediate family members and any entity owned or controlled by such persons.

Under the policy, if a transaction has been identified as a related person transaction, including any transaction that was not a related person transaction when originally consummated or any transaction that was not initially identified as a related person transaction prior to consummation, our management must present information regarding the related person transaction to our audit committee, or, if audit committee approval would be inappropriate, to another independent body of our board of directors, for review, consideration and approval or ratification. The presentation must include a description of, among other things, the material facts, the interests, direct and indirect, of the related persons, the benefits to us of the transaction and whether the transaction is on terms that are comparable to the terms available to or from, as the case may be, an unrelated third party or to or from employees generally. Under the policy, we will collect information that we deem reasonably necessary from each director, executive officer and, to the extent feasible, significant stockholder to enable us to identify any existing or potential related-person transactions and to effectuate the terms of the policy.

In addition, under our Code of Business Conduct and Ethics, which we intend to adopt in connection with this offering, our employees and directors have an affirmative responsibility to disclose any transaction or relationship that reasonably could be expected to give rise to a conflict of interest.

In considering related person transactions, our audit committee, or other independent body of our board of directors, will take into account the relevant available facts and circumstances including, but not limited to:

- the risks, costs and benefits to us;
- the impact on a director’s independence in the event that the related person is a director, immediate family member of a director or an entity with which a director is affiliated;
- the availability of other sources for comparable services or products; and
- the terms available to or from, as the case may be, unrelated third parties or to or from employees generally.

The policy requires that, in determining whether to approve, ratify or reject a related person transaction, our audit committee, or other independent body of our board of directors, must consider, in light of known circumstances, whether the transaction is in, or is not inconsistent with, our best interests and those of our stockholders, as our audit committee, or other independent body of our board of directors, determines in the good faith exercise of its discretion.

All of the transactions described above were entered into prior to the adoption of the written policy, but all were approved by our board of directors considering similar factors to those described above.

## PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth the beneficial ownership of our common stock as of December 31, 2015, as adjusted to reflect the sale of common stock offered by us and the selling stockholders in this offering, for:

- each person, or group of affiliated persons, who is known by us to beneficially own more than 5% of our common stock;
- each of our named executive officers;
- each of our directors;
- all of our executive officers and directors as a group; and
- each of the selling stockholders.

The percentage ownership information shown in the table prior to this offering is based upon 118,601,655 shares of common stock outstanding as of December 31, 2015, after giving effect to the conversion of all outstanding shares of class A common stock and preferred stock into an aggregate of 54,735,950 shares of our common stock. The percentage ownership information shown in the table after this offering is based upon \_\_\_\_\_ shares outstanding, assuming the sale of shares of our common stock by us in the offering and no exercise of the underwriters' over-allotment option.

We have determined beneficial ownership in accordance with the rules of the SEC. These rules generally attribute beneficial ownership of securities to persons who possess sole or shared voting power or investment power with respect to those securities. In addition, the rules include shares of common stock issuable pursuant to the exercise of stock options or warrants that are either immediately exercisable or exercisable on or before February 29, 2016, which is 60 days after December 31, 2015. These shares are deemed to be outstanding and beneficially owned by the person holding those options or warrants for the purpose of computing the percentage ownership of that person, but they are not treated as outstanding for the purpose of computing the percentage ownership of any other person. Unless otherwise indicated, the persons or entities identified in this table have sole voting and investment power with respect to all shares shown as beneficially owned by them, subject to applicable community property laws.

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Except as otherwise noted below, the address for persons listed in the table is c/o Everbridge, Inc., 25 Corporate Drive, Suite 400, Burlington, Massachusetts 01803.

| Name of Beneficial Owner  | Shares Beneficially Owned Prior to this Offering |            | Number of Shares Offered | Shares Beneficially Owned After this Offering |            | Number of Shares to be Sold if Underwriters' Option is Exercised in Full | Shares Beneficially Owned After this Offering if Underwriters' Option is Exercised in Full |            |
|---|--|------------|--------------------------|---|------------|--|--|------------|
|   | Shares   | Percentage |                          | Shares  | Percentage |  | Shares   | Percentage |
| 5% or greater stockholders:   |  |            |                          |   |            |  |  |            |
| ABS Ventures IX, L.P.(1)  | 37,032,950                                       | 31.2%      |                          |   |            |  |  |            |
| Jaime Ellertson(2)  | 15,570,060                                       | 13.1       |                          |   |            |  |  |            |
| Cinta Putra(3)  | 16,619,684                                       | 14.0       |                          |   |            |  |  |            |
| Other named executive officers and directors:                           |  |            |                          |   |            |  |  |            |
| Kenneth S. Goldman  | —  | —          |                          |   |            |  |  |            |
| Nicholas Hawkins  | —  | —          |                          |   |            |  |  |            |
| Richard D'Amore(4)  | 16,666   | *          |                          |   |            |  |  |            |
| Bruns Grayson(1)  | 37,032,950                                       | 31.2       |                          |   |            |  |  |            |
| David Henshall(5)   | 16,666   | *          |                          |   |            |  |  |            |
| Kent Mathy(6)   | 305,839  | *          |                          |   |            |  |  |            |
| All current executive officers and directors as a group (14 persons)(7) | 73,580,907                                       | 61.1       |                          |   |            |  |  |            |
| Other selling stockholders:   |  |            |                          |   |            |  |  |            |

\* Represents beneficial ownership of less than 1%.

- (1) Includes 36,958,614 shares of common stock held by ABS Ventures IX, L.P. Calvert Capital V LLC is the general partner of ABS Ventures IX, L.P. Bruns Grayson, the managing member of Calvert Capital IV LLC, has voting and dispositive power with respect to the shares held by ABS Ventures IX, L.P. R. William Burgess, Jr. is also a managing member of Calvert Capital V LLC and shares voting and dispositive power with respect to the securities held by ABS Ventures IX, L.P. Also includes 57,670 shares of common stock issuable upon the exercise of warrants that are exercisable on or before February 29, 2016 held by ABS Ventures IX, L.P. and 16,666 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016 held by Bruns Grayson. The address of the entities affiliated with ABS Ventures is 950 Winter Street, Suite 2600, Waltham, Massachusetts 02451.
- (2) Includes 25,000 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016 and 1,000,000 shares of common stock held by Mr. Ellertson's children.
- (3) Includes (i) 6,506,889 shares of common stock held by the Steven T. Kirchmeier and Cintawati W. Putra Living Trust Dated May 5, 2015 (the "Living Trust"), of which Ms. Putra and Steven Kirchmeier, Ms. Putra's spouse, are trustees, (ii) 3,972,014 shares of common stock held by James Keene over which Ms. Putra has voting power pursuant to a power of attorney, (iii) 3,000,000 shares of common stock held by the Cintawati W. Putra 2015 Grantor Retained Annuity Trust (the "Putra Trust"), of which Ms. Putra and Mr. Kirchmeier are trustees, (iv) 3,000,000 shares of common stock held by the Steven T. Kirchmeier 2015 Grantor Retained Annuity Trust (the "Kirchmeier Trust"), of which Ms. Putra and Mr. Kirchmeier are trustees and (v) 7,500 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016 held by Mr. Kirchmeier. Ms. Putra and Mr. Kirchmeier have shared voting and dispositive power over the shares held by the Living Trust, the Putra Trust and the Kirchmeier Trust.
- (4) Consists of 16,666 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016.
- (5) Consists of 16,666 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016.
- (6) Consists of 305,839 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016.
- (7) Includes (i) 36,958,614 shares of common stock held by ABS Ventures, IX, L.P., (ii) 1,000,000 shares of common stock held by Mr. Ellertson's children, (iii) 6,506,889 shares of common stock held by the Living Trust, of which Ms. Putra and Mr. Kirchmeier are trustees, (iv) 3,972,014 shares of common stock held by James Keene over which Ms. Putra has voting power pursuant to a power of attorney, (v) 3,000,000 shares of common stock held by the Putra Trust, of which Ms. Putra and Mr. Kirchmeier are trustees, (vi) 3,000,000 shares of common stock held by the Kirchmeier Trust, of which Ms. Putra and Mr. Kirchmeier are trustees, (vii) 7,500 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016 held by Mr. Kirchmeier, (viii) 57,670 shares of common stock issuable upon the exercise of warrants that are exercisable on or before February 29, 2016 held by ABS Ventures IV, L.P. and (ix) 1,843,336 shares of common stock issuable upon the exercise of options that are exercisable on or before February 29, 2016 held by the directors and officers.

## DESCRIPTION OF CAPITAL STOCK

The following description of our capital stock, certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws, as each will be in effect upon the completion of this offering, and certain provisions of Delaware law are summaries. You should also refer to the amended and restated certificate of incorporation and the amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus is part. We refer in this section to our amended and restated certificate of incorporation and amended and restated bylaws that we intend to adopt in connection with this offering as our certificate of incorporation and bylaws, respectively.

### **General**

Upon the completion of this offering, our certificate of incorporation will authorize us to issue up to \_\_\_\_\_ shares of common stock, \$0.001 par value per share, and 10,000,000 shares of preferred stock, \$0.001 par value per share, all of which shares of preferred stock will be undesignated. Our board of directors may establish the rights and preferences of the preferred stock from time to time. As of December 31, 2015, after giving effect to the conversion of all outstanding class A common stock and preferred stock into shares of our common stock in connection with the completion of the offering, there would have been an aggregate of 118,601,655 shares of common stock issued and outstanding, held of record by 649 stockholders.

### **Common Stock**

#### ***Voting Rights***

Upon the completion of this offering, each holder of our common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Under our amended and restated certificate of incorporation and amended and restated bylaws, each to be in effect upon the completion of this offering, our stockholders will not have cumulative voting rights. Because of this, the holders of a majority of the shares of common stock entitled to vote in any election of directors will be able elect all of the directors standing for election, if they should so choose.

#### ***Dividends***

Subject to preferences that may be applicable to any then-outstanding preferred stock, holders of common stock will be entitled to receive ratably those dividends, if any, as may be declared from time to time by the board of directors out of legally available funds.

#### ***Liquidation***

In the event of our liquidation, dissolution or winding up, holders of common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then-outstanding shares of preferred stock.

#### ***Rights and Preferences***

Holders of common stock have no preemptive, conversion or subscription rights and there are no redemption or sinking fund provisions applicable to the common stock. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate in the future.

### **Class A Common Stock**

All currently outstanding shares of Class A common stock will be converted to common stock upon the completion of this offering.



## **Preferred Stock**

All currently outstanding shares of preferred stock will be converted to common stock upon the completion of this offering.

Following the completion of this offering, our board of directors will have the authority, without further action by our stockholders, to issue up to 10,000,000 shares of preferred stock in one or more series, to establish from time to time the number of shares to be included in each such series, to fix the rights, preferences and privileges of the shares of each wholly unissued series and any qualifications, limitations or restrictions thereon, and to increase or decrease the number of shares of any such series, but not below the number of shares of such series then outstanding.

Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of our common stock. The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in control of us and may adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. It is not possible to state the actual effect of the issuance of any shares of preferred stock on the rights of holders of common stock until the board of directors determines the specific rights attached to that preferred stock.

We have no present plans to issue any shares of preferred stock.

## **Options**

As of December 31, 2015, options to purchase an aggregate of 10,474,299 shares of common stock were outstanding under our 2008 Plan at a weighted-average exercise price of \$1.51 per share. For additional information regarding the terms of our 2008 Plan, see “Executive and Director Compensation—Equity Incentive Plans—2008 Equity Incentive Plan.”

## **Warrants**

As of December 31, 2015, warrants to purchase an aggregate of 749,712 shares of our Series A-1 preferred stock at an exercise price of \$0.4335 per share were outstanding. The warrant with respect to 57,670 shares will terminate upon the completion of this offering if not earlier exercised and the warrant with respect to the remaining 692,042 shares will become exercisable for an equivalent number of shares of our common stock upon the completion of this offering. The warrants contain a provision for the adjustment of the exercise price and the number of shares issuable upon the exercise of the applicable warrant in the event of certain stock dividends, stock splits, reorganizations, reclassifications and consolidations.

## **Registration Rights**

After the completion of this offering, certain holders of shares of our common stock, including those shares of our common stock that will be issued upon conversion of our preferred stock in connection with this offering, will be entitled to certain rights with respect to registration of such shares under the Securities Act pursuant to the terms of an investors’ rights agreement. These shares are collectively referred to herein as registrable securities.

The investors’ rights agreement provides the holders of registrable securities with demand, piggyback and S-3 registration rights as described more fully below. As of December 31, 2015, after giving effect to the conversion of all outstanding shares of our class A common stock and preferred stock into shares of our common stock in connection with the completion of the offering, there would have been an aggregate of 71,876,018 registrable securities that were entitled to these demand, piggyback and S-3 registration rights.

### ***Demand Registration Rights***

At any time beginning 180 days following the effective date of the registration statement of which this prospectus forms a part, the holders of 20% of the registrable securities have the right to make up to two demands that we file a registration statement under the Securities Act covering at least 20% of the registrable securities then outstanding and with an anticipated aggregate offering price of greater than \$10.0 million, net of underwriting discounts and commissions, subject to specified exceptions.

### ***Piggyback Registration Rights***

If we register any securities for public sale, the holders of our registrable securities then outstanding will each be entitled to notice of the registration and will have the right to include their shares in the registration statement. The underwriters of any underwritten offering will have the right to limit the number of shares having registration rights to be included in the registration statement, provided that the registration does not include shares of any other selling stockholder. If the registration does not include shares of any other selling stockholder, any or all of the registrable securities may be excluded from such registration.

### ***Registration on Form S-3***

If we are eligible to file a registration statement on Form S-3, the holders of our registrable securities have the right to demand that we file registration statements on Form S-3; provided, that the aggregate amount of securities to be sold under the registration statement is at least \$3.0 million, net of underwriting discounts and commissions. We are not obligated to effect a demand for registration on Form S-3 by holders of our registrable securities more than twice during any 12-month period, and not more than four times in total. The right to have such shares registered on Form S-3 is further subject to other specified conditions and limitations.

### ***Expenses of Registration***

We will pay all expenses relating to any demand, piggyback or Form S-3 registration, other than underwriting discounts and commissions, subject to specified conditions and limitations.

### ***Termination of Registration Rights***

The registration rights will terminate three years following the completion of this offering.

### ***Anti-Takeover Provisions***

#### ***Anti-Takeover Statute***

We are subject to Section 203 of the Delaware General Corporation Law, which generally prohibits a publicly held Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

- before such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;
- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, those shares owned (1) by persons who are directors and also officers and (2) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

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- on or after such date, the business combination is approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines a “business combination” to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- any transaction involving the corporation that has the effect of increasing the proportionate share of the stock or any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines an “interested stockholder” as an entity or person who, together with the person’s affiliates and associates, beneficially owns, or within three years prior to the time of determination of interested stockholder status did own, 15% or more of the outstanding voting stock of the corporation.

### ***Anti-Takeover Effects of Certain Provisions of our Certificate of Incorporation and Bylaws to be in Effect Upon the Completion of this Offering***

Our certificate of incorporation will provide for our board of directors to be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Because our stockholders do not have cumulative voting rights, stockholders holding a majority of the shares of common stock outstanding will be able to elect all of our directors. Our certificate of incorporation and bylaws will also provide that directors may be removed by the stockholders only for cause upon the vote of 66 2/3% or more of our outstanding common stock. Furthermore, the authorized number of directors may be changed only by resolution of the board of directors, and vacancies and newly created directorships on the board of directors may, except as otherwise required by law or determined by the board, only be filled by a majority vote of the directors then serving on the board, even though less than a quorum.

Our certificate of incorporation and bylaws will also provide that all stockholder actions must be effected at a duly called meeting of stockholders and will eliminate the right of stockholders to act by written consent without a meeting. Our bylaws will also provide that only our chairman of the board, chief executive officer or the board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors may call a special meeting of stockholders.

Our bylaws will also provide that stockholders seeking to present proposals before our annual meeting of stockholders or to nominate candidates for election as directors at a meeting of stockholders must provide timely advance notice in writing, and, subject to applicable law, will specify requirements as to the form and content of a stockholder’s notice.

Our certificate of incorporation and bylaws will provide that the stockholders cannot amend many of the provisions described above except by a vote of 66 2/3% or more of our outstanding common stock.

The combination of these provisions will make it more difficult for our existing stockholders to replace our board of directors as well as for another party to obtain control of us by replacing our board of directors. Since our

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board of directors has the power to retain and discharge our officers, these provisions could also make it more difficult for existing stockholders or another party to effect a change in management. In addition, the authorization of undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to change our control.

These provisions are intended to enhance the likelihood of continued stability in the composition of our board of directors and its policies and to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to reduce our vulnerability to hostile takeovers and to discourage certain tactics that may be used in proxy fights. However, such provisions could have the effect of discouraging others from making tender offers for our shares and may have the effect of delaying changes in our control or management. As a consequence, these provisions may also inhibit fluctuations in the market price of our stock that could result from actual or rumored takeover attempts. We believe that the benefits of these provisions, including increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure our company, outweigh the disadvantages of discouraging takeover proposals, because negotiation of takeover proposals could result in an improvement of their terms.

### **Choice of Forum**

Our certificate of incorporation to be in effect upon the completion of this offering will provide that the Court of Chancery of the State of Delaware will be the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty owed by any of our directors, officers or employees to us or our stockholders; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our certificate of incorporation or our bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. Several lawsuits have been filed in Delaware challenging the enforceability of similar choice of forum provisions and it is possible that a court determines such provisions are not enforceable.

### **Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Computershare Trust Company, N.A. The transfer agent's address is 250 Royall Street, Canton, Massachusetts 02021.

### **Listing**

We have applied for listing of our common stock on the NASDAQ Global Market under the trading symbol "EVBG."

## SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, no public market existed for our common stock, and although we expect that our common stock will be approved for listing on the NASDAQ Global Market, we cannot assure investors that there will be an active public market for our common stock following this offering. We cannot predict what effect, if any, sales of our shares in the public market or the availability of shares for sale will have on the market price of our common stock. Future sales of substantial amounts of common stock in the public market, including shares issued upon exercise of outstanding options or warrants, or the perception that such sales may occur, however, could adversely affect the market price of our common stock and also could adversely affect our future ability to raise capital through the sale of our common stock or other equity-related securities at times and prices we believe appropriate.

Based on our shares outstanding as of December 31, 2015, upon completion of this offering, \_\_\_\_\_ shares of our common stock will be outstanding.

All of the shares of common stock sold in this offering will be freely tradable without restrictions or further registration under the Securities Act, except for any shares sold to our “affiliates,” as that term is defined under Rule 144 under the Securities Act. The remaining \_\_\_\_\_ outstanding shares of common stock held by existing stockholders are “restricted securities,” as that term is defined in Rule 144 under the Securities Act. Restricted securities may be sold in the public market only if the offer and sale is registered under the Securities Act or if the offer and sale of those securities qualifies for exemption from registration, including exemptions provided by Rules 144 and 701 promulgated under the Securities Act.

As a result of lock-up agreements and market standoff provisions described below and the provisions of Rules 144 and 701, the restricted securities will be available for sale in the public market as follows:

- \_\_\_\_\_ shares will be eligible for immediate sale upon the completion of this offering; and
- approximately \_\_\_\_\_ shares will be eligible for sale upon expiration of lock-up agreements and market standoff provisions described below, beginning 181 days after the date of this prospectus, subject in certain circumstances to the volume, manner of sale and other limitations under Rule 144 and Rule 701.

We may issue shares of our common stock from time to time for a variety of corporate purposes, including in capital-raising activities through future public offerings or private placements, in connection with exercise of stock options and warrants, vesting of restricted stock units and other issuances relating to our employee benefit plans and as consideration for future acquisitions, investments or other purposes. The number of shares of our common stock that we may issue may be significant, depending on the events surrounding such issuances. In some cases, the shares we issue may be freely tradable without restriction or further registration under the Securities Act; in other cases, we may grant registration rights covering the shares issued in connection with these issuances, in which case the holders of the common stock will have the right, under certain circumstances, to cause us to register any resale of such shares to the public.

### Rule 144

In general, persons who have beneficially owned restricted shares of our common stock for at least six months, and any affiliate of the company who owns either restricted shares of our common stock, are entitled to sell their securities without registration with the SEC under an exemption from registration provided by Rule 144 under the Securities Act.

### *Non-Affiliates*

Any person who is not deemed to have been one of our affiliates at the time of, or at any time during the three months preceding, a sale may sell an unlimited number of restricted securities under Rule 144 if:

- the restricted securities have been held for at least six months, including the holding period of any prior owner other than one of our affiliates;

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- we have been subject to the Exchange Act periodic reporting requirements for at least 90 days before the sale; and
- we are current in our Exchange Act reporting at the time of sale.

Any person who is not deemed to have been an affiliate of ours at the time of, or at any time during the three months preceding, a sale and has held the restricted securities for at least one year, including the holding period of any prior owner other than one of our affiliates, will be entitled to sell an unlimited number of restricted securities without regard to the length of time we have been subject to Exchange Act periodic reporting or whether we are current in our Exchange Act reporting.

### ***Affiliates***

Persons seeking to sell restricted securities who are our affiliates at the time of, or any time during the three months preceding, a sale, would be subject to the restrictions described above. They are also subject to additional restrictions, by which such person would be required to comply with the manner of sale and notice provisions of Rule 144 and would be entitled to sell within any three-month period only that number of securities that does not exceed the greater of either of the following:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately \_\_\_\_\_ shares immediately after the completion of this offering based on the number of shares outstanding as of December 31, 2015; or
- the average weekly trading volume of our common stock on the NASDAQ Global Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to the sale.

### **Rule 701**

In general, under Rule 701 a person who purchased shares of our common stock pursuant to a written compensatory plan or contract and who is not deemed to have been one of our affiliates during the immediately preceding 90 days may sell these shares in reliance upon Rule 144, but without being required to comply with the notice, manner of sale or public information requirements or volume limitation provisions of Rule 144. Rule 701 also permits affiliates to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. All holders of Rule 701 shares, however, are required to wait until 90 days after the date of this prospectus before selling such shares pursuant to Rule 701. As of December 31, 2015, 6,741,010 shares of our outstanding common stock had been issued in reliance on Rule 701 as a result of exercises of stock options. However, all Rule 701 shares are subject to lock-up agreements as described below and in “Underwriting” and will become eligible for sale upon the expiration of the restrictions set forth in those agreements.

### **Form S-8 Registration Statements**

As of December 31, 2015, options to purchase an aggregate 10,474,299 of our common stock were outstanding. As soon as practicable after the completion of this offering, we intend to file with the SEC one or more registration statements on Form S-8 under the Securities Act to register the shares of our common stock that are issuable pursuant to our equity incentive plans, including pursuant to outstanding options. See “Executive and Director Compensation—Equity Incentive Plans” for a description of our equity incentive plans. These registration statements will become effective immediately upon filing. Shares covered by these registration statements will then be eligible for sale in the public markets, subject to vesting restrictions, any applicable lock-up agreements described below and Rule 144 limitations applicable to affiliates.

### **Lock-Up Agreements**

In connection with this offering, we, our directors and officers, and \_\_\_\_\_ of the holders of equity securities outstanding immediately prior to this offering, including all of the selling stockholders, have agreed, subject to \_\_\_\_\_

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certain exceptions, not to offer, sell, or transfer any common stock or securities convertible into or exchangeable for our common stock for 180 days after the date of this prospectus without the prior written consent of Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated on behalf of the underwriters.

The agreements do not contain any pre-established conditions to the waiver by Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated on behalf of the underwriters of any terms of the lock-up agreements. Any determination to release shares subject to the lock-up agreements would be based on a number of factors at the time of determination, including but not necessarily limited to the market price of the common stock, the liquidity of the trading market for the common stock, general market conditions, the number of shares proposed to be sold, contractual obligations to release certain shares subject to the lock-up agreements in the event any such shares are released, subject to certain specific limitations and thresholds, and the timing, purpose and terms of the proposed sale.

In addition to the restrictions contained in the lock-up agreements described above, we have entered into agreements with certain of our security holders, including our investors' rights agreement and agreements governing our equity awards, that contain market stand-off provisions imposing restrictions on the ability of such security holders to offer, sell or transfer our equity securities for a period of 180 days following the date of this prospectus.

### **Registration Rights**

Upon the completion of this offering, the holders of 71,876,018 shares of our common stock, or their transferees, will be entitled to specified rights with respect to the registration of the offer and sale of their shares under the Securities Act. Registration of the offer and sale of these shares under the Securities Act would result in the shares becoming freely tradable without restriction under the Securities Act immediately upon the effectiveness of the registration. See "Description of Capital Stock—Registration Rights" for additional information.

**MATERIAL U.S. FEDERAL INCOME TAX AND ESTATE TAX CONSIDERATIONS  
FOR NON-U.S. HOLDERS**

The following is a general discussion of the material U.S. federal income and estate tax consequences of the acquisition, ownership and disposition of our common stock by “Non-U.S. Holders” (as defined below). This discussion is for general information purposes only and does not consider all aspects of U.S. federal income taxation that may be relevant to particular Non-U.S. Holders in light of their individual circumstances or to certain types of Non-U.S. Holders subject to special tax rules, including partnerships or other pass-through entities for U.S. federal income tax purposes, banks, financial institutions or other financial services entities, foreign governments or governmental entities, brokers or dealers in securities or currencies, insurance companies, tax-exempt organizations, pension plans, real estate investment trusts, controlled foreign corporations, passive foreign investment companies, corporations that accumulate earnings to avoid U.S. federal income tax, persons who use or are required to use mark-to-market accounting, persons that hold our shares as part of a “straddle,” a “hedge”, a “conversion transaction,” “synthetic security”, integrated investment or other risk reduction strategy, certain former citizens or permanent residents of the United States, persons who hold or receive shares of our common stock pursuant to the exercise of an employee stock option or otherwise as compensation, or investors in pass-through entities (or entities that are treated as disregarded entities for U.S. federal income tax purposes). In addition, this discussion does not address, except to the extent discussed below, the effects of any applicable gift or estate tax, and this discussion does not address the potential application of alternative minimum tax, or any tax considerations that may apply to Non-U.S. Holders of our common stock under state, local or non-U.S. tax laws and any other U.S. federal tax laws.

This discussion is based on the Internal Revenue Code of 1986, as amended, or the Code, and applicable Treasury Regulations, rulings, administrative pronouncements and judicial decisions that are issued and available as of the date of this registration statement, all of which are subject to change or differing interpretations at any time with possible retroactive effect. We have not sought, and will not seek, any ruling from the Internal Revenue Service, or the IRS, with respect to the tax consequences discussed herein, and there can be no assurance that the IRS will not take a position contrary to the tax consequences discussed below or that any position taken by the IRS would not be sustained. This discussion is limited to a Non-U.S. Holder who will hold our common stock as a capital asset within the meaning of the Code (generally, property held for investment). For purposes of this discussion, the term “Non-U.S. Holder” means a beneficial owner of our shares that is not a partnership (or entity or arrangement treated as a partnership for U.S. federal income tax purposes) and is not:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity treated as a corporation) created or organized in the United States or under the laws of the United States or of any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust if (1) a court within the United States can exercise primary supervision over the trust’s administration and one or more U.S. persons have the authority to control all of the trust’s substantial decisions or (2) the trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

If a partnership (or entity or arrangement treated as a partnership for U.S. federal income tax purposes) is a beneficial owner of our common stock, the tax treatment of such partnership and a partner in such partnership generally will depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our shares, you should consult your tax advisor regarding the tax consequences of the purchase, ownership, and disposition of our common stock.

**THIS SUMMARY IS NOT INTENDED TO BE TAX ADVICE. PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE PARTICULAR U.S. FEDERAL INCOME**



**TAX CONSEQUENCES TO THEM OF ACQUIRING, OWNING AND DISPOSING OF OUR COMMON STOCK, AS WELL AS ANY TAX CONSEQUENCES ARISING UNDER ANY STATE, LOCAL OR FOREIGN TAX LAWS AND ANY OTHER U.S. FEDERAL TAX LAWS.**

**Distributions on Our Common Stock**

In general, subject to the discussion below under the headings “Information Reporting and Backup Withholding” and “Foreign Accounts,” distributions, if any, paid on our common stock to a Non-U.S. Holder (to the extent paid out of our current or accumulated earnings and profits, as determined under U.S. federal income tax principles) will constitute dividends and be subject to U.S. withholding tax at a rate equal to 30% of the gross amount of the dividend, or a lower rate prescribed by an applicable income tax treaty, unless the dividends are effectively connected with a trade or business carried on by the Non-U.S. Holder within the United States. The portion of any distribution that exceeds our current and accumulated earnings and profits will be treated first as reducing the Non-U.S. Holder’s basis in its shares of common stock, but not below zero, and to the extent it exceeds the Non-U.S. Holder’s basis, as gain from the sale or exchange of our common stock (see “Gain on Sale, Exchange or Other Taxable Disposition of Common Stock” below).

A Non-U.S. Holder who claims the benefit of an applicable income tax treaty generally will be required to satisfy certain certification and other requirements prior to the distribution date. Such Non-U.S. Holders must generally provide us or our paying agent with a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E (or other appropriate form) claiming an exemption from or reduction in withholding under an applicable income tax treaty. Such certificate must be provided before the payment of dividends and must be updated periodically. If tax is withheld in an amount in excess of the amount applicable under an income tax treaty, a refund of the excess amount may generally be obtained by a Non-U.S. Holder by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under an applicable income tax treaty.

Dividends that are effectively connected with a Non-U.S. Holder’s conduct of a U.S. trade or business generally will not be subject to the 30% U.S. withholding tax if the Non-U.S. Holder files the required forms, including IRS Form W-8ECI, with us or our paying agent. Instead, such Non-U.S. Holder generally will be subject to U.S. federal income tax on those dividends on a net income basis at regular graduated rates in the same manner as if the Non-U.S. Holder were a resident of the United States (except to the extent provided in an applicable income tax treaty, which may require that such dividends be attributable to a U.S. permanent establishment or fixed base in order to be subject to tax as described herein). A corporate Non-U.S. Holder that receives effectively connected dividends may be subject to an additional branch profits tax at a rate of 30% (or such lower rate as may be prescribed by an applicable income tax treaty) on its effectively connected earnings and profits as adjusted under the Code.

**Gain on Sale, Exchange or Other Disposition of Our Common Stock**

In general, subject to the discussion below under the headings “Information Reporting and Backup Withholding” and “Foreign Accounts,” a non-U.S. holder will not be subject to U.S. federal income tax or withholding tax on any gain realized upon such holder’s sale, exchange or other disposition of shares of our common stock unless:

- (1) the gain is effectively connected with a trade or business carried on by the Non-U.S. Holder within the United States (and, if required by an applicable income tax treaty, attributable to a U.S. permanent establishment or fixed base of the Non-U.S. Holder);
- (2) the Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of disposition and certain other conditions are met; or
- (3) we are or have been a “United States real property holding corporation” for U.S. federal income tax purposes at any time during the shorter of the five-year period ending on the date of disposition or the period that the Non-U.S. Holder held the common stock, and, in the case where shares of our common stock are regularly traded on an established securities market, the Non-U.S. Holder owns, or is treated as owning, more than 5% of our common stock at any time during the foregoing period.

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Net gain realized by a Non-U.S. Holder described in clause (1) above generally will be subject to U.S. federal income tax rates in the same manner as if the Non-U.S. Holder were a resident of the United States. Any gains of a corporate Non-U.S. Holder described in clause (1) above may also be subject to an additional “branch profits tax” at a 30% rate (or such lower rate as may be specified by an applicable income tax treaty) on its effectively connected earnings and profits as adjusted under the Code.

Gain realized by an individual Non-U.S. Holder described in clause (2) above will be subject to a flat 30% tax, which gain may be offset by U.S. source capital losses, even though the individual is not considered a resident of the United States.

For purposes of clause (3) above, a corporation generally is a United States real property holding corporation, or USRPHC, if the fair market value of its United States real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests plus its other assets used or held for use in a trade or business. We believe that we are not, and we do not anticipate that we will become, a USRPHC. However, because the determination of whether we are a USRPHC depends on the fair market value of our U.S. real property interests relative to the fair market value of our other business assets, there can be no assurance that we will not become a USRPHC in the future. Even if we became a USRPHC, a Non-U.S. Holder would not be subject to U.S. federal income tax on a sale, exchange or other taxable disposition of our common stock by reason of our status as an USRPHC so long as our common stock is regularly traded on an established securities market (within the meaning of the applicable regulations) and such Non-U.S. Holder does not own and is not deemed to own (directly, indirectly or constructively) more than 5% of our outstanding common stock at any time during the shorter of the five year period ending on the date of disposition and such holder’s holding period. However, no assurance can be provided that our common stock will be regularly traded on an established securities market for purposes of the rules described above. Prospective investors are encouraged to consult their own tax advisors regarding the possible consequences to them if we are, or were to become, a USRPHC.

### **Information Reporting and Backup Withholding**

Generally, we must report annually to the IRS and to each Non-U.S. Holder the amount of dividends paid, the name and address of the recipient, and the amount, if any, of tax withheld. These information reporting requirements apply even if withholding was not required because the dividends were effectively connected with the Non-U.S. Holder’s conduct of a trade or business within the United States or withholding was reduced by an applicable income tax treaty. Under applicable income tax treaties or other agreements, the IRS may make its reports available to the tax authorities in the Non-U.S. Holder’s country of residence or country in which the Non-U.S. Holder was established.

Dividends paid to a Non-U.S. Holder that is not an exempt recipient generally will be subject to backup withholding, currently at a rate of 28%, unless the Non-U.S. Holder certifies to the payor as to its foreign status, which certification may generally be made on an applicable IRS Form W-8.

Proceeds from the sale or other disposition of common stock by a Non-U.S. Holder effected by or through a U.S. office of a broker will generally be subject to information reporting and backup withholding, currently at a rate of 28%, unless the Non-U.S. Holder certifies to the withholding agent under penalties of perjury as to, among other things, its name, address and status as a Non-U.S. Holder or otherwise establishes an exemption. Payment of disposition proceeds effected outside the United States by or through a non-U.S. office of a non-U.S. broker generally will not be subject to information reporting or backup withholding if the payment is not received in the United States. Information reporting, but generally not backup withholding, will apply to such a payment if the broker has certain connections with the United States unless the broker has documentary evidence in its records that the beneficial owner thereof is a Non-U.S. Holder and specified conditions are met or an exemption is otherwise established.

Backup withholding is not an additional tax. Any amount withheld under the backup withholding rules from a payment to a Non-U.S. Holder that results in an overpayment of taxes generally will be refunded, or credited against the holder’s U.S. federal income tax liability, if any, provided that the required information is timely furnished to the IRS.

## **Foreign Accounts**

A U.S. federal withholding tax of 30% may apply to dividends on, and the gross proceeds of, a disposition of our common stock paid to a “foreign financial institution” (as specially defined under applicable rules) unless such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding certain U.S. account holders of such institution (which includes certain equity holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or otherwise qualifies for an exemption from these rules. This U.S. federal withholding tax of 30% will also apply to payments of dividends on, and the gross proceeds of, a disposition of our common stock paid to a non-financial foreign entity (as specifically defined by applicable rules), unless such entity either certifies it does not have any substantial direct or indirect U.S. owners or provides the withholding agent with a certification identifying substantial direct and indirect U.S. owners of the entity or otherwise qualifies for an exemption from these rules. The withholding tax described above will not apply if the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from the rules. Under certain circumstances, a Non-U.S. Holder might be eligible for refunds or credits of such taxes. The U.S. has entered into agreements with certain countries that modify these general rules for entities resident in those countries. Prospective investors are encouraged to consult with their own tax advisors regarding the possible implications of these rules on their investment in our common stock.

The withholding provisions described above currently apply to payments of dividends on our common stock and will apply to payments of gross proceeds from a sale or other disposition of our common stock by a foreign financial institution on or after January 1, 2019.

## **U.S. Federal Estate Tax**

An individual who at the time of death is not a citizen or resident of the United States and who is treated as the owner of, or has made certain lifetime transfers of, an interest in our common stock will be required to include the value thereof in his or her taxable estate for U.S. federal estate tax purposes, and may be subject to U.S. federal estate tax unless an applicable estate tax treaty provides otherwise. The test for whether an individual is a resident of the United States for U.S. federal estate tax purposes differs from the test used for U.S. federal income tax purposes. Some individuals, therefore, may be “Non-U.S. Holders” for U.S. federal income tax purposes, but not for U.S. federal estate tax purposes, and vice versa.

## UNDERWRITING

Under the terms and subject to the conditions contained in an underwriting agreement dated \_\_\_\_\_, 2016, we and the selling stockholders have agreed to sell to the underwriters named below, for whom Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated are acting as representatives, the following respective numbers of shares of common stock:

| Name   | Number of Shares |
|--|------------------|
| Credit Suisse Securities (USA) LLC                                   |                  |
| Merrill Lynch, Pierce, Fenner & Smith Incorporated                   |                  |
| Stifel, Nicolaus & Company, Incorporated                             |                  |
| Pacific Crest Securities, a division of KeyBanc Capital Markets Inc. |                  |
| Raymond James & Associates, Inc.                                     |                  |
| Canaccord Genuity Inc.   |                  |
| William Blair & Company, L.L.C.                                      |                  |
| Total  |                  |

The underwriting agreement provides that the underwriters are obligated to purchase all the shares of common stock in the offering if any are purchased, other than those shares covered by the over-allotment option described below. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may be increased or the offering may be terminated.

The selling stockholders have granted to the underwriters a 30-day option to purchase on a pro rata basis up to \_\_\_\_\_ additional shares at the initial public offering price less the underwriting discounts and commissions. The option may be exercised only to cover any over-allotments of common stock.

The underwriters propose to offer the shares of common stock initially at the public offering price on the cover page of this prospectus and to selling group members at that price less a selling concession of \$ \_\_\_\_\_ per share. After the initial public offering the representatives may change the public offering price and concession.

The following table summarizes the compensation and estimated expenses we and the selling stockholders will pay:

|   | Per Share              |                     | Total                  |                     |
|---|------------------------|---------------------|------------------------|---------------------|
|   | Without Over-allotment | With Over-allotment | Without Over-allotment | With Over-allotment |
| Underwriting discounts and commissions paid by us                   | \$                     | \$                  | \$                     | \$                  |
| Expenses payable by us  |                        |                     |                        |                     |
| Underwriting discounts and commissions paid by selling stockholders |                        |                     |                        |                     |
| Expenses payable by selling stockholders                            |                        |                     |                        |                     |

The estimated offering expenses payable by us, exclusive of the estimated underwriting discounts and commissions, are approximately \$ \_\_\_\_\_. We have agreed to reimburse the underwriters for all expenses and fees related to the review by the Financial Industry Regulatory Authority up to \$ \_\_\_\_\_.

The representatives have informed us that the underwriters do not expect sales to accounts over which the underwriters have discretionary authority to exceed 5% of the shares of common stock being offered.

We, the selling stockholders, all our directors and executive officers and certain other stockholders and holders of stock options have agreed that, without the prior written consent of Credit Suisse Securities (USA) LLC and

Merrill Lynch, Pierce, Fenner & Smith Incorporated, on behalf of the underwriters, we and they will not, during the period ending 180 days after the effective date of the registration statement of which this prospectus is a part:

- offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for shares of our common stock; or
- enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of our common stock.

The restrictions described in the immediately preceding paragraph to do not apply to:

- the sale of shares to the underwriters;
- the issuance by us of shares of common stock upon the exercise of an option or a warrant or the conversion of a security outstanding on the date of this prospectus and disclosed in the prospectus;
- the issuance by us of shares or options to purchase shares of common stock pursuant to our equity plans outstanding on the date of this prospectus and disclosed in the prospectus;
- the filing by us of a registration statement with the SEC on Form S-8 relating to the offering of securities in accordance with the terms of a plan in effect on the date of this prospectus and described in the prospectus;
- the entry by us into an agreement providing for the issuance by us of shares of common stock or any security convertible into or exercisable for shares of common stock in connection with the acquisition by us or our subsidiaries of the securities, business, property or other assets of another person or entity or the entry into a joint venture; provided, that the aggregate number of shares of common stock that we may sell or issue or agree to sell or issue as described in this bullet point shall not exceed 10% of the total number of our shares of common stock issued and outstanding (on an as-converted or as-exercised basis, as the case may be) immediately following the completion of the offering; and provided further, that each recipient of such shares of common stock or securities convertible into or exercisable for common stock will execute a lock-up agreement;
- transactions by a security holder relating to shares of common stock or other securities acquired in open market transactions after the completion of the offering, provided that no filing under the Exchange Act will be required or will be voluntarily made in connection with subsequent sales of common stock or other securities acquired in such open market transactions prior to or after the expiration of the lock-up period (other than a filing on form 5 made after the expiration of the lock-up period);
- the transfer by a security holder of shares of common stock or any securities convertible into or exercisable or exchangeable for common stock (1) to an immediate family member or trust for the benefit of such security holder or an immediate family member, (2) by bona fide gift or for bona fide estate planning purposes, (3) by will or intestacy or to any trust for the benefit of such security holder or an immediate family member, (4) pursuant to a court order, or by operation of law, as a result of divorce, (5) to a limited liability company or partnership wholly-owned and controlled by the security holder, (6) if the security holder is a corporation, partnership or limited liability company, to any controlled subsidiary of such entity, or to the partners, members, or stockholders of such entity as part of a distribution, (7) to any investment fund or other entity controlled or managed by the security holder, or (8) if the security holder is a trust, to any beneficiary of such security holder or the estate of any such beneficiary; provided that in each case, (a) each transferee, trustee, donee or distributee signs and delivers a lock-up agreement, (b) such transfer will not involve a disposition for value and (c) no filing or public announcement by any party under the Exchange Act or otherwise will be required or voluntarily made in connection with such transfer prior to or after the expiration of the lock-up period

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(other than a filing on form 5 made after the expiration of the lock-up period, which clearly indicate in the footnotes thereto that, with respect to a transfer pursuant to clauses (1), (2) or (3) above, such transfer is not a transfer for value and, with respect to a transfer pursuant to clause (4) above, such transfer is by operation of law or court order in connection with a divorce settlement);

- the transfer by a security holder to us in connection with the net exercise or cashless exercise of an option or other securities to purchase shares of common stock granted under an employee benefit plan described in this prospectus and outstanding on the date hereof; provided that any filing under the Exchange Act made after the expiration of the lock-up period will clearly indicate in the footnote thereto that (a) such transfer relates to the net or cashless exercise, (b) no securities were sold by the reporting person and (c) the securities received upon the net or cashless exercise are subject to a lock-up agreement with the underwriters;
- the transfer by a security holder to us pursuant to our right to repurchase securities in connection with the termination of such security holder's service relationship with us; provided that any filing under the Exchange Act made after the expiration of the lock-up period will clearly indicate in the footnote thereto that the filing relates to a repurchase by us and no other securities were sold by the reporting person; and
- the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of common stock, provided that the plan does not provide for the transfer of common stock during the lock-up period and no public announcement or filing under the Exchange Act regarding the establishment of such plan will be required of or voluntarily made by or on behalf of the security holder or us prior to the expiration of the lock-up period.

In addition, we and each of the above persons agrees that, without the prior written consent of Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated on behalf of the underwriters, we or such other person will not, during the period ending 180 days after the effective date of registration statement of which this prospectus is a part, file, make any demand for, or exercise any right with respect to, the registration of any shares of common stock or any security convertible into or exercisable or exchangeable for common stock.

Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, in their sole discretion, may release the common stock and other securities subject to the lock-up agreements described in the preceding in whole or in part at any time with or without notice; provided, however, that if the release is granted for one of our officers or directors, (i) Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, on behalf of the underwriters, agree that at least three business days before the effective date of the release or waiver, Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, on behalf of the underwriters, will notify us of the impending release or waiver, and (ii) we are obligated to announce the impending release or waiver by press release through a major news service at least two business days before the effective date of the release or waiver. The agreements do not contain any pre-established conditions to the waiver by Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated on behalf of the underwriters of any terms of the lock-up agreements. Any determination to release shares subject to the lock-up agreements would be based on a number of factors at the time of determination, including but not necessarily limited to the market price of the common stock, the liquidity of the trading market for the common stock, general market conditions, the number of shares proposed to be sold, contractual obligations to release certain shares subject to the lock-up agreements in the event any such shares are released, subject to certain specific limitations and thresholds, and the timing, purpose and terms of the proposed sale.

We and the selling stockholders have agreed to indemnify the underwriters against certain liabilities under the Securities Act, or contribute to payments that the underwriters may be required to make in that respect.

We have applied to have the shares of common stock authorized for listing on the NASDAQ Global Market under the symbol "EVBG."

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In connection with the offering the underwriters may engage in stabilizing transactions, over-allotment transactions, syndicate covering transactions and penalty bids in accordance with Regulation M under the Exchange Act.

- Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum.
- Over-allotment involves sales by the underwriters of shares in excess of the number of shares the underwriters are obligated to purchase, which creates a syndicate short position. The short position may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by the underwriters is not greater than the number of shares that they may purchase in the over-allotment option. In a naked short position, the number of shares involved is greater than the number of shares in the over-allotment option. The underwriters may close out any covered short position by either exercising their over-allotment option and/or purchasing shares in the open market.
- Syndicate covering transactions involve purchases of the common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option. If the underwriters sell more shares than could be covered by the over-allotment option, a naked short position, the position can only be closed out by buying shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there could be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in the offering.
- Penalty bids permit the representatives to reclaim a selling concession from a syndicate member when the common stock originally sold by the syndicate member is purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of the common stock. As a result the price of our common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected on The NASDAQ Global Market or otherwise and, if commenced, may be discontinued at any time.

A prospectus in electronic format will be made available on the websites maintained by one or more of the underwriters, or selling group members, if any, participating in this offering and one or more of the underwriters participating in this offering may distribute prospectuses electronically. The representatives may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the underwriters and selling group members that will make Internet distributions on the same basis as other allocations.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, principal investment, hedging, financing and brokerage activities. Certain of the underwriters and their respective affiliates have, from time to time, performed, and may in the future perform, various financial advisory and investment banking services for us or our affiliates, for which they received or will receive customary fees and expenses.

### **Pricing the Offering**

Prior to this offering, there has been no public market for our common stock. The initial public offering price was determined by negotiations between us and the representatives. Among the factors considered in determining the initial public offering price were our future prospects and those of our industry in general, our sales, earnings and

certain other financial and operating information in recent periods, and the price-earnings ratios, price-sales ratios, market prices of securities, and certain financial and operating information of companies engaged in activities similar to ours.

### **Notice to Investors in the European Economic Area**

In relation to each Member State of the European Economic Area that has implemented the Prospectus Directive, each, a Relevant Member State, each underwriter represents and agrees that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State, or the Relevant Implementation Date, it has not made and will not make an offer of our common stock to the public in that Relevant Member State prior to the publication of a prospectus in relation to our common stock that has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of our common stock to the public in that Relevant Member State at any time:

- to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- to fewer than 100 or, if the Relevant Member State has implemented the relevant provision of the PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the manager for any such offer; or
- in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of our common stock shall require the publication by the issuer or any underwriter of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer to the public” in relation to any shares of our common stock in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and our common stock to be offered so as to enable an investor to decide to purchase or subscribe our common stock, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and (and amendments thereto, including Directive 2010/73/EU, to the extent implemented in each Relevant Member State) includes any relevant implementing measure in each Relevant Member State.

### **Notice to Investors in the United Kingdom**

Each underwriter:

- has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity within the meaning of section 21 of the Financial Services and Markets Act 2000, or FSMA, in connection with the sale or issue of common stock in circumstances in which section 21 of FSMA does not apply to such underwriter; and
- has complied with, and will comply with all applicable provisions of FSMA with respect to anything done by it in relation to the shares of common stock in, from or otherwise involving the United Kingdom.

This prospectus is directed solely at persons who (i) are outside the United Kingdom, (ii) have professional experience in matters relating to investments or (iii) are persons falling within Article 49(2)(a) to (d) of The Financial Services and Markets Act (Financial Promotion) Order 2005 (all such persons together being referred to as Relevant Persons). This prospectus must not be acted on or relied on by persons who are not Relevant Persons. Any investment or investment activity to which this prospectus relates is available only to relevant persons and will be engaged in with Relevant Persons only.



### **Notice to Prospective Investors in Switzerland**

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the company, or our shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA, and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or the CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

### **Notice to Prospective Investors in the Dubai International Financial Centre**

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority, or the DFSA. This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no responsibility for the prospectus. The shares to which this prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of this prospectus you should consult an authorized financial advisor.

### **Notice to Prospective Investors in Australia**

No placement document, prospectus, product disclosure statement or other disclosure document has been lodged with the Australian Securities and Investments Commission, or the ASIC, in relation to the offering. This prospectus does not constitute a prospectus, product disclosure statement or other disclosure document under the Corporations Act 2001, the Corporations Act, and does not purport to include the information required for a prospectus, product disclosure statement or other disclosure document under the Corporations Act.

Any offer in Australia of the shares may only be made to persons, the Exempt Investors, who are “sophisticated investors” (within the meaning of section 708(8) of the Corporations Act), “professional investors” (within the meaning of section 708(11) of the Corporations Act) or otherwise pursuant to one or more exemptions contained in section 708 of the Corporations Act so that it is lawful to offer the shares without disclosure to investors under Chapter 6D of the Corporations Act.

The shares applied for by Exempt Investors in Australia must not be offered for sale in Australia in the period of 12 months after the date of allotment under the offering, except in circumstances where disclosure to investors under Chapter 6D of the Corporations Act would not be required pursuant to an exemption under section 708 of the Corporations Act or otherwise or where the offer is pursuant to a disclosure document which complies with Chapter 6D of the Corporations Act. Any person acquiring shares must observe such Australian on-sale restrictions.

This prospectus contains general information only and does not take account of the investment objectives, financial situation or particular needs of any particular person. It does not contain any securities recommendations or financial product advice. Before making an investment decision, investors need to consider whether the information in this prospectus is appropriate to their needs, objectives and circumstances, and, if necessary, seek expert advice on those matters.

### **Notice to Prospective Investors in Hong Kong**

The shares of common stock have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to “professional investors” as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that Ordinance; or (b) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies Ordinance (Cap. 32) of Hong Kong or which do not constitute an offer to the public within the meaning of that Ordinance. No advertisement, invitation or document relating to the common stock has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to common stock which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” as defined in the Securities and Futures Ordinance and any rules made under that Ordinance.

### **Notice to Prospective Investors in Japan**

The shares of common stock have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) and, accordingly, will not be offered or sold, directly or indirectly, in Japan, or for the benefit of any Japanese Person or to others for re-offering or resale, directly or indirectly, in Japan or to any Japanese Person, except in compliance with all applicable laws, regulations and ministerial guidelines promulgated by relevant Japanese governmental or regulatory authorities in effect at the relevant time. For the purposes of this paragraph, “Japanese Person” shall mean any person resident in Japan, including any corporation or other entity organized under the laws of Japan.

### **Notice to Prospective Investors in Singapore**

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of Non-CIS Securities may not be circulated or distributed, nor may the Non-CIS Securities be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore, the SFA, (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to Section 275(1A), and in accordance with the conditions specified in Section 275, of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Non-CIS Securities are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

- (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or
- (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,
  - securities (as defined in Section 239(1) of the SFA) of that corporation or the beneficiaries’ rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Non-CIS Securities pursuant to an offer made under Section 275 of the SFA except:
- (a) to an institutional investor or to a relevant person defined in Section 275(2) of the SFA, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;
- (b) where no consideration is or will be given for the transfer;
- (c) where the transfer is by operation of law;

(d) as specified in Section 276(7) of the SFA; or

(e) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore.

**Other Relationships**

In the ordinary course of their various business activities, the underwriters and certain of their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and/or instruments of the issuer or its affiliates. If the underwriters or their affiliates have a lending relationship with us, the underwriters or their affiliates may hedge, their credit exposure to us consistent with their customary risk management policies. Typically, the underwriters and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in our securities or the securities of our affiliates, including potentially the shares of common stock offered hereby. Any such credit default swaps or short positions could adversely affect future trading prices of the shares of common stock offered hereby. The underwriters and certain of their affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such securities or instruments and may at any time hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

## LEGAL MATTERS

The validity of the shares of common stock being offered by this prospectus will be passed upon for us by Cooley LLP, Santa Monica, California. Goodwin Procter LLP, Boston, Massachusetts, is representing the underwriters.

## EXPERTS

The consolidated financial statements of Everbridge, Inc. as of December 31, 2014 and 2015, and for each of the years in the three-year period ended December 31, 2015, have been included herein in reliance upon the report of KPMG LLP, an independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

The consolidated financial statements of Nixle, LLC as of December 31, 2012 and 2013, and for each of the years in the two-year period ended December 31, 2013, have been included herein and in the registration statement in reliance on the report of Werdann Devito LLC, an independent accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

## WHERE YOU CAN FIND ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock being offered by this prospectus, which constitutes a part of the registration statement. This prospectus, which constitutes part of the registration statement, does not contain all of the information in the registration statement and its exhibits. For further information with respect to us and the common stock offered by this prospectus, we refer you to the registration statement and its exhibits. Statements contained in this prospectus as to the contents of any contract or any other document referred to are not necessarily complete, and in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement.

You can read our SEC filings, including the registration statement, over the internet at the SEC's website at [www.sec.gov](http://www.sec.gov). You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street, N.E., Washington, D.C. 20549. You may also obtain copies of these documents at prescribed rates by writing to the Public Reference Section of the SEC at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

Upon completion of this offering, we will be subject to the information reporting requirements of the Exchange Act, and we will file reports, proxy statements and other information with the SEC. These reports, proxy statements and other information will be available for inspection and copying at the public reference room and website of the SEC referred to above. We also maintain a website at [www.everbridge.com](http://www.everbridge.com), at which you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. **However, the information contained in or accessible through our website is not part of this prospectus or the registration statement of which this prospectus forms a part, and investors should not rely on such information in making a decision to purchase our common stock in this offering.**

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**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders  
Everbridge, Inc.:

We have audited the accompanying consolidated balance sheets of Everbridge, Inc. and subsidiaries as of December 31, 2014 and 2015, and the related consolidated statements of comprehensive loss, stockholders' deficit, and cash flows for each of the years in the three-year period ended December 31, 2015. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Everbridge, Inc. and subsidiaries as of December 31, 2014 and 2015, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2015, in conformity with U.S. generally accepted accounting principles.

/s/ KPMG LLP

Los Angeles, California  
April 15, 2016

**EVERBRIDGE, INC. AND SUBSIDIARIES**  
**Consolidated Balance Sheets**

|   | As of December 31,                |                  | Pro Forma<br>as of<br>December 31, |
|---|-----------------------------------|------------------|------------------------------------|
|   | 2014                              | 2015             | 2015                               |
|   | (in thousands, except share data) |                  |                                    |
| <b>Assets</b>   |                                   |                  | <b>(unaudited)</b>                 |
| Current assets:   |                                   |                  |                                    |
| Cash  | \$ 4,412                          | \$ 8,578         | \$                                 |
| Accounts receivable, net  | 11,252                            | 15,699           |                                    |
| Prepaid expenses  | 715                               | 1,419            |                                    |
| Other current assets  | 1,055                             | 3,972            |                                    |
| Total current assets  | 17,434                            | 26,668           |                                    |
| Property and equipment, net   | 2,655                             | 3,620            |                                    |
| Capitalized software development costs, net   | 6,339                             | 8,178            |                                    |
| Goodwill  | 7,839                             | 7,839            |                                    |
| Intangible assets, net  | 5,723                             | 4,119            |                                    |
| Other assets  | 76                                | 133              |                                    |
| Total assets  | <u>\$ 40,066</u>                  | <u>\$ 53,557</u> | <u>\$</u>                          |
| <b>Liabilities and Stockholders' Deficit</b>  |                                   |                  |                                    |
| Current liabilities:  |                                   |                  |                                    |
| Accounts payable  | \$ 1,745                          | \$ 3,521         | \$                                 |
| Accrued payroll and employee related liabilities  | 4,881                             | 6,062            |                                    |
| Accrued expenses  | 1,493                             | 1,460            |                                    |
| Line of credit  | 3,000                             | —                |                                    |
| Term loan   | —                                 | 833              |                                    |
| Deferred revenue  | 27,696                            | 39,159           |                                    |
| Notes payable   | 3,863                             | 2,018            |                                    |
| Other current liabilities   | 692                               | 569              |                                    |
| Total current liabilities   | 43,370                            | 53,622           |                                    |
| Long-term liabilities:  |                                   |                  |                                    |
| Deferred revenue, noncurrent  | 1,148                             | 1,308            |                                    |
| Line of credit  | —                                 | 10,000           |                                    |
| Term loan   | —                                 | 4,167            |                                    |
| Deferred tax liabilities  | 776                               | 345              |                                    |
| Other long term liabilities   | 99                                | 166              |                                    |
| Total liabilities   | <u>45,393</u>                     | <u>69,608</u>    | <u></u>                            |
| Commitments and contingencies   |                                   |                  |                                    |
| Stockholders' deficit:  |                                   |                  |                                    |
| Series A preferred stock, \$0.001 par value. 17,992,237 shares authorized, 17,992,237 shares issued and outstanding as of December 31, 2014 and 2015, respectively; no shares issued and outstanding, pro forma as of December 31, 2015 (unaudited); aggregate liquidation preference of \$10,793 and \$11,357 as of December 31, 2014 and 2015, respectively | 18                                | 18               | —                                  |
| Series A-1 preferred stock, \$0.001 par value. 32,007,763 shares authorized, 30,048,859 issued and outstanding as of December 31, 2014 and 2015, respectively; no shares issued and outstanding, pro forma as of December 31, 2015 (unaudited); aggregate liquidation preference of \$17,249 and \$18,291 as of December 31, 2014 and 2015, respectively      | 30                                | 30               | —                                  |
| Class A common stock, \$0.001 par value. 8,841,040 shares authorized, 6,694,854 shares issued and outstanding, as of December 31, 2014 and 2015, respectively; no shares issued and outstanding, pro forma as of December 31, 2015 (unaudited); aggregate liquidation preference of \$1,339 as of December 31, 2014 and 2015, respectively                    | 7                                 | 7                | —                                  |
| Common stock, \$0.001 par value. 125,000,000 shares authorized, 64,615,006 and 63,865,705 shares issued and outstanding as of December 31, 2014 and 2015, respectively; 118,601,655 shares issued and outstanding, pro forma as of December 31, 2015 (unaudited)  | 64                                | 64               | 119                                |
| Additional paid-in capital  | 62,104                            | 62,175           | 62,175                             |
| Accumulated deficit   | (67,508)                          | (78,332)         | (78,332)                           |
| Accumulated other comprehensive loss  | (42)                              | (13)             | (13)                               |
| Total stockholders' deficit   | <u>(5,327)</u>                    | <u>(16,051)</u>  | <u>(16,051)</u>                    |
| Total liabilities and stockholders' deficit   | <u>\$ 40,066</u>                  | <u>\$ 53,557</u> | <u>\$ 53,557</u>                   |

See accompanying notes to consolidated financial statements.



**EVERBRIDGE, INC. AND SUBSIDIARIES**  
**Consolidated Statements of Comprehensive Loss**

|   | Year Ended December 31,                         |            |             |
|---|---|------------|-------------|
|   | 2013  | 2014       | 2015        |
|   | (in thousands, except share and per share data) |            |             |
| Revenue   | \$ 30,040                                       | \$ 42,421  | \$ 58,720   |
| Cost of revenue:  | 8,699   | 12,089     | 19,789      |
| Gross profit  | 21,341  | 30,332     | 38,931      |
| Operating expenses:   |   |            |             |
| Sales and marketing   | 11,695  | 15,818     | 25,925      |
| Research and development  | 5,697   | 7,365      | 11,521      |
| General and administrative  | 4,352   | 7,435      | 12,272      |
| Total operating expenses  | 21,744  | 30,618     | 49,718      |
| Operating loss  | (403)   | (286)      | (10,787)    |
| Other income (expense), net:  |   |            |             |
| Interest income   | 3   | 2          | 1           |
| Interest expense  | (295)   | (350)      | (538)       |
| Other expenses, net   | (76)  | (78)       | (62)        |
| Total other expense, net  | (368)   | (426)      | (599)       |
| Loss before (provision for) benefit from income taxes   | (771)   | (712)      | (11,386)    |
| (Provision for) benefit from income taxes   | (118)   | 89         | 562         |
| Net loss  | \$ (889)  | \$ (623)   | \$ (10,824) |
| Net loss per share attributable to common stockholders:   |   |            |             |
| Basic   | \$ (0.01)                                       | \$ (0.01)  | \$ (0.15)   |
| Diluted   | \$ (0.01)                                       | \$ (0.01)  | \$ (0.15)   |
| Weighted-average common shares outstanding  |   |            |             |
| Basic   | 63,484,370                                      | 67,788,061 | 70,482,217  |
| Diluted   | 63,484,370                                      | 67,788,061 | 70,482,217  |
| Pro forma net loss per share attributable to common stockholders, basic and diluted (unaudited) |   |            | \$ (0.09)   |
| Pro forma weighted average common shares outstanding, basic and diluted (unaudited)             |   |            | 118,523,313 |
| Other comprehensive income (loss):  |   |            |             |
| Foreign currency translation adjustment, net of tax   | 22  | (68)       | 29          |
| Total comprehensive loss  | \$ (867)  | \$ (691)   | \$ (10,795) |

See accompanying notes to consolidated financial statements.

**EVERBRIDGE, INC. AND SUBSIDIARIES**  
**Consolidated Statements of Stockholders' Deficit**  
(in thousands, except share and per share data)

|   | Series A<br>preferred stock |           | Series A-1<br>preferred stock |           | Common stock |           | Class A<br>common stock |           | Additional<br>paid-in<br>capital | Accumulated<br>deficit | Accumulated<br>—other<br>comprehensive<br>income (loss) | Total       |
|---|-----------------------------|-----------|-------------------------------|-----------|--------------|-----------|-------------------------|-----------|----------------------------------|------------------------|---|-------------|
|   | Shares                      | Par value | Shares                        | Par value | Shares       | Par value | Shares                  | Par value |                                  |                        |   |             |
| Balance at January 1, 2013                | 17,992,237                  | \$ 18     | 30,048,859                    | \$ 30     | 55,866,202   | \$ 55     | 6,694,854               | \$ 7      | \$ 53,946                        | \$ (65,996)            | \$ 4  | \$ (11,936) |
| Stock-based compensation                  | —                           | —         | —                             | —         | —            | —         | —                       | —         | 176                              | —                      | —   | 176         |
| Exercise of stock options                 | —                           | —         | —                             | —         | 2,803,588    | 3         | —                       | —         | 536                              | —                      | —   | 539         |
| Other comprehensive income                | —                           | —         | —                             | —         | —            | —         | —                       | —         | —                                | —                      | 22  | 22          |
| Net loss                                  | —                           | —         | —                             | —         | —            | —         | —                       | —         | —                                | (889)                  | —   | (889)       |
| Balance at December 31, 2013              | 17,992,237                  | \$ 18     | 30,048,859                    | \$ 30     | 58,669,790   | \$ 58     | 6,694,854               | \$ 7      | \$ 54,658                        | \$ (66,885)            | \$ 26   | \$ (12,088) |
| Stock-based compensation                  | —                           | —         | —                             | —         | —            | —         | —                       | —         | 376                              | —                      | —   | 376         |
| Exercise of stock options                 | —                           | —         | —                             | —         | 1,068,249    | 1         | —                       | —         | 224                              | —                      | —   | 225         |
| Issuance of common stock for acquisitions | —                           | —         | —                             | —         | 4,769,209    | 5         | —                       | —         | 6,846                            | —                      | —   | 6,851       |
| Cashless exercise of warrant              | —                           | —         | —                             | —         | 107,758      | —         | —                       | —         | —                                | —                      | —   | —           |
| Other comprehensive loss                  | —                           | —         | —                             | —         | —            | —         | —                       | —         | —                                | —                      | (68)  | (68)        |
| Net loss                                  | —                           | —         | —                             | —         | —            | —         | —                       | —         | —                                | (623)                  | —   | (623)       |
| Balance at December 31, 2014              | 17,992,237                  | \$ 18     | 30,048,859                    | \$ 30     | 64,615,006   | \$ 64     | 6,694,854               | \$ 7      | \$ 62,104                        | \$ (67,508)            | \$ (42)   | \$ (5,327)  |
| Stock-based compensation                  | —                           | —         | —                             | —         | 34,657       | —         | —                       | —         | 1,522                            | —                      | —   | 1,522       |
| Repurchase of common stock                | —                           | —         | —                             | —         | (1,000,000)  | (1)       | —                       | —         | (1,499)                          | —                      | —   | (1,500)     |
| Exercise of stock options                 | —                           | —         | —                             | —         | 216,042      | 1         | —                       | —         | 48                               | —                      | —   | 49          |
| Other comprehensive income                | —                           | —         | —                             | —         | —            | —         | —                       | —         | —                                | —                      | 29  | 29          |
| Net loss                                  | —                           | —         | —                             | —         | —            | —         | —                       | —         | —                                | (10,824)               | —   | (10,824)    |
| Balance at December 31, 2015              | 17,992,237                  | \$ 18     | 30,048,859                    | \$ 30     | 63,865,705   | \$ 64     | 6,694,854               | \$ 7      | \$ 62,175                        | \$ (78,332)            | \$ (13)   | \$ (16,051) |

See accompanying notes to consolidated financial statements.

**EVERBRIDGE, INC. AND SUBSIDIARIES**  
**Consolidated Statements of Cash Flows**

|  | <b>Year Ended December 31,</b> |                 |                 |
|--|--------------------------------|-----------------|-----------------|
|  | <b>2013</b>                    | <b>2014</b>     | <b>2015</b>     |
|  | <b>(in thousands)</b>          |                 |                 |
| Cash flows from operating activities:  |                                |                 |                 |
| Net loss   | \$ (889)                       | \$ (623)        | \$(10,824)      |
| Adjustments to reconcile net loss to net cash provided by operating activities:            |                                |                 |                 |
| Depreciation and amortization  | 2,455                          | 2,512           | 5,976           |
| Deferred income taxes  | —                              | (315)           | (431)           |
| Accretion of interest on notes payable   | —                              | —               | 130             |
| Provision for doubtful accounts  | 72                             | 206             | 366             |
| Stock-based compensation   | 176                            | 376             | 1,488           |
| Increase (decrease) in operating assets and liabilities:                                   |                                |                 |                 |
| Accounts receivable  | (2,066)                        | (1,008)         | (4,813)         |
| Prepaid expenses   | (111)                          | (304)           | (704)           |
| Other assets   | (86)                           | (217)           | (408)           |
| Accounts payable   | (245)                          | 414             | 866             |
| Accrued labor  | 1,149                          | 1,407           | 1,181           |
| Accrued expenses   | 352                            | 152             | (171)           |
| Deferred revenue   | 3,048                          | 4,973           | 11,623          |
| Other liabilities  | 143                            | 143             | 113             |
| Net cash provided by operating activities  | <u>3,998</u>                   | <u>7,716</u>    | <u>4,392</u>    |
| Cash flows from investing activities:  |                                |                 |                 |
| Capital expenditures   | (688)                          | (2,155)         | (2,502)         |
| Payments for acquisitions, net of acquired cash  | —                              | (304)           | (704)           |
| Additions to capitalized software development costs  | (762)                          | (1,677)         | (4,902)         |
| Change in restricted cash  | 115                            | —               | —               |
| Net cash used in investing activities  | <u>(1,335)</u>                 | <u>(4,136)</u>  | <u>(7,404)</u>  |
| Cash flows from financing activities:  |                                |                 |                 |
| Proceeds from line of credit   | 28,955                         | 6,400           | 12,000          |
| Payments on line of credit   | (30,158)                       | (6,766)         | (5,000)         |
| Principal payments on capital leases   | (174)                          | (85)            | (101)           |
| Payments of initial public offering costs  | —                              | —               | (1,391)         |
| Payments on notes payable  | —                              | (1,894)         | (1,779)         |
| Proceeds from term loan  | —                              | —               | 5,000           |
| Proceeds from issuance of common shares, net   | 25                             | 225             | 49              |
| Repurchase of common stock   | —                              | —               | (1,500)         |
| Net cash provided by (used in) financing activities  | <u>(1,352)</u>                 | <u>(2,120)</u>  | <u>7,278</u>    |
| Effect of exchange rates on cash and cash equivalents                                      | 17                             | (88)            | (100)           |
| Net increase in cash and cash equivalents  | 1,328                          | 1,372           | 4,166           |
| Cash—beginning of year   | <u>1,712</u>                   | <u>3,040</u>    | <u>4,412</u>    |
| Cash—end of year   | <u>\$ 3,040</u>                | <u>\$ 4,412</u> | <u>\$ 8,578</u> |
| Supplemental disclosures of cash flow information:   |                                |                 |                 |
| Cash paid during the year for:   |                                |                 |                 |
| Interest   | \$ 295                         | \$ 217          | \$ 369          |
| Taxes  | —                              | 93              | 124             |
| Supplemental disclosure of non-cash activities   |                                |                 |                 |
| Acquisition of property and equipment with capital leases                                  | 294                            | —               | —               |
| Exercise of common stock options in exchange for settlement of notes payable—related party | 514                            | —               | —               |
| Issuance of common stock in connection with acquisitions                                   | —                              | 6,851           | —               |
| Issuance of notes payable in connection with acquisitions                                  | —                              | 5,815           | —               |
| Capitalized assets included in accounts payable and accrued expenses                       | 274                            | 190             | 63              |
| Deferred offering costs in accounts payable and accrued expenses                           | —                              | —               | 1,175           |
| Stock-based compensation capitalized for software development                              | —                              | —               | 34              |

See accompanying notes to consolidated financial statements.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements**

**(1) Business and Nature of Operations**

Everbridge, Inc., a Delaware corporation (together with its wholly-owned subsidiaries, referred to as Everbridge or the Company), is a global enterprise software company that provides applications which automate the delivery of critical information to help keep people safe and businesses running. The Company's SaaS-based platform enables the Company's customers to quickly and reliably deliver messaging to a large group of people during critical situations. The Company's enterprise applications automate numerous critical communications processes such as Mass Notification, Incident Management, IT Alerting, Secure Messaging, Community Engagement, Internet of Things and Safety Connection. The Company generates revenue primarily from subscription fees to the Company's enterprise applications. The Company has operations in the United States, the United Kingdom and China.

***Liquidity***

The Company has experienced operating losses since inception. For the years ended December 31, 2013, 2014 and 2015, the Company has incurred net losses of \$0.9 million, \$0.6 million and \$10.8 million, respectively, and has generated cash inflows from operations of \$4.0 million, \$7.7 million and \$4.4 million, respectively. As of December 31, 2014 and 2015, the Company had an accumulated deficit of \$67.5 million and \$78.3 million, respectively. To date, the Company's operations have been primarily financed through third-party debt and proceeds from the issuance of convertible preferred and common stock. At December 31, 2015, the Company had an available line of credit with Western Alliance Bank (formerly known as Bridge Bank) with no unfunded capacity. At December 31, 2014 and 2015, the Company had cash of \$4.4 million and \$8.6 million, respectively.

In June 2015, the Company entered into an agreement with Western Alliance Bank to provide a secured revolving line of credit that allows the Company to borrow up to \$10.0 million for working capital and general business requirements. Amounts outstanding under the credit facility bear interest at the prime rate plus 0.75% with accrued interest payable on a monthly basis and outstanding and unpaid principal due upon maturity of the line of credit in June 2018. The line of credit is secured by substantially all accounts receivable and other corporate assets of the Company. The Company is also subject to certain reporting and financial performance covenants that require it to meet certain revenue targets. In February 2016, the Company entered into an amendment of its loan and security agreement with Western Alliance Bank to increase the capacity of its revolving line of credit by \$5.0 million.

In addition to the revolving credit facility, a \$5.0 million growth capital term loan was entered into with Western Alliance Bank. The term loan bears interest at a floating per annum rate equal to the prime rate plus 1.75%. Interest on the term loan is payable monthly in arrears for the first 12 months. Thereafter, the term loan will be payable in thirty-six equal monthly installments of principal, plus all accrued interest, beginning on June 30, 2016. The term loan may be prepaid at the Company's option, subject to a prepayment fee equal to 2% of the principal amount being repaid if such prepayment occurs on or prior to the first anniversary of the closing date. The loan maturity date is June 30, 2019.

The Company believes that it has sufficient working capital from recent financings, cash generated from operations, and capacity under its revolving line of credit to fund its operations through at least the next 12 months.

**(2) Summary of Significant Accounting Policies**

***Basis of Presentation***

The Company's accounting and financial reporting policies conform to generally accepted accounting principles in the United States of America, or GAAP.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

***Principles of Consolidation***

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. Business acquisitions are included in the Company's consolidated financial statements from the date of the acquisition. The Company's purchase accounting resulted in all assets and liabilities of acquired businesses being recorded at their estimated fair values on the acquisition dates. Intercompany balances and transactions have been eliminated in consolidation.

***Unaudited Pro Forma Information***

Upon the consummation of the Company's initial public offering, all of the outstanding shares of the convertible preferred stock and class A common stock will automatically convert and be reclassified into shares of common stock. The December 31, 2015 unaudited consolidated pro forma stockholders' deficit has been prepared assuming the conversion and reclassification of the outstanding shares of convertible preferred stock and class A common stock into 48,041,096 and 6,694,854 shares of common stock, respectively.

***Use of Estimates***

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amount of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Assets and liabilities which are subject to judgment and use of estimates include allowances for doubtful accounts, the fair value of assets acquired and liabilities assumed in business combinations, the recoverability of goodwill and long-lived assets, valuation allowances with respect to deferred tax assets, useful lives associated with property and equipment and intangible assets, contingencies, and the valuation and assumptions underlying stock-based compensation. On an ongoing basis, the Company evaluates its estimates compared to historical experience and trends, which form the basis for making judgments about the carrying value of assets and liabilities. In addition, the Company engaged valuation specialists to assist with management's determination of the valuation of its fair values of assets acquired and liabilities assumed in business combinations and the valuation of the Company's common stock.

***Recent Accounting Standards***

In May 2014, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, 2014-09, *Revenue from Contracts with Customers (Topic 606)*, which supersedes the revenue recognition criteria in Accounting Standard Codification, or ASC, 605, *Revenue Recognition*. Under this guidance, revenue is recognized when promised goods or services are transferred to customers in an amount that reflects the consideration that is expected to be received for those goods or services. The updated standard will replace all existing revenue recognition guidance under GAAP when it becomes effective and permits the use of either the retrospective or cumulative effect transition method. This ASU is effective for annual periods beginning after December 15, 2017 and shall be applied either retrospectively to each period presented or as a cumulative-effect adjustment as of the date of adoption. Early adoption for annual periods beginning after December 15, 2016 would be permitted. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

In August 2014, the FASB issued ASU 2014-15, *Disclosure of Uncertainties About an Entity's Ability to Continue as a Going Concern*. This standard update provides guidance around management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. The new guidance is effective for all annual and interim periods ending after

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

December 15, 2016. The adoption of this guidance is not expected to have a material impact on the Company's financial statements.

In November 2015, the FASB issued ASU 2015-17, *Income Taxes (Topic 740): Balance Sheet Classification of Deferred Taxes*. This standard amends the accounting for income taxes and requires all deferred tax assets and liabilities to be classified as non-current on the balance sheet. The new standard is effective for reporting periods beginning after December 15, 2016, with early adoption permitted. The standard may be adopted either prospectively or retrospectively. The Company elected to adopt the accounting standard retrospectively in 2015.

In April 2015, FASB issued ASU 2015-03, *Interest—Imputation of Interest (Subtopic 835-30): Simplifying the Presentation of Debt Issuance Costs*. ASU 2015-03 provides accounting guidance regarding financial statement presentation of debt issuance costs related to a recognized debt liability. The guidance states that debt issuance costs related to a recognized debt liability be presented in the balance sheet as a direct deduction from the carrying amount of the debt liability, consistent with that of debt discounts. Given the absence of authoritative guidance within ASU 2015-03 for debt issuance costs related to line-of-credit arrangements, the SEC staff would not object to an entity deferring and presenting debt issuance costs as an asset and subsequently amortizing the deferred debt issuance costs ratably over the term of the line-of-credit arrangement, regardless of whether there are any outstanding borrowings on the line-of-credit arrangement. This ASU is effective for annual periods and interim periods within those annual periods, beginning after December 15, 2015. Early adoption is permitted, but only for financial statements which have not been previously issued. An entity should apply this guidance on a retrospective basis wherein the balance sheet of each individual period be adjusted to reflect the period-specific effect of the new guidance. Upon transition, an entity is required to comply with the appropriate disclosures associated with a change in accounting principle. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*. The amendments in this update require lessees, among other things, to recognize lease assets and lease liabilities on the balance sheet for those leases classified as operating leases under previous authoritative guidance. This update also introduces new disclosure requirements for leasing arrangements. ASU 2016-02 will be effective in fiscal year 2019, but early application is permitted. The Company is evaluating the potential impact of this update on its consolidated financial statements.

**Fair Value Measurements**

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.

Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Accounting standards describe a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value which are the following:

Level 1—Quoted prices in active markets for identical assets or liabilities or funds.

Level 2—Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

Fair value is based on quoted market prices, if available. If listed prices or quotes are not available, fair value is based on internally-developed models that primarily use market-based or independently sourced market parameters as inputs.

For financial instruments measured at fair value, the following section describes the valuation methodologies, key inputs and significant assumptions.

The carrying amounts of cash, accounts receivable, accounts payable, capital leases and accrued liabilities approximate fair value because of the short maturity of these items. The fair value of the Company's revolving line of credit and term loan approximates carrying value based on the Company's current incremental borrowing rate for similar types of borrowing arrangements. The fair value of the Company's notes payable approximates carrying value due to the short term nature of the arrangement.

Certain assets, including long-lived assets, goodwill and intangible assets are also subject to measurement at fair value on a non-recurring basis if they are deemed to be impaired as a result of an impairment review. For the years ended December 31, 2014 and 2015, no impairments were identified of those assets requiring measurement at fair value on a non-recurring basis.

There were no level 3 financial instruments for the years ended December 31, 2014 and 2015.

***Concentrations of Credit and Business Risk***

Financial instruments that potentially subject the Company to a concentration of credit risk consist of cash and accounts receivable.

The Company maintains cash balances at several banks. Accounts located in the United States are insured by the Federal Deposit Insurance Corporation, or FDIC, up to \$250,000. From time to time, balances may exceed amounts insured by the FDIC. The Company has not experienced any losses in such amounts.

The Company's accounts receivable are generally unsecured and are derived from revenue earned from customers located in the United States and the United Kingdom and are generally denominated in U.S. dollars or British pounds. Each reporting period, the Company reevaluates each customer's ability to satisfy credit obligations and maintains an allowance for doubtful accounts based on the evaluations. No single customer comprised more than 10% of the Company's total revenue for the years ended December 31, 2014 and 2015. No single customer comprised more than 10% of the Company's accounts receivable balance at December 31, 2014 and 2015.

***Cash***

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. Cash is stated at fair value.

***Accounts Receivable***

Accounts receivable includes trade accounts receivables from the Company's customers, net of an allowance for doubtful accounts. Accounts receivable are recorded at the invoiced amount and do not bear interest. Allowance for doubtful accounts is established based on various factors including credit profiles of the Company's customers, historical payments and current economic trends. The Company reviews its allowance by assessing individual accounts receivable over a specific aging and amount and all other balances are pooled based on historical collection experience. Accounts receivable are written-off on a case by case basis, net of any amounts that may be collected.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

***Deferred Commissions***

The Company capitalizes commission costs earned by sales personnel that are incremental and directly related to the acquisition of customer contracts. Commission costs are accrued and capitalized upon execution of the sales contract by the customer. Payments to sales personnel are made shortly after the receipt of the related customer payment. Commissions are earned based on annual billings and are not earned on multi-year contracts until the annual billing is renewed. Deferred commissions are amortized over the commissionable portion of the contract which is subject to clawback should the customer cancel, which generally can only occur if the Company materially fails to perform under the contract. Amortization of deferred commissions is included in sales and marketing expenses in the accompanying consolidated statements of comprehensive loss. Deferred commissions, net of amortization, are included in other assets in the accompanying consolidated balance sheet.

***Deferred Offering Costs***

Deferred offering costs consist primarily of direct incremental costs related to the Company's proposed initial public offering of its common stock. Upon completion of an initial public offering, these amounts will be offset against the proceeds of the offering. If the offering is terminated, the deferred offering costs will be expensed.

***Property and Equipment, Net***

Property and equipment are stated at cost, less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, which is generally three years for computer software, office computers and system software, five years for system hardware and furniture and equipment, and over the shorter of lease term or useful life of the assets for leasehold improvements. Maintenance and repairs are expensed as incurred. When assets are retired or otherwise disposed of, the cost and related accumulated depreciation are removed from the accounts and any resulting gain or loss is reflected in the Company's results of operations.

Assets held under capital lease are recorded at the net present value of the minimum lease payments of the leased asset at the inception of the lease. Depreciation expense is computed using the straight-line method over the shorter of the estimated useful lives of the asset or the period of the related lease for leasehold improvements.

***Capitalized Software Development Costs***

The Company capitalizes the costs of software developed or obtained for internal use in accordance with ASC Topic 350-40, *Internal Use Software*. Capitalized software development costs consist of costs incurred during the application development stage and include purchased software licenses, implementation costs, consulting costs, and payroll-related costs for projects that qualify for capitalization. These costs relate to major new functionality. All other costs, primarily related to maintenance and minor software fixes, are expensed as incurred.

The Company amortizes the capitalized software development costs on a straight-line basis over the estimated useful life of the software, which is generally three years, beginning when the asset is substantially ready for use. The amortization of capitalized software development costs is reflected in cost of revenue.

***Business Combinations***

The results of businesses acquired in a business combination are included in the Company's consolidated financial statements from the date of acquisition. Purchase accounting results in assets and liabilities of an acquired business being recorded at their estimated fair values on the acquisition date. Any excess consideration over the value of the assets acquired and liabilities assumed is recognized as goodwill.



**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

The Company performs valuations of assets acquired and liabilities assumed on each acquisition accounted for as a business combination, and allocates the purchase price to the tangible and intangible assets acquired and liabilities assumed based on its best estimate of fair value. Acquired intangible assets include: tradenames, customer relationships, and developed technology. The Company determines the appropriate useful life of intangible assets by performing an analysis of cash flows based on historical experience of the acquired businesses. Intangible assets are amortized over their estimated useful lives based on the pattern in which the economic benefits associated with the asset are expected to be consumed, which to date has approximated the straight-line method of amortization. The estimated useful lives for tradenames, customer relationships, and technology are generally, two to seven years, five years, and two to seven years, respectively.

***Long Lived Assets***

The Company evaluates the recoverability of its long lived assets with finite useful lives for impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. The Company performs impairment testing at the asset group level that represents the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. If events or changes in circumstances indicate that the carrying amount of an asset group may not be recoverable and the expected undiscounted future cash flows attributable to the asset group are less than the carrying amount of the asset group, an impairment loss equal to the excess of the asset's carrying value over its fair value is recorded. Fair value is determined based upon estimated discounted future cash flows, if any.

***Goodwill***

Goodwill represents the excess of the aggregate purchase price paid over the fair value of the net assets acquired in our business combinations. Goodwill is not amortized and is tested for impairment at least annually or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Events or changes in circumstances that could trigger an impairment review include a significant adverse change in business climate, an adverse action or assessment by a regulator, unanticipated competition, a loss of key personnel, significant changes in the manner of our use of the acquired assets or the strategy for our overall business, significant negative industry or economic trends, or significant underperformance relative to expected historical or projected future results of operations. The Company has the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying value, including goodwill. If, after assessing the totality of events or circumstances, the Company determines that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, additional impairment testing is not required. However, if the Company concludes otherwise, the Company is required to perform the first step of a two-step impairment test. Alternatively, the Company may elect to proceed directly to the first step of the two-step impairment test and bypass the qualitative assessment. The first step of the impairment test involves comparing the estimated fair value of a reporting unit with its book value, including goodwill. If the estimated fair value exceeds book value, goodwill is considered not to be impaired and no additional steps are necessary. If, however, the fair value of the reporting unit is less than book value, the carrying amount of the goodwill is compared to its implied fair value. The estimate of implied fair value of goodwill may require valuations of certain internally generated and unrecognized intangible assets. If the carrying amount of goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to the excess. The Company tests for goodwill impairment annually on November 30.

The Company performed a qualitative goodwill assessment at November 30, 2015 and concluded there was no impairment based on consideration of a number of factors, including the improvement in the Company's key operating metrics over the prior year, obtaining valuation analysis in the determination of the fair value of the Company's common stock in connection with the granting of stock-based compensation awards during 2015,

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

improvement in the strength of the general economy and the Company's continued execution against its overall strategic objectives. Based on the foregoing, the Company determined that it was not more likely than not that the fair value of its reporting unit is less than its carrying amount and therefore that no further impairment testing was required.

***Revenue Recognition***

The Company derives substantially all of its revenue from contract subscription fees for use of its applications. The Company recognizes revenues in accordance with ASC 605, and accordingly revenue is recognized when persuasive evidence of an arrangement exists, delivery has occurred, the fee is fixed or determinable, collectability is reasonably assured and acceptance criteria, if any, have been met. If any of these criteria are not met, revenue recognition is deferred until such time that all of the criteria are met. The Company's subscription arrangements do not provide customers with the right to take possession of the software at any time.

***Subscription Revenue***

Subscription revenue is recognized ratably over the initial subscription period committed by the customer commencing when the customer's environment has been created in the Company's hosted environment. The initial subscription period is typically one to three years and the level of service provided each customer varies based on the level of service required by the complexity of a customer's business. The level of service also specifies the level of usage by the customer in terms of minutes or data used to transmit the notifications. In the event actual usage exceeds the level purchased, overages are invoiced and are recorded as revenue during the service period. The subscription services are noncancelable, although customers have the right to terminate their contracts if the Company materially fail to perform. The Company generally invoices the Company's customers in advance in annual installments for the subscription fees, including the set-up fees on the first annual invoice.

***Other Revenue***

The Company recognizes revenue for set-up fees, which historically have not been material to the Company's financial statements. The Company has concluded that set-up fees do not meet the criteria for separation from the Company's primary service as they do not have stand-alone value as the Company has historically not sold set-up fees separately. Since set-up fees are charged for substantially all new applications and services, they are recognized ratably over the contractual period, which approximates the life of the application. The Company also sells professional services, which have been immaterial to date.

***Deferred Revenue***

Deferred revenue includes amounts collected or billed in excess of recognizable revenue. Such amounts are recognized by the Company over the life of the contract upon meeting the revenue recognition criteria. Deferred revenue that will be recognized during the succeeding 12-month period is recorded as current deferred revenue and the remaining portion is recorded as non-current deferred revenue.

***Cost of Revenue***

Cost of revenue includes expenses related to the fulfillment of the Company's subscription services, consisting primarily of employee-related expenses for data center operations and customer support, including salaries, bonuses, benefits and stock-based compensation expense. Cost of revenue also includes hosting costs, messaging costs and depreciation and amortization.

***Advertising Expenses***

Advertising expenses to promote the Company's services are expensed as incurred. Advertising expenses included in sales and marketing expense were \$0.2 million, \$0.3 million and \$0.8 million for the years ended December 31, 2013, 2014 and 2015, respectively.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

***Research and Development***

Research and development expenses primarily consist of employee-related costs for research and development staff, including salaries, bonuses, benefits and stock-based compensation and the cost of certain third-party service providers related to the development of the Company's solutions that do not meet the criteria to be capitalized under ASC Topic 350-40, *Internal Use Software*.

***Stock-Based Compensation***

Stock-based compensation expense is comprised of stock options, which are issued under the Company's 2008 equity incentive plan, and restricted stock awards, or RSAs.

Stock-based compensation related to stock options and RSAs is measured at the grant date based on the fair value of the award and is recognized straight-line as expense, net of estimated forfeitures, over the requisite service period, which is generally the vesting period of the respective award. The Company utilizes the Black-Scholes pricing model for determining the estimated fair value of the stock options and RSAs. The Black-Scholes pricing model requires the use of subjective assumptions including the option's expected term, the volatility of the underlying stock, the fair value of the stock and the expected forfeiture rate.

***Income Taxes***

The Company accounts for income taxes using the asset and liability method of accounting for income taxes in which deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as income in the period that includes the enactment date. A valuation allowance is established if it is more likely than not that all or a portion of the deferred tax asset will not be realized.

The calculation of the Company's tax liabilities involves dealing with uncertainties of the application of complex tax regulations. The Company recognizes liabilities for uncertain tax positions based on a two-step approach. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not, that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount, which is more than 50% likely of being realized upon ultimate settlement. The Company considers many factors when evaluating and estimating its tax positions and tax benefits, which may require periodic adjustments.

***Foreign Currency Translation***

The functional currency for the Company's foreign subsidiaries is the local currency. For those subsidiaries, the assets and liabilities are translated into U.S. dollars at the exchange rate method at the balance sheet date. Income and expenses are translated at the average exchange rates for the period. Foreign currency exchange gain and losses are recorded in other expenses.

***Other Comprehensive Income (Loss)***

For all periods presented, the Company's other comprehensive income (loss) is comprised of foreign currency translation adjustments related to the Company's foreign subsidiaries.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

**Net Loss and Pro Forma Net Loss Per Share Attributable to Common Stockholders**

The Company applies the two-class method in calculating the net loss per share amounts which requires net loss to be allocated between the common and convertible preferred stockholders based on their respective right to receive dividends. Accordingly, the Company's basic net loss per share attributable to common stockholders is calculated by dividing the net loss attributable to common stockholders by the weighted-average number of shares of common stock outstanding during the period. Net loss attributable to common stockholders is equal to the Company's net loss.

Diluted loss per share attributable to common stockholders adjusts the basic weighted-average number of shares of common stock outstanding for the potential dilution that could occur if stock options, warrants, and convertible preferred stock were exercised or converted into common stock.

Pro forma basic and diluted net loss per share attributable to common stockholders represents net loss divided by the pro forma weighted-average shares outstanding as though the conversion of our preferred stock into common stock occurred on the original issuance date of the preferred stock.

**(3) Accounts Receivable, Net**

Accounts receivable, net, is as follows:

|                                 | <b>As of December 31,</b> |                  |
|---------------------------------|---------------------------|------------------|
|                                 | <b>2014</b>               | <b>2015</b>      |
|                                 | <b>(in thousands)</b>     |                  |
| Accounts receivable             | \$ 11,534                 | \$ 16,080        |
| Allowance for doubtful accounts | (282)                     | (381)            |
| Net accounts receivable         | <u>\$ 11,252</u>          | <u>\$ 15,699</u> |

Bad debt expense for the years ended December 31, 2013, 2014 and 2015 was \$0.1 million, \$0.2 million and \$0.4 million, respectively.

The following table summarizes the changes in the allowance for doubtful accounts:

|                                   | <b>As of December 31,</b> |              |
|-----------------------------------|---------------------------|--------------|
|                                   | <b>2014</b>               | <b>2015</b>  |
|                                   | <b>(in thousands)</b>     |              |
| Allowance, at beginning of period | \$ (100)                  | \$ (282)     |
| Charged to bad debt expense       | (206)                     | (366)        |
| Write-offs, net of recoveries     | 24                        | 267          |
| Allowance, at end of period       | <u>\$ (282)</u>           | <u>(381)</u> |

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

**(4) Property and Equipment**

Property and equipment consists of the following at December 31, 2014 and 2015:

|  | Useful life<br>in years | As of December 31, |                 |
|--|-------------------------|--------------------|-----------------|
|  |                         | 2014               | 2015            |
|  |                         | (in thousands)     |                 |
| Furniture and equipment                        | 5                       | \$ 542             | \$ 822          |
| System hardware                                | 5                       | 5,644              | 6,495           |
| Office computers                               | 3                       | 1,344              | 2,003           |
| Computer and system software                   | 3                       | 755                | 1,341           |
|  |                         | 8,285              | 10,661          |
| Less accumulated depreciation and amortization |                         | (5,630)            | (7,041)         |
| Property and equipment, net                    |                         | <u>\$ 2,655</u>    | <u>\$ 3,620</u> |

Depreciation expense for the years ended December 31, 2013, 2014 and 2015 was \$1.0 million, \$0.7 million and \$1.4 million, respectively.

**(5) Business Combinations**

The following table summarizes the allocation of the purchase consideration and the estimated fair value of the assets acquired and the liabilities assumed for business acquisitions made by the Company during the year ended December 31, 2014 (in thousands):

| <b>Assets acquired</b>                | <b>Vocal</b>    | <b>Nixle</b>   |
|---------------------------------------|-----------------|----------------|
| Cash                                  | \$ 4,732        | \$ —           |
| Accounts receivable                   | 1,246           | 633            |
| Other assets                          | 126             | 17             |
| Property and equipment                | 69              | 10             |
| Tradenames                            | 162             | 420            |
| Acquired technology                   | 551             | 500            |
| Customer relationships                | 4,021           | 920            |
| Goodwill                              | 2,086           | 3,300          |
| Total assets acquired                 | <u>\$12,993</u> | <u>\$5,800</u> |
| <b>Liabilities assumed</b>            |                 |                |
| Accounts payable and accrued expenses | 446             | —              |
| Deferred revenue                      | 2,019           | 1,238          |
| Deferred taxes                        | 1,097           | —              |
| Other liabilities                     | 338             | 33             |
| Net assets acquired                   | <u>\$ 9,093</u> | <u>\$4,529</u> |
| <b>Consideration paid</b>             |                 |                |
| Cash paid                             | 2,030           | 1,500          |
| Issuance of notes payable             | 4,315           | —              |
| Common stock issued                   | 2,748           | 3,029          |
| Total                                 | <u>\$ 9,093</u> | <u>\$4,529</u> |

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

The weighted average useful life of all identified acquired intangible assets is 4.65 years. The weighted average useful lives for acquired technologies, customer relationships and tradenames are 2.28 years, 5.0 years, and 5.55 years, respectively. Identifiable intangible assets with definite lives are amortized over the period of estimated benefit using the straight-line method and the estimated useful lives of two to seven years. The straight-line method of amortization represents the Company's best estimate of the distribution of the economic value of the identifiable intangible assets.

*Vocal*

On March 13, 2014, the Company acquired Vocal Ltd., or Vocal, in exchange for cash consideration of \$2.0 million, notes payable of \$4.3 million and 2,252,451 shares of the Company's common stock valued at \$1.22 per share. The shares of common stock were valued based on the Company's stock price on the acquisition date. At December 31, 2014 and 2015, notes payable in the amount of \$2.4 million and \$0.5 million, respectively, remained on the Company's financial statements as a result of the acquisition. The notes are owed to the former owner of Vocal and accrue interest at a rate of 2.5%. Vocal is a provider of emergency notification services to both public and private organizations. This mass notification application helps organizations communicate, plan and manage their responses to any business affecting situation or day-to-day communication requirement. The Company acquired Vocal for its customer base and to expand its current operations in the United Kingdom and Europe.

*Nixle*

On December 23, 2014, the Company acquired the assets of Nixle, LLC, or Nixle, in exchange for cash consideration of \$1.5 million and 1,858,275 shares of the Company's common stock valued at \$1.63 per share. At the date of acquisition, \$0.5 million and 1,858,275 shares were put in an escrow account to adjust the purchase price based on Nixle meeting certain financial target thresholds as of December 31, 2014. In addition, Nixle was required to meet certain accounts receivable collections thresholds at March 31, 2015. At the date of the acquisition, the Company assessed the probabilities of Nixle meeting the future sales and collections thresholds and determined them not to be probable. Therefore, no contingent consideration was recorded as part of the purchase price allocation and the final consideration for the acquisition was determined to be \$1.5 million in cash and 1,858,275 shares of the Company's common stock based on the Company's fair value common stock price of \$1.63 per share on the acquisition date. The financial target thresholds were deemed not to be met as of December 31, 2014. The Nixle application offers free and paid notification services for local police departments, county emergency management offices, municipal governments and their agencies and allows government agencies to send notification messages to local residents via phone, email and the web. The Company acquired Nixle for its customer base and to expand its current operations in the local and state agencies market along with complimenting some of the existing facets of its business.

As a result of the acquisitions, the Company recorded \$2.1 million and \$3.3 million of goodwill for the acquisitions of Vocal and Nixle, respectively. Goodwill recorded in connection with the acquisitions is primarily attributable to the synergies expected to benefit the Company's existing customer base and expand domestically and internationally. The Company believes that the factors listed above in relation to the purchase of the two companies support the amount of goodwill recorded as a result of the purchase price paid for the two acquisitions, in relation to other acquired tangible and intangible assets. The resulting goodwill from the Nixle acquisition is deductible for income tax purposes, however the goodwill attributed to the Vocal acquisition is not deductible for income tax purposes.

For the year ended December 31, 2014, the Company incurred transaction costs of \$0.5 million in connection with the above acquisitions which were expensed as incurred and included in general and administrative expenses within the accompanying consolidated statements of comprehensive loss.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

**Unaudited Pro Forma Financial Information**

The following table reflects the unaudited pro forma consolidated revenue and net loss for the year ended December 31, 2014 as if the acquisitions of Vocal and Nixle had taken place on January 1, 2014, after giving effect to certain adjustments including the amortization of acquired intangible assets and the associated tax effect and the elimination of the Company's and the acquiree's non-recurring acquisition related expenses:

|          | <b>Year Ended<br/>December 31,<br/>2014</b> |
|----------|---|
|          | <b>(in thousands)</b>                       |
| Revenues | \$45,142                                    |
| Net loss | \$4,810                                     |

Revenue attributable to the acquisitions for the period from the acquisition dates to December 31, 2014 was \$3.2 million. Revenue and net income attributable solely to Vocal from the acquisition date to December 31, 2014 were \$3.2 million and \$0.5 million, respectively. Revenue and net loss attributed to Nixle from the acquisition date to December 31, 2014 were \$45,000 and \$69,000, respectively. The unaudited pro forma information presented does not purport to be indicative of the results that would have been achieved had the acquisitions been consummated at January 1, 2014 nor of the results which may occur in the future. The pro forma adjustments are based upon available information and certain assumptions that the Company believes are reasonable.

No acquisitions were consummated during the years ended December 31, 2013 and 2015.

**(6) Capitalized Software Development Costs**

Capitalized software development costs consisted of the following at December 31, 2014 and 2015:

|  | <b>Gross<br/>carrying<br/>amount</b> | <b>Amortization<br/>period</b> | <b>As of December 31, 2014</b>      |                                    |
|--|--------------------------------------|--------------------------------|-------------------------------------|------------------------------------|
|  |                                      |                                | <b>Accumulated<br/>amortization</b> | <b>Net<br/>carrying<br/>amount</b> |
|  | <b>(dollar amounts in thousands)</b> |                                |                                     |                                    |
| Capitalized software development costs       | \$ 20,251                            | 3 years                        | \$ (13,912)                         | \$ 6,339                           |
| Total capitalized software development costs | <u>\$ 20,251</u>                     |                                | <u>\$ (13,912)</u>                  | <u>\$ 6,339</u>                    |
|  | <b>Gross<br/>carrying<br/>amount</b> | <b>Amortization<br/>period</b> | <b>As of December 31, 2015</b>      |                                    |
|  |                                      |                                | <b>Accumulated<br/>amortization</b> | <b>Net<br/>carrying<br/>amount</b> |
|  | <b>(dollar amounts in thousands)</b> |                                |                                     |                                    |
| Capitalized software development costs       | \$ 25,119                            | 3 years                        | \$ (16,941)                         | \$ 8,178                           |
| Total capitalized software development costs | <u>\$ 25,119</u>                     |                                | <u>\$ (16,941)</u>                  | <u>\$ 8,178</u>                    |

The Company capitalized software development costs of \$1.7 million and \$4.9 million during the years ended December 31, 2014 and 2015, respectively.

In December 2014, the Company acquired technology through an asset acquisition of Tapestry Telemed LLC or "HipaaBridge". The Company acquired the HipaaBridge technology in order to develop an application that

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

provides secure messaging within health care organizations in a manner intended to comply with the requirements of the federal Health Insurance Portability and Accountability Act, or HIPAA. The Company capitalized \$4.1 million into capitalized software development costs consisting of the consideration paid for the asset acquisition and related transaction costs.

The total amortization expense related to capitalized software development costs for the years ended December 31, 2013, 2014 and 2015 was \$1.4 million, \$0.8 million and \$3.0 million, respectively. Amortization of capitalized software development costs is classified within cost of revenue in the consolidated statements of comprehensive loss.

In January 2012, with the planned introduction of new technology, the Company decided to revise the remaining estimated useful life of a capitalized software license associated with an older technology to two years. The portion of the system development and software license costs related to the older technology was fully depreciated by the end of fiscal year 2013. As a result, an additional \$0.3 million of amortization expense was recognized in 2013 pertaining to the accelerated depreciation.

The expected amortization, as of December 31, 2015, for each of the next three years is as follows:

| Year ending December 31: | (in thousands)  |
|--------------------------|-----------------|
| 2016                     | \$ 4,579        |
| 2017                     | 2,733           |
| 2018                     | 866             |
|                          | <u>\$ 8,178</u> |

**(7) Intangible Assets**

Intangible assets consisted of the following finite lived intangible assets at December 31, 2014 and 2015:

|                                | Gross carrying amount | Amortization period | As of December 31, 2014       |                     |
|--------------------------------|-----------------------|---------------------|-------------------------------|---------------------|
|                                |                       |                     | Accumulated amortization      | Net carrying amount |
|                                |                       |                     | (dollar amounts in thousands) |                     |
| Amortizable intangible assets: |                       |                     |                               |                     |
| Developed technology           | \$ 1,211              | 2-7 years           | \$ (297)                      | \$ 914              |
| Tradenames                     | 582                   | 2-7 years           | (74)                          | 508                 |
| Customer relationships         | 4,941                 | 5 years             | (640)                         | 4,301               |
| Total intangible assets        | <u>\$ 6,734</u>       |                     | <u>\$ (1,011)</u>             | <u>\$ 5,723</u>     |

|                                | Gross carrying amount | Amortization period | As of December 31, 2015       |                     |
|--------------------------------|-----------------------|---------------------|-------------------------------|---------------------|
|                                |                       |                     | Accumulated amortization      | Net carrying amount |
|                                |                       |                     | (dollar amounts in thousands) |                     |
| Amortizable intangible assets: |                       |                     |                               |                     |
| Developed technology           | \$ 1,211              | 2-7 years           | \$ (763)                      | \$ 448              |
| Tradenames                     | 582                   | 2-7 years           | (223)                         | 359                 |
| Customer relationships         | 4,941                 | 5 years             | (1,629)                       | 3,312               |
| Total intangible assets        | <u>\$ 6,734</u>       |                     | <u>\$ (2,615)</u>             | <u>\$ 4,119</u>     |



**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

Total amortization expense for the years ended December 31, 2013, 2014 and 2015 was \$23,000, \$1.0 million and \$1.5 million, respectively. Amortization expense of tradenames and customer relationships is included within general and administrative expenses, while amortization of developed technology is included in cost of revenue. The Company recorded amortization expense attributed to developed technology of \$23,000, \$0.2 million and \$0.4 million for the period ended December 31, 2013, 2014 and 2015, respectively.

The expected amortization of the intangible assets, as of December 31, 2015, for each of the next five years and thereafter is as follows:

| Year ending December 31: | (in thousands)  |
|--------------------------|-----------------|
| 2016                     | \$ 1,295        |
| 2017                     | 1,234           |
| 2018                     | 1,063           |
| 2019                     | 408             |
| 2020                     | 60              |
| Thereafter               | 59              |
|                          | <u>\$ 4,119</u> |

**(8) Income Taxes**

The components of loss before income taxes are as follows:

|          | Year Ended December 31, |                 |                   |
|----------|-------------------------|-----------------|-------------------|
|          | 2013                    | 2014            | 2015              |
|          | (in thousands)          |                 |                   |
| Domestic | \$(671)                 | \$ 395          | \$ (8,016)        |
| Foreign  | (100)                   | (1,107)         | (3,370)           |
| Total    | <u>\$(771)</u>          | <u>\$ (712)</u> | <u>\$(11,386)</u> |

For purposes of the reconciling the Company's provision for income taxes at the statutory rate and the Company's provision (benefit) for income taxes at the effective tax rate, a notional 34% tax rate was applied as follows:

|  | Year Ended December 31, |                |                 |
|--|-------------------------|----------------|-----------------|
|  | 2013                    | 2014           | 2015            |
|  | (in thousands)          |                |                 |
| Income tax (benefit) at federal statutory rate | \$(262)                 | \$(242)        | \$(3,871)       |
| Increase/(decrease) in tax resulting from:     |                         |                |                 |
| State income tax expense, net of federal       | —                       | 9              | (103)           |
| Nondeductible permanent items                  | 86                      | 123            | 567             |
| Foreign rate differential                      | —                       | 228            | 474             |
| State rate change                              | 24                      | 9              | (74)            |
| Adjustment to deferred taxes                   | (74)                    | (2)            | (525)           |
| Change in valuation allowance                  | 259                     | (248)          | 2,921           |
| Uncertain tax positions                        | 72                      | 12             | 50              |
| Other  | 13                      | 22             | (1)             |
| Total  | <u>\$ 118</u>           | <u>\$ (89)</u> | <u>\$ (562)</u> |

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

The difference between the statutory federal income tax rate and the Company's effective tax rate in 2013, 2014 and 2015 is primarily attributable to the effect of state income taxes, difference between the U.S. and foreign tax rates, deferred tax state rate adjustment, share-based compensation and other non-deductible permanent items, and the change in valuation allowance. The Company's China and U.K. subsidiaries were subject to 25% and 20% applicable statutory income tax rates, respectively, for the periods presented.

In determining quarterly provisions for income taxes, the Company uses the annual estimated effective tax rate applied to the actual year-to-date loss. The Company's annual estimated effective tax rate differs from the statutory rate primarily as a result of state taxes, tax amortization of goodwill and difference between the U.S. and foreign tax rates.

The provision for (benefit from) income taxes is as follows:

|                               | Year Ended December 31, |                |                 |
|-------------------------------|-------------------------|----------------|-----------------|
|                               | 2013                    | 2014           | 2015            |
|                               | (in thousands)          |                |                 |
| Current:                      |                         |                |                 |
| Federal                       | \$ 20                   | \$ 16          | \$ (14)         |
| State                         | 26                      | 24             | 4               |
| Foreign                       | 72                      | 191            | (101)           |
|                               | <u>118</u>              | <u>231</u>     | <u>(111)</u>    |
| Deferred:                     |                         |                |                 |
| Federal                       | (301)                   | 255            | (2,536)         |
| State                         | 42                      | (1)            | (315)           |
| Foreign                       | —                       | (326)          | (521)           |
|                               | <u>(259)</u>            | <u>(72)</u>    | <u>(3,372)</u>  |
| Change in valuation allowance | 259                     | (248)          | 2,921           |
| Total                         | <u>\$ 118</u>           | <u>\$ (89)</u> | <u>\$ (562)</u> |

The net deferred tax assets (liabilities) at December 31, 2014 and 2015 are comprised of the following:

|   | As of<br>December 31, |                 |
|---|-----------------------|-----------------|
|   | 2014                  | 2015            |
|   | (in thousands)        |                 |
| Deferred rent                                     | \$ 66                 | \$ 110          |
| AMT credit  | 64                    | 50              |
| Accrued expenses                                  | 1,112                 | 1,341           |
| Deferred revenue                                  | 328                   | 359             |
| Net operating loss carryforward                   | 12,835                | 15,737          |
| Other assets                                      | 121                   | 411             |
| Intangible assets                                 | (1,312)               | (1,524)         |
| Property and equipment                            | (380)                 | (282)           |
| Other liabilities                                 | —                     | (16)            |
| Valuation allowance                               | (13,610)              | (16,531)        |
| Total non-current deferred income tax liabilities | <u>\$ (776)</u>       | <u>\$ (345)</u> |

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

In November 2015, the FASB issued ASU 2015-17, *Balance Sheet Classification of Deferred Taxes*, requiring all deferred tax assets and liabilities, and any related valuation allowance, to be classified as non-current on the balance sheet. The Company elected to retrospectively adopt the accounting standard in the fourth quarter of 2015.

Management assesses the available positive and negative evidence to estimate if sufficient future taxable income will be generated to use the existing deferred tax assets. A significant piece of objective negative evidence evaluated was the cumulative loss incurred over the three-year period ended December 31, 2015. Such objective evidence limits the ability to consider other subjective evidence such as its projections for future growth. On the basis of this evaluation, at December 31, 2014 and 2015, a valuation allowance of \$13.6 million and \$16.5 million, respectively, has been recorded since it is more likely than not that the deferred tax assets will not be realized.

At December 31, 2014, the Company has federal and state net operating loss carryforwards of \$32.2 million and \$33.1 million, respectively. At December 31, 2015, the Company has federal and state net operating loss carryforwards of \$39.2 million and \$36.6 million, respectively, which expire in varying amounts through 2032. Section 382 of the Internal Revenue Service, or IRS, Code, or Section 382, imposes limitations on a corporation's ability to utilize its Net Operating Losses, or NOLs, if it experiences an "ownership change." In general terms, an ownership change may result from transactions increasing the ownership percentage of certain stockholders in the stock of the corporation by more than 50% over a three year period. In the event of an ownership change, utilization of the NOLs would be subject to an annual limitation under Section 382 determined by multiplying the value of the Company's stock at the time of the ownership change by the applicable long-term tax exempt rate. The Company has not completed a Section 382 study at this time; however should a study be completed certain NOLs may be subject to such limitations. Any future annual limitation may result in the expiration of NOLs before utilization.

For the period ended December 31, 2013, 2014 and 2015, the Company has recorded \$72,000, \$12,000 and \$50,000 related to uncertain tax positions. The Company's policy is to recognize interest and penalties related to uncertain tax positions, if any, in the income tax provision. At December 31, 2014 and 2015, the Company had no accrued interest and penalties related to uncertain tax positions.

The Company is subject to taxation in the United States and various states along with other foreign countries. Due to the presence of net operating loss carryforwards, all of the income tax years remain open for examination by the IRS and various state and foreign taxing authorities. The Company has not been notified that it is under audit by the IRS for any of the tax years currently open. The Company is not currently under audit from any state taxing authorities.

The following changes occurred in the amount of unrecognized tax benefits during the years ended December 31, 2013, 2014, and 2015:

|  | <b>Year Ended December 31,</b> |               |               |
|--|--------------------------------|---------------|---------------|
|  | <b>2013</b>                    | <b>2014</b>   | <b>2015</b>   |
|  | <b>(in thousands)</b>          |               |               |
| Beginning balance of unrecognized tax benefits                                 | \$ 33                          | \$ 105        | \$ 117        |
| Additions for current year tax positions                                       | 72                             | 12            | 50            |
| Ending balance of unrecognized tax benefits (excluding interest and penalties) | \$ 105                         | \$ 117        | \$ 167        |
| Interest and penalties associated with unrecognized tax benefits               | —                              | —             | —             |
| Ending balance of unrecognized tax benefits (including interest and penalties) | <u>\$ 105</u>                  | <u>\$ 117</u> | <u>\$ 167</u> |

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

The amount of income taxes the Company pays is subject to ongoing audits by taxing jurisdictions around the world. The Company's estimate of the potential outcome of any uncertain tax position is subject to management's assessment of relevant risks, facts, and circumstances existing at that time. The Company believes that it has adequately provided for these matters. However, the Company's future results may include favorable or unfavorable adjustments to its estimates in the period the audits are resolved, which may impact the Company's effective tax rate. The Company does not believe that it is reasonably possible that the total amount of unrecognized tax benefits will significantly increase or decrease in the next 12 months. As of December 31, 2015, the Company's tax filings are generally subject to examination in major tax jurisdictions for years ending on or after December 31, 2013.

Deferred income taxes have not been provided for undistributed earnings of the Company's consolidated foreign subsidiaries because of the Company's intent to reinvest such earnings indefinitely in active foreign operations. At December 31, 2015, the Company had \$0.1 million in unremitted earnings that were permanently reinvested related to its consolidated foreign subsidiaries.

**(9) Debt**

At December 31, 2014, the Company had a \$7.0 million line of credit with Silicon Valley Bank against the Company's accounts receivable, bearing an interest rate of prime plus 1.75% per annum if the "Adjusted Quick Ratio" is at least 1.00 at all times during each of the preceding three calendar months and prime plus 2% per annum otherwise. "Adjusted Quick Ratio" is defined as the ratio of unrestricted cash plus net trade accounts receivable to current liabilities minus deferred revenue. The Company could borrow a maximum of the lesser of \$5.0 million or 80% of the eligible account receivable balance.

The line of credit required the Company to comply with certain financial and nonfinancial covenants that restrict the Company's ability to, among other things, (1) incur additional indebtedness; (2) incur liens; (3) pay dividends or repurchase its convertible preferred stock; (4) merge or consolidate with another entity; or (5) sell, transfer, assign, lease or otherwise dispose of all or substantially all of the Company's assets. Failure to comply with these covenants would have required all or a portion of the loans to become immediately payable. The line of credit had a first priority lien over the Company's accounts receivable. As of December 31, 2014 the Company was in compliance with the financial covenants under the agreement.

At December 31, 2014 and 2015, \$3.0 million and \$0, respectively, was outstanding under the line of credit. The line of credit was set to mature on April 30, 2015 and was subsequently extended to July 17, 2015. In July 2015, the Company paid off its line of credit with Silicon Valley Bank.

Interest cost incurred and charged to expense related to the line of credit was \$0.2 million and \$0.1 million for the years ended December 31, 2014 and 2015, respectively.

In June 2015, the Company entered into a loan and security agreement with Western Alliance Bank (formerly known as Bridge Bank) to provide a secured revolving line of credit that allows the Company to borrow up to \$10.0 million for working capital and general business requirements. Amounts outstanding under the line of credit bear interest at the prime rate plus 0.75% with accrued interest payable on a monthly basis and outstanding and unpaid principal due upon maturity of the credit facility in June 2018. At December 31, 2015, \$10.0 million was outstanding under the line of credit. There was no unused borrowing availability under the line of credit at December 31, 2015. In February 2016, the Company entered into an amendment of its loan and security agreement with Western Alliance Bank to increase the capacity of its revolving line of credit by \$5.0 million.

In addition to the revolving line of credit, the loan and security agreement also provides for a \$5.0 million growth capital term loan. The term loan bears interest at a floating per annum rate equal to the prime rate plus 1.75%. Interest on the term loan is payable monthly in arrears for the first 12 months. Thereafter, the term loan will be

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

payable in thirty-six equal monthly installments of principal, plus all accrued interest, beginning on June 30, 2016. The term loan may be prepaid at the Company's option, subject to a prepayment fee equal to 2% of the principal amount being repaid if such prepayment occurs on or prior to the first anniversary of the closing date. The loan maturity date is June 30, 2019.

Western Alliance Bank maintains a security interest in substantially all of the Company's tangible and intangible assets, excluding intellectual property, to secure any outstanding amounts under the loan and security agreement. The loan and security agreement contains customary events of default, conditions to borrowing and covenants, including restrictions on the Company's ability to dispose of assets, make acquisitions, incur debt, incur liens and make distributions and dividends to stockholders. The loan and security agreement also includes a financial covenant related to the Company's recurring revenue renewal rate. During the continuance of an event of default, Western Alliance Bank may accelerate amounts outstanding, terminate the credit facility and foreclose on the collateral.

As of December 31, 2015, \$5.0 million was outstanding under the growth capital term loan, and the Company was in compliance with all covenants in the loan and security agreement.

Interest cost incurred and charged to expense related to the term loan and line of credit was \$0.1 million and \$0.1 million, respectively, for the year ended December 31, 2015.

In February 2016, the Company entered into an amendment of its loan and security agreement with Western Alliance Bank to (1) increase the capacity of its revolving line of credit by \$5.0 million to \$15.0 million and (2) set the minimum prime rate based on which interest due is calculated at 3.25%. No other changes were made to the loan and security agreement. The loan and security agreement, as amended, allows the Company to borrow up to \$15.0 million for working capital and general business requirements.

Future maturities of debt are as follows (in thousands):

| Year ending December 31, |                 |
|--------------------------|-----------------|
| 2016                     | \$ 833          |
| 2017                     | 1,667           |
| 2018                     | 11,667          |
| 2019                     | 833             |
|                          | <u>\$15,000</u> |

**(10) Notes Payable**

In March 2014, the Company issued two seller notes payable in connection with the acquisition of Vocal. The notes had an aggregate principal amount of \$2.7 million, scheduled to mature on September 13, 2015 in the amount of \$2.1 million and December 31, 2015 in the amount of \$0.6 million. Both notes have a stated interest rate of 2.5%. The notes were recorded at their estimated fair value of \$2.5 million at the issuance date, and imputed interest will be accreted to non-cash interest expense to the maturity date, using a 5.25% interest rate. At December 31, 2015, the carrying value of the notes was \$0.5 million. The former owner of Vocal was retained as an employee of the Company; however, the former owner's employment ended in 2015. The final note payable was repaid in January 2016.

In December 2014, the Company issued a note payable to the seller in connection with the acquired technology of HipaaBridge. The note has an aggregate principal amount of \$1.5 million, scheduled to mature on December 15, 2015, and has no stated interest rate. The note was recorded at its estimated fair value of \$1.4 million at the acquisition date, and imputed interest will be accreted to non-cash interest expense to the

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

maturity date, using a 5.25% interest rate. At December 31, 2015, the carrying value of the note was \$1.5 million. The former majority owner of HipaaBridge was retained as an employee of the Company. The note was paid in full in January 2016.

Interest cost incurred and charged to expense related to the notes payable was \$0.1 million and \$0.2 million for the years ended December 31, 2014 and 2015, respectively.

**(11) Stockholders' Deficit**

***Preferred Stock***

At December 31, 2014 and 2015, there are 17,992,237 shares of Series A convertible preferred stock, or Series A, and 30,048,859 shares of Series A-1 convertible preferred stock, or Series A-1, issued and outstanding.

The rights, preferences, and privileges of the Series A and Series A-1 are as follows:

*Dividend Provisions*—Holders of the Series A and Series A-1 are entitled to receive, prior and in preference to holders of the Company's common stock and the Company's Class A common stock, or Class A, cumulative dividends from the respective dates of issuance that accrue at a rate of 8% per annum payable only if and when declared by the Company's board of directors or upon the liquidation, sale or change in control of the Company.

At December 31, 2014 and 2015, the amount of undeclared cumulative dividends totaled \$8.0 million and \$9.6 million, respectively.

*Liquidation Preference.* If the Company is liquidated, dissolved or wound up, or if all or substantially all of the Company's assets are acquired or if the Company undergo a change in control, the holders of the Series A and Series A-1 then outstanding shall be entitled to be paid out of the Company's assets available for distribution, before any payment shall be made to the holders of common stock or Class A, the greater of (1) an amount in cash equal to the stated value per share of such holders' preferred stock plus any accrued but unpaid dividends, whether or not declared, through the date of such liquidation, sale or change in control or (2) such amounts as such holders would receive if, immediately prior to such liquidation, sale or change in control, the outstanding Series A, Series A-1, and Class A were converted into the Company's common stock. If the assets or funds available for distribution to the holders of Series A and Series A-1 are insufficient to pay such holders the full amount to which they are entitled, the holders would share prorata in the assets and funds available for distribution, based upon the aggregate value per share of such holders' preferred stock plus any unpaid dividends, whether or not declared.

*Conversion Rights.* Each share of preferred stock is convertible at the option of the holder into common stock at a conversion price per share of \$0.392 and \$0.4335 (each subject to adjustments upon the occurrence of certain dilutive events) for Series A and Series A-1, respectively. Each share of Series A and Series A-1 is currently convertible into shares of common stock on a one-for-one basis.

*Mandatory Conversion Rights.* Each share of Series A and Series A-1 shall automatically be converted into shares of common stock at the then effective conversion price for such shares upon the affirmative election of at least a majority of the outstanding shares of preferred stock, or the closing of an underwritten initial public offering with aggregate gross proceeds of at least \$35.0 million and a per share price to the public of at least \$2.1675.

*Voting Rights.* Holders of each share of Series A and Series A-1 are entitled to the number of votes equal to the number of shares of common stock into which each such share of Series A and Series A-1 is convertible.

*Redemption Rights.* The preferred stock is not redeemable.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

***Common Stock***

Holders of the Company's common stock have one vote per share and no preferences. The Series A, Series A-1 and common stock holders vote together on an as-converted basis. Issuance of additional shares of Class A requires the approval of at least a majority of the holders of the Series A and Series A-1. The Class A holders do not have any voting rights.

The Class A holders have dividend rights. The Company cannot declare, pay or set aside dividends on shares of common stock unless the holders of Common A receive the same dividend per share as the holders of common stock. The Class A holders also have liquidation rights if the Company is liquidated, dissolved or wound up, if all or substantially all of the Company's assets are acquired or if the Company undergo a change in control. If, upon such an event, the Series A and Series A-1 receive their liquidation preference amount, the Class A will be entitled to receive an amount per share equal to \$0.20 (as adjusted for stock splits, combinations and similar events) plus any dividends declared but unpaid on shares of the Class A. If the assets or funds available for distribution to the holders of Class A are insufficient to pay such holders the full amount to which they are entitled, the holders would share prorata in the assets and funds available for distribution, based upon the aggregate value per share of such holders' Class A, plus any declared and unpaid dividends thereon. If the holders of preferred stock receive their liquidation preference on an as-converted to common basis, the Company's remaining assets, after distribution to the holders of preferred stock, will be distributed ratably among the holders of common stock and Class A. Each share of Class A shall convert automatically into one share of common stock upon the mandatory conversion of the Series A and Series A-1.

At December 31, 2014 and 2015, there are 64,615,006 and 63,865,705 shares of common stock issued and outstanding, respectively, and 6,694,854 shares of Class A issued and outstanding.

In January 2015, the Company, pursuant to its repurchase right, repurchased 1,000,000 shares of its common stock from a former employee, who was also a stockholder and current board member for \$1.5 million. The shares of common stock were retired and recorded as a reduction of common stock and additional paid-in-capital.

***Warrants***

In July 2007, the Company entered into a loan and security agreement with PMC Financial Services Group, LLC, or PMC, which was accompanied by a warrant to purchase up to 625,000 shares of common stock at an exercise price of \$1.20 per share. PMC elected to exercise this warrant, effective July 11, 2014, on a cashless basis for 107,758 shares of common stock.

In June 2009, the Company issued a warrant to purchase 57,670 shares of the Company's Series A-1 preferred stock at an exercise price of \$0.43 per share in connection with a preferred stock offering. The warrant expires upon the earlier of (1) 10 years after the issuance date, (2) the closing of an initial public offering; or (3) when a change in control transaction takes place. At December 31, 2014 and 2015, the warrant remained unexercised.

In June 2009, the Company issued a warrant to purchase 692,042 shares of the Company's Series A-1 preferred stock at an exercise price of \$0.43 per share in connection with a preferred stock offering. The warrant expires upon the earlier of (1) 10 years after the issuance date, (2) five years after the closing of an initial public offering; or (3) when a change in control transaction takes place. At December 31, 2014 and 2015, the warrant remained unexercised.

**(12) Stock Plans and Stock-Based Compensation**

In June 2008, the Company adopted the 2008 Plan, which permits the granting of stock options to the Company's employees, directors and consultants. The total number of shares authorized for awards of stock

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

options under the 2008 Plan was 8,465,500 shares of common stock. On September 7, 2011, that number was increased to 13,950,000, on May 1, 2012, the number was decreased to 13,051,055 and on July 15, 2015 the number was increased to 18,551,055. As of December 31, 2014 and 2015, there were 2,518,057 and 1,335,746 shares available for grant under the 2008 Plan, respectively. Stock option awards are granted with an exercise price equal to the fair market value of the Company's common stock at the date of grant as determined by the Company's board of directors. The option awards generally vest over four years and are exercisable any time after vesting. The stock options expire ten years after the date of grant.

The weighted-average grant-date fair value per share of options granted for the years ended December 31, 2013, 2014 and 2015, was \$0.51, \$0.74 and \$2.12, respectively. The Company recorded stock-based compensation expense of \$0.2 million, \$0.4 million and \$1.5 million for the years ended December 31, 2013, 2014 and 2015, respectively.

The total intrinsic value of options exercised in 2013, 2014 and 2015 was \$0.3 million, \$1.1 million and \$0.5 million, respectively. This intrinsic value represents the difference between the fair market value of the Company's common stock on the date of exercise and the exercise price of each option. Based on the fair market value of the Company's common stock at December 31, 2013, 2014 and 2015 the total intrinsic value of all outstanding options was \$0.3 million, \$5.0 million and \$10.1 million.

There were no excess tax benefits realized for the tax deductions from stock options exercised during the years ended December 31, 2013, 2014 and 2015.

The fair value of stock option grants is determined using the Black-Scholes option pricing model with the following weighted average assumptions.

|                             | Year Ended December 31, |               |               |
|-----------------------------|-------------------------|---------------|---------------|
|                             | 2013                    | 2014          | 2015          |
| Expected term (in years)(1) | 5.53 - 7.03             | 5.89 - 6.13   | 5.09 - 6.15   |
| Expected volatility(2)      | 65%                     | 51.7% - 69%   | 60%           |
| Risk-free interest rate(3)  | 0.91 - 2.14%            | 1.63% - 2.06% | 1.41% - 1.94% |
| Expected dividend yield(4)  | —%                      | —%            | —%            |

- (1) The expected term represents the period that the stock-based compensation awards are expected to be outstanding. Since the Company did not have sufficient historical information to develop reasonable expectations about future exercise behavior, the Company used the simplified method to compute expected term, which reflects the average of the time-to-vesting and the contractual life;
- (2) The expected volatility of the Company's common stock on the date of grant is based on the volatilities of publicly traded peer companies that are reasonably comparable to the Company's own operations;
- (3) The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for zero coupon U.S. Treasury notes with maturities approximately equal to the expected term of the options; and
- (4) The expected dividend yield is assumed to be zero as the Company have never paid dividends and have no current plans to pay any dividends on the Company's common stock.

Total unrecognized compensation cost, adjusted for estimated forfeitures, related to nonvested stock options was approximately \$1.0 million and \$6.8 million as of December 31, 2014 and 2015, respectively, and is expected to be recognized over a weighted average period of 1.46 years and 1.62 years as of December 31, 2014 and 2015, respectively.

The amount of cash received from the exercise of stock options in 2014 and 2015 was \$0.2 million and \$0.1 million, respectively. The Company issued 113,860 shares of common stock during the year ended December 31, 2013 for stock options exercised prior to vesting. The unvested shares are subject to the



**Everbridge, Inc.**  
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Company's repurchase right at the lesser of the original exercise price or market price. The proceeds from the early exercise of stock options are recorded in accrued expenses and reclassified to common stock as the shares vest and the Company's repurchase rights lapse. There are 113,860 shares held in escrow which are subject to repurchase for early exercise of stock options at an aggregate price of \$0.31 per share at December 31, 2014 and 2015.

A summary of activities under the 2008 Option Plan is shown as follows for the years ended December 31, 2014 and 2015:

|                                  | <b>Stock options<br/>outstanding</b> | <b>Weighted<br/>average<br/>exercise price</b> |
|----------------------------------|--------------------------------------|--|
| Outstanding at December 31, 2013 | 5,089,465                            | \$ 0.25  |
| Granted                          | 679,500                              | 1.22   |
| Exercised                        | (1,068,249)                          | 0.21   |
| Forfeited/canceled               | (692,686)                            | 0.49   |
| Outstanding at December 31, 2014 | 4,008,030                            | 0.39   |
| Granted                          | 6,844,000                            | 2.12   |
| Exercised                        | (216,042)                            | 0.23   |
| Forfeited/canceled               | (161,689)                            | 1.35   |
| Outstanding at December 31, 2015 | <u>10,474,299</u>                    | <u>1.51</u>                                    |

Stock-based compensation expense is recognized over the award's expected vesting schedule, which is reduced for estimated forfeitures. Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Forfeitures were estimated based on the Company's historical experience and future expectations.

Stock options outstanding, and options exercisable and vested are as follows:

| Outstanding as of<br>December 31, 2013 | Remaining<br>contractual<br>life (years) | Weighted<br>average<br>exercise price | Exercisable<br>as of<br>December 31,<br>2013 | Remaining<br>contractual<br>life (years) | Weighted<br>average<br>exercise price |
|--|--|---------------------------------------|--|--|---------------------------------------|
| 5,089,465                              | 8.40                                     | \$ 0.25                               | 1,606,168                                    | 5.82                                     | \$ 0.21                               |

| Outstanding as of<br>December 31, 2014 | Remaining<br>contractual<br>life (years) | Weighted<br>average<br>exercise price | Exercisable<br>as of<br>December 31,<br>2014 | Remaining<br>contractual<br>life (years) | Weighted<br>average<br>exercise price |
|--|--|---------------------------------------|--|--|---------------------------------------|
| 4,008,030                              | 8.00                                     | \$ 0.39                               | 1,992,189                                    | 7.45                                     | \$ 0.26                               |

| Outstanding as of<br>December 31, 2015 | Remaining<br>contractual<br>life (years) | Weighted<br>average<br>exercise price | Exercisable<br>as of<br>December 31,<br>2015 | Remaining<br>contractual<br>life (years) | Weighted<br>average<br>exercise price |
|--|--|---------------------------------------|--|--|---------------------------------------|
| 10,474,299                             | 8.62                                     | \$ 1.51                               | 2,716,659                                    | 6.88                                     | \$ 0.33                               |

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

Vested and nonvested stock option activity under the Plan was as follows:

|                                  | <b>Vested</b>                  |  | <b>Nonvested</b>               |  |
|----------------------------------|--------------------------------|--|--------------------------------|--|
|                                  | <b>Options<br/>outstanding</b> | <b>Weighted<br/>average<br/>exercise<br/>price</b> | <b>Options<br/>outstanding</b> | <b>Weighted<br/>average<br/>exercise<br/>price</b> |
| Outstanding at December 31, 2014 | 1,992,189                      | 0.26   | 2,015,841                      | 0.52   |
| Outstanding at December 31, 2015 | 2,716,659                      | 0.33   | 7,757,640                      | 1.89   |

From time to time, the Company grants stock options that contain performance conditions. During 2013, the Company granted certain employees stock options to purchase 40,000 shares of common stock at a weighted average exercise price of \$0.31 per share. These awards contain performance conditions based on achieving certain revenue targets. These performance based stock options vest over a 48 month requisite service period beginning on March 1, 2013. Based on the achievement levels of the performance criteria, as of December 31, 2015, there are 20,000 outstanding stock options with a weighted average exercise price of \$0.31 that are eligible for vesting over the requisite service period. No stock options that contain performance conditions were issued during 2014 and 2015.

The Company classified stock based compensation relating to stock options and RSAs in the following captions in the accompanying consolidated statements of comprehensive loss:

|                                     | <b>Year Ended<br/>December 31,</b> |              |              |
|-------------------------------------|------------------------------------|--------------|--------------|
|                                     | <b>2013</b>                        | <b>2014</b>  | <b>2015</b>  |
|                                     | <b>(in thousands)</b>              |              |              |
| Cost of revenue                     | \$ 48                              | \$ 82        | 150          |
| Sales and marketing                 | 82                                 | 120          | 315          |
| Research and development            | 28                                 | 147          | 297          |
| General and administrative          | 18                                 | 27           | 760          |
| Total stock based compensation cost | <u>\$176</u>                       | <u>\$376</u> | <u>1,522</u> |

**(13) Basic and Diluted Net Loss per Share**

The Company has two classes of stock and, consequently, basic and diluted net loss per common share is presented in conformity with the two-class method required for participating securities. Holders of Series A and Series A-1 preferred stock are each entitled to receive cumulative dividends at a rate of 8% per annum, payable prior and in preference to any dividends on any shares of the Company's common stock. In the event a dividend is paid on common stock, the holders of preferred stock are entitled to a proportionate share of any such dividend as if they were holders of common stock (on an as-if converted basis). As a result, the Company's outstanding series of preferred stock are considered to be participating securities. The holders of our preferred stock do not have a contractual obligation to share in our losses; therefore, no amount of total undistributed loss is allocated to preferred stock. If the Company declares, pays or sets aside dividends on shares of common stock, the holders of class A common stock are entitled to receive the same dividend per share as the holders of common stock.

Under the two-class method, basic net loss per share attributable to common stockholders is computed by dividing the net loss attributable to common stockholders by the weighted-average number of shares of common stock outstanding, including participating securities, if applicable, during the period. Net loss attributable to common stockholders is determined by allocating undistributed earnings, calculated as net loss less current

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

period preferred stock dividends, between holders of common stock and class A common stock, including participating securities, if applicable. Diluted net loss per share attributable to common stockholders is computed by dividing the net loss attributable to common stockholders by the weighted-average number of shares of common stock outstanding, including potential dilutive shares of common stock assuming the dilutive effect of preferred stock and outstanding stock options and warrants using the treasury stock method or if-converted method, whichever is more dilutive. As the Company reported losses attributable to common stockholders for all periods presented, all potentially dilutive shares of common stock are antidilutive for those periods.

The following common equivalent shares were excluded from the diluted net loss per share calculation because their inclusion would have been anti-dilutive:

|                                     | Year Ended December 31, |                   |                   |
|-------------------------------------|-------------------------|-------------------|-------------------|
|                                     | 2013                    | 2014              | 2015              |
| Stock options                       | 5,089,465               | 4,008,030         | 10,474,299        |
| Common stock warrants               | 625,000                 | —                 | —                 |
| Series A-1 preferred stock warrants | 749,712                 | 749,712           | 749,712           |
| Convertible preferred stock         | 48,041,096              | 48,041,096        | 48,041,096        |
| <b>Total</b>                        | <b>54,505,273</b>       | <b>52,798,838</b> | <b>59,265,107</b> |

The Company is required to reserve and keep available from the Company's authorized but unissued shares of common stock such number of shares sufficient for the exercise of all outstanding warrants, plus shares granted and available for grant under the Company's 2008 Plan.

The amount of such shares of the Company's common stock reserved for these purposes at December 31, 2015 is as follows:

|   | <b>Number of Shares</b> |
|---|-------------------------|
| Outstanding stock options                               | 10,474,299              |
| Outstanding Series A-1 warrants                         | 749,712                 |
| Outstanding Class A common stock                        | 6,694,854               |
| Convertible preferred stock                             | 48,041,096              |
| Additional shares available for grant under equity plan | 1,335,746               |
| <b>Total</b>  | <b>67,295,707</b>       |

**(14) Segment information**

The Company operates as one operating segment. Operating segments are defined as components of an enterprise for which separate financial information is evaluated regularly by the chief operating decision maker, or CODM, who is the Company's chief executive officer, in deciding how to allocate resources and assess the Company's financial and operational performance. While the Company has applications that address multiple mass notification use cases, all of the Company's applications operate on and leverage a single technology platform and are deployed and sold in an identical way. In addition, the Company CODM evaluates the Company's financial information and resources and assesses the performance of these resources on a consolidated basis. As a result, the Company has determined that the Company's business operates in a single operating segment. Since the Company operates as one operating segment, all required financial segment information can be found in the consolidated financial statements.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

**(15) Geographic Concentrations**

Revenue by location is determined by the billing address of the customer. Approximately 99%, 86% and 86% of the Company's revenue was from the United States for the fiscal years ended December 31, 2013, 2014 and 2015, respectively. No other individual country comprised more than 10% of total revenue for the fiscal years ended December 31, 2013, 2014 and 2015. Property and equipment by geographic location is based on the location of the legal entity that owns the asset. As of December 31, 2014 and 2015, more than 95% of the Company's property and equipment was located in the United States.

**(16) Employee Benefit Plan**

The Company maintains a 401(k) plan for the benefit of the Company's eligible employees. The plan covers all employees who have attained minimum service requirements. The Company currently does not contribute to the retirement plan for any of its employees.

**(17) Commitments and Contingencies**

**(a) Leases**

The Company leases office space in Glendale, California; Pasadena, California; San Francisco, California; Burlington, Massachusetts; Colchester, England; Windsor, England and Beijing, China under operating leases and recognizes escalating rent expense on a straight-line basis over the expected lease term.

Future minimum lease payments under non-cancelable capital and operating leases in effect at December 31, 2015 are as follows:

|  | <b>Capital</b> | <b>Operating</b> |
|--|----------------|------------------|
|  | (in thousands) |                  |
| Year ending December 31:                         |                |                  |
| 2016   | \$ 61          | \$ 1,317         |
| 2017   | —              | 584              |
| 2018   | —              | 61               |
| 2019   | —              | 61               |
| 2020   | —              | 40               |
| Total minimum lease payments                     | <u>61</u>      | <u>\$ 2,063</u>  |
| Less amount representing interest lease payments | <u>3</u>       |                  |
| Capital lease obligations, current               | <u>\$ 58</u>   |                  |

Future minimum operating lease payments have been reduced by future minimum sublease income of \$0.3 million.

**(b) Rent**

Rent expense for the years ended December 31, 2013, 2014 and 2015 was \$0.6 million, \$0.9 million and \$1.7 million respectively.

Rent expense of \$46,000 and \$50,000 for the years ended December 31, 2014 and 2015, respectively, was paid to the former owner of Vocal who is no longer an employee of the Company.

Deferred rent expense at December 31, 2014 and 2015 was \$0.2 million and \$0.2 million, respectively, and was recorded in accrued expenses.

**Everbridge, Inc.**  
**Notes to the Consolidated Financial Statements—(Continued)**

**(c) *Litigation***

In the normal course of business, the Company has been subjected to various unasserted claims. The Company does not believe these will have a material adverse impact to the financial statements.

**(d) *Employee Contracts***

The Company has entered into employment contracts with certain of the Company's executive officers which provide for at-will employment. However, under the provisions of the contracts, the Company would incur severance obligations of up to twelve months of the executive's annual base salary for certain events, such as involuntary terminations.

**(18) *Subsequent Events***

In January 2016, the Company's board of directors granted stock options to purchase 527,000 shares of the Company's common stock to employees at a weighted average exercise price of \$2.55 per share. The stock options vest over periods ranging from two to four years. The estimated total stock-based compensation associated with these stock options of \$0.8 million (unaudited) is expected to be recognized over a weighted average period of 3.9 years (unaudited).

In February 2016, the Company entered into an amendment of its loan and security agreement with Western Alliance Bank to (1) increase the capacity of its revolving line of credit by \$5.0 million to \$15.0 million and (2) set the minimum prime rate based on which interest due is calculated at 3.25%. No other changes were made to the loan and security agreement. The loan and security agreement, as amended, allows the Company to borrow up to \$15.0 million for working capital and general business requirements.

In March 2016, the Company entered into a lease for its new executive offices in Pasadena, California that will result in future minimum lease payments of \$1.0 million over the next three years.

Subsequent events have been evaluated through April 15, 2016, the date the consolidated financial statements were available to be issued.

## **Independent Auditor's Report**

To the Management of Everbridge  
Burlington, Massachusetts

We have audited the accompanying financial statements of Nixle, LLC which comprise the balance sheet as of December 31, 2013, and the related statements of operations, changes in members' equity (deficit), and cash flows for the year then ended, and the related notes to the financial statements.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe the audit evidence we obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Nixle, LLC as of December 31, 2013, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that Nixle will continue as a going concern. The conditions described in Note 2 indicate Nixle may not be able to continue as a going concern. The accompanying financial statements do not include any adjustments that might be necessary as a result of the outcome of this uncertainty. Our opinion is not modified with respect to that matter.

/s/ Werdann Devito LLC  
**WERDANN DEVITO LLC**

Clark, New Jersey  
July 15, 2015

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**NIXLE, LLC**  
**Balance Sheet**  
**December 31, 2013**

| ASSETS   |    |                     |                   |
|--|----|---------------------|-------------------|
| Current assets                                 |    |                     |                   |
| Cash   | \$ | 116,178             |                   |
| Accounts receivable                            |    | 310,847             |                   |
| Prepaid expenses and other current assets      |    | <u>28,381</u>       |                   |
| Total current assets                           |    |                     | \$ 455,406        |
| Equipment, net                                 |    |                     | 36,002            |
| Other assets                                   |    |                     |                   |
| Security deposits                              |    | <u>13,000</u>       |                   |
| Total other assets                             |    |                     | 13,000            |
| Total assets                                   |    |                     | <u>\$ 504,408</u> |
| LIABILITIES AND EQUITY (DEFICIT)               |    |                     |                   |
| Current liabilities                            |    |                     |                   |
| Accounts payable                               | \$ | 474,786             |                   |
| Accrued expenses and other current liabilities |    | 5,331,167           |                   |
| Current portion of deferred revenue            |    | 658,514             |                   |
| Note payable – 8%                              |    | <u>13,090,000</u>   |                   |
| Total current liabilities                      |    |                     | \$ 19,554,467     |
| Long-term liabilities                          |    |                     |                   |
| Deferred revenue                               |    | 51,428              |                   |
| Note payable – 11.25%                          |    | 6,957,590           |                   |
| Convertible promissory notes                   |    | 1,200,000           |                   |
| Loans payable                                  |    | <u>1,255,000</u>    |                   |
| Total long-term liabilities                    |    |                     | 9,464,018         |
| Commitments and contingencies                  |    |                     |                   |
|  |    |                     | —                 |
| Equity (deficit)                               |    |                     |                   |
| Class A Units                                  |    | 427,005             |                   |
| Class B Units                                  |    | 9,677,100           |                   |
| Class C Units                                  |    | —                   |                   |
| Accumulated deficit                            |    | <u>(38,618,182)</u> |                   |
| Total equity (deficit)                         |    |                     | (28,514,077)      |
| Total liabilities and equity (deficit)         |    |                     | <u>\$ 504,408</u> |

See notes to financial statements.

**NIXLE, LLC**  
**Statement of Operations**  
**Year Ended December 31, 2013**

|   |    |                  |                           |
|---|----|------------------|---------------------------|
| Revenue   |    | \$               | 597,366                   |
| Direct costs                                    |    |                  | <u>1,950,645</u>          |
| Gross profit (loss)                             |    |                  | (1,353,279)               |
| Selling and general and administrative expenses |    |                  |                           |
| Selling   | \$ | 1,175,300        |                           |
| General and administrative                      |    | <u>1,888,206</u> |                           |
| Total   |    |                  | <u>3,063,506</u>          |
| Loss before interest and state tax expense      |    |                  | (4,416,785)               |
| Interest expense                                |    |                  | <u>2,095,655</u>          |
| Loss before state tax expense                   |    |                  | (6,512,440)               |
| State tax expense                               |    |                  | <u>3,024</u>              |
| Net loss  |    | \$               | <u><u>(6,515,464)</u></u> |

See notes to financial statements.



**NIXLE, LLC**  
**Statement of Members' Equity (Deficit)**  
**Year Ended December 31, 2013**

|                           | <b>Class A</b> | <b>Class B</b>   | <b>Class C</b> | <b>Accumulated<br/>Deficit</b> | <b>Total</b>           |
|---------------------------|----------------|------------------|----------------|--------------------------------|------------------------|
| Balance—beginning of year | 427,005        | 9,677,100        | —              | \$ (32,102,718)                | \$ (21,998,613)        |
| Net income (loss)         | —              | —                | —              | (6,515,464)                    | (6,515,464)            |
| Contributions             | —              | —                | —              | —                              | —                      |
| Distributions             | —              | —                | —              | —                              | —                      |
| Balance—end of year       | <u>427,005</u> | <u>9,677,100</u> | <u>—</u>       | <u>\$ (38,618,182)</u>         | <u>\$ (28,514,077)</u> |

See notes to financial statements.

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**NIXLE, LLC**  
**Statement of Cash Flows**  
**Year Ended December 31, 2013**

|  |                |                   |
|--|----------------|-------------------|
| Cash flows used by operations                                      |                |                   |
| Net (loss)   | \$ (6,515,464) |                   |
| Adjustments to reconcile net (loss) to net cash used by operations |                |                   |
| Depreciation   | 36,541         |                   |
| Changes in operating assets and liabilities                        |                |                   |
| Accounts receivable  | (265,665)      |                   |
| Prepaid expenses and other current assets                          | 4,172          |                   |
| Accounts payable   | 186,072        |                   |
| Accrued expenses and other current liabilities                     | 2,071,365      |                   |
| Deferred revenue   | 470,345        |                   |
| Net cash used by operating activities                              |                | \$ (4,012,634)    |
| Cash flows from investing activities                               |                |                   |
| Equipment purchases  | (33,667)       |                   |
| Net cash used by investing activities                              |                | (33,667)          |
| Cash flows from financing activities                               |                |                   |
| Proceeds from note payable   | 4,075,000      |                   |
| Net cash provided by financing activities                          |                | 4,075,000         |
| Net increase in cash   |                | 28,699            |
| Cash—beginning of year   |                | 87,479            |
| Cash—end of year   |                | <u>\$ 116,178</u> |
| <u>Supplemental disclosures of cash flow information</u>           |                |                   |
| Cash paid during the year for:                                     |                |                   |
| Interest   |                | <u>\$ 16,067</u>  |
| Income taxes   |                | <u>\$ 3,024</u>   |

See notes to financial statements.

**NIXLE, LLC**  
**Notes to Financial Statements**  
**December 31, 2013**

**Note 1—Nature of Operations and Summary of Significant Accounting Policies**

***Nature of Operations***

Nixle LLC (Nixle), organized in New Jersey on January 15, 2007, originally under the name “Rockstar Media LLC” to develop, market and operate an information exchange system. The Members of Rockstar Media agreed to change the name to Nixle to coincide with the product name.

Nixle designs, develops and services secure communications systems. The systems let government agencies and other users simultaneously exchange information with residents. Its products, (1) Nixle Connect is a free notification service provided to registered police departments allowing them to connect with residents by text message, e-mail and the internet. (2) Nixle Engage, Nixle 360, and Nixle Connect for Schools are enhanced versions of the Nixle Connect system, offering users registered under paid subscription plans, the ability to participate in the real-time exchange of information with the public.

***Summary of Significant Accounting Policies***

***Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles (GAAP) requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results may differ significantly from those estimates.

***Cash Equivalents***

For the purpose of the statement of cash flows short term investments maturing in three months or less are considered cash equivalents. Nixle had no investments considered cash equivalents at December 31, 2013.

***Accounts Receivable***

Accounts receivable are uncollateralized and non-interest bearing amounts Nixle expects to collect from its customers.

***Equipment***

Equipment is stated at cost. Depreciation is recorded using straight-line and accelerated methods over the equipment’s estimated useful life (3 to 7 years). Costs for maintenance and repairs are expensed as incurred.

***Software Development Costs***

Nixle internally develops and acquires software that it uses in providing services to its customers. Nixle accounts for costs of developing software according to Financial Accounting Standards Board (FASB) Accounting Standards Codification (“ASC”) 985-20 “Costs of Software to Be Sold, Leased, or Marketed.” Under ASC 985-20 costs for developing software to be sold, licensed or marketed are expensed until technological feasibility is established. When technological feasibility is reached capitalization of costs begins. Capitalization of costs ends and amortization begins when the application is available for release to customers.

Nixle recognizes technological feasibility when a working model is completed. Under this approach after successful internal quality assurance testing is performed the application is released to the subscriber base or market place. If changes are needed after the software is released Nixle takes care of it in later versions of the product. Modifications made during customer support services or while performing maintenance are expensed. Costs qualifying for capitalization between establishing technological feasibility and introducing the product to the market are minimal and thus expensed as incurred.

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### ***Capital Accounts***

Individual capital accounts are increased by cash investments or the fair market value of property contributed and the distributive shares of profits and separately allocated items of income or gain.

Capital accounts are decreased by cash distributions or the book value of property distributed and the distributive share of losses and separately allocated items of expense or loss. Allocations of losses or deductions that would result in a deficit capital account balance are prohibited as losses are limited to each member's capital investment.

### ***Revenue Recognition***

Nixle earns revenue by providing premium services mostly under one year subscription agreements with customers. Revenue earned under subscription agreements is billed to and due by the customer prior to Nixle granting them access to service. Revenue is recognized over the term of the agreement. Unearned revenue for subscriptions still in effect at the end of a period are included as a liability in deferred revenue.

### ***Financial Instruments***

All financial instruments are carried at amounts that approximate fair value.

### ***Advertising***

Nixle expenses advertising costs when incurred. Nixle expensed advertising costs of \$86,065 during the year ended December 31, 2013.

### ***Income Taxes***

Nixle was formed as a Limited Liability Company (LLC) electing to be taxed as a partnership under the Internal Revenue Code and applicable state laws. As a partnership, profits and losses pass through to the members and profits are taxed at the individual rather than the partnership level. Accordingly, Nixle has no tax liability, although distributions to members for personal income taxes incurred on partnership profits may be made during the year.

When reporting income or loss on its tax return, Nixle must account for certain transactions according to methods required by taxing authorities. As a result, the net income or loss and members' capital balances reported on the tax return are usually different from amounts reported in the financial statements.

### ***Uncertain Tax Positions***

Nixle is required to identify, measure, and disclose in the financial statements uncertain tax positions Management takes or expects to take when filing the partnership return. At December 31, 2013 Nixle had no uncertain tax positions requiring disclosure. Positions taken on tax matters on partnership returns are subject to review by Federal and State authorities may result in additional taxes and penalty or interest charges to Nixle or its members.

Tax returns are subject to examination by Federal and State authorities for three years from the date of filing. At December 31, 2013 Nixle's Federal and State tax returns for 2010, 2011 and 2012 are open to examination by the Internal Revenue Service, New Jersey and other state agencies.

## **Note 2—Going Concern and Uncertainties**

### ***Going concern***

Nixle has reported net losses since inception and has an accumulated deficit of \$38,618,182. Nixle is unable to pay back debt of \$27,749,894, and current liabilities exceed current assets by \$19,099,061. Nixle's financial statements are prepared on a going concern basis, which assumes the business operates without threat of liquidation for at least twelve months from the date that the financial statements were available to be issued.

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### ***Cash Flow and Funding***

Nixle is unable to generate cash flow sufficient to fund operations under its current subscription agreements and service model. As a result Nixle is dependent on an “Angel Investor” to subsidize operations. This funding may end or significantly decrease at any time.

### ***Management’s Plans***

Management is working on plans to sell substantially all of Nixle’s assets including accounts receivable, customers, software, Nixle’s name and website, subscribers and other assets for cash and stock according to an asset purchase agreement (APA) with a buyer. After a successfully negotiated APA, Management plans to change Nixle’s name to NXL Holdings. NXL Holdings (a/k/a Nixle) will transfer its assets to the buyer and discontinue all software development projects and public notification services, terminate all employees and restructure the business to operate as a holding company with cash, investment in stock, and debt.

### ***Uncertainties***

Funding provided to Nixle by an Angel investor is winding down. Management is using cash for paying professionals representing Nixle on a sale of its assets, restructuring and to settle claims by two former members. The future of NXL Holdings (a/k/a Nixle) to continue as a going concern will be largely dependent on the final proceeds NXL Holdings (a/k/a Nixle) realizes from the fulfillment of the terms of an APA. However, even if Management is successful in its efforts to sell assets and restructure operations too many variables exist that may affect the results of Management’s plans.

Nixle’s future depends on whether the buyer of its assets achieves success in an initial public offering (IPO) and meets the terms of an APA in effect with Nixle at the time. Due to the uncertainty of the outcome of Management’s plans and risks associated with debt obligations and individual members’ investments on Nixle’s books there remains a substantial doubt about Nixle’s ability to continue as a going concern.

The financial statements do not include any adjustments that may be necessary if Nixle is unable to continue as a going concern.

### **Note 3—Equipment**

Equipment consists of the following at December 31, 2013:

|   |                  |
|---|------------------|
| Computer software                               | \$ 289,652       |
| Furniture and fixtures                          | 65,836           |
| Office and other equipment                      | 395,389          |
| Total   | 750,877          |
| Less: accumulated depreciation and amortization | (714,875)        |
|   | <u>\$ 36,002</u> |

Depreciation expense for the year ended December 31, 2013 was \$36,541.

### **Note 4—Accrued Expenses**

Accrued expenses consists of the following at December 31, 2013:

|                               |                     |
|-------------------------------|---------------------|
| Due to customer—overpayments  | \$ 6,090            |
| Payroll taxes                 | 2,385               |
| Licensing and consulting fees | 75,388              |
| Accrued interest              | 5,247,304           |
|                               | <u>\$ 5,331,167</u> |

**Note 5—Long-Term Debt**

**Loans Payable**

Nixle has loans payable of \$1,255,000 to six individuals, loaned during the years ended 2007 to 2010 under verbal agreements. Nixle computes simple interest accrued of \$247,199 on the principal balances at 5.25%. Nixle considers the balances outstanding to be long-term obligations because repayment is not expected to occur within one year.

**Note Payable—11.25%**

**11.25% Secured Convertible Promissory Note**

On October 1, 2010 Nixle and the Angel Investor (Holder) executed a “Secured Convertible Promissory Note Agreement” (Note A) for \$6,957,590 as a result of a loan restructure for amounts loaned to Nixle between January 2008 and September 2010. The Holder of Note A is entitled to convert all or part of the outstanding principal and accrued interest into Class B Units at a pre-determined conversion price using a \$17.5 million valuation of Nixle.

Note A has accrued interest of \$3,133,321, accruing daily at an annual rate of 11.25% through October 1, 2015 and is collateralized by a first priority security interest in all of Nixle’s assets.

**Note Payable—8%**

**8% Secured Convertible Promissory Note**

On March 31, 2011 Nixle executed a \$1,800,000 Secured Convertible Promissory Note Agreement (Note B) with the Angel Investor. Advances made to Nixle during the period increase the principal of Note B. Accrued simple interest of \$2,454,228) is calculated at 8% on the outstanding principal balance bi-annually and each time an advance is made and the principal balance changes. Note B was due June 30, 2012, but will continue in effect until another note agreement is executed. The balance outstanding on Note B is \$13,090,000 at December 31, 2014.

**Convertible Promissory Notes**

Nixle has authorized the issuance and sale of Convertible Promissory Notes (the Convertible Notes) up to \$5,500,000 in a private offering with each principal unit convertible into one Class B Unit at a price equal to the principal amount subscribed. Upon written notice, holders of the Convertible Notes are entitled to exchange all or part of the outstanding principal and accrued interest into Class B Units each at a price of \$14 (the “Conversion Price”). With 30 days of advance written notice Nixle (the Borrower) has the right to convert all or part of the outstanding principal and accrued interest into Class B Units at the “Conversion Price.”

The Convertible Notes accrue interest daily at an annual rate of 8.0%. Details of Convertible Notes outstanding at December 31, 2013 are listed in the table below.

|   |    |                  |
|---|----|------------------|
| 8% Convertible Note (Note C) dated October 27, 2010 issued under an agreement with the Angel Investor in exchange for debt, maturing October 26, 2015. Accrued interest on Note C at December 31, 2014 is \$182,000 | \$ | 700,000          |
| 8% Convertible Note (Note D) dated November 9, 2010, issued under an agreement with a partnership in exchange for cash, maturing November 8, 2015. Accrued interest on Note D at December 31, 2014 is \$125,000     |    | 500,000          |
| Total   | \$ | <u>1,200,000</u> |

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Long-term debt maturing during the years ending December 31, is as follows:

| <b>Year Ending</b> | <b>Debt Maturing</b> |
|--------------------|----------------------|
| 2015               | \$ 8,157,590         |
| 2016               | —                    |
| 2017               | —                    |
| 2018               | —                    |
| 2019               | —                    |
| Thereafter         | 1,255,000            |
|                    | <u>\$ 9,412,590</u>  |

## **Note 6—Equity**

### ***Membership Units***

Equity interests in the membership of Nixle are identified by Units. Each member's percentage ownership in Nixle is determined by dividing the number of Units owned by the total number of Units issued. Membership Units are broken down into three classes that carry different member rights. No member has the right to act for, on behalf of, or bind Nixle other than the members of the Management Committee.

### ***Class A Units***

Class A Units carry rights to purchase Units from a selling member after a first offer is made to purchase Nixle, and drag along rights in connection with the sale of all Nixle Units as indicated in the Agreement. Class A members rank second to receive distributions of net ordinary and capital proceeds until capital contributions reach zero.

There are 943,169 Class A Units issued at December 31, 2013.

Class A Units were originally issued to and held by two individuals who were the founders and original managers of Nixle. In two separate "Membership Interest Pledge Agreements both dated October 1, 2010" these individuals pledged their Class A Units to collateralize the 11.25% Note (Note 5). On September 9, 2011 after the 11.25% Note was defaulted on, the Majority Investor accepted the collateral in satisfaction of outstanding interest payments owed to him.

### ***Class B Units***

Class B Units are issued in exchange for capital contributions. Class B unit holders rank first to receive distributions of net ordinary proceeds and net capital proceeds until capital contributions are reduced to zero.

There are 606,755 Class B Units issued at December 31, 2013.

### ***Class C Units***

Class C Units are issued in exchange for services rendered to Nixle. Class C Units have a liquidation value of zero when issued and constitute "Profits Interests" in accordance with the provisions of Revenue Procedure 93-27. Class C Units are subject to vesting and forfeiture provisions set forth in separate agreements between Nixle and each Class C Unit Member.

There are 225,183 Class C Units issued and 193,614 Class C Units vested at December 31, 2013.

## **Note 7—Warrants and Options**

Management, has the authority to issue warrants, options or other instruments to purchase Units.

On December 16, 2010 a Warrant was issued to the Majority Investor in exchange for value received. The warrant is exercisable in whole or in part and entitles the Majority Investor to purchase 150,000 Class B Units at \$7.01 each until December 16, 2015.

**Note 8—Retirement Plan**

Effective October 1, 2011 Nixle provides retirement benefits through the Nixle 401(k) Plan (the Plan). The Plan allows eligible employees over 18 years of age to defer a portion of their compensation under Section 401(k) of the Internal Revenue Code. The Plan provides Management with a discretionary matching option, allowing Nixle to contribute and allocate to each eligible employees' account a percentage of their elective deferrals as determined at the end of each Plan year. Nixle made no contribution to the Plan during the year ended December 31, 2013.

**Note 9—Operating Leases**

Nixle rents office space in San Francisco, California for \$12,000 a month plus utility charges. Under a lease agreement through December 31, 2014. Rent expense for the year ended December 31, 2013 was \$133,296.

Nixle rents storage space in San Francisco, California at a rate of \$149 a month. Rent expense for the year ended December 31, 2013 was \$1,788.

Following is a schedule by year of approximate future minimum lease payments required under the above operating lease agreements that have remaining non-cancelable lease terms as of December 31, 2013:

| <b>Year ending December 31,</b> | <b>Payment</b>    |
|---------------------------------|-------------------|
| 2014                            | \$ 144,000        |
| Thereafter                      | —                 |
| Total                           | <u>\$ 144,000</u> |

**Note 10—Noncash Transactions**

Nixle had recorded a \$50,000 advance as a capital contribution during 2010. The member contended that the \$50,000 was an addition to a convertible note payable (Note 5). On January 1, 2012 Nixle agreed to recognize the addition to the convertible note payable and reclassified \$50,000 of Members' Equity to a long-term note payable.

**Note 11—Risks and Uncertainties*****Concentration of Credit Risk***

Nixle, at times, maintains cash balances in financial institutions that are in excess of the \$250,000 insurance provided by the Federal Deposit Insurance Corporation (FDIC). At December 31, 2013 Nixle's cash balances did not exceed the FDIC limits. Nixle has not experienced any loss on its cash or cash equivalents. Management believes any significant credit risk on Nixle's deposits in financial institutions is minimal.

***Competition***

The market for Nixle's products and services is highly competitive and the technology is subject to shifts in market preferences. There exists a risk that Nixle's financial condition and results of operations could be negatively affected if market preferences shift.

***Litigation***

Nixle has a complaint against them from an investor's estate for a total of \$1,000,000. The complaint is for the return of equity of \$500,000 and repayment of a loan for \$500,000. Both these amounts are recorded in the financial statements and no additional liability is expected when this case is settled.

Nixle has a complaint against them for the return of equity of approximately \$250,000 from an investor. The plaintiff's investment of \$250,000 is included in the financial statements. Management believes any amounts sought beyond the investment will be negligible and not material to the financial statements.



Both complaints were resolved for \$275,000 subsequent to December 31, 2013.

**Note 12—Licensing Agreement**

Nixle terminated its licensing agreement with emergency notification systems service provider, Everbridge effective December 31, 2013. For the year ended December 31, 2013 Nixle paid \$400,000 under its licensing agreement with Everbridge.

Nixle entered into a new licensing agreement effective January 1, 2014 with a telecommunications firm, Shoutpoint, for voice applications solutions. The agreement is standard for one year, automatically renewing each January 1 successively, for two more years unless cancelled with 30 days advance notice. The base licensing fee is \$45,000 per quarter with additional Price Per Minute (PPM) and Price Per Contact (PPC) charges. Beginning with the second annual term of the agreement, minimum pricing rules take effect.

**Note 13—Subsequent Events and Future Uncertainties**

Management has evaluated subsequent events through July 15, 2015 which is the date these financial statements were available to be issued.

Subsequent to year end on December 23, 2014 the Director of Nixle entered into an Asset Purchase Agreement (APA) with its service provider—Everbridge. Under the terms of the APA, Everbridge, purchased substantially all of Nixle’s assets and a portion of accounts payable in exchange for cash and stock. Everbridge is planning an initial public offering (IPO) of its stock in late July 2015 and will include pro-forma financial information and other information related to the APA with Nixle.

The effects of Everbridge’s IPO on Nixle are highly speculative and impossible to determine, accordingly these financial statements contain no adjustments for events that may occur as a result of this subsequent event.

## Independent Auditor's Report

To the Management of Everbridge -  
Burlington, Massachusetts

We have audited the accompanying financial statements of Nixle, LLC which comprise the balance sheet as of December 31, 2012, and the related statements of operations, members' equity (deficit), and cash flows for the year then ended, and the related notes to the financial statements.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### ***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Nixle, LLC as of December 31, 2012, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that Nixle will continue as a going concern. The conditions described in Note 2 indicate Nixle may not be able to continue as a going concern. The accompanying financial statements do not include any adjustments that might be necessary as a result of the outcome of this uncertainty. Our opinion is not modified with respect to that matter.

/s/ Werdann Devito LLC  
**WERDANN DEVITO LLC**

Clark, New Jersey  
July 15, 2015

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**NIXLE, LLC**  
**Balance Sheet**  
**December 31, 2012**

| ASSETS   |    |                     |                   |
|--|----|---------------------|-------------------|
| Current assets                                 |    |                     |                   |
| Cash   | \$ | 87,479              |                   |
| Accounts receivable                            |    | 45,182              |                   |
| Prepaid expenses and other current assets      |    | <u>36,105</u>       |                   |
| Total current assets                           |    |                     | \$ 168,766        |
| Equipment, net                                 |    |                     | 38,876            |
| Other assets                                   |    |                     |                   |
| Security deposits                              |    | <u>9,448</u>        |                   |
| Total other assets                             |    |                     | 9,448             |
| Total assets                                   |    |                     | <u>\$ 217,090</u> |
| LIABILITIES AND EQUITY (DEFICIT)               |    |                     |                   |
| Current liabilities                            |    |                     |                   |
| Accounts payable                               | \$ | 288,714             |                   |
| Accrued expenses and other current liabilities |    | 3,259,802           |                   |
| Current portion of deferred revenue            |    | 217,909             |                   |
| Note payable – 8%                              |    | <u>9,015,000</u>    |                   |
| Total current liabilities                      |    |                     | \$ 12,781,425     |
| Long-term liabilities                          |    |                     |                   |
| Deferred revenue                               |    | 21,688              |                   |
| Note payable – 11.25%                          |    | 6,957,590           |                   |
| Convertible promissory notes                   |    | 1,200,000           |                   |
| Loans payable                                  |    | <u>1,255,000</u>    |                   |
| Total long-term liabilities                    |    |                     | 9,434,278         |
| Commitments and contingencies                  |    |                     |                   |
|  |    |                     | —                 |
| Equity (deficit)                               |    |                     |                   |
| Class A Units                                  |    | 427,005             |                   |
| Class B Units                                  |    | 9,677,100           |                   |
| Class C Units                                  |    | —                   |                   |
| Accumulated deficit                            |    | <u>(32,102,718)</u> |                   |
| Total equity (deficit)                         |    |                     | (21,998,613)      |
| Total liabilities and equity (deficit)         |    |                     | <u>\$ 217,090</u> |

See notes to financial statements.

**NIXLE, LLC**  
**Statement of Operations**  
**Year Ended December 31, 2012**

|   |    |                  |                           |
|---|----|------------------|---------------------------|
| Revenue   |    | \$               | 101,627                   |
| Direct costs                                    |    |                  | <u>1,542,667</u>          |
| Gross profit (loss)                             |    |                  | (1,441,040)               |
| Selling and general and administrative expenses |    |                  |                           |
| Selling   | \$ | 580,124          |                           |
| General and administrative                      |    | <u>1,734,894</u> |                           |
| Total   |    |                  | <u>2,315,018</u>          |
| Loss before interest and state tax expense      |    |                  | (3,756,058)               |
| Interest expense                                |    |                  | <u>1,628,320</u>          |
| Loss before state tax expense                   |    |                  | (5,384,378)               |
| State tax expense                               |    |                  | <u>3,268</u>              |
| Net loss  |    | \$               | <u><u>(5,387,646)</u></u> |

See notes to financial statements.

**NIXLE, LLC**  
**Statement of Members' Equity (Deficit)**  
**Year Ended December 31, 2012**

|                            | <b>Class A</b> | <b>Class B</b>   | <b>Class C</b> | <b>Accumulated<br/>Deficit</b> | <b>Total</b>           |
|----------------------------|----------------|------------------|----------------|--------------------------------|------------------------|
| Balance—beginning of year  | 427,005        | 9,727,100        | —              | \$ (26,714,235)                | \$ (16,560,130)        |
| Net income (loss)          |                |                  |                | (5,387,646)                    | (5,387,646)            |
| Re-classify equity to debt | —              | (50,000)         | —              | —                              | (50,000)               |
| Contributions              | —              | —                | —              | —                              | —                      |
| Distributions              | —              | —                | —              | (837)                          | (837)                  |
| Balance—end of year        | <u>427,005</u> | <u>9,677,100</u> | <u>—</u>       | <u>\$ (32,102,718)</u>         | <u>\$ (21,998,613)</u> |

See notes to financial statements.

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**NIXLE, LLC**  
**Statement of Cash Flows**  
**Year Ended December 31, 2012**

|  |    |             |
|--|----|-------------|
| Cash flows from operating activities   |    |             |
| Net (loss)   | \$ | (5,387,646) |
| Adjustments to reconcile net (loss) to net cash used by operating activities |    |             |
| Depreciation   |    | 48,342      |
| (Increase)decrease in:   |    |             |
| Accounts receivable  |    | (34,182)    |
| Prepaid expenses and other current assets                                    |    | 44,768      |
| Increase(decrease) in:   |    |             |
| Accounts payable   |    | (77,589)    |
| Accrued expenses and other current liabilities                               |    | 1,510,645   |
| Deferred revenue   |    | 239,597     |
| Net cash used by operating activities  | \$ | (3,656,065) |
| Cash flows from investing activities   |    |             |
| Equipment purchases  |    | (24,499)    |
| Net cash used by investing activities  |    | (24,499)    |
| Cash flows from financing activities   |    |             |
| Proceeds from note payable   |    | 3,765,000   |
| Distributions  |    | (837)       |
| Net cash provided by financing activities                                    |    | 3,764,163   |
| Net increase in cash   |    | 83,599      |
| Cash at beginning of year  |    | 3,880       |
| Cash at end of year  | \$ | 87,479      |
| <u>Supplemental disclosures</u>  |    |             |
| Interest paid  | \$ | 2,296       |
| Income taxes paid  | \$ | 3,268       |

See notes to financial statements.

**NIXLE, LLC**  
**Notes to Financial Statements**  
**December 31, 2012**

**Note 1—Summary of Significant Accounting Policies**

***Nature of Operations***

Nixle LLC (Nixle), organized in New Jersey on January 15, 2007, originally under the name “Rockstar Media LLC” to develop, market and operate an information exchange system. On December 1, 2007 the Members of Rockstar Media agreed to change the name to Nixle LLC to coincide with the name of the product.

Nixle designs, develops and services secure communications systems. The systems let government agencies and other users simultaneously exchange information with residents. Its products, (1) Nixle Connect offers free, to registered police departments, a notification system that allows them to connect with residents by text message, e-mail and the internet. (2) Nixle Engage, Nixle 360, and Nixle Connect for Schools are enhanced versions of the Nixle Connect system, offering users under subscription agreements, the ability to participate in the real-time exchange of information with the public.

***Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles (GAAP) requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from those estimates.

***Cash and Cash Equivalents***

For the purpose of the statement of cash flows all highly liquid debt instruments with maturities of three months or less are considered cash equivalents. Nixle had no investments considered cash equivalents at December 31, 2012.

***Accounts Receivable***

Accounts receivable are non-interest bearing, uncollateralized amounts Nixle expects to collect from its customers.

***Equipment***

Equipment is stated at cost. Depreciation is computed using the straight-line method over the equipment’s estimated useful life (3 to 7 years). Amounts disbursed for maintenance and repairs are charged to expense as incurred.

***Software Development Costs***

Nixle internally develops software and acquires software that it uses in providing services to its customers. Nixle accounts for software development costs according to Financial Accounting Standards Board (FASB) Accounting Standards Codification (“ASC”) 985-20 “Costs of Software to Be Sold, Leased, or Marketed.” Costs for developing software to be licensed are expensed.

Nixle recognizes technological feasibility when a working model is completed. Under this approach after successful internal quality assurance testing is performed the application is released to the subscriber base or market place. If changes are needed after the software is released Nixle takes care of it in later versions of the product. Modifications made during customer support services or while performing maintenance are expensed. Costs qualifying for capitalization between establishing technological feasibility and introducing the product to the market are minimal and thus expensed as incurred.

### ***Capital Accounts***

Individual capital accounts are increased by cash investments or the fair market value of property contributed and the distributive shares of profits and separately allocated items of income or gain.

Capital accounts are decreased by cash distributions or the book value of property distributed and the distributive share of losses and separately allocated items of expense or loss. Allocations of losses or deductions that would result in a deficit capital account balance are prohibited as losses are limited to each member's capital investment.

### ***Revenue Recognition***

Nixle earns revenue by providing premium services mostly under one year subscription agreements with customers. Revenue earned under subscription agreements is billed to and due by the customer prior to Nixle granting them access to service. Revenue is recognized over the term of the agreement. Unearned revenue for subscriptions still in effect at the end of a period are included as a liability in deferred revenue.

### ***Financial Instruments***

All financial instruments are carried at amounts that approximate fair value.

### ***Advertising***

Advertising costs are expensed as incurred. Nixle incurred advertising costs of \$239,731 for the year ended December 31, 2012.

### ***Income Taxes***

Nixle was formed as a Limited Liability Company (LLC) electing to be taxed as a partnership under the Internal Revenue Code and applicable state laws. As a partnership, profits and losses pass through to the members and profits are taxed at the individual rather than the partnership level. Accordingly, Nixle has no tax liability, although distributions to members for personal income taxes incurred on partnership profits may be made during the year.

When reporting net income or loss on its tax return, Nixle accounts for certain transactions according to methods required by law. As a result, the net income or loss and members' capital balances reported on the tax return are usually different from those amounts reported in the financial statements.

### ***Uncertain Tax Positions***

Nixle is required to identify, measure, and disclose in the financial statements uncertain tax positions Management takes or expects to take when filing the partnership return. At December 31, 2012 Nixle had no uncertain tax positions requiring disclosure. Tax positions taken on partnership returns may be rejected by taxing authorities and may result in tax, penalty or interest charges to Nixle or its members.

Tax returns are subject to examination by Federal and State authorities for three years from the date of filing. Nixle's Federal and State tax returns for 2009, 2010 and 2011 are open to examination by the Internal Revenue Service, New Jersey and other state agencies.

## **Note 2— Going Concern and Uncertainties**

### ***Going Concern***

Nixle has reported net losses since inception and an accumulated deficit of \$32,102,718. Nixle is unable to pay back debt of \$21,595,306, and current liabilities exceed current assets by \$12,612,659. Nixle's financial statements are prepared on a going concern basis, which assumes the business operates without threat of liquidation for at least twelve months from the date that the financial statements were available to be issued.



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### ***Cash Flow and Funding***

Nixle is unable to generate cash flow sufficient to fund operations under its current subscription agreements and service model. As a result Nixle is dependent on an “Angel Investor” to subsidize operations. This funding may end or significantly decrease at any time.

### ***Management’s Plans***

Management is working on plans to sell substantially all of Nixle’s assets including accounts receivable, customers, software, Nixle’s name and website, subscribers and other assets for cash and stock according to an asset purchase agreement (APA) with a buyer. After a successfully negotiated APA, Management plans to change Nixle’s name to NXL Holdings. NXL Holdings (a/k/a Nixle) will transfer its assets to the buyer and discontinue all software development projects and public notification services, terminate all employees and restructure the business to operate as a holding company with cash, investment in stock, and debt.

### ***Uncertainties***

Funding provided to Nixle by an Angel investor is winding down. Management is using cash for paying professionals representing Nixle on a sale of its assets, restructuring and to settle claims by two former members. The future of NXL Holdings (a/k/a Nixle) to continue as a going concern will be largely dependent on the final proceeds NXL Holdings (a/k/a Nixle) realizes from the fulfillment of the terms of an APA. However, even if Management is successful in its efforts to sell assets and restructure operations too many variables exist that may affect the results of Management’s plans.

Nixle’s future depends on whether the buyer of its assets achieves success in an initial public offering (IPO) and meets the terms of an APA in effect with Nixle at the time. Due to the uncertainty of the outcome of Management’s plans and risks associated with debt obligations and individual members’ investments on Nixle’s books there remains a substantial doubt about Nixle’s ability to continue as a going concern.

The financial statements do not include any adjustments that may be necessary if Nixle is unable to continue as a going concern.

### **Note 3—Equipment**

Equipment consists of the following at December 31, 2012:

|                                |                  |
|--------------------------------|------------------|
| Computer software              | \$ 289,652       |
| Furniture and fixtures         | 54,840           |
| Office and other equipment     | 372,718          |
| Total                          | 717,210          |
| Less: accumulated depreciation | (678,334)        |
|                                | <u>\$ 38,876</u> |

Depreciation expense for the year ended December 31, 2012 was \$48,342.

### **Note 4—Accrued Expenses**

Accrued expenses consists of the following at December 31, 2012:

|                               |                     |
|-------------------------------|---------------------|
| Payroll taxes                 | \$ 6,977            |
| Licensing and consulting fees | 85,109              |
| Accrued interest              | 3,167,716           |
|                               | <u>\$ 3,259,802</u> |

**Note 5—Long-Term Debt****Loans Payable**

Nixle has a total of \$1,255,000 in loans payable to six individuals under verbal agreements made during the period January 1, 2007 to December 31, 2010. Nixle computes simple interest on the principal balance at a rate of 5.25%. The loans are considered long-term obligations because repayment is not expected to happen within one year. At December 31, 2012 there is \$193,866 accrued interest due on these loans, included in accrued expenses.

**Note Payable—11.25%****11.25% Secured Convertible Promissory Note**

On October 1, 2010 Nixle and the Angel Investor (Holder) executed a “Secured Convertible Promissory Note Agreement” (Note A) for \$6,957,590 as a result of a loan restructure for amounts the Angel Investor loaned to Nixle between January 2008 and September 2010. The Holder of Note A is entitled to convert all or part of the outstanding principal and accrued interest into Class B Units at a pre-determined conversion price using a \$17.5 million valuation of Nixle.

Note A has accrued interest of \$2,044,950 accruing daily at an annual rate of 11.25% through October 1, 2015 and is collateralized by a first priority security interest in all of Nixle’s assets.

**Note Payable—8%****8% Secured Convertible Promissory Note**

On March 31, 2011 Nixle executed a \$1,800,000 Secured Convertible Promissory Note Agreement (Note B) with the Angel Investor. Advances during the period increase Note B. Accrued simple interest of \$717,900 is calculated at 8% on the outstanding principal balance bi-annually, and each time an advance is made and the principal balance changes. Note B was due June 30, 2012, but will continue in effect until another note agreement is executed. The balance outstanding on Note B is \$9,015,000 at December 31, 2012.

**Convertible Promissory Notes**

Nixle authorized the issuance and sale of Convertible Promissory Notes (the Convertible Notes) up to \$5,500,000 in a private offering with each principal unit convertible into one Class B Unit at a price equal to the principal amount subscribed. Upon written notice, holders of the Convertible Notes are entitled to exchange all or part of the outstanding principal and accrued interest into Class B Units each at a price of \$14 (the “Conversion Price”). With 30 days of advance written notice Nixle (the Borrower) has the right to convert all or part of the outstanding principal and accrued interest into Class B Units at the “Conversion Price.”

The Convertible Notes accrue interest daily at an annual rate of 8.0%. Details of Convertible Notes outstanding at December 31, 2012 are listed below.

|  |           |                         |
|--|-----------|-------------------------|
| 8% Convertible Note (Note C) dated October 27, 2010 issued under an agreement with the Angel Investor, in exchange for debt outstanding, maturing October 26, 2015. At December 31, 2012 there is \$126,000 interest due on Note C included in accrued expenses. | \$        | 700,000                 |
| 8% Convertible Note (Note D) dated November 9, 2010, issued under an agreement with a partnership in exchange for cash, maturing November 8, 2015. At December 31, 2012 there is \$85,000 interest due on Note D included in accrued expenses.                   |           | 500,000                 |
| <b>Total</b>   | <b>\$</b> | <b><u>1,200,000</u></b> |

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Long-term debt maturing during the years ending December 31, is as follows:

| <b>Year Ending</b> | <b>Debt Maturing</b> |
|--------------------|----------------------|
| 2014               | \$ —                 |
| 2015               | 8,157,590            |
| 2016               | —                    |
| 2017               | —                    |
| Thereafter         | 1,255,000            |
|                    | <u>\$ 9,412,590</u>  |

### **Note 6—Equity**

#### ***Membership Units***

Equity interests in the membership of Nixle are identified by Units. Each member’s percentage ownership in Nixle is determined by dividing the number of Units owned by the total number of Units issued. Membership Units are broken down into three classes that carry different member rights. No member has the right to act for, on behalf of, or bind Nixle other than the members of the Management Committee.

#### ***Class A Units***

Class A Units carry rights to purchase Units from a selling member after a first offer is made to purchase Nixle, and drag along rights in connection with the sale of all Nixle Units as indicated in the Agreement. Class A members rank second to receive distributions of net ordinary and capital proceeds until capital contributions reach zero.

There are 943,169 Class A Units issued at December 31, 2012.

Class A Units were originally issued to and held by two individuals who were the founders and original managers of Nixle. In two separate “Membership Interest Pledge Agreements both dated October 1, 2010” these individuals pledged their Class A Units to collateralize the 11.25% Note (Note 5). On September 9, 2011 after the 11.25% Note was defaulted on, the Majority Investor accepted the collateral in satisfaction of outstanding interest payments owed to him.

#### ***Class B Units***

Class B Units are issued in exchange for capital contributions. Class B unit holders rank first to receive distributions of net ordinary proceeds and net capital proceeds until capital contributions are reduced to zero.

There are 606,755 Class B Units issued at December 31, 2012.

#### ***Class C Units***

Class C Units are issued in exchange for services rendered to Nixle. Class C Units have a liquidation value of zero when issued and constitute “Profits Interests” in accordance with the provisions of Revenue Procedure 93-27. Class C Units are subject to vesting and forfeiture provisions set forth in separate agreements between Nixle and each Class C Unit Member.

There are 225,183 Class C Units issued and 193,614 Class C Units vested at December 31, 2012.

### **Note 7—Warrants and Options**

Management, has the authority to issue warrants, options or other instruments to purchase Units.

On December 16, 2010 a Warrant was issued to the Majority Investor in exchange for value received. The warrant is exercisable in whole or in part and entitles the Majority Investor to purchase 150,000 Class B Units at \$7.01 each until December 16, 2015.

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On October 6, 2011 a Unit Purchase Warrant was issued to a former founding member for value received. The warrant is exercisable in whole or in part and entitles the holder to purchase 1) 85,991 Class A Units at \$1.00 per Unit until December 31, 2012 and 2) 64,009 Class A Units at \$2.00 per Unit until December 31, 2013.

### **Note 8—Retirement Plan**

Effective October 1, 2011 Nixle provides retirement benefits through the Nixle 401(k) Plan (the Plan). The Plan allows eligible employees over 18 years of age to defer a portion of their compensation under Section 401(k) of the Internal Revenue Code. The Plan provides Management with a discretionary matching option, allowing Nixle to contribute and allocate to each eligible employees' account a percentage of their elective deferrals as determined at the end of each Plan year. Nixle made no contribution to the Plan during the year ended December 31, 2012.

### **Note 9—Operating Leases**

Nixle rents office space in Pasadena, California effective through April 1, 2013. Rent expense is \$790 a month plus a charge for operating costs. For the year ended December 31, 2012, rent expense incurred under this agreement was approximately \$11,750.

Nixle rents office space in San Francisco, California under an "Office Lease" effective October 1, 2011 through December 31, 2013. Rent expense is \$3,950 a month plus operating costs, through December 31, 2012. For the year ended December 31, 2012, rent expense incurred under this agreement was approximately \$47,400.

Following is a schedule by year of approximate future minimum lease payments required under the above operating lease agreements that have remaining non-cancelable lease terms as of December 31:

| <b>Year ending December 31,</b> | <b>Payment</b>  |
|---------------------------------|-----------------|
| 2013                            | \$ 2,370        |
| Thereafter                      | —               |
| Total                           | <u>\$ 2,370</u> |

### **Note 10—Noncash Transactions**

Nixle had recorded a \$50,000 advance as a capital contribution during 2010. The individual contended that the \$50,000 was an addition to a convertible note payable (Note 5). On January 1, 2012 Nixle agreed to recognize the addition to the convertible note payable and reclassified \$50,000 of Members' Equity to a long-term note payable.

### **Note 11—Risks and Uncertainties**

#### ***Concentration of Credit Risk***

Nixle, at times, maintains cash balances in financial institutions that are in excess of the \$250,000 insurance provided by the Federal Deposit Insurance Corporation (FDIC). At December 31, 2012 Nixle's cash balances did not exceed the FDIC limits. Nixle has not experienced any loss on its cash or cash equivalents. Management believes any significant credit risk on Nixle's deposits in financial institutions is minimal.

#### ***Competition***

The market for Nixle's products and services is highly competitive and the technology is subject to shifts in market preferences. There exists a risk that Nixle's financial condition and results of operations could be negatively affected if market preferences shift.

***Litigation***

Nixle has complaints pending against them for approximately \$3,328,000 from an individual's estate and an individual who allege loans, accrued interest and legal fees are owed to them. However, \$2,760,000 of the claimed amount is without merit. Nixle has included this liability in the financial statements at December 31, 2012.

**Note 12—Licensing Agreement**

During December 2012 Nixle formed a partnership with Everbridge under a licensing agreement for data hosting, automated communication, mass notification and related services. The renewable license agreement extends for one year and is cancelable with 60 days prior notice by either side. Following this arrangement and subsequent to year end Nixle terminated a license agreement with a similar service provider—GovDelivery (Note 13). For the year ended December 31, 2012 Nixle paid \$257,734 to GovDelivery under its licensing agreement.

**Note 13—Subsequent Events**

Management has evaluated subsequent events through July 15, 2015 which is the date these financial statements were available to be issued.

***Asset Purchase Agreement***

Subsequent to year end on December 23, 2014 the Director of Nixle entered into an Asset Purchase Agreement (APA) with its service provider—Everbridge. Under the terms of the APA, Everbridge, purchased substantially all of Nixle's assets and a portion of accounts payable in exchange for cash and stock. Everbridge is planning an initial public offering (IPO) of its stock in late July 2015 and will include pro-forma financial information and other information related to the APA with Nixle.

The effects of Everbridge's IPO on Nixle are highly speculative and impossible to determine, accordingly these financial statements contain no adjustments for events that may occur as a result of this subsequent event.

***Lease Agreements***

Subsequent to year end Nixle extended lease agreements for office space in (1) Pasadena, California to September 30, 2013 at a rate of \$812 a month and (2) San Francisco, California to December 31, 2014 at a rate of \$11,500 a month through December 31, 2013 and \$12,000 a month through December 31, 2014. Nixle also entered into a month to month rental agreement for storage space in Pasadena, California at a rate of \$149 a month.

***Licensing Agreement***

Subsequent to year end, Nixle terminated its licensing agreement with GovDelivery for the Nixle Dial data hosting platform.

***Litigation***

Both complaints were settled for \$275,000 subsequent to December 31, 2012 (Note 11).

**Independent Accountant's Review Report**

To the Management of Everbridge  
Burlington, Massachusetts

We have reviewed the accompanying balance sheets of Nixle LLC as of September 30, 2014 and 2013, and the related statements of operations, members' equity (deficit), and cash flows for the nine months then ended. A review includes primarily applying analytical procedures to management's financial data and making inquiries of Company management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the review in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. Those standards require us to perform procedures to obtain limited assurance that there are no material modifications that should be made to the financial statements. We believe that the results of our procedures provide a reasonable basis for our report.

Based on our review, we are not aware of any material modifications that should be made to the financial statements in order for them to be in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 2, certain conditions indicate that the Company may be unable to continue as a going concern. The accompanying financial statements do not include any adjustments that might be necessary should the Company be unable to continue as a going concern.

/s/ Werdann Devito LLC  
**WERDANN DEVITO LLC**

Clark, New Jersey  
July 15, 2015

**NIXLE, LLC**  
**Balance Sheets**  
**September 30,**

| ASSETS   |                     |                     |
|--|---------------------|---------------------|
|  | 2014                | 2013                |
| Current assets                                 |                     |                     |
| Cash   | \$ 19,663           | \$ 59,686           |
| Accounts receivable                            | 564,017             | 150,605             |
| Prepaid expenses and other current assets      | 39,905              | 37,283              |
| Total current assets                           | 623,585             | 247,574             |
| Equipment, net                                 | 73,619              | 38,674              |
| Other assets                                   |                     |                     |
| Security deposits                              | 25,225              | 14,548              |
| Total other assets                             | 25,225              | 14,548              |
| Total assets                                   | <u>\$ 722,429</u>   | <u>\$ 300,796</u>   |
| LIABILITIES AND EQUITY (DEFICIT)               |                     |                     |
| Current liabilities                            |                     |                     |
| Accounts payable                               | \$ 555,336          | \$ 433,455          |
| Accrued expenses and other current liabilities | 7,109,400           | 4,744,274           |
| Current portion of deferred revenue            | 1,141,217           | 433,443             |
| Note payable—11.25%                            | 16,915,000          | 12,040,000          |
| Total current liabilities                      | <u>25,720,953</u>   | <u>17,651,172</u>   |
| Long-term liabilities                          |                     |                     |
| Deferred revenue                               | 46,673              | 20,135              |
| Note payable—8%                                | 6,957,590           | 6,957,590           |
| Convertible promissory notes                   | 1,200,000           | 1,200,000           |
| Loans payable                                  | 755,000             | 1,255,000           |
| Total long-term liabilities                    | <u>8,959,263</u>    | <u>9,432,725</u>    |
| Commitments and contingencies                  | —                   | —                   |
| Equity (deficit)                               |                     |                     |
| Class A Units                                  | 427,005             | 427,005             |
| Class B Units                                  | 9,677,100           | 9,677,100           |
| Class C Units                                  | —                   | —                   |
| Accumulated deficit                            | (44,061,892)        | (36,887,206)        |
| Total equity (deficit)                         | <u>(33,957,787)</u> | <u>(26,783,101)</u> |
| Total liabilities and equity (deficit)         | <u>\$ 722,429</u>   | <u>\$ 300,796</u>   |

See accompanying notes and independent accountant's review report.

**NIXLE, LLC**  
**Statements of Operations**  
**Nine Months Ended September 30,**

|   | <b>2014</b>                  | <b>2013</b>                  |
|---|------------------------------|------------------------------|
| Revenue   | \$ 1,172,251                 | \$ 385,686                   |
| Direct costs                                    | 2,533,539                    | 931,963                      |
| Gross profit (loss)                             | <u>(1,361,288)</u>           | <u>(546,277)</u>             |
| Selling and general and administrative expenses |                              |                              |
| Selling   | 1,083,177                    | 1,529,383                    |
| General and administrative                      | 1,413,842                    | 1,181,569                    |
| Total   | <u>2,497,019</u>             | <u>2,710,952</u>             |
| Loss before interest and state tax expense      | <u>(3,858,307)</u>           | <u>(3,257,229)</u>           |
| Other income (expense)                          |                              |                              |
| Interest expense                                | (1,896,590)                  | (1,524,689)                  |
| Other income                                    | 487,979                      | —                            |
|   | <u>(1,408,611)</u>           | <u>(1,524,689)</u>           |
| Loss before state tax expense                   | <u>(5,266,918)</u>           | <u>(4,781,918)</u>           |
| State tax expense                               | 9,292                        | 2,570                        |
| Net loss  | <u><u>\$ (5,276,210)</u></u> | <u><u>\$ (4,784,488)</u></u> |

See accompanying notes and independent accountant's review report.



**NIXLE, LLC**  
**Statements of Members' Equity (Deficit)**  
**Nine Months Ended September 30, 2014 and 2013**

|                            | <b>Class A</b> | <b>Class B</b>   | <b>Class C</b> | <b>Accumulated<br/>Deficit</b> | <b>Total</b>        |
|----------------------------|----------------|------------------|----------------|--------------------------------|---------------------|
| Balance—January 1, 2013    | 427,005        | 9,677,100        | —              | \$ (32,102,718)                | \$(21,998,613)      |
| Net income (loss)          | —              | —                | —              | (4,784,488)                    | (4,784,488)         |
| Contributions              | —              | —                | —              | —                              | —                   |
| Distributions              | —              | —                | —              | —                              | —                   |
| Balance—September 30, 2013 | <u>427,005</u> | <u>9,677,100</u> | <u>—</u>       | <u>(36,887,206)</u>            | <u>(26,783,101)</u> |
| Balance—January 1, 2014    | 427,005        | 9,677,100        | —              | (38,618,182)                   | (28,514,077)        |
| Net income (loss)          | —              | —                | —              | (5,276,210)                    | (5,276,210)         |
| Contributions              | —              | —                | —              | —                              | —                   |
| Distributions              | —              | —                | —              | (167,500)                      | (167,500)           |
| Balance-September 30, 2014 | <u>427,005</u> | <u>9,677,100</u> | <u>—</u>       | <u>\$ (44,061,892)</u>         | <u>(33,957,787)</u> |

See accompanying notes and independent accountant's review report.

**NIXLE, LLC**  
**Statements of Cash Flows**  
**Nine Months Ended September 30, 2014 and 2013**

|  | <b>2014</b>        | <b>2013</b>        |
|--|--------------------|--------------------|
| Cash flows from operating activities   |                    |                    |
| Net (loss)   | \$ (5,276,210)     | \$ (4,784,488)     |
| Adjustments to reconcile net (loss) to net cash used by operating activities |                    |                    |
| Depreciation   | 18,225             | 20,508             |
| Other income   | (487,979)          | —                  |
| (Increase) decrease in:  |                    |                    |
| Accounts receivable  | (253,170)          | (105,423)          |
| Prepaid expenses and other current assets                                    | (11,524)           | (1,178)            |
| Security deposits  | (12,225)           | (5,100)            |
| Increase (decrease) in:  |                    |                    |
| Accounts payable   | 80,550             | 144,741            |
| Accrued expenses and other current liabilities                               | 1,873,712          | 1,484,472          |
| Deferred revenue   | 477,948            | 213,981            |
| Net cash used by operating activities  | <u>(3,590,673)</u> | <u>(3,032,487)</u> |
| Cash flows from investing activities   |                    |                    |
| Acquisition of equipment   | (55,842)           | (20,306)           |
| Net cash used by investing activities  | <u>(55,842)</u>    | <u>(20,306)</u>    |
| Cash flows from financing activities   |                    |                    |
| Proceeds from notes payable  | 3,825,000          | 3,025,000          |
| Repayment of loans payable   | (250,000)          | —                  |
| Member distributions   | (25,000)           | —                  |
| Net cash provided by financing activities                                    | <u>3,550,000</u>   | <u>3,025,000</u>   |
| Net decrease in cash   | (96,515)           | (27,793)           |
| Cash at beginning of year  | 116,178            | 87,479             |
| Cash at end of September 2014 and 2013                                       | <u>\$ 19,663</u>   | <u>\$ 59,686</u>   |
| <b>Supplemental disclosures</b>  |                    |                    |
| Interest paid  | <u>\$ —</u>        | <u>\$ —</u>        |
| Income taxes paid  | <u>\$ 9,292</u>    | <u>\$ 3,024</u>    |

See accompanying notes and independent accountant's review report.

**NIXLE, LLC**  
**Notes to Financial Statements**  
**September 30, 2014 and 2013**

**Note 1—Nature of Operations and Summary of Significant Accounting Policies**

***Nature of Operations***

Nixle LLC (Nixle), organized in New Jersey on January 15, 2007, originally under the name “Rockstar Media LLC” to develop, market and operate an information exchange system. The Members of Rockstar Media agreed to change the name to Nixle LLC under an “Amended and Restated Operating Agreement” to coincide with the product name.

Nixle designs, develops and services secure communications systems. The systems let government agencies and other users simultaneously exchange information with residents. Its products, (1) Nixle Connect is a free notification service provided to registered police departments allowing them to connect with residents by text message, e-mail and the internet. (2) Nixle Engage, Nixle 360, and Nixle Connect for Schools are enhanced versions of the Nixle Connect system, offering users registered under paid subscription plans, the ability to participate in the real-time exchange of information with the public.

***Summary of Significant Accounting Policies***

***Estimates***

The preparation of financial statements in conformity with generally accepted accounting principles (GAAP) requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Actual results could differ from those estimates.

***Cash Equivalents***

For the purpose of the statement of cash flows short term investments maturing in three months or less are considered cash equivalents. Nixle had no investments considered cash equivalents at September 30, 2014 and 2013.

***Accounts Receivable***

Accounts receivable are uncollateralized and non-interest bearing amounts Nixle expects to collect from its customers.

***Equipment***

Equipment is stated at cost. Depreciation is recorded using straight-line and accelerated methods over the estimated useful life of the equipment (3 to 7 years). Costs for maintenance and repairs are expensed as incurred.

***Software Development Costs***

Nixle internally develops and acquires software that it uses in providing services to its customers. Nixle accounts for costs of developing software according to Financial Accounting Standards Board (FASB) Accounting Standards Codification (“ASC”) 985-20 “Costs of Software to Be Sold, Leased, or Marketed.” Under ASC 985-20 costs for developing software to be sold, licensed or marketed are expensed until technological feasibility is established. When technological feasibility is reached capitalization of costs begins. Capitalization of costs ends and amortization begins when the application is available for release to customers.

Nixle recognizes technological feasibility when a working model is completed. Under this approach after successful internal quality assurance testing is performed the application is released to the subscriber base or market place. If changes are needed after the software is released Nixle takes care of it in later versions of the product. Modifications made during customer support services or while performing maintenance are expensed. Costs qualifying for capitalization between establishing technological feasibility and introducing the product to the market are minimal and thus expensed as incurred.

### ***Capital Accounts***

Individual capital accounts are increased by cash investments or the fair market value of property contributed and the distributive shares of profits and separately allocated items of income or gain.

Capital accounts are decreased by cash distributions or the book value of property distributed and the distributive share of losses and separately allocated items of expense or loss. Allocations of losses or deductions that would result in a deficit capital account balance are prohibited as losses are limited to each member's capital investment.

### ***Revenue Recognition***

Nixle earns revenue by providing premium services mostly under one year subscription agreements with customers. Revenue earned under subscription agreements is billed to and due by the customer prior to Nixle granting them access to service. Revenue is recognized over the term of the agreement. Unearned revenue for subscriptions still in effect at the end of a period are included as a liability in deferred revenue.

### ***Financial Instruments***

All financial instruments are carried at amounts that approximate fair value.

### ***Advertising***

Nixle expenses advertising costs when incurred. Nixle expensed advertising costs of \$50,435 and \$80,568 during the nine months ended September 30, 2014 and 2013, respectively.

### ***Income Taxes***

Nixle was formed as a Limited Liability Company (LLC) electing to be taxed as a partnership under the Internal Revenue Code and applicable state laws. As a partnership, profits and losses pass through to the members and profits are taxed at the individual rather than the partnership level. Accordingly, Nixle has no tax liability, although distributions to members for personal income taxes incurred on partnership profits may be made during the year.

When reporting net income or loss on its tax return, Nixle accounts for certain transactions according to methods required by law. As a result, the net income or loss and members' capital balances reported on the tax return are usually different from those amounts reported in the financial statements.

### ***Uncertain Tax Positions***

Nixle is required to identify, measure, and disclose in the financial statements uncertain tax positions Management takes or expects to take when filing the partnership return. At September 30, 2014 and 2013 Nixle had no uncertain tax positions requiring disclosure. Tax positions taken on partnership returns may be rejected by taxing authorities and result in tax, penalty or interest charges to Nixle or its members.

Tax returns are subject to examination by Federal and State authorities for three years from the date of filing. Nixle's Federal and State tax returns for 2010, 2011 and 2012 are open to examination by the Internal Revenue Service, New Jersey and other state agencies.

## **Note 2—Going Concern and Uncertainties**

### ***Going Concern***

Nixle has reported net losses since inception and an accumulated deficit of \$33,957,787. Nixle is unable to pay back debt of \$32,870,643, and current liabilities exceed current assets by \$12,612,659. Nixle's financial statements are prepared on a going concern basis, which assumes the business operates without threat of liquidation for at least twelve months from the date that the financial statements were available to be issued.

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### ***Cash Flow and Funding***

Nixle is unable to generate cash flow sufficient to fund operations under its current subscription agreements and service model. As a result Nixle is dependent on an “Angel Investor” to subsidize operations. This funding may end or significantly decrease at any time.

### ***Management’s Plans***

Management is working on plans to sell substantially all of Nixle’s assets including accounts receivable, customers, software, Nixle’s name and website, subscribers and other assets for cash and stock according to an asset purchase agreement (APA) with a buyer. After a successfully negotiated APA, Management plans to change Nixle’s name to NXL Holdings. NXL Holdings (a/k/a Nixle) will transfer its assets to the buyer and discontinue all software development projects and public notification services, terminate all employees and restructure the business to operate as a holding company with cash, investment in stock, and debt.

### ***Uncertainties***

Funding provided to Nixle by an Angel Investor is winding down. Management is using cash for paying professionals representing Nixle on a sale of its assets, restructuring and to settle claims by two former members. The future of NXL Holdings (a/k/a Nixle) to continue as a going concern will be largely dependent on the final proceeds NXL Holdings (a/k/a Nixle) realizes from the fulfillment of the terms of an APA. However, even if Management is successful in its efforts to sell assets and restructure operations too many variables exist that may affect the results of Management’s plans.

Nixle’s future depends on whether the buyer of its assets achieves success in an initial public offering (IPO) and meets the terms of an APA in effect with Nixle at the time. Due to the uncertainty of the outcome of Management’s plans and risks associated with debt obligations and individual members’ investments on Nixle’s books there remains a substantial doubt about Nixle’s ability to continue as a going concern.

The financial statements do not include any adjustments that may be necessary if Nixle is unable to continue as a going concern.

### **Note 3—Equipment**

Equipment consists of the following at September 30:

|   | 2014             | 2013             |
|---|------------------|------------------|
| Computer software                               | \$ 289,652       | \$ 289,652       |
| Furniture and fixtures                          | 71,713           | 62,568           |
| Equipment                                       | 445,354          | 385,296          |
| Total   | 806,719          | 737,516          |
| Less: accumulated depreciation and amortization | (733,100)        | (698,842)        |
|   | <u>\$ 73,619</u> | <u>\$ 38,674</u> |

Depreciation expense for the nine months ended September 30, 2014 and 2013 was \$18,225 and \$20,508, respectively.

**Note 4—Accrued Expenses**

Accrued expenses consists of the following at September 30:

|                               | 2014                | 2013                |
|-------------------------------|---------------------|---------------------|
| Due to customer—overpayments  | \$ 6,090            | \$ 6,090            |
| Payroll taxes                 | 5,257               | 1,752               |
| Licensing and consulting fees | 55,000              | 60,000              |
| Accrued interest              | 7,043,053           | 4,676,432           |
|                               | <u>\$ 7,109,400</u> | <u>\$ 4,744,274</u> |

**Note 5—Long-Term Debt****Loans Payable**

Nixle has loans payable of \$755,000 (\$1,255,000 at September 30, 2013) to five (six at September 30, 2013) individuals, loaned during the years ended 2007 to 2010 under verbal agreements. Nixle computes simple interest accrued of \$190,914 (\$233,864 at September 30, 2013) on the principal balance at 5.25%. Nixle considers the balances outstanding to be long-term obligations because repayment is not expected to occur within one year.

**Note Payable—11.25%****11.25% Secured Convertible Promissory Note**

On October 1, 2010 Nixle and the Angel Investor (Holder) executed a “Secured Convertible Promissory Note Agreement” (Note A) for \$7,384,594 as a result of a loan restructure for amounts loaned to Nixle between January 2008 and September 2010. The Holder of Note A is entitled to convert all or part of the outstanding principal and accrued interest into Class B Units at a pre-determined conversion price using a \$17.5 million valuation of Nixle.

Note A has accrued interest of \$3,592,008 (\$2,424,238 at September 30, 2013) accruing daily at an annual rate of 11.25% through October 1, 2015 and is collateralized by a first priority security interest in all of Nixle’s assets.

**Note Payable—8%****8% Secured Convertible Promissory Note**

On March 31, 2011 Nixle executed a \$1,800,000 Secured Convertible Promissory Note Agreement (Note B) with the Angel Investor. Advances made to Nixle during the period increase the principal of Note B. Accrued simple interest of \$2,454,228 (\$1,308,327 at September 30, 2013) is calculated at 8% on the outstanding principal balance bi-annually and each time an advance is made and the principal balance changes. Note B was due June 30, 2012, but will continue in effect until another note agreement is executed. The balance outstanding on Note B is \$16,915,000 and 12,040,000 at September 30, 2014 and 2013 respectively.

**Convertible Promissory Notes**

Nixle authorized the issuance and sale of Convertible Promissory Notes (the Convertible Notes) up to \$5,500,000 in a private offering with each principal unit convertible into one Class B Unit at a price equal to the principal amount subscribed. Upon written notice, holders of the Convertible Notes are entitled to exchange all or part of the outstanding principal and accrued interest into Class B Units each at a price of \$14 (the “Conversion Price”). With 30 days of advance written notice Nixle (the Borrower) has the right to convert all or part of the outstanding principal and accrued interest into Class B Units at the “Conversion Price.”

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The Convertible Notes accrue interest daily at an annual rate of 8.0%. Details of Convertible Notes outstanding at September 30, 2014 and 2013 are listed below.

|  | 2014                | 2013                |
|--|---------------------|---------------------|
| 8% Convertible Note (Note C) dated October 27, 2010 issued under an agreement with the Angel Investor in exchange for debt, maturing October 26, 2015. Accrued interest at September 30, 2014 and 2013 is \$223,885 and \$136,500, respectively. | \$ 700,000          | \$ 700,000          |
| 8% Convertible Note (Note D) dated November 9, 2010, issued under an agreement with a partnership in exchange for cash, maturing November 8, 2015. Accrued interest at September 30, 2014 and 2013 is \$155,000 and \$105,000, respectively.     | 500,000             | 500,000             |
| Total  | <u>\$ 1,200,000</u> | <u>\$ 1,200,000</u> |

Long-term debt maturing during the periods ending September 30, 2014 is as follows:

| Period Ending September 30 | Amount Maturing     |
|----------------------------|---------------------|
| 2015                       | \$ —                |
| 2016                       | 8,157,590           |
| 2017                       | —                   |
| 2018                       | —                   |
| 2019                       | —                   |
| Thereafter                 | 755,000             |
|                            | <u>\$ 8,912,590</u> |

## Note 6—Equity

### Membership Units

Equity interests in the membership of Nixle are identified by Units. Each member's percentage ownership in Nixle is determined by dividing the number of Units owned by the total number of Units issued. Membership Units are broken down into three classes that carry different member rights. No member has the right to act for, on behalf of, or bind Nixle other than the members of the Management Committee.

### Class A Units

Class A Units carry rights to purchase Units from a selling member after a first offer is made to purchase Nixle, and drag along rights in connection with the sale of all Nixle Units as indicated in the Agreement. Class A members rank second to receive distributions of net ordinary and capital proceeds until capital contributions reach zero.

There are 943,169 Class A Units issued at September 30, 2014 and 2013.

Class A Units were originally issued to and held by two individuals who were the founders and original managers of Nixle. In two separate "Membership Interest Pledge Agreements both dated October 1, 2010" these individuals pledged their Class A Units to collateralize the 11.25% Note (Note 5). On September 9, 2011 after the 11.25% Note was defaulted on, the Majority Investor accepted the collateral in satisfaction of outstanding interest payments owed to him.

### Class B Units

Class B Units are issued in exchange for capital contributions. Class B unit holders rank first to receive distributions of net ordinary proceeds and net capital proceeds until capital contributions are reduced to zero.

There are 606,755 Class B Units issued at September 30, 2014 and 2013.

**Class C Units**

Class C Units are issued in exchange for services rendered to Nixle. Class C Units have a liquidation value of zero when issued and constitute “Profits Interests” in accordance with the provisions of Revenue Procedure 93-27. Class C Units are subject to vesting and forfeiture provisions set forth in separate agreements between Nixle and each Class C Unit Member.

There are 225,183 Class C Units issued and 193,614 Class C Units vested at September 30, 2014 and 2013.

**Note 7—Warrants and Options**

Management, has the authority to issue warrants, options or other instruments to purchase Units.

On December 16, 2010 a Warrant was issued to the Angel Investor in exchange for value received. The warrant is exercisable in whole or in part and entitles the holder to purchase 150,000 Class B Units at \$7.01 each until December 16, 2015.

**Note 8—Retirement Plan**

Effective October 1, 2011 Nixle provides retirement benefits through the Nixle 401(k) Plan (the Plan). The Plan allows eligible employees over 18 years of age to defer a portion of their compensation under Section 401(k) of the Internal Revenue Code. The Plan provides Management with a discretionary matching option, allowing Nixle to contribute and allocate to each eligible employees’ account a percentage of their elective deferrals as determined at the end of each Plan year. Nixle made no contribution to the Plan during the nine months ended September 30, 2014 and 2013.

**Note 9—Other Income**

Other income of \$487,979 includes cancellation of debt of \$345,479 and insurance proceeds paid directly to claimants of \$142,500 incurred in settling two claims during the period ended September 30, 2014.

**Note 10—Operating Leases**

Nixle rents office space in San Francisco, California under an amended operating lease agreement effective February 14, 2013 to December 31, 2014. Monthly rent expense is \$12,000 plus utility charges. For the nine months ended September 30, 2014 and 2013, rent expense was \$121,578 and \$104,782, respectively.

Nixle pays \$149 a month to rent storage space in San Francisco, California under an agreement which could be cancelled at any time.

Following is a schedule by year of approximate future minimum lease payments required under the above operating lease agreements that have remaining noncancelable lease terms as of September 30:

| <b>Period ending September 30,</b> | <b>Payment</b>   |
|------------------------------------|------------------|
| 2015                               | \$ 36,000        |
| Thereafter                         | —                |
| <b>Total</b>                       | <b>\$ 36,000</b> |

**Note 11—Noncash Transactions**

Nixle recognized other income of \$487,979 in a noncash transaction as follows:

|  |           |
|--|-----------|
| Insurance payments directly to claimants | \$142,500 |
| Settlement of debt by claimants          | 345,479   |



**Note 12—Risks and Uncertainties**

***Concentration of Credit Risk***

Nixle, at times, maintains cash balances in financial institutions that are in excess of the \$250,000 insurance provided by the Federal Deposit Insurance Corporation (FDIC). At September 30, 2013 Nixle's cash balances did not exceed the FDIC limits. Nixle has not experienced any loss on its cash or cash equivalents. Management believes any significant credit risk on Nixle's deposits in financial institutions is minimal.

***Competition***

The market for Nixle's products and services is highly competitive and the technology is subject to shifts in market preferences. There exists a risk that Nixle's financial condition and results of operations could be negatively affected if market preferences shift.

**Note 13—Licensing Agreement**

Nixle entered into a new licensing agreement effective January 1, 2014 with a telecommunications firm, Shoutpoint, for voice applications solutions. The agreement is standard for one year, automatically renewing each January 1 successively, for two more years unless cancelled with 30 days advance notice. The base licensing fee is \$45,000 per quarter with additional Price Per Minute (PPM) and Price Per Contact (PPC) charges. Beginning with the second annual term of the agreement, minimum pricing rules take effect. For the nine months ended September 30, 2014, Nixle paid \$120,734 under its licensing agreement with Shoutpoint.

For the nine months ended September 30, 2013 Nixle paid \$275,000 under its licensing agreement with Everbridge.

**Note 14—Subsequent Events and Future Uncertainties**

Management has evaluated subsequent events through July 15, 2015, the date the financial statements were available for release.

Subsequent to year end on December 23, 2014 the Director of Nixle entered into an Asset Purchase Agreement (APA) with its service provider – Everbridge. Under the terms of the APA, Everbridge, purchased substantially all of Nixle's assets and a portion of accounts payable in exchange for cash and stock. Everbridge is planning an initial public offering (IPO) of its stock in late July 2015 and will include pro-forma financial information and other information related to the APA with Nixle.

The effects of Everbridge's IPO on Nixle are highly speculative and impossible to determine, accordingly these financial statements contain no adjustments for events that may occur as a result of this subsequent event.

## THE PLATFORM ENABLES US TO DIFFERENTIATE IN MULTIPLE WAYS





**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 13. Other Expenses of Issuance and Distribution.**

The following table sets forth all costs and expenses, other than underwriting discounts and commissions, payable by us in connection with the sale of the common stock being registered. All amounts shown are estimates except for the SEC registration fee and the FINRA filing fee.

|  | Amount to be<br>Paid |
|--|----------------------|
| SEC registration fee                     | \$ *                 |
| FINRA filing fee                         | *                    |
| NASDAQ Global Market initial listing fee | *                    |
| Blue sky fees and expenses               | *                    |
| Printing and engraving                   | *                    |
| Legal fees and expenses                  | *                    |
| Accounting fees and expenses             | *                    |
| Transfer agent and registrar fees        | *                    |
| Miscellaneous fees and expenses          | *                    |
| Total                                    | *                    |

\* To be filed by amendment.

**Item 14. Indemnification of Directors and Officers.**

We are incorporated under the laws of the State of Delaware. Section 102 of the Delaware General Corporation Law permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his or her duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit.

Section 145 of the Delaware General Corporation Law provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

As permitted by the Delaware General Corporation Law, our amended and restated certificate of incorporation and amended and restated bylaws will provide that: (1) we are required to indemnify our directors to the fullest extent permitted by the Delaware General Corporation Law; (2) we may, in our discretion, indemnify our officers, employees and agents as set forth in the Delaware General Corporation Law; (3) we are required, upon satisfaction of certain conditions, to advance all expenses incurred by our directors in connection with certain legal proceedings; (4) the rights conferred in the bylaws are not exclusive; and (5) we are authorized to enter into indemnification agreements with our directors, officers, employees and agents.

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Our policy is to enter into agreements with our directors that require us to indemnify them against expenses, judgments, fines, settlements and other amounts that any such person becomes legally obligated to pay (including with respect to a derivative action) in connection with any proceeding, whether actual or threatened, to which such person may be made a party by reason of the fact that such person is or was a director or officer of us or any of our affiliates, provided such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, our best interests. These indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder. At present, no litigation or proceeding is pending that involves any of our directors or officers regarding which indemnification is sought, nor are we aware of any threatened litigation that may result in claims for indemnification.

We maintain a directors' and officers' liability insurance policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses for which we have lawfully indemnified the directors and officers. The policy contains various exclusions.

In addition, the underwriting agreement filed as Exhibit 1.1 to this registration statement provides for indemnification by the underwriters of us and our officers and directors for certain liabilities arising under the Securities Act, or otherwise. Our amended and restated investors' rights agreement with certain stockholders also provides for cross-indemnification in connection with the registration of our common stock on behalf of such investors.

### **Item 15. Recent Sales of Unregistered Securities.**

The following list sets forth information regarding all unregistered securities issued by us since January 1, 2013 through the date of the prospectus that is a part of this registration statement:

#### ***Issuances of Common Stock and Options to Purchase Common Stock***

From January 1, 2013 through the date of this registration statement, we have granted under our 2008 Plan options to purchase an aggregate of 10,681,100 shares of our common stock to employees, consultants and directors, having exercise prices ranging from \$0.23 to \$2.55 per share. Of these, options to purchase an aggregate of 1,277,564 shares have been cancelled without being exercised. From January 1, 2013 through the date of this registration statement, an aggregate of 4,137,962 shares of our common stock were issued upon the exercise of stock options under the 2008 Plan, at exercise prices between \$0.09 and \$1.63 per share.

The offers, sales and issuances of the securities described in the preceding paragraph were deemed to be exempt from registration under Rule 701 promulgated under the Securities Act, or Rule 701, in that the transactions were by an issuer not involving any public offering or under Section 4(a)(2) of the Securities Act or under compensatory benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of such securities were our employees, directors or consultants and received the securities under our equity incentive plans. Appropriate legends were affixed to the securities issued in these transactions.

In March 2014, we issued an aggregate of 2,252,451 shares of our common stock to certain stockholders of Vocal Limited in connection with our acquisition of Vocal Limited.

In July 2014, we issued 107,758 shares of common stock to PMC Financial Services Group, LLC upon the exercise of a warrant to purchase shares of common stock.

In December 2014, we issued an aggregate of 693,140 shares of our common stock to Tapestry Telemed LLC in connection with our purchase of certain technology from Tapestry Telemed LLC.

In December 2014, we issued an aggregate of 1,858,275 shares of our common stock to Nixle, LLC in connection with our acquisition of substantially all of the assets of Nixle, LLC.

## [Table of Contents](#)

In March 2015, we issued an aggregate of 34,657 shares of our common stock to certain former members of Tapestry Telemed LLC in connection with our purchase of certain technology from Tapestry Telemed LLC in December 2014.

The offers, sales and issuances of the securities described in the preceding paragraphs were deemed to be exempt from registration under the Securities Act in reliance on Section 4(a)(2) of the Securities Act or Rule 506 of Regulation D promulgated thereunder as a transaction by an issuer not involving a public offering. The recipients of securities in each of these transactions acquired the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were affixed to the securities issued in these transactions. Each of the recipients of securities in these transactions was either an accredited investor within the meaning of Rule 501 of Regulation D under the Securities Act or had adequate access, through employment, business or other relationships, to information about us.

### **Item 16. Exhibits and Financial Statement Schedules.**

#### **(a) Exhibits**

| <b>Exhibit Number</b> | <b>Description of Document</b>   |
|-----------------------|--|
| 1.1†                  | Form of Underwriting Agreement.  |
| 3.1                   | Third Amended and Restated Certificate of Incorporation of Everbridge, Inc., as amended and as currently in effect.                            |
| 3.2                   | Form of Amended and Restated Certificate of Incorporation of Everbridge, Inc. to be effective upon completion of this offering.                |
| 3.3                   | Amended and Restated Bylaws of Everbridge, Inc., as currently in effect.   |
| 3.4                   | Form of Amended and Restated Bylaws of Everbridge, Inc. to be effective upon completion of this offering.                                      |
| 4.1†                  | Form of common stock certificate of Everbridge, Inc.   |
| 4.2                   | Third Amended and Restated Investors' Rights Agreement by and among Everbridge, Inc. and certain of its stockholders, dated September 9, 2011. |
| 5.1†                  | Opinion of Cooley LLP.   |
| 10.1                  | Sublease Agreement, dated as of March 30, 2016, by and between Everbridge, Inc. and Jacobs Engineering Group, Inc.                             |
| 10.2                  | Sublease Agreement, dated as of February 27, 2015, by and between Everbridge, Inc. and Acquia Inc.   |
| 10.3 +                | 2008 Equity Incentive Plan and Forms of Stock Option Agreement and Notice of Exercise thereunder.  |
| 10.4 +†               | Form of 2016 Equity Incentive Plan and Forms of Stock Option Agreement, Notice of Exercise and Stock Option Grant Notice thereunder.           |
| 10.5 +†               | 2016 Employee Stock Purchase Plan.   |
| 10.6 +†               | Non-Employee Director Compensation Plan to be in effect upon the completion of this offering.  |
| 10.7+†                | 2015 Bonus Plan of Everbridge, Inc.  |
| 10.8+†                | 2016 Bonus Plan of Everbridge, Inc.  |
| 10.9 +                | Form of Indemnification Agreement by and between Everbridge, Inc. and each of its directors and executive officers.                            |
| 10.10+†               | Offer Letter, dated as of September 6, 2011, by and between Everbridge, Inc. and Jaime Ellertson.  |
| 10.11+†               | Offer Letter, dated as of April 13, 2015, by and between Everbridge, Inc. and Kenneth S. Goldman.  |
| 10.12+†               | Employment Agreement, dated as of December 1, 2014, by and between Everbridge, Inc. and Nicholas Hawkins.                                      |
| 10.13+†               | Offer Letter, dated as of October 6, 2013, by and between Everbridge, Inc. and Scott Burnett.  |
| 10.14+†               | Offer Letter, dated as of July 27, 2012, by and between Everbridge, Inc. and Gary Phillips.  |
| 10.15+†               | Offer Letter, dated as of July 26, 2012, by and between Everbridge, Inc. and Imad Mouline.   |
| 10.16+†               | Offer Letter, dated as of July 26, 2012, by and between Everbridge, Inc. and Yuan Cheng.   |

## Table of Contents

| <b>Exhibit Number</b> | <b>Description of Document</b>   |
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| 10.17+†               | Offer Letter, dated as of October 12, 2015, by and between Everbridge, Inc. and Elliot J. Mark.                                |
| 10.18+†               | Offer Letter, dated as of January 11, 2016, by and between Everbridge, Inc. and Joel Rosen.                                    |
| 10.19                 | Loan and Security Agreement, dated as of June 30, 2015, by and between Everbridge, Inc. and Western Alliance Bank, as amended. |
| 10.20                 | Lease Agreement, dated as of September 24, 2012, by and between Everbridge, Inc. and SPUSV5 500 Brand, LP., as amended.        |
| 21.1                  | Subsidiaries of Everbridge, Inc.   |
| 23.1†                 | Consent of KPMG LLP, independent registered public accounting firm.  |
| 23.2†                 | Consent of Werdann Devito LLC, independent accounting firm.  |
| 23.3†                 | Consent of Cooley LLP (included in Exhibit 5.1).   |
| 23.4                  | Consent of Frost & Sullivan.   |
| 23.5                  | Consent of Markets and Markets.  |
| 24.1†                 | Power of Attorney. Reference is made to the signature page hereto.   |

\* Previously filed.

† To be filed by amendment.

+ Indicates management contract or compensatory plan.

### **(b) Financial Statement Schedules**

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

### **Item 17. Undertakings.**

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this Registration Statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Burlington, Massachusetts, on the                      day of                      , 2016.

EVERBRIDGE, INC.

\_\_\_\_\_  
Jaime Ellertson  
*President, Chief Executive Officer and Chairman  
of the Board of Directors*

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Jaime Ellertson and Kenneth S. Goldman, and each of them, his true and lawful agent, proxy and attorney-in-fact, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to (1) act on, sign and file with the Securities and Exchange Commission any and all amendments (including post-effective amendments) to this registration statement together with all schedules and exhibits thereto and any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, together with all schedules and exhibits thereto, (2) act on, sign and file such certificates, instruments, agreements and other documents as may be necessary or appropriate in connection therewith, (3) act on and file any supplement to any prospectus included in this registration statement or any such amendment or any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and (4) take any and all actions which may be necessary or appropriate to be done, as fully for all intents and purposes as he might or could do in person, hereby approving, ratifying and confirming all that such agent, proxy and attorney-in-fact or any of his substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

| Signature                   | Title  | Date        |
|-----------------------------|--|-------------|
| _____<br>Jaime Ellertson    | President, Chief Executive Officer and Chairman of the Board of Directors<br><i>(Principal Executive Officer)</i>          | _____, 2016 |
| _____<br>Kenneth S. Goldman | Senior Vice President and Chief Financial Officer<br><i>(Principal Financial Officer and Principal Accounting Officer)</i> | _____, 2016 |
| _____<br>Richard D’Amore    | Director   | _____, 2016 |
| _____<br>Bruns Grayson      | Director   | _____, 2016 |
| _____<br>David Henshall     | Director   | _____, 2016 |
| _____<br>Kent Mathy         | Director   | _____, 2016 |
| _____<br>Cinta Putra        | Director   | _____, 2016 |



**EXHIBIT INDEX**

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| 10.6 +†                   | Non-Employee Director Compensation Plan to be in effect upon the completion of this offering.  |
| 10.7+†                    | 2015 Bonus Plan of Everbridge, Inc.  |
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| 21.1                      | Subsidiaries of Everbridge, Inc.   |
| 23.1†                     | Consent of KPMG LLP, independent registered public accounting firm.  |
| 23.2†                     | Consent of Werdann Devito LLC, independent accounting firm.  |
| 23.3†                     | Consent of Cooley LLP (included in Exhibit 5.1).   |
| 23.4                      | Consent of Frost & Sullivan.   |
| 23.5                      | Consent of Markets and Markets.  |
| 24.1†                     | Power of Attorney. Reference is made to the signature page hereto.   |

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\* Previously filed.

† To be filed by amendment.

+ Indicates management contract or compensatory plan.

**THIRD AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF EVERBRIDGE, INC.**

Everbridge, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The Corporation was originally incorporated under the name 3n Global, Inc. The name of the corporation is Everbridge, Inc.
2. The date of filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware was January 22, 2008.
3. This Third Amended and Restated Certificate of Incorporation restates and integrates and further amends the Second Amended and Restated Certificate of Incorporation of the corporation as herein set forth in full.

**ARTICLE I**

The name of the corporation (hereinafter, the “Corporation”) is Everbridge, Inc.

**ARTICLE II**

The address of the registered office of this Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, City of Wilmington, County of New Castle, and the name of the registered agent of this Corporation in the State of Delaware at such address is Corporation Service Company.

**ARTICLE III**

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

**ARTICLE IV**

The Corporation is authorized to issue three classes of stock to be designated “Common Stock,” “Class A Common” and “Preferred Stock.” The total number of shares of Common Stock that the Corporation is authorized to issue is 100,000,000 shares, \$0.001 par value per share. The total number of shares of Class A Common that the Corporation is authorized to issue is 8,841,040 shares, \$0.001 par value per share (the “Class A Common”). The total number of shares of Preferred Stock that the Corporation is authorized to issue is 32,582,779 shares, \$0.001 par value per share, (i) 17,992,237 of which shares of Preferred Stock are designated “Series A Preferred Stock” (the “Series A Preferred”), and (ii) 14,590,542 of which are designated as “Series A-1 Preferred Stock” (the “Series A-1 Preferred”) and, together with the Series A Preferred, sometimes hereinafter to as the “Preferred Stock”).

**A. COMMON STOCK**

**1. General.** The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and preferences of the holders of the Preferred Stock and the holders of Class A Common as set forth herein.

**2. Voting.** The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of this Third Amended and Restated Certificate of Incorporation) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law of the State of Delaware.

**B. CLASS A COMMON**

**1. Voting.** The shares of Class A Common shall be non-voting except as may otherwise be required by applicable law.

**2. Dividends.** The holders of Class A Common shall have the dividend rights described in Section C.I below.

**3. Rights on Liquidation.** The holders of Class A Common shall have the liquidation rights described in Section C.2 below.

**4. Conversion.** Shares of Class A Common shall not be convertible at the option of the holder thereof; provided, however, that each share of Class A Common shall automatically be converted into one fully-paid and non-assessable share of Common Stock immediately prior to the occurrence of an Automatic Conversion Event (as defined in Section C.5(b) hereof).

**5. Adjustments.**

(a) **Subdivisions, Combinations, or Consolidations of Common Stock.** In the event the outstanding shares of Common Stock shall be subdivided, combined or consolidated, by stock split, stock dividend, combination or like event, into a greater or lesser number of shares of Common Stock after the first date on which shares of Class A Common are issued by the Corporation (the “Class A Common Issue Date”), the outstanding shares of Class A Common shall be proportionately subdivided, combined or consolidated; provided, however, that no such proportionate adjustment shall be made to the outstanding shares of Class A Common in connection with, or as a result of, the Splits.

(b) **Adjustments for Other Dividends and Distributions.** In the event the Corporation at any time or from time to time after the Class A Common Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock) or in other

property and the provisions of Section C.1 or C.2 do not apply to such dividend or distribution, then and in each such event the holders of Class A Common shall receive, simultaneously with the distribution to the holders of Common Stock, the same per share dividend or other distribution of such securities or other property as is made on a share of Common Stock.

(c) **Adjustment for Common Stock Dividends and Distributions.** If, after the Class A Common Issue Date, the Corporation at any time or from time to time makes or declares a dividend or other distribution to the holders of Common Stock payable in additional shares of Common Stock, in each such event the Corporation shall simultaneously make or declare a dividend or other distribution to the holders of shares of Class A Common payable in additional shares of Class A Common and in a per share amount equal to the number of shares of Common Stock paid or distributed on each outstanding share of Common Stock.

(d) **Reclassifications and Reorganizations.** Subject to the provisions of Section C.2, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock is converted into or exchanged for securities, cash or other property (other than a transaction covered by Section B.5(a)-(c)), then, each share of outstanding Class A Common shall be converted or exchanged for securities, cash or other property in such transaction in the same manner as the Common Stock.

## **C. PREFERRED STOCK**

The relative rights, preferences, privileges and restrictions granted to or imposed upon the Preferred Stock are as follows:

### **1. Dividends.**

(a) **Series A Preferred and Series A4 Preferred.** The holders of Preferred Stock shall be entitled to receive, out of funds legally available therefor, cumulative dividends at an annual rate equal to (i) eight percent (8%) of the Original Series A Price (as defined in Section C.5(a)(i)) per share per annum for each outstanding share of Series A Preferred held by them from and after the date of issuance of such shares, as adjusted for any consolidations, combinations, stock distributions, stock dividends, stock splits or similar events with respect to the Series A Preferred (a "Series A Recapitalization Event"), and (ii) eight percent (8%) of the Original Series A-1 Price (as defined in Section C.5(a)(ii)) per share per annum for each outstanding share of Series A-1 Preferred held by them from and after the date of issuance of such shares, as adjusted for any consolidations, combinations, stock distributions, stock dividends, stock splits or similar events with respect to the Series A-1 Preferred (a "Series A-1 Recapitalization Event" and, together with a Series A Recapitalization Event, the "Recapitalization Event"). The annual dividends payable pursuant to clauses (i) and (ii) of this section C.1(a) are hereinafter individually and collectively referred to as the "Accruing Dividends"). Such Accruing Dividends shall accrue from day to day and shall be payable when and if declared by the Corporation's Board of Directors, in preference and priority to the payment of dividends on any shares of Common Stock (other than those dividends on shares of Common Stock payable solely in Common Stock), and shall be payable whether or not declared at the times specified in this Third Amended and Restated Certificate of Incorporation. The

Corporation shall not declare, pay or set aside any dividends on shares of any other class or series of capital stock of the Corporation unless (in addition to the obtaining of any consents required elsewhere in this Certificate of Incorporation) the holders of the Preferred Stock then outstanding shall first receive, or simultaneously receive, a dividend on each outstanding share of Preferred Stock in an amount at least equal to the greater of (x) the amount of the aggregate Accruing Dividends then accrued on such share of Preferred Stock and not previously paid, or (y) (A) in the case of a dividend on Common Stock or any class or series that is convertible into Common Stock, that dividend per share of Preferred Stock as would equal the product of (1) the dividend payable on each share of such class or series determined, if applicable, as if all shares of such class or series had been converted into Common Stock and (2) the number of shares of Common Stock issuable upon conversion of a share of Preferred Stock, in each case calculated on the record date for determination of holders entitled to receive such dividend or (B) in the case of a dividend on any class or series that is not convertible into Common Stock, at a rate per share of Preferred Stock determined by (1) dividing the amount of the dividend payable on each share of such class or series of capital stock by the original issuance price of such class or series of capital stock (subject to appropriate adjustment for a Recapitalization Event with respect to such class or series) and (2) multiplying such fraction by an amount equal to the Original Series A Issue Price and/or Original Series A-1 Issue Price (each as defined below), as the case may be, as adjusted for any Recapitalization Event; provided that, if the Corporation declares, pays or sets aside, on the same date, a dividend on shares of more than one class or series of capital stock of the Corporation, the dividend payable to the holders of Preferred Stock pursuant to this Section C.1 shall be calculated based upon the dividend on the class or series of capital stock that would result in the highest Preferred Stock dividend. The dividends payable to the holders of the Preferred shall be cumulative, and shall accrue to the holders of Preferred Stock, whether or not the earnings of the Corporation in that previous fiscal year were sufficient to pay such dividends in whole or in part and regardless of whether declared.

(b) **Class A Common.** After payment of dividends to the holders of Preferred Stock as set forth above, dividends may be declared and distributed among all holders of Class A Common. The Corporation shall not declare, pay or set aside any dividends on shares of Common Stock unless (in addition to the obtaining of any consents required elsewhere in this Third Amended and Restated Certificate of Incorporation) the holders of Class A Common shall receive the same dividend per share as the holders of Common Stock.

(c) **Common Stock.** After payment of dividends to the holders of Preferred Stock and Class A Common as set forth above, dividends may be declared and distributed among all holders of Common Stock.

(d) **Dividends and Conversion of Preferred Stock.** In the event that the Corporation shall have declared but unpaid dividends outstanding immediately prior to, and in the event of, a conversion of Preferred Stock (as provided in Section C.5), or Class A Common (as provided in Section B.4), the Corporation shall pay in cash, to the holders of Preferred Stock and Class A Common subject to conversion, the full amount of any such dividends at the time of such conversion.

**2. Liquidation Preference.** Unless the holders of not less than a majority of the then-outstanding shares of Preferred Stock agree otherwise, in the event of (i) any liquidation,

dissolution, or winding up of the Corporation, whether voluntary or not, (ii) the sale, lease, assignment, transfer, conveyance or disposal of all or substantially all of the assets of the Corporation, (iii) the exclusive license of all or substantially all of the material intellectual property rights of the Corporation, or (iv) the acquisition of the Corporation by means of consolidation, corporate reorganization, merger or other transaction or series of related transactions in which stockholders of the Corporation immediately prior to such transaction(s) do not own at least a majority of the outstanding voting securities of the successor entity (in each case, other than in connection with a reincorporation of the Corporation into another jurisdiction) (each, a “Liquidation Event”), distributions to the Corporation’s stockholders shall be made in the following manner:

(e) **Series A Preferred and Series A-1 Preferred.** The holders of Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any assets or property of the Corporation to the holders of Common Stock or Class A Common by reason of their ownership thereof, an amount equal to the greater of:

(i) With respect to the shares of Series A Preferred held by the holders thereof, (A) the Original Series A Price (as defined in Section C.5(a)(i) below) (as adjusted for any Recapitalization Event), for each share of Series A Preferred then held by such holder, plus an amount equal to any Accruing Dividends accrued but unpaid thereon, whether or not declared, together with any other dividends declared but unpaid on shares of Series A Preferred (the “Series A Liquidation Preference Amount”); or (B) such amount per share as would have been payable had all shares of Preferred Stock and Class A Common been converted into Common Stock pursuant to Sections C.5 and BA, respectively, immediately prior to a Liquidation Event (the “Series A As-Converted Liquidation Amount”), and the holders of Series A Preferred shall thereafter not be entitled, pursuant to the terms hereof, to receive any further distributions or proceeds resulting from a Liquidation Event.

(ii) With respect to the shares of Series A-1 Preferred held by the holders thereof, (A) the Original Series A-1 Price (as defined in Section C.5(a)(ii) below) (as adjusted for any Recapitalization Event), for each share of Series A-1 Preferred then held by such holder, plus an amount equal to any Accruing Dividends accrued but unpaid thereon, whether or not declared, together with any other dividends declared but unpaid on shares of Series A-1 Preferred (the “Series A-1 Liquidation Preference Amount” and, together with the Series A Liquidation Preference Amount, sometimes hereinafter referred to as the “Preferred Stock Liquidation Preference Amount”); or (B) such amount per share as would have been payable had all shares of Preferred Stock and Class A Common been converted into Common Stock pursuant to Sections C.5 and B.4, respectively, immediately prior to a Liquidation Event (the “Series A-1 As-Converted Liquidation Amount” and, together with the Series A As-Converted Liquidation Amount, sometimes hereinafter referred to as the “Preferred Stock As-Converted Liquidation Amount”), and the holders of Series A-1 Preferred shall thereafter not be entitled, pursuant to the terms hereof, to receive any further distributions or proceeds resulting from a Liquidation Event.

If upon the occurrence of such events, the assets and funds available for distribution are insufficient to permit the payment to the holders of Preferred Stock of such full Preferred Stock Liquidation Preference Amount, then the entire assets and funds of the Corporation legally

available for distribution to stockholders will be distributed among the holders of the Preferred Stock ratably, in proportion to the full preferential amounts which they would be entitled to receive, pursuant to clauses (i) and (ii) of this Section C.2(a).

(f) **Class A Common**

(i) **Preferred Stock Receives Preferred Stock Liquidation Preference Amount.** If the holders of Preferred Stock shall receive the Preferred Stock Liquidation Preference Amount pursuant to Section C.2(a)(i) and (ii) above, after such payment has been made to the holders of Preferred Stock, the holders of Class A Common shall be entitled to receive, prior to and in preference to any distribution of any assets or property of the Corporation to the holders of Common Stock by reason of their ownership thereof, an amount equal to \$0.20 (as adjusted for any Recapitalization Event with respect to the Class A Common) for each share of Class A Common then held by such holder, plus any dividends declared but unpaid on shares of Class A Common. If the assets and funds available for distribution are insufficient to permit the payment to the holders of Class A Common of such full preferential amount, then the entire assets and funds of the Corporation legally available for distribution to stockholders after distribution to the holders of the Preferred Stock will be distributed among the holders of the Class A Common ratably in proportion to the full preferential amounts which they would be entitled to receive pursuant to the preceding sentence of this Section C.2(b).

(ii) **Preferred Stock Receives Preferred Stock As-Converted Liquidation Amount.** If the holders of Preferred Stock receive the Preferred Stock As-Converted Liquidation Amount pursuant to Section C.2(a)(i) and (ii) above, the holders of Class A Common shall be entitled to such amounts as are described in Section C.2(c)(ii) below.

(g) **Common Stock.**

(i) **Preferred Stock Receives Preferred Stock Liquidation Preference Amount.** If the holders of Preferred Stock receive the Preferred Stock Liquidation Preference Amount pursuant to Section C.2(a)(i) and (ii) above, after payment of such amount has been made to the holders of Preferred Stock, and payment has been made to the holders of Class A Common of the full amounts to which they are entitled pursuant to Section C.2(b)(i) above, then the remaining assets of the Corporation available for distribution to stockholders shall be distributed ratably among the holders of Common Stock based on the number of shares held by each such holder.

(ii) **Preferred Stock Receives Preferred Stock As-Converted Liquidation Amount.** If the holders of Preferred Stock receive the Preferred Stock As-Converted Liquidation Amount pursuant to Section C.2(a)(i) and (ii) above, after payment of such amount has been made to the holders of Preferred Stock, the remaining assets of the Corporation available for distribution to the stockholders shall be distributed ratably among the holders of Common Stock and Class A Common based on the number of shares held by each such holder.

(h) **Noncash Distributions.** The value of securities and property paid or distributed pursuant to this Section C.2 shall be computed at fair market value (the “Noncash”).

Distribution Price”) at the time of payment to the Corporation or at the time made available to stockholders, all as determined by the Board of Directors (which determination shall be agreed upon by at least one Preferred Stock Director) in the good faith exercise of their reasonable business judgment, provided, however, that (i) if such securities are listed on any established stock exchange or a national market system, their fair market value shall be the closing sales price for such securities as quoted on such system or exchange (or the largest such exchange) for the date the value is to be determined (or if there are no sales for such date, then for the last preceding business day on which there were sales), as reported in the Wall Street Journal or similar publication, and (ii) if such securities are regularly quoted by a recognized securities dealer but selling prices are not reported, their fair market value shall be the mean between the high bid and low asked prices for such securities on the date the value is to be determined (or if there are no quoted prices for such date, then for the last preceding business day on which there were quoted prices). In the event that the Board of Directors is unable to agree upon the determination of the Noncash Distribution Price, then the Preferred Stock Directors (as defined below), on the one hand, and the remaining members of the Board of Directors, on the other hand, shall each select an appraiser experienced in the business of evaluating or appraising the market value of stock. The two (2) appraisers so selected (the “Initial Appraisers”) shall, within ten (10) business days, appraise the fair market value of the securities or other assets in question. If the difference between the resulting appraisals is not greater than ten percent (10%) of either appraisal, then the average of the appraisals shall be deemed the fair market value of the securities in question; otherwise, the Initial Appraisers shall select an additional appraiser (the “Additional Appraiser”), who shall be experienced in a manner similar to the Initial Appraisers. If they fail to select such Additional Appraiser as provided above, then the Board of Directors may apply to any judge of any court of general jurisdiction for the appointment of such Additional Appraiser. The Additional Appraiser shall then choose from the range of values determined by the Initial Appraisers the value within that range that the Additional Appraiser considers closest to the fair market value of the securities in question, and such value shall be the fair market value for purposes of this Section C.2(d). The Additional Appraiser shall forthwith give written notice of his determination to the Board of Directors. The foregoing methodology for determining fair market value shall be referred to herein as the “Valuation Methodology.” The fees and expenses of the appraisal shall be paid by the Corporation.

(e) Consent for Certain Repurchases. In connection with repurchases by the Corporation of its Common Stock from employees, officers, directors, advisors, consultants or other persons performing services for the Corporation or any subsidiary pursuant to agreements under which the Corporation has the option to repurchase such shares at cost upon the occurrence of certain events, such as the termination of employment, Sections 502 and 503 of the California General Corporations Code (the “CGCL”) shall not apply in all or in part with respect to such repurchases, and each holder of an outstanding share of Series A Preferred shall be deemed to have consented, solely for the purposes of Sections 502, 503 and 506 of the CGCL, to the distributions deemed to be made to such holders of Common Stock.

### **3. Voting Rights**

(a) General Rights. The holder of each share of Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which each share of Preferred Stock could be converted on the record date for the vote or written consent of



stockholders and, except as otherwise required by law or as set forth herein, shall have voting rights and powers equal to the voting rights and powers of the Common Stock. The holder of each share of Preferred Stock shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of the Corporation and shall vote with holders of the Common Stock at any annual or special meeting of stockholders of the Corporation, or by written consent, upon the election of directors and upon any other matter submitted to a vote of stockholders, except as otherwise provided herein or those matters required by law to be submitted to a class vote. Fractional votes shall not, however, be permitted and any fractional voting rights resulting from the above formula (after aggregating all shares of Common Stock into which shares of Preferred Stock held by each holder could be converted) shall be rounded down to the nearest whole number.

**(b) Election of Board of Directors.** Notwithstanding the provisions of Section C.3(a) above, (i) the holders of Common Stock, voting as a separate class, shall be entitled to elect three (3) members of the Board of Directors (each, a "Common Director") at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; (ii) for so long as at least Five Million Six Hundred Fifty One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock (as adjusted for any Recapitalization Event) remain outstanding, the holders of Preferred Stock, voting as a separate class on an as-if converted to Common Stock basis; shall be entitled to elect three (3) members of the Board of Directors (each a "Preferred Stock Director") at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; and (iii) the holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis, shall be entitled to elect all remaining members of the Board of Directors (each, an "Independent Director") at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors. To the extent that there shall be less than Five Million Six Hundred Fifty One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock outstanding (subject to adjustment for a Recapitalization Event), any member of the Board of Directors who would otherwise have been elected in accordance with the provisions of clause (ii) hereof shall instead be elected by holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis. A vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section C.3(b). At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director.

**(c) Removal of Directors.** Any director who shall have been elected solely by the holders of the Preferred Stock or Common Stock may be removed during such director's term of office, whether with or without cause, only by the affirmative vote of the holders of a majority of the Preferred Stock (voting together as a single class on an as-if converted to Common Stock basis) or Common Stock, as the case may be, provided, however, that during

such time or times that the Corporation is subject to Section 2115(b) of the CGCL, unless the entire Board of Directors is removed, no individual director may be removed when the votes cast against such director's removal, or not consenting in writing to such removal, would be sufficient to elect that director if voted cumulatively at an election in which the same total number of votes were cast (or, if such action is taken by written consent, all shares entitled to vote were voted) and the entire number of directors authorized at the time of such director's most recent election were then being elected.

**(d) Cumulative Voting.** As long as the Corporation is subject to Section 2115 of the CGCL, every stockholder entitled to vote at an election of directors may cumulate such stockholder's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which such stockholder's shares are otherwise entitled, or distribute the stockholder's votes on the same principle among as many candidates as such stockholder desires. No stockholder, however, shall be entitled to so cumulate such stockholder's votes unless (i) the names of such candidate or candidates have been placed in nomination prior to the voting, and (ii) the stockholder has given notice at the meeting, prior to the voting, of such stockholder's intention to cumulate such stockholder's votes. If any stockholder has given proper notice to cumulate votes, all stockholders may cumulate their votes for any candidates who have been properly placed in nomination. Under cumulative voting, the candidates receiving the highest number of votes, up to the number of directors to be elected, are elected.

**4. Redemption.** The holders of Preferred Stock shall not have redemption rights hereunder.

**5. Conversion.** The holders of the Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

(a) **Right to Convert.** Each share of Preferred Stock shall be convertible, at the option of the holder thereof, without the payment of any additional consideration by the holder thereof, at any time after the date of issuance of such share at the office of the Corporation or any transfer agent for such Preferred Stock as follows:

(i) Each share of Series A Preferred shall be convertible at the conversion rate determined by dividing the Original Series A Price (subject to adjustment for any Recapitalization Events) by the Series A Conversion Price (determined as provided herein) in effect at the time of conversion. The "Original Series A Price" shall be \$0.392 and the initial "Series A Conversion Price" shall be \$0.392. The number of shares of Common Stock into which each share of Series A Preferred may be converted is hereinafter referred to as the "Series A Conversion Rate" of the Series A Preferred. The Series A Conversion Price shall be subject to adjustment as set forth in Section C.5(c) below.

(ii) Each share of Series A-1 Preferred shall be convertible at the conversion rate determined by dividing the Original Series A-1 Price (subject to Adjustment for any Recapitalization Events) by the Series A-1 Conversion Price (determined as provided herein) in effect at the time of conversion. The "Original Series A-1 Price" shall be \$0.4335 and the initial "Series A-1 Conversion Price" shall be \$0.4335. The number of shares of Common Stock

into which each share of Series A-1 Preferred may be converted is hereinafter referred to as the “Series A-1 Conversion Rate” of the Series A-1 Preferred. The Series A-1 Conversion Price shall be subject to adjustment as set forth in Section C.5(c) below. The Series A Conversion Price and the Series A-I Conversion Price are each hereinafter referred to as a “Conversion Price.”

(b) **Automatic Conversion**. Each share of Preferred Stock shall automatically be converted into fully paid and non-assessable shares of Common Stock at the then effective Series A Conversion Rate or Series A-1 Conversion Rate, as applicable, immediately upon the earlier of (each, an “Automatic Conversion Event”):

(i) the affirmative vote or written consent of the holders of at least a majority of the then outstanding shares of Preferred Stock voting together as a single class on an as-if converted to Common Stock basis; or

(ii) the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, (the “Securities Act”) covering the offer and sale of Common Stock (other than a registration on Form S-8, Form S-4 or comparable or successor forms), (A) which results in aggregate gross proceeds (prior to underwriters’ commissions and expenses) to the Corporation of at least \$35,000,000, and (B) a per share price not less than five times the Original Series A-I Price per share (subject to adjustment for a Recapitalization Event) (a “Qualified Public Offering”).

(c) **Adjustments to Conversion Price**.

(i) **Special Definitions**. For purposes of this Section C.5(c), the following definitions shall apply:

(A) “Convertible Securities” shall mean any evidences of indebtedness, shares or other securities convertible into or exchangeable for Common Stock.

(B) “Options” shall mean rights, options or warrants to subscribe for, purchase or otherwise acquire either Common Stock or Convertible Securities (as defined below).

(C) “Pool” shall mean up to an aggregate of 11,308,433 shares of Common Stock, comprised of the sum of (x) 6,726,892 shares of Common Stock underlying options granted as of the date hereof; and (y) 898,358 shares of Common Stock reserved for issuance under stock awards available for grant as of the date hereof; and (z) 3,683,183 shares of Common Stock, which may be reserved for issuance under any, stock grant, option agreement or plan, purchase plan or other employee stock incentive program or agreement approved by the Board of Directors. For purposes hereof, any shares of Common Stock described above that again become available for issuance by the Corporation as a result of (A) in respect of shares of Common Stock subject to outstanding options or stock awards, such options or stock awards expiring and/or terminating or (B) in respect of shares of Common Stock acquired pursuant to the exercise of stock options or stock awards, such shares of Common Stock being reacquired by the Corporation, shall in each case be added back into the Pool. Reference to the number of shares of Common Stock in this Section 5(c)(i)(C) shall mean such number of shares as shall be appropriately adjusted for combinations, consolidations, subdivisions, recapitalizations, stock splits or other similar transactions.

(D) “Additional Shares of Common Stock” shall mean all shares of Common Stock issued (or, pursuant to Section C.5(c)(iii) below, deemed to be issued) by the Corporation after the Series A-1 Original Issue Date (as defined below), other than shares of Common Stock or other capital stock of the Corporation issued or issuable (collectively, “Exempted Securities”):

(1) up to a number of shares in the Pool, issued or deemed issued to officers, directors or employees of, or consultants to, the Corporation pursuant to a warrant, stock grant, option agreement or plan, purchase plan or other employee stock incentive program or agreement approved by the Board of Directors, and any increase in the Pool approved by the Board or Directors (including the approval of at least one Preferred Stock Director);

(2) without consideration pursuant to a dividend, stock split, combination, recapitalization or similar transaction that is covered by either Section B.5 above or Section C.5(c)(vi) below;

(3) as a dividend or distribution with respect to the Preferred Stock;

(4) upon the conversion of any Convertible Securities or Options outstanding on the Series A-1 Original Issue Date;

(5) in connection with acquisitions and mergers as approved by the Board of Directors (including at least one of the Preferred Stock Directors);

(6) as approved by the Board of Directors in connection with equipment leasing, real estate, bank financing or similar transactions (including at least one of the Preferred Stock Directors);

(7) as approved by the Board of Directors (including at least one of the Preferred Stock Directors) to vendors or customers;

(8) upon conversion of Preferred Stock or other Convertible Securities pursuant to the terms of such Preferred Stock or such Convertible Security; or

(9) as approved by the Board of Directors (including at least one of the Preferred Stock Directors) in connection with strategic alliances, joint ventures and other similar agreements.

(D) “Series A-1 Original Issue Date” shall mean the date on which shares of Series A-1 Preferred are first issued by the Corporation.

(ii) **No Adjustment of Conversion Prices.** No adjustment in the Conversion Price applicable to the Preferred Stock shall be made with respect to the issuance of Additional Shares of Common Stock if the Corporation receives written notice from the holders of at least a majority of the then outstanding shares of Preferred Stock (voting together as a single class on an as-if converted to Common Stock basis) agreeing that no such adjustment shall be made as the result of the issuance or deemed issuance of such Additional Shares of Common Stock.

(iii) **Deemed Issue of Additional Shares of Common Stock.**

(A) If the Corporation at any time or from time to time after the Series A-1 Original Issue Date shall issue any Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities) or shall fix a record date for the determination of holders of any class of securities entitled to receive any such Options or Convertible Securities (excluding Options or Convertible Securities which are themselves Exempted Securities), then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or, in the case of Convertible Securities and Options therefor, the conversion or exchange of such Convertible Securities, shall be deemed to be Additional Shares of Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of the close of business on such record date. Except as provided in Sections 5(c)(iii)(B) and 5(c)(iii)(C) below, no further adjustment in the applicable Conversion Price shall be made upon the subsequent issue of Convertible Securities or shares of Common Stock upon the exercise of such Options or conversion or exchange of such Convertible Securities.

(B) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment to the applicable Conversion Price pursuant to the terms of Section C.5(c)(iv), are revised as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any such Option or Convertible Security or (2) any increase or decrease in the consideration payable to the Corporation upon such exercise, conversion and/or exchange, then, effective upon such increase or decrease becoming effective, the applicable Conversion Price computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such applicable Conversion Price as would have obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security. Notwithstanding the foregoing, no readjustment pursuant to this clause (B) shall have the effect of increasing the applicable Conversion Price to an amount which exceeds the lower of (i) the applicable Conversion Price in effect immediately prior to the original adjustment made as a result of the issuance of such Option or Convertible Security, or (ii) the applicable Conversion Price that would have resulted from any issuances of Additional Shares of Common Stock (other than deemed issuances of Additional Shares of Common Stock as a result of the issuance of such Option or Convertible Security) between the original adjustment date and such readjustment date.

(C) If the terms of any Option or Convertible Security (excluding Options or Convertible Securities which are themselves Exempted Securities), the issuance of which did not result in an adjustment to the applicable Conversion Price pursuant to the terms of Section C.5(c)(iv) (either because the consideration per share (determined pursuant to Section C.5(c)(v)) of the Additional Shares of Common Stock subject thereto was equal to or greater than the applicable Conversion Price then in effect, or because such Option or Convertible Security was issued before the Series A-1 Original Issue Date), are revised after the Series A-1 Original Issue Date as a result of an amendment to such terms or any other adjustment pursuant to the provisions of such Option or Convertible Security (but excluding automatic adjustments to such terms pursuant to anti-dilution or similar provisions of such Option or Convertible Security) to provide for either (1) any increase in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (2) any decrease in the consideration payable to the Corporation upon such exercise, conversion or exchange, then the affected portion of such Option or Convertible Security, as so amended or adjusted, and the Additional Shares of Common Stock subject thereto (determined in the manner provided in Section C.5(c)(iii)(A)), whether the increased number of Additional Shares of Common Stock or the Additional Shares of Common Stock with respect to which the consideration payable was decreased) shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(D) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security (or portion thereof) which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the applicable Conversion Price pursuant to the terms of Section C.5(c)(iv), the applicable Conversion Price shall be readjusted to such Conversion Price as would have been obtained had such Option or Convertible Security (or portion thereof) never been issued.

(E) If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, is calculable at the time such Option or Convertible Security is issued or amended but is subject to adjustment based upon subsequent events (excluding automatic adjustments to the terms thereof pursuant to anti-dilution or similar provisions of such Option or Convertible Security), any adjustment to the applicable Conversion Price provided for in this Section C.5(c)(iii) shall be effected at the time of such issuance or amendment based on such number of shares or amount of consideration without regard to any provisions for subsequent adjustments (and any subsequent adjustments shall be treated as provided in clauses (B) and (C) of this Section C.5(c)(iii)). If the number of shares of Common Stock issuable upon the exercise, conversion and/or exchange of any Option or Convertible Security, or the consideration payable to the Corporation upon such exercise, conversion and/or exchange, cannot be calculated at all at the time such Option or Convertible Security is issued or amended any adjustment to the applicable Conversion Price that would result under the terms of this Section C.5(c)(iii) at the time of such issuance or amendment shall instead be effected at the time such number of shares and/or amount of consideration is first calculable (even if subject to subsequent adjustments), assuming for purposes of calculating such adjustment to the applicable Conversion Price that such issuance or amendment took place at the time such calculation can first be made.

(iv) **Adjustment of Conversion Price Upon Issuance of Additional Shares of Common Stock Below Purchase Price.** In the event the Corporation shall issue Additional Shares of Common Stock (including Additional Shares of Common Stock deemed to be issued pursuant to Section C.5(c)(iii)), after the Series A-1 Original Issue Date, without consideration or for a consideration per share less than the applicable Conversion Price in effect on the date of and immediately prior to such issue, then and in each such event the applicable Conversion Price shall be reduced, concurrently with such issue, to a price (calculated to the nearest one-hundredth of one cent) determined by multiplying the applicable Conversion Price in effect on the date of and immediately prior to such issue by a fraction (A) the numerator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue plus the number of shares of Common Stock which the aggregate consideration received by the Corporation for the total number of Additional Shares of Common Stock so issued (or deemed to be issued) would purchase at such applicable Conversion Price; and (B) the denominator of which shall be the number of shares of Common Stock outstanding immediately prior to such issue, plus the number of shares of Additional Shares of Common Stock so issued, provided, however, that, for purposes of this Section C.5(c)(iv), the number of shares of Common Stock deemed to be outstanding as of a given date shall be the sum of (1) the number of shares of Common Stock actually outstanding, (2) the number of shares of Common Stock into which the then outstanding shares of Preferred Stock could be converted if fully converted on the day immediately preceding the given date, and (3) the number of shares of Common Stock which could be obtained through the exercise and/or conversion of all other rights, Options and Convertible securities outstanding on the day immediately preceding the given date.

(v) **Determination of Consideration.** For purposes of this Section C.5(c), the consideration received by the Corporation for the issue of any Additional Shares of Common Stock shall be computed as follows:

(A) **Cash and Property:** Such consideration shall:

(1) insofar as it consists of cash, be computed at the aggregate amount of cash received by the Corporation before deducting any reasonable discounts, commissions or other expenses allowed, paid or incurred by the Corporation for any underwriting or otherwise in connection with the issuance and sale thereof;

(2) insofar as it consists of property other than cash, be computed at the fair market value thereof at the time of such issue, as determined by the Board of Directors in the good faith exercise of its reasonable business judgment, including a Preferred Stock Director, and, if the Board of Directors is unable to agree upon the determination of the fair market value, the Valuation Methodology; and

(3) in the event Additional Shares of Common Stock are issued together with other shares or securities or other assets of the Corporation for consideration which covers both, be the proportion of such consideration so received, computed as provided in clauses (1) and (2) above, as determined in good faith by the Board of Directors (including the approval of the Preferred Stock Directors).

(B) **Options and Convertible Securities.** The consideration per share received by the Corporation for Additional Shares of Common Stock deemed to have been issued pursuant to Section C.5(c), relating to Options and Convertible Securities, shall be determined by dividing:

(1) the total amount, if any, received or receivable by the Corporation as consideration for the issue of such Options or Convertible Securities, plus the minimum aggregate amount of additional consideration (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such consideration) payable to the Corporation upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities and the conversion or exchange of such Convertible Securities, by

(2) the maximum number of shares of Common Stock (as set forth in the instruments relating thereto, without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon the exercise of such Options or the conversion or exchange of such Convertible Securities, or in the case of Options for Convertible Securities, the exercise of such Options for Convertible Securities.

(vi) **Other Adjustments to Conversion Price.**

(A) **Subdivisions, Combinations, or Consolidations of Common Stock.** In the event the outstanding shares of Common Stock shall be subdivided, combined or consolidated, by stock split, stock dividend, combination or like event, into a greater or lesser number of shares of Common Stock after the Series A-1 Original Issue Date, the applicable Conversion Price in effect immediately prior to such subdivision, combination, consolidation or stock dividend shall, concurrently with the effectiveness of such subdivision, combination or consolidation, be proportionately adjusted.

(B) **Adjustments for Other Dividends and Distributions.** In the event the Corporation at any time or from time to time after the Series A-1 Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock) in respect of outstanding shares of Common Stock or in other property and the provisions of Sections C.1 or C.2 do not apply to such dividend or distribution, then and in each such event the holders of Preferred Stock shall receive, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution of such securities or other property in an amount equal to the amount of such securities or other property as they would have received if all outstanding shares of Preferred Stock had been converted into Common Stock on the date of such event.

(C) **Adjustment for Common Stock Dividends and Distributions.** If, after the Series A1 Original Issue Date, the Corporation at any time or from



time to time makes, or fixes a record date for determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, in each such event the applicable Conversion Price that is then in effect shall be decreased as of the time of such issuance or, in the event such record date is fixed, as of the close of business on such record date, by multiplying the applicable Conversion Price then in effect by a fraction of (i) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and (ii) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution; provided, however, that if such record date is fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the applicable Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the applicable Conversion Price shall be adjusted pursuant to this clause (C) to reflect the actual payment of such dividend or distribution.

(D) **Reclassifications and Reorganizations.** Subject to the provisions of Section C.2, if there shall occur any reorganization, recapitalization, reclassification, consolidation or merger involving the Corporation in which the Common Stock (but not the Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Section C.5.3(c)(vi)(A)-(C)), then, following any such reorganization, recapitalization, reclassification, consolidation or merger, each share of Preferred Stock shall thereafter be convertible in lieu of the Common Stock into which it was convertible prior to such event into the kind and amount of securities, cash or other property which a holder of the number of shares of Common Stock of the Corporation issuable upon conversion of one share of such series of Preferred Stock immediately prior to such reorganization, recapitalization, reclassification, consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation, including the approval of the Preferred Stock Directors) shall be made in the application of the provisions in this Section C.5 with respect to the rights and interests thereafter of the holders of the Preferred Stock, to the end that the provisions set forth in this Section 5 (including provisions with respect to changes in and other adjustments of the applicable Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of the Preferred Stock.

(d) **Certificate as to Adjustments.** Upon the occurrence of each adjustment or readjustment of the applicable Conversion Price pursuant to this Section C.5, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Preferred Stock a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based including the consideration received for any Additional Shares of Common Stock issued. The Corporation shall, upon the written request at any time of any holder of Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the applicable Conversion Price at the time in effect and (iii) the number of shares of Common Stock and the type and amount, if any, of other property which at the time would be received upon the conversion of the Preferred Stock.

(e) **Mechanics of Conversion.** Before any holder of Preferred Stock shall be entitled to convert the same into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the headquarters of the Corporation or of any transfer agent for the Corporation and shall give written notice to the Corporation at such office that the holder elects to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued (except that no such written notice of election to convert shall be necessary in the event of an automatic conversion pursuant to Section C.5(b) hereof). The Corporation shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Preferred Stock, or to the nominee or nominees of such holder, a certificate or certificates for the number of shares of Common Stock to which he shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Preferred Stock to be converted (except that in the case of an automatic conversion pursuant to Section C.5(b)(i) hereof such conversion shall be deemed to have been made on such date as is specified in or determined pursuant to such written consent, and in the case of an automatic conversion pursuant to Section C.5(b)(ii) hereof such conversion shall be deemed to have been made immediately prior to the closing of the offering referred to in Section C.5(b)(ii)) and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date. Upon the occurrence of either of the events specified in Section C.5(b) above, the outstanding shares of Preferred Stock shall be converted automatically without any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided, however, that the Corporation shall not be obligated to issue certificates evidencing the shares of Common Stock issuable upon such conversion unless the certificates evidencing such shares of Preferred Stock are either delivered to the Corporation or its transfer agent as provided above, or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Corporation to indemnify the Corporation from any loss incurred by it in connection with such certificates.

(f) **Fractional Shares.** No fractional shares of Common Stock shall be issued upon conversion of shares of Preferred Stock. In lieu of any fractional shares to which the holder of Preferred Stock would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of one share of Common Stock as determined in good faith by the Board of Directors of the Corporation. The number of whole shares issuable to each holder upon such conversion shall be determined on the basis of the number of shares of Common Stock issuable upon conversion of the total number of shares of Preferred Stock of each holder at the time converting into Common Stock.

(g) **No Dilution or Impairment.** Without the consent of the holders of Preferred Stock in accordance with Section 6 below, the Corporation will not amend its Third Amended and Restated Certificate of Incorporation or participate in any reorganization, recapitalization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, for the purpose of avoiding or seeking to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the taking of all such action as may be necessary or appropriate in order to protect the conversion rights of the holders of Preferred Stock against dilution or other impairment.

All shares of Preferred Stock and Class A Common which shall have been surrendered for conversion or automatically converted as herein provided shall no longer be deemed to be outstanding and all rights with respect to such shares shall immediately cease and terminate upon conversion, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Section C.5(f) (in the case of Preferred Stock) and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock and Class A Common so converted shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock and Class A Common accordingly.

(h) **Reservation of Stock Issuable Upon Conversion.** The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of Preferred Stock and Class A Common such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Preferred Stock and Class A Common; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Preferred Stock and Class A Common, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(i) **Notices of Record Date.** In the event that the Corporation shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock or Class A Common, whether in cash, property, stock, or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to offer for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights;

(iii) to effect any reclassification of its Common Stock or Class A Common outstanding involving a change in the Common Stock or Class A Common; or

(iv) to merge or consolidate with or into any other corporation, or sell, lease, or convey all or substantially all its property or business, or to liquidate, dissolve, or wind up or to consummate any Liquidation Event;

then, in connection with each such event, the Corporation shall send to the holders of Preferred Stock:

(A) at least 10 days' prior written notice of the date on which a record shall be taken for such dividend, distribution or subscription rights (and specifying the

date on which the holders of Common Stock or Class A Common shall be entitled thereto) or for determining rights to vote in respect of the matters referred to in (iii) and (iv) above, unless any such notice period shall be shortened or waived by the affirmative vote or written consent of the holders of at least a majority of the then-outstanding shares of Preferred Stock voting together as a single class on an as-if converted to Common Stock basis; and

(B) in the case of the matters referred to in (iii) and (iv) above, at least 15 days' prior written notice of the date when the same shall take place (and specifying the date on which the holders of Common Stock and/or Class A Common shall be entitled to exchange their Common Stock and/or Class A Common for securities or other property deliverable upon the occurrence of such event or the record date for the determination of such holders if such record date is earlier), unless any such notice period shall be shortened or waived by the affirmative vote or written consent of the holders of at least a majority of the then-outstanding shares of Preferred Stock, voting together as a single class on an as-if converted to Common Stock basis.

Each such written notice shall be delivered personally, via overnight courier or given by first class mail, postage prepaid, addressed to the holders of Preferred Stock at the address for each such holder as shown on the books of the Corporation.

(j) **Issue Taxes.** The Corporation shall pay any and all issue and other taxes (other than income taxes) that may be payable in respect of any issue or delivery of shares of Common Stock on conversion of shares of Preferred Stock and Class A Common pursuant hereto, provided, however, that the Corporation shall not be obligated to pay any transfer taxes resulting from any transfer requested by any holder in connection with any such conversion.

**6. Protective Provisions.** In addition to any other rights provided by law or in this Third Amended and Restated Certificate of Incorporation, (i) so long as at least Five Million Six Hundred Fifty One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock (subject to appropriate adjustment in the event of any Recapitalization Event shall be outstanding), the Corporation shall not (directly or indirectly, by merger, consolidation or otherwise), without first obtaining the affirmative vote or written consent of the holders of at least a majority of the outstanding shares of Preferred Stock, voting together as a single class, on an as-if converted to Common Stock basis, take the following actions:

(a) amend, alter or repeal of any provision of the Corporation's Third Amended and Restated Certificate of Incorporation or bylaws in a manner that adversely affects the powers, preferences or rights of either the Series A-1 Preferred or the Series A Preferred, including, without limitation, any amendment or modification of any provisions of the bylaws (i) restricting the transfers of securities of the Corporation or providing the Corporation or any other party with purchase, co-sale or other rights with respect to any securities of the Corporation proposed to be transferred or (ii) providing indemnification or similar rights to officers, directors or agents of the Corporation;

(b) authorize or issue of any class of stock having any right, preference or priority superior to or on a parity with either the Series A-1 Preferred or the Series A Preferred;

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- (c) pay any dividends, except for Accruing Dividends;
  - (d) effect a recapitalization, reorganization or Liquidation Event;
  - (e) redeem, retire, purchase or acquire, directly or indirectly, through subsidiaries or otherwise, any shares of capital stock, other than at cost, upon a termination of employment or service to the Corporation;
  - (f) enter into any lines of business that are not primarily related to the business of the Corporation as conducted as of the Series A-1 Original Issue Date;
  - (g) grant an exclusive license to any of the Corporation's material intellectual property rights, other than in the ordinary course of business;
  - (h) acquire all or substantially all of the properties, assets or stock of any other company or entity;
  - (i) change the authorized number of members of the Corporation's Board of Directors or the voting rights of stockholders in respect thereof;
  - (j) amend, waive or alter the rights and privileges of the Corporation's Common Stock or Class A Common;
  - (k) authorize or issue any additional shares of Class A Common;
  - (l) issue any additional shares of, or securities convertible into or exercisable for, Preferred Stock; and
  - (m) issue Additional Shares of Common Stock.

**7. Interpretation.** Whenever a reference is made in this Article IV to a Section, such reference shall be to the applicable section of this Article IV unless otherwise indicated.

## **ARTICLE V**

The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Third Amended and Restated Certificate of Incorporation or the bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation. Election of directors need not be by written ballot, unless the bylaws so provide.

## **ARTICLE VI**

Subject to any additional vote required by this Third Amended and Restated Certificate of Incorporation, including pursuant to Article IV, Section C 6(a), the bylaws of the Corporation, or otherwise, the Board of Directors is authorized to make, adopt, amend, alter or repeal the bylaws of the Corporation, and the stockholders shall also have power to make, adopt, amend, alter or repeal the bylaws of the Corporation.

## ARTICLE VII

To the fullest extent permitted by the Delaware General Corporation Law, as the same exists or may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. The Corporation is authorized to provide indemnification of agents (as defined in Section 317 of the CGCL) for breach of duty to the Corporation and its stockholders through bylaw provisions or through agreements with the agents, or through stockholder resolutions, or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the CGCL, subject, at any time or times that the Corporation is subject to Section 2115(b) of the CGCL, to the limits on such excess indemnification set forth in Section 204 of the CGCL. If the Delaware General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article VII to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law as so amended. Any repeal or modification of the foregoing provisions of this Article VII by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions occurring prior to, such repeal or modification. The rights conferred on any person by this Article VII shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the certificate of incorporation, these by-laws, agreement, vote of stockholders or disinterested directors or otherwise.

This Third Amended and Restated Certificate of Incorporation has been duly adopted by the Board of Directors and stockholders of the Corporation in accordance with the applicable provisions of Sections 228, 242, and 245 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, this Third Amended and Restated Certificate of Incorporation has been executed by the Chief Executive Officer of the Corporation this 19<sup>th</sup> day of April, 2010.

**EVERBRIDGE INC.**

By: /s/ Cinta Putra  
Cinta Putra, Chief Executive Officer

**CERTIFICATE OF AMENDMENT OF  
THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
EVERBRIDGE, INC.**

Everbridge, Inc., a company organized and existing under and by virtue of the (General Corporation Law of the State of Delaware (the “Corporation”), does hereby certify as follows:

1. That the name of the corporation is Everbridge, Inc.

2. That the date of filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware was January 22, 2008, whereafter such Certificate of Incorporation was amended and restated a number of times, concluding with the filing of the Corporation’s Third Amended and Restated Certificate of Incorporation (the “Current Charter”) with the Secretary of State of the State of Delaware on April 19, 2010.

3. That the Board of Directors of the Corporation, in accordance with Section 141 of the General Corporation Law of the State of Delaware, adopted a resolution, pursuant to Section 242 of the General Corporation Law of the State of Delaware, proposing and declaring it advisable to amend the Current Charter as set forth below.

4. That the stockholders of the Corporation approved the proposed amendment by written consent in accordance with Sections 228 and 242 of the General Corporation Law of the State of Delaware.

5. That in connection with the foregoing, the Introductory Paragraph at the beginning of ARTICLE IV of the Current Charter is hereby deleted in its entirety and substituted therefor is the following new Introductory Paragraph at the beginning of ARTICLE IV of the Current Charter:

“The Corporation is authorized to issue three classes of stock to be designated “Common Stock,” “Class A Common” and “Preferred Stock.” The total number of shares of Common Stock that the Corporation is authorized to issue is 100,000,000 shares, \$0.001 par value per share (the “Common Stock”). The total number of shares of Class A Common that the Corporation is authorized to issue is 8,841,040 shares, \$0.001 par value per share (the “Class A Common”). The total number of shares of Preferred Stock that the Corporation is authorized to issue is 44,307,693 shares, \$0.001 par value per share, (i) 17,992,237 of which shares of Preferred Stock are designated “Series A Preferred Stock” (the “Series A Preferred”), and (ii) 26,315,456 of which are designated as “Series A-1 Preferred Stock” (the “Series A-1 Preferred” and, together with the Series A Preferred, sometimes hereinafter the “Preferred Stock”).”

6. That in connection with the foregoing, ARTICLE IV, Section C(3)(b) of the Current Charter is hereby deleted in its entirety and substituted therefor is the following new ARTICLE IV, Section C(3)(b) of the Current Charter:

**“(b) Election of Board of Directors.** Notwithstanding the provisions of Section C.3(a) above, (i) the holders of Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors (each, a “Common Director”) at each meeting or pursuant to each consent of the Corporation’s stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; (ii) for so long as at least Five Million Six Hundred Fifty One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock (as adjusted for any Recapitalization Event) remain outstanding, the holders of Preferred Stock, voting as a separate class on an as-if converted to Common Stock basis, shall be entitled to elect three (3) members of the Board of Directors (each a “Preferred Stock Director”) at each meeting or pursuant to each consent of the Corporation’s stockholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; and (iii) the holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis, shall be entitled to elect all remaining members of the Board of Directors (each, an “Independent Director”) at each meeting or pursuant to each consent of the Corporation’s stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors. To the extent that there shall be less than Five Million Six Hundred Fifty One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock outstanding (subject to adjustment for a Recapitalization Event), any member of the Board of Directors who would otherwise have been elected in accordance with the provisions of clause (ii) hereof shall instead be elected by holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis. A vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or Written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section C.3(b). At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the: outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director.”

7. That said amendments shall become effective upon filing of the Certificate of Amendment with the Secretary of State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment of the Third Amended and Restated Certificate of Incorporation to be signed by Cinta Putra, its Chief Executive Officer, this 20<sup>th</sup> day of January, 2011.

EVERBRIDGE, INC.

By: /s/Cinta Putra  
Cinta Putra

Its: Chief Executive Officer



**CERTIFICATE OF AMENDMENT OF  
THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
EVERBRIDGE, INC.**

Everbridge, Inc., a company organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the “Corporation”), does hereby certify as follows:

1. That the name of the corporation is Everbridge, Inc.

2. That the date of filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware was January 22, 2008, where after such Certificate of Incorporation was amended and restated a number of times, concluding with the filing of the Corporation’s Third Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware on April 19, 2010, as amended pursuant with the filing of a Certificate of Amendment of Third Amended and Restated Certificate of Incorporation on January 20, 2011 (the “Current Charter”).

3. That the Board of Directors of the Corporation, in accordance with Section 141 of the General Corporation Law of the State of Delaware, adopted a resolution, pursuant to Section 242 of the General Corporation Law of the State of Delaware, proposing and declaring it advisable to amend the Current Charter as set forth below.

4. That the stockholders of the Corporation approved the proposed amendment by written consent in accordance with Sections 228 and 242 of the General Corporation Law of the State of Delaware.

5. That in connection with the foregoing, the Introductory Paragraph at the beginning of ARTICLE IV of the Current Charter is hereby deleted in its entirety and substituted therefor is the following new Introductory Paragraph at the beginning of ARTICLE IV of the Current Charter:

“The Corporation is authorized to issue three classes of stock to be designated “Common Stock,” “Class A Common” and “Preferred Stock.” The total number of shares of Common Stock that the Corporation is authorized to issue is 125,000,000 shares, \$0.001 par value per share (the “Common Stock”). The total number of shares of Class A Common that the Corporation is authorized to issue is 8,841,040 shares, \$0.001 par value per share (the “Class A Common”). The total number of shares of Preferred Stock that the Corporation is authorized to issue is 50,000,000 shares, \$0.001 par value per share, (i) 17,992,237 of which shares of Preferred Stock are designated “Series A Preferred Stock” (the “Series A Preferred”), and (ii) 32,007,763 of which are designated as “Series A-1 Preferred Stock” (the “Series A-1 Preferred” and, together with the Series A Preferred, sometimes hereinafter the “Preferred Stock”).”

6. That in connection with the foregoing, ARTICLE IV, Section C.3(b) of the Current Charter is hereby deleted in its entirety and substituted therefore is the following new ARTICLE IV, Section C.3(b) of the Current Charter:

“(b) **Election of Board of Directors.** Notwithstanding the provisions of Section C.3(a) above, (i) the holders of Common Stock, voting as a separate class, shall be entitled to elect two (2) members of the Board of Directors (each, a “Common Director”) at each meeting or pursuant to each consent of the Corporation’s stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors; (ii) for so long as at least Five Million Six Hundred Fifty-One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock (as adjusted for any Recapitalization Event) remain outstanding, the holders of Preferred Stock, voting as a separate class on an as-converted-to-Common Stock basis, shall be entitled to elect two (2) members of the Board of Directors (each a “Preferred Stock Director”) at each meeting or pursuant to each consent of the Corporation’s stockholders for the election of directors, and to remove from office such director and to fill any vacancy caused by the resignation, death or removal of such director; and (iii) the holders of Common Stock and Preferred Stock, voting together as a single class on an as-converted-to-Common Stock basis, shall be entitled to elect all remaining members of the Board of Directors (each, an “Independent Director”) at each meeting or pursuant to each consent of the Corporation’s stockholders for the election of directors, and to remove from office such directors and to fill any vacancy caused by the resignation, death or removal of such directors. To the extent that there shall be less than Five Million Six Hundred Fifty-One Thousand Four Hundred Sixty-One (5,651,461) shares of Preferred Stock outstanding (subject to adjustment for a Recapitalization Event), any member of the Board of Directors who would otherwise have been elected in accordance with the provisions of clause (ii) hereof shall instead be elected by holders of Common Stock and Preferred Stock, voting together as a single class on an as-if-converted to Common Stock basis. A vacancy in any directorship filled by the holders of any class or series shall be filled only by vote or written consent in lieu of a meeting of the holders of such class or series or by any remaining director or directors elected by the holders of such class or series pursuant to this Section C.3(b). At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class or series entitled to elect such director shall constitute a quorum for the purpose of electing such director.”

7. That said amendments shall become effective upon the filing of the Certificate of Amendment with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment of the Third Amended and Restated Certificate of Incorporation to be signed by Cinta Putra, its Chief Executive Officer, this 29<sup>th</sup> day of August, 2011.

EVERBRIDGE, INC.

By: /s/ Cinta Putra  
Cinta Putra

Its: Chief Executive Officer

**FOURTH AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
EVERBRIDGE, INC.**

Everbridge, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of the Delaware does hereby certify that:

**ONE:** The original name of this corporation was 3n Global, Inc. and the date of filing the original Certificate of Incorporation of this corporation with the Secretary of State of the State of Delaware (the “**Secretary**”) was January 22, 2008.

**TWO:** The Third Amended and Restated Certificate of Incorporation of this corporation as filed with the Secretary on April 19, 2010, and as amended on January 20, 2011 and August 29, 2011, is hereby amended and restated to read as follows:

**I.**

The name of this corporation is **EVERBRIDGE, INC.** (the “**Corporation**”).

**II.**

The address of the registered office of this Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, City of Wilmington, New Castle County, Delaware 19801, and the name of the registered agent of this Corporation in the State of Delaware at such address is Corporation Service Company.

**III.**

The purpose of this Corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law (“**DGCL**”).

**IV.**

**A.** This Corporation is authorized to issue two classes of stock to be designated, respectively, “**Common Stock**” and “**Preferred Stock**.” The total number of shares which the Corporation is authorized to issue is one hundred ten million (110,000,000) shares. One hundred million (100,000,000) shares shall be Common Stock, each having a par value of one-tenth of one cent (\$0.001) and ten million (10,000,000) shares shall be Preferred Stock, each having a par value of one-tenth of one cent (\$0.001).

**B.** The Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Corporation (the “**Board of Directors**”) is hereby expressly authorized to provide for the issue of all of any of the shares of the Preferred Stock in one or more series, and to fix the number of shares and to determine or alter for each such series, such voting powers, full or limited, or no voting powers, and such designation, preferences, and relative, participating, optional, or other rights and such qualifications, limitations, or restrictions thereof,

as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such shares and as may be permitted by the DGCL. The Board of Directors is also expressly authorized to increase or decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series then outstanding. In case the number of shares of any series shall be decreased in accordance with the foregoing sentence, the shares constituting such decrease shall resume the status that they had prior to the adoption of the resolution originally fixing the number of shares of such series. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the stock of the Corporation entitled to vote thereon, without a separate vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any certificate of designation filed with respect to any series of Preferred Stock.

C. Each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; *provided, however*, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Fourth Amended and Restated Certificate of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon by law or pursuant to this Fourth Amended and Restated Certificate of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock).

## V.

For the management of the business and for the conduct of the affairs of the Corporation, and in further definition, limitation and regulation of the powers of the Corporation, of its directors and of its stockholders or any class thereof, as the case may be, it is further provided that:

### A. MANAGEMENT OF BUSINESS.

The management of the business and the conduct of the affairs of the Corporation shall be vested in its Board of Directors. The number of directors which shall constitute the Board of Directors shall be fixed exclusively by resolutions adopted by a majority of the authorized number of directors constituting the Board of Directors.

### B. BOARD OF DIRECTORS

Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, following the closing of the initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the “**1933 Act**”), covering the offer and sale of Common Stock to the public (the “**Initial Public Offering**”), the directors shall be divided into three classes designated as Class I, Class II and Class III, respectively. The Board of Directors is authorized to assign members of the Board of

Directors already in office to such classes at the time the classification becomes effective. At the first annual meeting of stockholders following the closing of the Initial Public Offering, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders following the closing of the Initial Public Offering, the term of office of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders following the closing of the Initial Public Offering, the term of office of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders, directors shall be elected for a full term of three years to succeed the directors of the class whose terms expire at such annual meeting.

Notwithstanding the foregoing provisions of this section, each director shall serve until his or her successor is duly elected and qualified or until his or her earlier death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

#### **C. REMOVAL OF DIRECTORS.**

Subject to the rights of any series of Preferred Stock to elect additional directors under specified circumstances, following the closing of the Initial Public Offering, neither the Board of Directors nor any individual director may be removed without cause.

Subject to any limitation imposed by law, any individual director or directors may be removed with cause by the affirmative vote of the holders of at least sixty six and two thirds percent (66 2/3%) of the voting power of all then outstanding shares of capital stock of the Corporation entitled to vote generally at an election of directors.

#### **D. VACANCIES.**

Subject to any limitations imposed by applicable law and subject to the rights of the holders of any series of Preferred Stock, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors, shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by the stockholders and except as otherwise provided by applicable law, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, and not by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified.

#### **E. BYLAW AMENDMENTS.**

1. The Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the Corporation. Any adoption, amendment or repeal of the Bylaws of the Corporation by the Board of Directors shall require the approval of a majority of the authorized number of directors. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the Corporation; *provided, however,* that, in addition to any vote of the holders of any

class or series of stock of the Corporation required by law or by this Fourth Amended and Restated Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3%) of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

2. The directors of the Corporation need not be elected by written ballot unless the Bylaws so provide.

3. No action shall be taken by the stockholders of the Corporation except at an annual or special meeting of stockholders called in accordance with the Bylaws, and no action shall be taken by the stockholders by written consent or electronic transmission.

4. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the Bylaws of the Corporation.

## **VI.**

A. The liability of the directors for monetary damages shall be eliminated to the fullest extent under applicable law.

B. To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which applicable law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise in excess of the indemnification and advancement otherwise permitted by such applicable law. If applicable law is amended after approval by the stockholders of this Article VI to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director to the Corporation shall be eliminated or limited to the fullest extent permitted by applicable law as so amended.

C. Any repeal or modification of this Article VI shall only be prospective and shall not affect the rights or protections or increase the liability of any director under this Article VI in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

## **VII.**

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (A) any derivative action or proceeding brought on behalf of the Corporation; (B) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders; (C) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the DGCL, this Fourth Amended and Restated Certificate of Incorporation or the Bylaws of the Corporation; or (D) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine.

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## VIII.

**A.** The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Fourth Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, except as provided in paragraph B. of this Article VIII, and all rights conferred upon the stockholders herein are granted subject to this reservation.

**B.** Notwithstanding any other provisions of this Fourth Amended and Restated Certificate of Incorporation or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any particular class or series of the Corporation required by law or by this Fourth Amended and Restated Certificate of Incorporation or any certificate of designation filed with respect to a series of Preferred Stock, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3%) of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to alter, amend or repeal Articles V, VI, VII and VIII .

\* \* \* \*

**THREE:** This Fourth Amended and Restated Certificate of Incorporation has been duly approved by the Board of Directors of the Corporation.

**FOUR:** This Fourth Amended and Restated Certificate of Incorporation was approved by the holders of the requisite number of shares of said Corporation in accordance with Section 228 of the DGCL. This Fourth Amended and Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the DGCL by the stockholders of the Corporation.

**IN WITNESS WHEREOF**, Everbridge, Inc. has caused this Fourth Amended and Restated Certificate of Incorporation to be signed by its President and Chief Executive Officer this      day of      , 2016.

**EVERBRIDGE, INC.**

By: \_\_\_\_\_  
Jaime Ellertson  
President and Chief Executive Officer



**AMENDED AND RESTATED BYLAWS**  
**OF**  
**3N GLOBAL, INC.**  
(A Delaware Corporation)

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**AMENDED AND RESTATED BYLAWS  
OF  
3N GLOBAL, INC.  
(A Delaware Corporation)**

**ARTICLE I**

**CORPORATE OFFICES**

**1.1 Registered Office.**

The registered office of the corporation shall be in the City of Wilmington, County of New Castle, State of Delaware. The name of the registered agent of the corporation at such location is Corporation Service Company.

**1.2 Other Offices.**

The Board of Directors may at any time establish other offices at any place or places where the corporation is qualified to do business.

**ARTICLE II**

**MEETINGS OF STOCKHOLDERS**

**2.1 Place Of Meetings.**

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the Board of Directors. In the absence of any such designation, stockholders' meetings shall be held at the registered office of the corporation.

**2.2 Annual Meeting.**

The annual meeting of stockholders shall be held on such date, time and place, either within or without the State of Delaware, as may be designated by resolution of the Board of Directors each year; At the meeting, directors shall be elected and any other proper business may be transacted.

**2.3 Special Meeting.**

A special meeting of the stockholders may be called at any time by the Board of Directors, the chairman of the board, the president or by one or more stockholders holding shares in the aggregate entitled to cast not less than ten percent (10%) of the votes at that meeting.

If a special meeting is called by any person or persons other than the Board of Directors, the president or the chairman of the board, the request shall be in writing, specifying the time of such meeting and the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the chairman of the board, the president, any vice president, or the secretary of the corporation. No business may be transacted at such special meeting otherwise than specified in such notice. The officer receiving the request shall cause notice to be promptly given to the stockholders entitled to vote, in accordance with the provisions of Sections 2.4 and 2.5 of this Article II, that a meeting will be held at the time requested by the person or persons calling the meeting, not less than thirty-five (35) nor more than sixty (60) days after the receipt of the request. If the notice is not given within twenty (20) days after the receipt of the request, the person or persons requesting the meeting may give the notice. Nothing contained in this paragraph of this Section 2.3 shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

At any time or times that the corporation is subject to Section 2115(b) of the California General Corporation Law ("CGCL"), stockholders holding five percent (5%) or more of the outstanding shares shall have the right to call a special meeting of stockholders as set forth in this Section 2.3.

#### **2.4 Notice Of Stockholders' Meetings.**

All notices of meetings with stockholders shall be in writing and shall be sent or otherwise given in accordance with Section 2.5 of these Bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. The notice shall specify the place (if any), date and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called.

#### **2.5 Manner Of Giving Notice; Affidavit Of Notice.**

Written notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his address as it appears on the records of the corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders may be given by electronic mail or other electronic transmission, in the manner provided in Section 232 of the Delaware General Corporation Law. An affidavit of the secretary or an assistant secretary or of the transfer agent of the corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

#### **2.6 Quorum.**

The holders of a majority of the shares of stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the certificate of incorporation. If, however, such quorum is not present or represented at any meeting of the stockholders, then either (a) the chairman of the meeting or (b) holders of a majority of the shares of stock entitled to vote who are present, in person or by proxy, shall have power to adjourn the meeting to another place (if any), date or time.

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## **2.7 Adjourned Meeting; Notice.**

When a meeting is adjourned to another place (if any), date or time, unless these Bylaws otherwise require, notice need not be given of the adjourned meeting if the time and place (if any), thereof and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, notice of the place (if any), date and time of the adjourned meeting and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

## **2.8 Organization; Conduct of Business.**

(a) Such person as the Board of Directors may have designated or, in the absence of such a person, the President of the corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as Chairman of the meeting. In the absence of the Secretary of the corporation, the Secretary of the meeting shall be such person as the Chairman of the meeting appoints.

(b) The Chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including the manner of voting and the conduct of business. The date and time of opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting.

## **2.9 Voting.**

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.12 of these Bylaws, subject to the provisions of Sections 217 and 218 of the General Corporation Law of Delaware (relating to voting rights of fiduciaries, pledgors and joint owners of stock and to voting trusts and other voting agreements).

Except as may be otherwise provided in the certificate of incorporation, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. All elections shall be determined by a plurality of the votes cast, and except as otherwise required by law, all other matters shall be determined by a majority of the votes cast affirmatively or negatively.

## **2.10 Waiver Of Notice.**

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the certificate of incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or waiver by electronic mail or other electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice, or any waiver of notice by electronic transmission, unless so required by the certificate of incorporation or these Bylaws.

## **2.11 Stockholder Action By Written Consent Without A Meeting.**

Unless otherwise provided in the certificate of incorporation, any action required to be taken at any annual or special meeting of stockholders of the corporation, or any action that may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, is (i) signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted, and (ii) delivered to the corporation in accordance with Section 228(a) of the Delaware General Corporation Law.

Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the date the earliest dated consent is delivered to the corporation, a written consent or consents signed by a sufficient number of holders to take action are delivered to the corporation in the manner prescribed in this Section. A telegram, cablegram, electronic mail or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for purposes of this Section to the extent permitted by law. Any such consent shall be delivered in accordance with Section 228(d)(1) of the Delaware General Corporation Law.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing (including by electronic mail or other electronic transmission as permitted by law). If the action which is consented to is such as would have required the filing of a certificate under any section of the General Corporation Law of Delaware if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu



of any statement required by such section concerning any vote of stockholders, that written notice and written consent have been given as provided in Section 228 of the General Corporation Law of Delaware.

## **2.12 Record Date For Stockholder Notice; Voting; Giving Consents.**

In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action.

If the Board of Directors does not so fix a record date:

(a) The record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

(b) The record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent (including consent by electronic mail or other electronic transmission as permitted by law) is delivered to the corporation.

(c) The record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, if such adjournment is for thirty (30) days or less; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

## **2.13 Proxies.**

Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by an instrument in writing or by an electronic transmission permitted by law filed with the secretary of the corporation, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A proxy shall be deemed signed if the stockholder's name is placed on the proxy (whether by manual signature, typewriting, facsimile, electronic or telegraphic transmission or otherwise) by the stockholder or the stockholder's attorney-in-fact. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the General Corporation Law of Delaware.

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## ARTICLE III

### DIRECTORS

#### 3.1 Powers.

Subject to the provisions of the General Corporation Law of Delaware and any limitations in the certificate of incorporation or these Bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the Board of Directors.

#### 3.2 Number Of Directors.

Upon the adoption of these Bylaws, the number of directors constituting the entire Board of Directors shall be four (4), provided, however, that from and after the date that the corporation first issues shares of its Series A Preferred Stock, the number of directors constituting the entire Board of Directors shall be seven (7), and shall not be changed without the approval of all other board members. Thereafter, this number may be changed by a resolution of the Board of Directors or of the stockholders, subject to Section 3.4 of these Bylaws. No reduction of the authorized number of directors shall have the effect of removing any director before such director's term of office expires.

#### 3.3 Election, Qualification And Term Of Office Of Directors.

Except as provided in Section 3.4 of these Bylaws, and unless otherwise provided in the certificate of incorporation, directors shall be elected at each annual meeting of stockholders to hold office until the next annual meeting. Directors need not be stockholders unless so required by the certificate of incorporation or these Bylaws, wherein other qualifications for directors may be prescribed. Each director, including a director elected to fill a vacancy, shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal.

Unless otherwise specified in the certificate of incorporation, elections of directors need not be by written ballot.

#### 3.4 Resignation And Vacancies.

Any director may resign at any time upon written notice to the attention of the Secretary of the corporation. Subject to the Certificate of Incorporation, when one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this section in the filling of other vacancies.

Unless otherwise provided in the Certificate of Incorporation or these Bylaws:

(a) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(b) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these Bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the General Corporation Law of Delaware.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole board (as constituted immediately prior to any such increase), then the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the total number of the shares at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the General Corporation Law of Delaware as far as applicable.

### **3.5 Place Of Meetings; Meetings By Telephone.**

The Board of Directors of the corporation may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

### **3.6 Regular Meetings.**

Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the board.

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### **3.7 Special Meetings; Notice.**

Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the chairman of the board, the president, any vice president, the secretary or any two directors.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by first-class mail, facsimile, electronic transmission, or telegram, charges prepaid, addressed to each director at that director's address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. If the notice is delivered personally or by facsimile, electronic transmission, telephone or telegram, it shall be delivered at least 48 hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose of the meeting. The notice need not specify the place of the meeting, if the meeting is to be held at the principal executive office of the corporation. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

### **3.8 Quorum.**

At all meetings of the Board of Directors, a majority of the total number of directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute or by the certificate of incorporation. If a quorum is not present at any meeting of the Board of Directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

### **3.9 Waiver Of Notice.**

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the certificate of incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, or waiver by electronic mail or other electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors, or members of a committee of directors, need be specified in any written waiver of notice unless so required by the certificate of incorporation or these Bylaws.

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### **3.10 Board Action By Written Consent Without A Meeting.**

Unless otherwise restricted by the certificate of incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

### **3.11 Fees And Compensation Of Directors.**

Unless otherwise restricted by the certificate of incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors. No such compensation shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

### **3.12 Approval Of Loans To Officers.**

The corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiary, including any officer or employee who is a director of the corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in this section shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

### **3.13 Removal Of Directors.**

Unless otherwise restricted by statute, by the Certificate of Incorporation or by these Bylaws, any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided, however, that if the stockholders of the corporation are entitled to cumulative voting, if less than the entire Board of Directors is to be removed, no director may be removed without cause if the votes cast against his removal would be sufficient to elect him if then cumulatively voted at an election of the entire Board of Directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

### **3.14 Chairman Of The Board Of Directors.**

The corporation may also have, at the discretion of the Board of Directors, a chairman of the Board of Directors who shall not be considered an officer of the corporation.

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## ARTICLE IV

### COMMITTEES

#### 4.1 Committees Of Directors.

The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The Board may designate 1 or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, or in these Bylaws, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the General Corporate Law of Delaware to be submitted to stockholders for approval or (ii) adopting, amending or repealing any Bylaw of the corporation.

#### 4.2 Committee Minutes.

Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

#### 4.3 Meetings And Action Of Committees.

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Section 3.5 (place of meetings and meetings by telephone), Section 3.6 (regular meetings), Section 3.7 (special meetings and notice), Section 3.8 (quorum), Section 3.9 (waiver of notice), and Section 3.10 (action without a meeting) of these Bylaws, with such changes in the context of such provisions as are necessary to substitute the committee and its members for the Board of Directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the Board of Directors and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

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## ARTICLE V

### OFFICERS

#### 5.1 Officers.

The officers of the corporation shall be a chief executive officer, a president, a secretary, and a chief financial officer. The corporation may also have, at the discretion of the Board of Directors, a chief operating officer, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and any such other officers as may be appointed in accordance with the provisions of Section 5.3 of these Bylaws. Any number of offices may be held by the same person.

#### 5.2 Appointment Of Officers.

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 or 5.5 of these Bylaws, shall be appointed by the Board of Directors, subject to the rights, if any, of an officer under any contract of employment.

#### 5.3 Subordinate Officers.

The Board of Directors may appoint, or empower the chief executive officer or the president to appoint, such other officers and agents as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine.

#### 5.4 Removal And Resignation Of Officers.

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board of Directors at any regular or special meeting of the board or, except in the case of an officer chosen by the Board of Directors, by any officer upon whom the power of removal is conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

#### 5.5 Vacancies In Offices.

Any vacancy occurring in any office of the corporation shall be filled by the Board of Directors.

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#### **5.6 Chief Executive Officer.**

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board, if any, the chief executive officer of the corporation (if such an officer is appointed) shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and the officers of the corporation. He or she shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the board, at all meetings of the Board of Directors and shall have the general powers and duties of management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

#### **5.7 President.**

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board (if any) or the chief executive officer, the president shall have general supervision, direction, and control of the business and other officers of the corporation. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

#### **5.8 Vice Presidents.**

In the absence or disability of the chief executive officer and president, the vice presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a vice president designated by the Board of Directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors, these Bylaws, the president or the chairman of the board.

#### **5.9 Secretary.**

The secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of directors, committees of directors, and stockholders. The minutes shall show the time and place of each meeting, the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the Board of Directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.



The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors required to be given by law or by these Bylaws. He or she shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.

#### **5.10 Chief Financial Officer.**

The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

The chief financial officer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the president, the chief executive officer, or the directors, upon request, an account of all his or her transactions as chief financial officer and of the financial condition of the corporation, and shall have other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

#### **5.11 Representation Of Shares Of Other Corporations.**

The chairman of the board, the chief executive officer, the president, any vice president, the chief financial officer, the secretary or assistant secretary of this corporation, or any other person authorized by the Board of Directors or the chief executive officer or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by the person having such authority.

#### **5.12 Authority And Duties Of Officers.**

In addition to the foregoing authority and duties, all officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the Board of Directors or the stockholders.

## ARTICLE VI

### INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES,

### AND OTHER AGENTS

#### 6.1 Indemnification Of Directors And Officers.

The corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, indemnify and hold harmless each of its directors and officers against all liability and loss suffered and expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any action, suit, or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), arising by reason of the fact that such person is or was a director, officer or agent of the corporation. For purposes of this Section 6.1, a "director" or "officer" of the corporation includes any person (a) who is or was a director or officer of the corporation, (b) who is or was serving at the request of the corporation as a director or officer of another corporation, partnership, limited liability company, joint venture, trust, non-profit entity or other enterprise, or (c) who was a director or officer of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation. Any repeal or modification of the foregoing provisions of this Article VI by the stockholders or directors of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of, or increase the liability of any director of the corporation with respect to any acts or omissions occurring prior to, such repeal or modification.

#### 6.2 Indemnification Of Others.

The corporation shall have the power, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, to indemnify each of its employees and agents (other than directors and officers) against all liability and loss suffered and expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Section 6.2, an "employee" or "agent" of the corporation (other than a director or officer) includes any person (a) who is or was an employee or agent of the corporation, (b) who is or was serving at the request of the corporation as an employee or agent of another corporation, partnership, limited liability company, joint venture, trust, non-profit entity or other enterprise, or (c) who was an employee or agent of a corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

#### 6.3 Payment Of Expenses In Advance.

Expenses incurred in defending any action or proceeding for which indemnification is required pursuant to Section 6.1 or for which indemnification is permitted pursuant to Section 6.2 shall be paid by the corporation in advance of the final disposition of such action or proceeding upon (a) in the case of Section 6.2 only, prior authorization by the

Board of Directors, and (b) receipt of an undertaking by or on behalf of the indemnified party to repay such amount if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that the indemnified party is not entitled to be indemnified as authorized in this Article VI.

#### **6.4 Indemnity Not Exclusive.**

The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office, to the extent that such additional rights to indemnification are authorized in the certificate of incorporation

#### **6.5 Insurance.**

The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability under the provisions of the General Corporation Law of Delaware.

#### **6.6 Conflicts.**

No indemnification or advance shall be made under this Article VI, except where such indemnification or advance is mandated by law or the order, judgment or decree of any court of competent jurisdiction, in any circumstance where it appears:

(a) That it would be inconsistent with a provision of the certificate of incorporation, these Bylaws, a resolution of the stockholders or an agreement in effect at the time of the accrual of the alleged cause of the action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

**6.7 Savings Clause.** If this Article VI, or any portion hereof, shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nonetheless indemnify each director and officer to the full extent not prohibited by any applicable portion of this Article VI that shall not have been invalidated, or by any other applicable law. If this Article VI shall be invalid due to the application of the indemnification provisions of the corporation code of another jurisdiction than the State of Delaware, then the corporation shall indemnify each director and officer to the full extent permitted under the law of such jurisdiction.

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## ARTICLE VII

### RECORDS AND REPORTS

#### 7.1 Maintenance And Inspection Of Records.

The corporation shall, either at its principal executive offices or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these Bylaws as amended to date, accounting books, and other records.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation's stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the corporation at its registered office in Delaware or at its principal place of business.

A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the address of each such stockholder and the number of shares registered in each such stockholder's name, shall be open to the examination of any such stockholder for a period of at least ten (10) days prior to the meeting in the manner provided by law. The stock list shall also be open to the examination of any stockholder during the whole time of the meeting as provided by law. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

#### 7.2 Inspection By Directors.

Any director shall have the right to examine the corporation's stock ledger, a list of its stockholders, and its other books and records for a purpose reasonably related to his or her position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

#### 7.3 Annual Report.

(a) Subject to the provisions of Section 7.3(b) of this Article VII, the Board of Directors shall cause an annual report to be sent to each stockholder of the corporation not later than one hundred twenty (120) days after the close of the corporation's fiscal year. Such report

shall include a balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation. When there are more than 100 stockholders of record of the corporation's shares, as determined by Section 605 of the CGCL, additional information as required by Section 1501(b) of the CGCL shall also be contained in such report, provided that if the corporation has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, that Act shall take precedence. Such report shall be sent to stockholders at least fifteen (15) days prior to the next annual meeting of stockholders after the end of the fiscal year to which it relates.

(b) If and so long as there are fewer than 100 holders of record of the corporation's shares, the requirement of sending of an annual report to the stockholders of the corporation is hereby expressly waived.

## **ARTICLE VIII**

### **GENERAL MATTERS**

#### **8.1 Checks.**

From time to time, the Board of Directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

#### **8.2 Execution Of Corporate Contracts And Instruments.**

The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

#### **8.3 Stock Certificates; Partly Paid Shares.**

The shares of a corporation shall be represented by certificates, provided that the Board of Directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding the adoption of such a resolution by the Board of Directors, every holder of stock represented by certificates and upon request every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of the corporation by the chairman or vice-chairman of the Board of Directors, or the president, chief executive officer, or vice-president,

and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of such corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if he or she were such officer, transfer agent or registrar at the date of issue.

The corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, upon the books and records of the corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

#### **8.4 Special Designation On Certificates.**

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the General Corporation Law of Delaware, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

#### **8.5 Lost Certificates.**

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and cancelled at the same time. The corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or the owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

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#### **8.6 Construction; Definitions.**

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Delaware General Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term “person” includes both a corporation and a natural person.

#### **8.7 Dividends.**

The directors of the corporation, subject to any restrictions contained in (a) the General Corporation Law of Delaware or (b) the certificate of incorporation, may declare and pay dividends upon the shares of its capital stock. Dividends may be paid in cash, in property, or in shares of the corporation’s capital stock.

The directors of the corporation may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the corporation, and meeting contingencies.

#### **8.8 Fiscal Year.**

The fiscal year of the corporation shall be fixed by resolution of the Board of Directors and may be changed by the Board of Directors.

#### **8.9 Seal.**

The corporation may adopt a corporate seal, which may be altered at pleasure, and may use the same by causing it or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

#### **8.10 Transfer Of Stock.**

Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction in its books.

#### **8.11 Stock Transfer Agreements.**

The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the General Corporation Law of Delaware.

## **8.12 Registered Stockholders.**

The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner, shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

## **8.13 Facsimile Signature**

In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, facsimile signatures of any officer or officers of the corporation may be used whenever and as authorized by the Board of Directors or a committee thereof.

# **ARTICLE IX**

## **RIGHT OF FIRST REFUSAL**

### **9.1 Right of First Refusal and Transfer Notice.**

Except as provided in Section 9.6 of this Article IX, in the event any stockholder of this corporation (a “Transferring Stockholder”) proposes to sell, pledge or otherwise transfer (a “Transfer”) any shares of the common stock of this corporation (the “Common Stock”) or Class A Common Stock of this corporation (the “Class A Common”), including all stock options, warrants, stock subscription rights and the like in respect of Common Stock or Class A Common, liquidating dividends, stock dividends, stock splits, new, substituted or additional securities of any type whatsoever in respect of Common Stock or Class A Common, or any other property or security which the Transferring Stockholder is or may be entitled to receive as a result of the Transferring Stockholder’s ownership of such shares of Common Stock or Class A Common) (collectively, the “Covered Stock”), the corporation in the first instance, and then (i) each holder of the corporation’s outstanding Series A Preferred Stock (the “Series A Preferred Holders”) who holds at least 4% of the outstanding capital stock of the corporation on a fully-diluted as-converted-to-common basis, and (ii) each holder of Common Stock that holds at least 4% of the outstanding capital stock of the corporation on a fully-diluted as-converted-to-common basis (collectively the “Common Holders”), shall have a right of first refusal (the “Right of First Refusal”) with respect to the Covered Stock in accordance with the provisions set forth herein. Before effecting any proposed Transfer, the Transferring Stockholder shall give written notice (the “Transfer Notice”) to the corporation describing fully the proposed Transfer, including the number and type of Covered Stock proposed to be Transferred, the proposed bona fide transfer price and the name and address of the transferor and the proposed transferee. The corporation shall deliver a copy of such proposed Transfer Notice to each of the Series A Preferred Holders within five (5) days of receipt of such Transfer Notice by the corporation. In the case of a proposed gift transfer, the bona fide transfer price for purposes of this Right of First Refusal shall be determined in good faith by the board of directors of the corporation promptly upon the corporation’s receipt of, and as of the date of, the Transfer Notice. This Bylaw may be amended or repealed only upon the express written consent of (i) the corporation, (ii) the holders a majority of shares of Common Stock held by the Common Holders, and (iii) the holders of at



least a majority of the shares of Common Stock issued or issuable upon conversion of the Series A Preferred Stock held by Series A Preferred Holders. Notwithstanding the foregoing, (i) the consent of the Common Holders shall not be required for any amendment that does not apply to the Common Holders, and (ii) any provision of this Bylaw may be waived by the waiving party on such waiving party's own behalf, without the consent of the other party. Notwithstanding anything in these Bylaws to the contrary, any Transfers of Covered Stock that are subject to the Right of First Refusal and Co-Sale Agreement among the corporation, certain holders of the corporation's Series A Preferred Stock and certain holders of the corporation's Common Stock shall not be subject to the restrictions on transfer contained in this Article IX.

### **9.2 Corporation's Right.**

The corporation shall have the right, for a period of 30 days after the date the Transfer Notice is delivered to the corporation, to elect to purchase all, but not less than all, of such Covered Stock on the terms set forth in the Transfer Notice by delivery to the Transferring Stockholder of a notice of exercise of the corporation's Right of First Refusal, provided, however, that, with the consent of the Transferring Stockholder, the corporation shall have the option to purchase a lesser portion of the Covered Stock specified in said Transfer Notice at the price and upon the terms set forth therein. The corporation's rights under this Section 9.2 shall not be assigned without the prior written consent of ABS Ventures IX, L.P. In the event the corporation elects to acquire any of the Covered Stock of the Transferring Stockholder as specified in said Transferring Stockholder's Transfer Notice, the Secretary of the corporation shall so notify the Transferring Stockholder in the manner described above within forty (40) days after the corporation receives said Transferring Stockholder's Transfer Notice.

### **9.3 Sale of Common Stock.**

If the corporation fails to timely exercise its Right of First Refusal, or determines not to exercise such right, the corporation shall immediately notify all Preferred Holders and Common Holders in writing (the "Additional Transfer Notice") of the terms of the proposed Transfer and the number of shares of the Covered Stock available for purchase by the Preferred Holders and Common Holders upon exercise by them of their Right of First Refusal. The Preferred Holders and Common Holders shall have the right for a period of 20 days from the receipt of the Additional Transfer Notice to elect to purchase any number of shares of the Covered Stock so available, each Preferred Holder and Common Holder having the right, as set forth herein, to elect to purchase up to his, her or its pro rata portion of such shares of the Covered Stock on the terms set forth in the Transfer Notice by delivery to the corporation and the stockholder of a notice of exercise of such Right of First Refusal. Each Preferred Holder's and Common Holder's pro rata portion shall be equal to the total of the number of shares of Common Stock of the corporation (assuming conversion into Common Stock of any Preferred Stock and other convertible securities then outstanding) held by such Preferred Holder or Common Holder (as the case may be), as a percentage of the total number of shares of Common Stock of the corporation (assuming conversion into Common Stock of any Preferred Stock and other convertible securities then outstanding) held by all Preferred Holders and Common Holders exercising their Right of First Refusal hereunder. A Preferred Holder's and Common Holder's rights under this Section 9.3 shall be assignable to any person controlling, controlled by, or under common control with such Preferred Holder or Common Holder. Each Preferred Holder and

Common Holder may, in its notice of exercise of his, her or its Right of First Refusal, subscribe for any number of shares of Covered Stock of the corporation subject to the Right of First Refusal. Any shares of Covered Stock of the corporation subject to the Right of First Refusal which are not purchased by a Preferred Holder or a Common Holder exercising his, her or its pro rata Right of First Refusal, may be purchased by any Preferred Holder or a Common Holder (“Oversubscribing Holders”) who indicated the desire to purchase more (specifying the number of shares) than their pro rata shares of Covered Stock of the corporation in their respective notices of exercise (“Oversubscription Right”). If not enough shares of Covered Stock of the Transferring Stockholder are offered for sale to satisfy all properly exercised Oversubscription Rights, the Covered Stock shall be sold to and purchased by Oversubscribing Holders exercising Oversubscription Rights pro rata. For the purpose of Oversubscription Rights each Oversubscribing Holder’s pro rata portion shall be equal to the total of the number of shares of Common Stock of the corporation (assuming conversion into Common Stock of any Preferred Stock and other convertible securities then outstanding) held by such Oversubscribing Holder, as a percentage of the total number of shares of Common Stock of the corporation (assuming conversion into Common Stock of any Preferred Stock and other convertible securities then outstanding) held by all Oversubscribing Holders.

#### **9.4 Completion of Transaction.**

If the corporation and the Preferred Holders and Common Holders fail to give notice of exercise of their respective Rights of First Refusal in accordance with the time periods set forth in Sections 9.2 and 9.3 above, the Transferring Stockholder may, not later than 90 days following delivery to the corporation of the Transfer Notice, conclude a Transfer of the Covered Stock subject to the Transfer Notice which have not been purchased by the corporation, the Preferred Holders or the Common Holders pursuant to the exercise of a Right of First Refusal on the terms and conditions described in the Transfer Notice. Any proposed Transfer on the terms and conditions different from those described in the Transfer Notice, as well as any subsequent proposed Transfer by the Transferring Stockholder, shall again be subject to the Right of First Refusal and shall require compliance by the Transferring Stockholder with the procedure described in this Article IX. If the corporation, the Preferred Holders or the Common Holders exercise the Right of First Refusal, the parties shall consummate the sale of Covered Stock to the corporation and/or the Preferred or Common Holders on the terms set forth in the Transfer Notice within 90 days after the delivery of the Transfer Notice to the corporation.

#### **9.5 Termination of Right of First Refusal.** This Article IX shall not apply to transfers upon or after the earlier to occur of any of the following:

(a) a closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock (other than a registration on Form S-8, Form S-4 or comparable or successor forms), (i) which results in aggregate gross proceeds (prior to underwriters’ commissions and expenses) to the corporation of at least \$35,000,000, and (ii) a per share price not less than five times the Original Series A Price per share (as such term is defined in the Certificate of Incorporation, appropriately adjusted for combinations, consolidations, subdivisions, recapitalizations, stock splits or other similar transaction) (a “Qualified IPO”);

(b) a Liquidation Event (as defined in the Certificate of Incorporation); or

(c) February 28, 2018.

**9.6 Exceptions.** Anything to the contrary contained herein notwithstanding, the following transactions shall be exempt from the provisions of this Bylaw:

(a) any Transfers of Covered Stock by a stockholder without consideration of any kind: (i) to such stockholder's spouse, lineal descendant or antecedent, father, mother, brother, sister, adopted child or adopted grandchild; (ii) to the spouse of a stockholder's child, adopted child, grandchild or adopted grandchild; or (iii) to a trust or trusts for the exclusive benefit of a stockholder or a stockholder's family members as described in this Section 9.6(a), provided that in all cases the transferring stockholder provides prior written notice of such transfer to the corporation and the transferee agrees in writing to be bound by the provisions of this Article IX prior to completion of such Transfer; or

(b) any transfer of Common Stock by a stockholder made: (i) pursuant to a merger or consolidation of the corporation with or into another entity or entities; (ii) pursuant to the winding up and dissolution of the corporation; (iii) at, and pursuant to, the Qualified IPO; or (iv) in connection with repurchases of Covered Stock by the corporation.

In any such case, the transferee, assignee, or other recipient shall receive and hold such Covered Stock subject to the provisions of this Article IX, and there shall be no further transfer of such stock except in accordance with this Article IX.

**9.7 Other Transfer Restrictions.** Notwithstanding anything herein to the contrary, no holder of Covered Stock shall transfer any such Covered Stock to any individual or entity if, in the determination of the corporation's Board of Directors, such transfer is not in the best interest of the corporation or its stockholders, including but not limited to a transfer to (a) an individual or entity which directly or indirectly competes with the corporation, or (b) any customer, distributor or supplier of the corporation, if the corporation's Board of Directors should determine that such transfer would result in such customer, distributor or supplier receiving information that would place the corporation at a competitive disadvantage with respect to such customer, distributor or supplier.

**9.8 Legend; Transfers Void.**

(a) The certificates representing shares of stock of the corporation shall bear on their face the following legend so long as the foregoing right of first refusal remains in effect:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE CORPORATION AND CERTAIN STOCKHOLDERS OF THE CORPORATION, AS PROVIDED IN THE BYLAWS OF THE CORPORATION, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE CORPORATION AND THE SALE, TRANSFER OR HYPOTHECATION OF SUCH SHARES MAY NOT BE EFFECTED OTHER THAN IN ACCORDANCE WITH THE PROVISIONS THEREOF"

(b) The corporation shall not be required (i) to transfer on its books any Covered Stock that have been sold or otherwise transferred in violation of any of the provisions of this Article IX, or (ii) to treat as owner of such Covered Stock, or to accord the right to vote or pay dividends to, any purchaser or other transferee to whom such Covered Stock have attempted to be so transferred. In furtherance thereof, any sale or transfer, or purported sale or transfer, of Covered Stock shall be null and void unless the terms, conditions, and provisions of this Article IX are strictly observed and followed

## **ARTICLE X**

### **AMENDMENTS**

Except as otherwise provided herein or in the Certificate of Incorporation, the Bylaws of the corporation may be adopted, amended or repealed by the stockholders entitled to vote; provided, however, that the corporation may, in its certificate of incorporation, confer the power to adopt, amend or repeal Bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal Bylaws.

**SECRETARY'S CERTIFICATE**

**EVERBRIDGE, INC.**

The undersigned, Cinta Putra, hereby certifies that she is the Secretary of Everbridge, Inc., a Delaware corporation (the "Corporation"), and that she makes this certificate on behalf of the Corporation as follows:

1. The Bylaws of the Corporation, adopted on January 22, 2008, as amended, have been amended as hereinafter set forth.
2. Article III, Section 3.2 was amended on August 24, 2011 to read in its entirety as follows:

**"3.2 Number of Directors.**

The number of directors constituting the entire Board of Directors shall be five (5), and shall not be changed without the approval of all other board members. Thereafter, this number may be changed by a resolution of the Board of Directors or of the stockholders, subject to Section 3.4 of these Bylaws. No reduction of the authorized number of directors shall have the effect of removing any director before such director's term of office expires."

IN WITNESS WHEREOF, the undersigned has caused this certificate to be executed as of August 24, 2011.

EVERBRIDGE, INC.

By: /s/ Cinta Putra  
Cinta Putra, Secretary

**AMENDED AND RESTATED BYLAWS**

**OF**

**EVERBRIDGE, INC.  
(A DELAWARE CORPORATION)**

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**AMENDED AND RESTATED BYLAWS**

**OF**

**EVERBRIDGE, INC.  
(A DELAWARE CORPORATION)**

**ARTICLE I**

**OFFICES**

**Section 1. Registered Office.** The registered office of the corporation in the State of Delaware shall be in the City of Wilmington, County of New Castle.

**Section 2. Other Offices.** The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the corporation may require.

**ARTICLE II**

**CORPORATE SEAL**

**Section 3. Corporate Seal.** The Board of Directors may adopt a corporate seal. The corporate seal shall consist of a die bearing the name of the corporation and the inscription, "Corporate Seal-Delaware." Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

**ARTICLE III**

**STOCKHOLDERS' MEETINGS**

**Section 4. Place Of Meetings.** Meetings of the stockholders of the corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the Delaware General Corporation Law ("**DGCL**").

**Section 5. Annual Meetings.**

(a) The annual meeting of the stockholders of the corporation, for the purpose of election of directors and for such other business as may properly come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors. Nominations of persons for election to the Board of Directors of the corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the corporation's notice of meeting of stockholders (with respect to

business other than nominations); (ii) brought specifically by or at the direction of the Board of Directors; or (iii) by any stockholder of the corporation who was a stockholder of record at the time of giving the stockholder's notice provided for in Section 5(b) below, who is entitled to vote at the meeting and who complied with the notice procedures set forth in Section 5. For the avoidance of doubt, clause (iii) above shall be the exclusive means for a stockholder to make nominations and submit other business (other than matters properly included in the corporation's notice of meeting of stockholders and proxy statement under Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "**1934 Act**")) before an annual meeting of stockholders.

**(b)** At an annual meeting of the stockholders, only such business shall be conducted as is a proper matter for stockholder action under Delaware law and as shall have been properly brought before the meeting.

**(i)** For nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, the stockholder must deliver written notice to the Secretary at the principal executive offices of the corporation on a timely basis as set forth in Section 5(b)(iii) and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such stockholder's notice shall set forth: (A) as to each nominee such stockholder proposes to nominate at the meeting: (1) the name, age, business address and residence address of such nominee, (2) the principal occupation or employment of such nominee, (3) the class and number of shares of each class of capital stock of the corporation which are owned of record and beneficially by such nominee, (4) the date or dates on which such shares were acquired and the investment intent of such acquisition, (5) a statement whether such nominee, if elected, intends to tender, promptly following such person's failure to receive the required vote for election or re-election at the next meeting at which such person would face election or re-election, an irrevocable resignation effective upon acceptance of such resignation by the Board of Directors, and (6) such other information concerning such nominee as would be required to be disclosed in a proxy statement soliciting proxies for the election of such nominee as a director in an election contest (even if an election contest is not involved), or that is otherwise required to be disclosed pursuant to Section 14 of the 1934 Act and the rules and regulations promulgated thereunder (including such person's written consent to being named as a nominee and to serving as a director if elected); and (B) the information required by Section 5(b)(iv). The corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as an independent director of the corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such proposed nominee.

**(ii)** Other than proposals sought to be included in the corporation's proxy materials pursuant to Rule 14(a)-8 under the 1934 Act, for business other than nominations for the election to the Board of Directors to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of Section 5(a) of these Bylaws, the stockholder must deliver written notice to the Secretary at the principal executive offices of the corporation on a timely basis as set forth in Section 5(b)(iii), and must update and supplement such written notice on a timely basis as set forth in Section 5(c). Such stockholder's notice shall set forth: (A) as to each matter such stockholder proposes to bring before the meeting, a brief description of

the business desired to be brought before the meeting, the reasons for conducting such business at the meeting, and any material interest (including any anticipated benefit of such business to any Proponent (as defined below) other than solely as a result of its ownership of the corporation's capital stock, that is material to any Proponent individually, or to the Proponents in the aggregate) in such business of any Proponent; and (B) the information required by Section 5(b)(iv).

(iii) To be timely, the written notice required by Section 5(b)(i) or 5(b)(ii) must be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the ninetieth (90<sup>th</sup>) day nor earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that, subject to the last sentence of this Section 5(b)(iii), in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so received not earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to such annual meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement of the date of such meeting is first made. In no event shall an adjournment or a postponement of an annual meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period for the giving of a stockholder's notice as described above.

(iv) The written notice required by Section 5(b)(i) or 5(b)(ii) shall also set forth, as of the date of the notice and as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (each, a "**Proponent**" and collectively, the "**Proponents**"): (A) the name and address of each Proponent, as they appear on the corporation's books; (B) the class, series and number of shares of the corporation that are owned beneficially and of record by each Proponent; (C) a description of any agreement, arrangement or understanding (whether oral or in writing) with respect to such nomination or proposal between or among any Proponent and any of its affiliates or associates, and any others (including their names) acting in concert, or otherwise under the agreement, arrangement or understanding, with any of the foregoing; (D) a representation that the Proponents are holders of record or beneficial owners, as the case may be, of shares of the corporation entitled to vote at the meeting and intend to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice (with respect to a notice under Section 5(b)(i)) or to propose the business that is specified in the notice (with respect to a notice under Section 5(b)(ii)); (E) a representation as to whether the Proponents intend to deliver a proxy statement and form of proxy to holders of a sufficient number of holders of the corporation's voting shares to elect such nominee or nominees (with respect to a notice under Section 5(b)(i)) or to carry such proposal (with respect to a notice under Section 5(b)(ii)); (F) to the extent known by any Proponent, the name and address of any other stockholder supporting the proposal on the date of such stockholder's notice; and (G) a description of all Derivative Transactions (as defined below) by each Proponent during the previous twelve (12) month period, including the date of the transactions and the class, series and number of securities involved in, and the material economic terms of, such Derivative Transactions.

For purposes of Sections 5 and 6, a “**Derivative Transaction**” means any agreement, arrangement, interest or understanding entered into by, or on behalf or for the benefit of, any Proponent or any of its affiliates or associates, whether record or beneficial:

- (w) the value of which is derived in whole or in part from the value of any class or series of shares or other securities of the corporation,
- (x) which otherwise provides any direct or indirect opportunity to gain or share in any gain derived from a change in the value of securities of the corporation,
- (y) the effect or intent of which is to mitigate loss, manage risk or benefit of security value or price changes, or
- (z) which provides the right to vote or increase or decrease the voting power of, such Proponent, or any of its affiliates or associates, with respect to any securities of the corporation,

which agreement, arrangement, interest or understanding may include, without limitation, any option, warrant, debt position, note, bond, convertible security, swap, stock appreciation right, short position, profit interest, hedge, right to dividends, voting agreement, performance-related fee or arrangement to borrow or lend shares (whether or not subject to payment, settlement, exercise or conversion in any such class or series), and any proportionate interest of such Proponent in the securities of the corporation held by any general or limited partnership, or any limited liability company, of which such Proponent is, directly or indirectly, a general partner or managing member.

(c) A stockholder providing written notice required by Section 5(b)(i) or (ii) shall update and supplement such notice in writing, if necessary, so that the information provided or required to be provided in such notice is true and correct in all material respects as of (i) the record date for the meeting and (ii) the date that is five (5) business days prior to the meeting and, in the event of any adjournment or postponement thereof, five (5) business days prior to such adjourned or postponed meeting. In the case of an update and supplement pursuant to clause (i) of this Section 5(c), such update and supplement shall be received by the Secretary at the principal executive offices of the corporation not later than five (5) business days after the record date for the meeting. In the case of an update and supplement pursuant to clause (ii) of this Section 5(c), such update and supplement shall be received by the Secretary at the principal executive offices of the corporation not later than two (2) business days prior to the date for the meeting, and, in the event of any adjournment or postponement thereof, two (2) business days prior to such adjourned or postponed meeting.

(d) Notwithstanding anything in Section 5(b)(iii) to the contrary, in the event that the number of directors in an Expiring Class is increased and there is no public announcement of the appointment of a director to such class, or, if no appointment was made, of the vacancy in such class, made by the corporation at least ten (10) days before the last day a stockholder may deliver a notice of nomination in accordance with Section 5(b)(iii), a stockholder’s notice required by this Section 5 and which complies with the requirements in Section 5(b)(i), other than the timing requirements in Section 5(b)(iii), shall also be considered

timely, but only with respect to nominees for any new positions in such Expiring Class created by such increase, if it shall be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the corporation. For purposes of this section, an “**Expiring Class**” shall mean a class of directors whose term shall expire at the next annual meeting of stockholders.

(e) A person shall not be eligible for election or re-election as a director unless the person is nominated either in accordance with clause (ii) of Section 5(a), or in accordance with clause (iii) of Section 5(a). Except as otherwise required by law, the chairperson of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, or the Proponent does not act in accordance with the representations in Sections 5(b)(iv)(D) and 5(b)(iv)(E), to declare that such proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded, notwithstanding that proxies in respect of such nominations or such business may have been solicited or received.

(f) Notwithstanding the foregoing provisions of this Section 5, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders’ meeting, a stockholder must also comply with all applicable requirements of the 1934 Act and the rules and regulations thereunder. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation’s proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however*, that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to proposals and/or nominations to be considered pursuant to Section 5(a)(iii) of these Bylaws.

(g) For purposes of Sections 5 and 6,

(i) “**public announcement**” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the 1934 Act; and

(ii) “**affiliates**” and “**associates**” shall have the meanings set forth in Rule 405 under the Securities Act of 1933, as amended (the “**1933 Act**”).

## **Section 6. Special Meetings.**

(a) Special meetings of the stockholders of the corporation may be called, for any purpose as is a proper matter for stockholder action under Delaware law, by (i) the Chairperson of the Board of Directors, (ii) the Chief Executive Officer, or (iii) the Board of Directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the Board of Directors for adoption).

(b) The Board of Directors shall determine the time and place, if any, of such special meeting. Upon determination of the time and place, if any, of the meeting, the Secretary shall cause a notice of meeting to be given to the stockholders entitled to vote, in accordance with the provisions of Section 7 of these Bylaws. No business may be transacted at such special meeting otherwise than specified in the notice of meeting.

(c) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the corporation who is a stockholder of record at the time of giving notice provided for in this paragraph, who shall be entitled to vote at the meeting and who delivers written notice to the Secretary of the corporation setting forth the information required by Section 5(b)(i). In the event the corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder of record may nominate a person or persons (as the case may be), for election to such position(s) as specified in the corporation's notice of meeting, if written notice setting forth the information required by Section 5(b)(i) of these Bylaws shall be received by the Secretary at the principal executive offices of the corporation not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to such meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The stockholder shall also update and supplement such information as required under Section 5(c). In no event shall an adjournment or a postponement of a special meeting for which notice has been given, or the public announcement thereof has been made, commence a new time period for the giving of a stockholder's notice as described above.

(d) Notwithstanding the foregoing provisions of this Section 6, a stockholder must also comply with all applicable requirements of the 1934 Act and the rules and regulations thereunder with respect to matters set forth in this Section 6. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the 1934 Act; *provided, however*, that any references in these Bylaws to the 1934 Act or the rules and regulations thereunder are not intended to and shall not limit the requirements applicable to nominations for the election to the Board of Directors to be considered pursuant to Section 6(c) of these Bylaws.

**Section 7. Notice Of Meetings.** Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at any such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the corporation. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof, or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the

express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

**Section 8. Quorum.** At all meetings of stockholders, except where otherwise provided by statute or by the Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairperson of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by statute or by applicable stock exchange rules, or by the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of the majority of shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except where otherwise provided by the statute or by the Certificate of Incorporation or these Bylaws, a majority of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

**Section 9. Adjournment And Notice Of Adjourned Meetings.** Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairperson of the meeting or by the vote of a majority of the shares present in person, by remote communication, if applicable, or represented by proxy at the meeting. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

**Section 10. Voting Rights.** For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the corporation on the record date, as provided in Section 12 of these Bylaws, shall be entitled to vote at any meeting of stockholders. Every

person entitled to vote shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation unless the proxy provides for a longer period.

**Section 11. Joint Owners Of Stock.** If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect: (a) if only one (1) votes, his act binds all; (b) if more than one (1) votes, the act of the majority so voting binds all; (c) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief as provided in the DGCL, Section 217(b). If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (c) shall be a majority or even-split in interest.

**Section 12. List Of Stockholders.** The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

**Section 13. Action Without Meeting.** No action shall be taken by the stockholders except at an annual or special meeting of stockholders called in accordance with these Bylaws, and no action shall be taken by the stockholders by written consent or by electronic transmission.

**Section 14. Organization.**

(a) At every meeting of stockholders, the Chairperson of the Board of Directors, or, if a Chairperson has not been appointed or is absent, the Chief Executive Officer, or if no Chief Executive Officer is then serving or is absent, the President, or, if the President is absent, a chairperson of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairperson. The Chairperson of the Board may appoint the Chief Executive Officer as chairperson of the meeting. The Secretary, or, in his or her absence, an Assistant Secretary or other officer or other person directed to do so by the chairperson of the meeting, shall act as secretary of the meeting.



(b) The Board of Directors of the corporation shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairperson of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairperson, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the corporation and their duly authorized and constituted proxies and such other persons as the chairperson shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairperson of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

## ARTICLE IV

### DIRECTORS

**Section 15. Number And Term Of Office.** The authorized number of directors of the corporation shall be fixed in accordance with the Certificate of Incorporation. Directors need not be stockholders unless so required by the Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose in the manner provided in these Bylaws.

**Section 16. Powers.** The powers of the corporation shall be exercised, its business conducted and its property controlled by the Board of Directors, except as may be otherwise provided by statute or by the Certificate of Incorporation.

#### **Section 17. Classes of Directors.**

Subject to the rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, following the closing of the initial public offering pursuant to an effective registration statement under the 1933 Act, covering the offer and sale of Common Stock of the corporation to the public (the “*Initial Public Offering*”), the directors shall be divided into three classes designated as Class I, Class II and Class III, respectively. The Board of Directors is authorized to assign members of the Board of Directors already in office to such classes at the time the classification becomes effective. At the first annual meeting of stockholders following the closing of the Initial Public Offering, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders following the Initial Public Offering, the term of office of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders following the Initial Public Offering, the term

of office of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders, directors shall be elected for a full term of three years to succeed the directors of the class whose terms expire at such annual meeting.

Notwithstanding the foregoing provisions of this Section 17, each director shall serve until his successor is duly elected and qualified or until his earlier death, resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

#### **Section 18. Vacancies.**

Unless otherwise provided in the Certificate of Incorporation, and subject to the rights of the holders of any series of Preferred Stock or as otherwise provided by applicable law, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, and not by the stockholders, *provided, however*, that whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected, and not by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this Bylaw in the case of the death, removal or resignation of any director.

**Section 19. Resignation.** Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary, such resignation to specify whether it will be effective at a particular time. If no such specification is made, the Secretary, in his or her discretion, may either (a) require confirmation from the director prior to deeming the resignation effective, in which case the resignation will be deemed effective upon receipt of such confirmation, or (b) deem the resignation effective at the time of delivery of the resignation to the Secretary. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office for the unexpired portion of the term of the director whose place shall be vacated and until his successor shall have been duly elected and qualified.

## **Section 20. Removal.**

(a) Subject to the rights of holders of any series of Preferred Stock to elect additional directors under specified circumstances, neither the Board of Directors nor any individual director may be removed without cause.

(b) Subject to any limitation imposed by law, any individual director or directors may be removed with cause by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3%) of the voting power of all then outstanding shares of capital stock of the corporation entitled to vote generally at an election of directors, voting together as a single class.

## **Section 21. Meetings.**

(a) **Regular Meetings.** Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, by telephone, including a voice-messaging system or other system designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means. No further notice shall be required for regular meetings of the Board of Directors.

(b) **Special Meetings.** Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairperson of the Board, the Chief Executive Officer or a majority of the total number of authorized directors.

(c) **Meetings by Electronic Communications Equipment.** Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

(d) **Notice of Special Meetings.** Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by US mail, it shall be sent by first class mail, charges prepaid, at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing, or by electronic transmission, at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

(e) **Waiver of Notice.** The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though it had been transacted at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present

who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

## **Section 22. Quorum And Voting.**

(a) Unless the Certificate of Incorporation requires a greater number, and except with respect to questions related to indemnification arising under Section 44 for which a quorum shall be one-third of the exact number of directors fixed from time to time, a quorum of the Board of Directors shall consist of a majority of the exact number of directors fixed from time to time by the Board of Directors in accordance with the Certificate of Incorporation; *provided, however*, at any meeting whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation or these Bylaws.

**Section 23. Action Without Meeting.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**Section 24. Fees And Compensation.** Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

## **Section 25. Committees.**

(a) **Executive Committee.** The Board of Directors may appoint an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and provided in the resolution of the Board of Directors shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any Bylaw of the corporation.

**(b) Other Committees.** The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

**(c) Term.** The Board of Directors, subject to any requirements of any outstanding series of Preferred Stock and the provisions of subsections (a) or (b) of this Section 25, may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

**(d) Meetings.** Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 25 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

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**Section 26. Duties of Chairperson of the Board of Directors and Lead Independent Director.**

(a) The Chairperson of the Board of Directors, if appointed and when present, shall preside at all meetings of the stockholders and the Board of Directors. The Chairperson of the Board of Directors shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

(b) The Chairperson of the Board of Directors, or if the Chairperson is not an independent director, one of the independent directors, may be designated by the Board of Directors as lead independent director to serve until replaced by the Board of Directors (“**Lead Independent Director**”). The Lead Independent Director will: with the Chairperson of the Board of Directors, establish the agenda for regular Board meetings and serve as chairperson of Board of Directors meetings in the absence of the Chairperson of the Board of Directors; establish the agenda for meetings of the independent directors; coordinate with the committee chairs regarding meeting agendas and informational requirements; preside over meetings of the independent directors; preside over any portions of meetings of the Board of Directors at which the evaluation or compensation of the Chief Executive Officer is presented or discussed; preside over any portions of meetings of the Board of Directors at which the performance of the Board of Directors is presented or discussed; and perform such other duties as may be established or delegated by the Chairperson of the Board of Directors.

**Section 27. Organization.** At every meeting of the directors, the Chairperson of the Board of Directors, or, if a Chairperson has not been appointed or is absent, the Lead Independent Director, or if the Lead Independent Director has not been appointed or is absent, the Chief Executive Officer (if a director), or, if a Chief Executive Officer is absent, the President (if a director), or if the President is absent, the most senior Vice President (if a director), or, in the absence of any such person, a chairperson of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his absence, any Assistant Secretary or other officer, director or other person directed to do so by the person presiding over the meeting, shall act as secretary of the meeting.

**ARTICLE V****OFFICERS**

**Section 28. Officers Designated.** The officers of the corporation shall include, if and when designated by the Board of Directors, the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary, the Chief Financial Officer and the Treasurer. The Board of Directors may also appoint one or more Assistant Secretaries and Assistant Treasurers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board of Directors.

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## Section 29. Tenure And Duties Of Officers.

**(a) General.** All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

**(b) Duties of Chief Executive Officer.** The Chief Executive Officer shall preside at all meetings of the stockholders and at all meetings of the Board of Directors (if a director), unless the Chairperson of the Board of Directors or the Lead Independent Director has been appointed and is present. Unless an officer has been appointed Chief Executive Officer of the corporation, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. To the extent that a Chief Executive Officer has been appointed and no President has been appointed, all references in these Bylaws to the President shall be deemed references to the Chief Executive Officer. The Chief Executive Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

**(c) Duties of President.** The President shall preside at all meetings of the stockholders and at all meetings of the Board of Directors (if a director), unless the Chairperson of the Board of Directors, the Lead Independent Director or the Chief Executive Officer has been appointed and is present. Unless another officer has been appointed Chief Executive Officer of the corporation, the President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time.

**(d) Duties of Vice Presidents.** A Vice President may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. A Vice President shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or, if the Chief Executive Officer has not been appointed or is absent, the President shall designate from time to time.

**(e) Duties of Secretary.** The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers, as the Board of Directors shall designate from time to time. The Chief Executive Officer, or if no Chief Executive Officer is then serving, the President may direct any Assistant Secretary or other officer to assume and perform the duties of the Secretary

in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President shall designate from time to time.

**(f) Duties of Chief Financial Officer.** The Chief Financial Officer shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President shall designate from time to time. To the extent that a Chief Financial Officer has been appointed and no Treasurer has been appointed, all references in these Bylaws to the Treasurer shall be deemed references to the Chief Financial Officer. The President may direct the Treasurer, if any, or any Assistant Treasurer, or the controller or any assistant controller to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each controller and assistant controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President shall designate from time to time.

**(g) Duties of Treasurer.** Unless another officer has been appointed Chief Financial Officer of the corporation, the Treasurer shall be the chief financial officer of the corporation and shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board of Directors or the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President, and, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the corporation. The Treasurer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President and Chief Financial Officer (if not Treasurer) shall designate from time to time.

**Section 30. Delegation Of Authority.** The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

**Section 31. Resignations.** Any officer may resign at any time by giving notice in writing or by electronic transmission to the Board of Directors or to the Chief Executive Officer, or if no Chief Executive Officer is then serving, the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract with the resigning officer.



**Section 32. Removal.** Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written consent of the directors in office at the time, or by any committee or by the Chief Executive Officer or by other superior officers upon whom such power of removal may have been conferred by the Board of Directors.

## ARTICLE VI

### EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION

**Section 33. Execution Of Corporate Instruments.** The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name without limitation, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the corporation.

All checks and drafts drawn on banks or other depositaries on funds to the credit of the corporation or in special accounts of the corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do.

Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

**Section 34. Voting Of Securities Owned By The Corporation.** All stock and other securities of other corporations owned or held by the corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors, or, in the absence of such authorization, by the Chairperson of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

## ARTICLE VII

### SHARES OF STOCK

**Section 35. Form And Execution Of Certificates.** The shares of the corporation shall be represented by certificates, or shall be uncertificated if so provided by resolution or resolutions of the Board of Directors. Certificates for the shares of stock, if any, shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock in the corporation represented by certificate shall be entitled to have a certificate signed by or in the name of the corporation by the Chairperson of the Board of Directors, or the President or any Vice President and by the Treasurer or Assistant Treasurer or the Secretary or Assistant

Secretary, certifying the number of shares owned by him in the corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue.

**Section 36. Lost Certificates.** A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the corporation in such manner as it shall require or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

**Section 37. Transfers.**

(a) Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and, in the case of stock represented by certificate, upon the surrender of a properly endorsed certificate or certificates for a like number of shares.

(b) The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

**Section 38. Fixing Record Dates.**

(a) In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however*, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a

record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

**Section 39. Registered Stockholders.** The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

## ARTICLE VIII

### OTHER SECURITIES OF THE CORPORATION

**Section 40. Execution Of Other Securities.** All bonds, debentures and other corporate securities of the corporation, other than stock certificates (covered in Section 35), may be signed by the Chairperson of the Board of Directors, the President or any Vice President, or such other person as may be authorized by the Board of Directors, and the corporate seal impressed thereon or a facsimile of such seal imprinted thereon and attested by the signature of the Secretary or an Assistant Secretary, or the Chief Financial Officer or Treasurer or an Assistant Treasurer; *provided, however*, that where any such bond, debenture or other corporate security shall be authenticated by the manual signature, or where permissible facsimile signature, of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signatures of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the corporation or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or on any such interest coupon, shall have ceased to be such officer before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the corporation.

## ARTICLE IX

### DIVIDENDS

**Section 41. Declaration Of Dividends.** Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by the Board of Directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and applicable law.

**Section 42. Dividend Reserve.** Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the Board of Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purpose as the Board of Directors shall think conducive to the interests of the corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

## ARTICLE X

### FISCAL YEAR

**Section 43. Fiscal Year.** The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

## ARTICLE XI

### INDEMNIFICATION

**Section 44. Indemnification of Directors, Executive Officers, Other Officers, Employees and Other Agents.**

**(a) Directors and executive officers.** The corporation shall indemnify its directors and executive officers (for the purposes of this Article XI, “*executive officers*” shall have the meaning defined in Rule 3b-7 promulgated under the 1934 Act) to the extent not prohibited by the DGCL or any other applicable law; *provided, however*, that the corporation may modify the extent of such indemnification by individual contracts with its directors and executive officers; and, *provided, further*, that the corporation shall not be required to indemnify any director or executive officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the corporation, (iii) such indemnification is provided by the corporation, in its sole discretion, pursuant to the powers vested in the corporation under the DGCL or any other applicable law or (iv) such indemnification is required to be made under subsection (d).

**(b) Other Officers, Employees and Other Agents.** The corporation shall have power to indemnify its other officers, employees and other agents as set forth in the DGCL or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person except executive officers to such officers or other persons as the Board of Directors shall determine.

**(c) Expenses.** The corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director or executive officer, of the corporation, or is or was serving at the request of

the corporation as a director or executive officer of another corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or executive officer in connection with such proceeding provided, however, that if the DGCL requires, an advancement of expenses incurred by a director or executive officer in his or her capacity as a director or executive officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the corporation of an undertaking (hereinafter an “*undertaking*”), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a “*final adjudication*”) that such indemnitee is not entitled to be indemnified for such expenses under this section or otherwise.

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this section, no advance shall be made by the corporation to an executive officer of the corporation (except by reason of the fact that such executive officer is or was a director of the corporation in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation.

**(d) Enforcement.** Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and executive officers under this Bylaw shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the corporation and the director or executive officer. Any right to indemnification or advances granted by this section to a director or executive officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. To the extent permitted by law, the claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the DGCL or any other applicable law for the corporation to indemnify the claimant for the amount claimed. In connection with any claim by an executive officer of the corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such executive officer is or was a director of the corporation) for advances, the corporation shall be entitled to raise a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his conduct was lawful. Neither the failure of the corporation (including its Board of Directors, independent legal

counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in the DGCL or any other applicable law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct. In any suit brought by a director or executive officer to enforce a right to indemnification or to an advancement of expenses hereunder, the burden of proving that the director or executive officer is not entitled to be indemnified, or to such advancement of expenses, under this section or otherwise shall be on the corporation.

**(e) Non-Exclusivity of Rights.** The rights conferred on any person by this Bylaw shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL, or by any other applicable law.

**(f) Survival of Rights.** The rights conferred on any person by this Bylaw shall continue as to a person who has ceased to be a director or executive officer or officer, employee or other agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

**(g) Insurance.** To the fullest extent permitted by the DGCL or any other applicable law, the corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this section.

**(h) Amendments.** Any repeal or modification of this section shall only be prospective and shall not affect the rights under this Bylaw in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the corporation.

**(i) Saving Clause.** If this Bylaw or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall nevertheless indemnify each director and executive officer to the full extent not prohibited by any applicable portion of this section that shall not have been invalidated, or by any other applicable law. If this section shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the corporation shall indemnify each director and executive officer to the full extent under any other applicable law.

**(j) Certain Definitions.** For the purposes of this Bylaw, the following definitions shall apply:

**(i)** The term “*proceeding*” shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(ii) The term “**expenses**” shall be broadly construed and shall include, without limitation, court costs, attorneys’ fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

(iii) The term the “**corporation**” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(iv) References to a “**director**,” “**executive officer**,” “**officer**,” “**employee**,” or “**agent**” of the corporation shall include, without limitation, situations where such person is serving at the request of the corporation as, respectively, a director, executive officer, officer, employee, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise.

(v) References to “**other enterprises**” shall include employee benefit plans; references to “**fines**” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “**serving at the request of the corporation**” shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “**not opposed to the best interests of the corporation**” as referred to in this section.

## ARTICLE XII

### NOTICES

#### Section 45. Notices.

(a) **Notice To Stockholders.** Written notice to stockholders of stockholder meetings shall be given as provided in Section 7 herein. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for

purposes other than stockholder meetings may be sent by US mail or nationally recognized overnight courier, or by facsimile, telegraph or telex or by electronic mail or other electronic means.

**(b) Notice To Directors.** Any notice required to be given to any director may be given by the method stated in subsection (a), as otherwise provided in these Bylaws with notice other than one which is delivered personally to be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known address of such director.

**(c) Affidavit Of Mailing.** An affidavit of mailing, executed by a duly authorized and competent employee of the corporation or its transfer agent appointed with respect to the class of stock affected, or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

**(d) Methods of Notice.** It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

**(e) Notice To Person With Whom Communication Is Unlawful.** Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any provision of the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

**(f) Notice to Stockholders Sharing an Address.** Except as otherwise prohibited under DGCL, any notice given under the provisions of DGCL, the Certificate of Incorporation or the Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if such stockholder fails to object in writing to the corporation within sixty (60) days of having been given notice by the corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the corporation.



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## ARTICLE XIII

### AMENDMENTS

**Section 46.** Subject to the limitations set forth in Section 44(h) of these Bylaws or the provisions of the Certificate of Incorporation, the Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the corporation. Any adoption, amendment or repeal of the Bylaws of the corporation by the Board of Directors shall require the approval of a majority of the authorized number of directors. The stockholders also shall have power to adopt, amend or repeal the Bylaws of the corporation; *provided, however*, that, in addition to any vote of the holders of any class or series of stock of the corporation required by law or by the Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least sixty-six and two-thirds percent (66-2/3%) of the voting power of all of the then-outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class.

## ARTICLE XIV

### LOANS TO OFFICERS

**Section 47. Loans To Officers.** Except as otherwise prohibited by applicable law, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiaries, including any officer or employee who is a director of the corporation or its subsidiaries, whenever, in the judgment of the Board of Directors, such loan, guarantee or assistance may reasonably be expected to benefit the corporation. The loan, guarantee or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing in these Bylaws shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

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EVERBRIDGE, INC.

**THIRD AMENDED AND RESTATED  
INVESTOR RIGHTS AGREEMENT**

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September 9, 2011

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**EVERBRIDGE, INC.**  
**THIRD AMENDED AND RESTATED**  
**INVESTOR RIGHTS AGREEMENT**

THIS THIRD AMENDED AND RESTATED INVESTOR RIGHTS AGREEMENT (this “Agreement”) is made as of September 9, 2011, by and among Everbridge, Inc., a Delaware corporation (the “Company”), and the Effective Time Holders listed on the attached Exhibit A. The Effective Time Holders and Prior Investors are collectively herein referred to as the “Investors.”

**RECITALS**

A. Certain of the Investors have purchased shares of the Company’s Series A Preferred Stock (the “Series A Preferred”), pursuant to that certain Series A Preferred Stock Purchase Agreement, by and among the Company and the parties listed on Exhibit A thereto, dated as of May 15, 2008.

B. Certain of the Investors have purchased shares of the Company’s Series A-1 Preferred Stock (the “Series A-1 Preferred” and, together with the Series A Preferred, the “Preferred Stock”), pursuant to that certain (i) Series A-1 Preferred Stock Purchase Agreement, dated as of April 2, 2009, and (ii) Series A-1 Preferred Stock Purchase Agreement, dated as of April 20, 2010, as amended (such Investors previously having purchased Series A Preferred and Series A-1 Preferred prior to the date hereof, collectively, the “Prior Investors”).

C. The Company, PMC Financial Services Group, LLC (“PMC”), the holder of a Warrant to purchase up to 625,000 shares of Common Stock of the Company, and the Prior Investors have previously entered into that certain Second Amended and Restated Investor Rights Agreement, dated as of April 2, 2009 (the “Prior Agreement”).

D. Concurrent with the execution hereof, Cloud Floor Corporation (“Cloud Floor”) shall merge with and into the Company (the “Merger”), with the Company continuing as the surviving corporation, pursuant to that certain Merger Agreement, dated as of September 9, 2011, by and among the Company, Cloud Floor, and Jaime Ellertson, in his capacity as the stockholder representative of the Cloud Floor stockholders (the “Merger Agreement”).

E. At the effective time of the Merger (the “Effective Time”), the stockholders of Cloud Floor (the “Effective Time Holders”) holding shares of Series A Preferred Stock of Cloud Floor (“Cloud Floor Preferred”) shall receive shares of Series A-1 Preferred pursuant to, and in accordance with the provisions of, the Merger Agreement.

F. The Effective Time Holders who shall the execute and deliver this Agreement, and who shall receive Series A-1 Preferred in the Merger, shall be Investors for all purposes hereof and hereunder.

G. The obligations in the Merger Agreement are conditioned upon the execution and delivery of this Agreement.

H. In connection with the consummation of the Merger, the Company and the Investors wish to enter into this Agreement in order to (i) provide for certain rights of the Investors, and (ii) supersede and replace the Prior Agreement such that this Agreement is the only investor rights agreement between the Company, PMC, and the Investors.

I. The Prior Agreement may generally be amended by agreement of the Company and Prior Investors holding a majority of the “Registrable Securities” (as defined in the Prior Agreement). The Company has executed this Agreement, and the Prior Investors who are signatories to this Agreement hold at least that number of shares necessary to effect an amendment of the Prior Agreement. The Prior Agreement is superseded and replaced by this Agreement, including with respect to those Prior Investors who are not signatories to this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Certain Definitions. As used in this Agreement, the following terms shall have the following respective meanings:

1.1 “Affiliate” means, with respect to any specified person or entity, any other person or entity who, directly or indirectly, controls, is controlled by, or is under common control with such person or entity, including, without limitation, any general partner, managing member, officer or director of such person or entity or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such person or entity.

1.2 “Board” shall mean the Board of Directors of the Company.

1.3 “Commission” shall mean the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

1.4 “Common Stock” shall mean the shares of Common Stock of the Company, \$0.001 par value per share.

1.5 “Convertible Securities” shall mean (a) the Warrant, and (b) the shares of Series A Preferred Stock and Series A-1 Preferred held by the Investors.

1.6 “Derivative Securities” means any securities or rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Common Stock, including options and warrants.

1.7 “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

1.8 “Form S-3” shall mean Form S-3 issued by the Commission or any substantially similar form then in effect.

1.9 “Holder” shall mean any holder of outstanding Registrable Securities which have not been sold to the public, but only if such holder is (a) PMC, (b) one of the Investors, or (c) an assignee or transferee of registration rights as permitted by Section 16.1 of this Agreement.

1.10 “Immediate Family Member” means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

1.11 “Initiating Holders” shall mean Holders who properly initiate a request for registration under this Agreement.

1.12 “New Securities” shall mean any capital stock of the Company, whether authorized or not, and any rights, options, or warrants to purchase said capital stock, and securities of any type whatsoever that are, or may become, convertible into or exercisable for said capital stock; provided, however, that “New Securities” does not include: (i) the Convertible Securities or the Company’s Common Stock issuable upon conversion of the Convertible Securities; (ii) securities issued without consideration pursuant to a dividend, stock split, combination, recapitalization or similar transaction, (iii) securities issued as a dividend or distribution with respect to the Convertible Securities, (iv) securities issued upon the conversion of any debenture, warrant, option, or other convertible security outstanding on the date of this Agreement; (v) the issuance of the Company’s capital stock (or rights therefor) in connection with the acquisition by the Company of another corporation or entity by consolidation, corporate reorganizations, or merger or purchase of all or substantially all of the assets of such corporation or entity as approved by the Board of Directors (including at least one of the Preferred Stock Directors); (vi) the issuance of the Company’s capital stock (or rights therefor) as approved by the Board of Directors (including at least one of the Preferred Stock Directors) in connection with equipment leasing, real estate, bank financing or similar transactions; (vii) the issuance of the Company’s capital stock (or rights therefor) as approved by the Board of Directors (including at least one of the Preferred Stock Directors) to vendors or customers; (viii) the issuance of the Company’s capital stock (or rights therefor) as approved by the Board of Directors (including at least one of the Preferred Stock Directors) in connection with strategic alliances, joint ventures, or other corporate partnerships, research and development agreements, product development or marketing agreements or other similar agreements; (ix) issuances of securities on terms approved by the holders of at least a majority of the outstanding shares of the Convertible Securities, including a specific waiver of the right of participation set forth in Section 5 of this Agreement with respect thereto; (x) up to a number of shares in the Pool issued or deemed issued to officers, directors or employees of, or consultants to, the Company pursuant to a warrant, stock grant, option agreement or plan, purchase plan or other employee stock incentive program or agreement approved by the Board of Directors, and any increase in the Pool approved by the Board or Directors (including the approval of at least one Preferred Stock Director); or (xi) securities issued by the Company pursuant to a registration statement filed under the Securities Act.

1.13 “Preferred Stock Directors” shall mean the directors elected solely by the holders of Series A Preferred and Series A-1 Preferred voting as a separate class pursuant to the Third Amended and Restated Certificate of Incorporation of the Company filed with the Secretary of State of Delaware on or about the date hereof.

1.14 “Pool” shall mean up to an aggregate of [13,950,000] shares of Common Stock, which may be reserved for issuance under any, stock grant, option agreement or plan, purchase plan or other employee stock incentive program or agreement approved by the Board of Directors. For purposes hereof, any shares of Common Stock described above that again become available for issuance by the Company as a result of (A) in respect of shares of Common Stock subject to outstanding options or stock awards, such options or stock awards expiring and/or terminating or (B) in respect of shares of Common Stock acquired pursuant to the exercise of stock options or stock awards, such shares of Common Stock being reacquired by the Company, shall in each case be added back into the Pool. Reference to the number of shares of Common Stock in this Section 1.14 shall mean such number of shares as shall be appropriately adjusted for combinations, consolidations, subdivisions, recapitalizations, stock splits or other similar transactions.

1.15 “Qualified Public Offering” shall mean the closing of a firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act covering the offer and sale of Common Stock (other than a registration on Form S-8, Form S-4 or comparable or successor forms), (A) which results in aggregate gross proceeds (prior to underwriters’ commissions and expenses) to the Company of at least \$35,000,000, and (B) a per share price not less than five times the Original Series A-1 Price per share (as such term is defined in the Company’s Third Amended and Restated Certificate of Incorporation in effect as of the date hereof, appropriately adjusted for combinations, consolidations, subdivisions, recapitalizations, stock splits or other similar transactions).

1.16 “Register”, “Registered”, and “Registration” shall be terms to refer to a registration effected by preparing and filing a Registration Statement, and the declaration or ordering of the effectiveness of such Registration Statement.

1.17 “Registration Statement” shall be a Registration effected by preparing and filing a registration statement on Form S-1 or S-3 in compliance with the Securities Act.

1.18 “Registrable Securities” shall mean (a) all Common Stock not previously sold to the public which is issued or issuable upon conversion or exercise of any of the Company’s Convertible Securities, and (b) any Common Stock, or any Common Stock issued or issuable (directly or indirectly) upon conversion and/or exercise of any other securities of the Company acquired by the Investors or PMC after the date hereof, in each case, including Common Stock issued pursuant to stock splits, stock dividends and similar distribution.

1.19 “Registration Expenses” shall mean all expenses incurred by the Company in complying with Sections 8 of this Agreement, including, without limitation, all federal and state registration, qualification, and filing fees, printing expenses, fees and disbursements of counsel for the Company and one special counsel for all Holders (if different from counsel to the Company), up to a maximum amount of \$25,000 for one special counsel for all Holders for each Registration, blue sky fees and expenses, and the expense of any special audits incident to or required by any such registration, but excluding any stock transfer taxes, underwriting discounts and commissions.



1.20 “Securities Act” shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

1.21 “Selling Expenses” shall mean all underwriting discounts and selling commissions applicable to the sale of Registrable Securities pursuant to this Agreement.

1.22 “Series A Preferred” shall mean the Series A Preferred Stock held by the Investors.

## 2. Financial Statements and Reports.

2.1 Annual Reports. The Company shall deliver to PMC and each Investor, as soon as practicable after the end of each fiscal year of the Company, and in any event within 120 days thereafter, an audited consolidated balance sheet of the Company as of the end of such year and audited consolidated statements of income and cash flow for such year, which year-end financial reports shall be in reasonable detail and shall be prepared in accordance with generally accepted accounting principles. The firm auditing, or selected to audit, the Company’s financial statements as herein contemplated, shall be a firm of regional prominence.

2.2 Termination of Information Rights and Inspection Rights. The Company’s obligations pursuant to Sections 2.1, 3 and 4 hereunder shall terminate upon the closing date of a Qualified Public Offering

3. Additional Information. The Company shall deliver to each Investor who holds not less than 4,000,000 shares of Registrable Securities (as adjusted for any stock split, stock dividend, combination, or other recapitalization or reclassification effected after the date hereof, the following financial information:

3.1 As soon as practicable after the end of each quarterly accounting periods in each fiscal year of the Company and in any event within forty-five (45) days thereafter, an unaudited consolidated balance sheet of the Company and its subsidiaries, if any, as of the end of each such quarterly period and unaudited consolidated statements of income and cash flows of the Company and its subsidiaries, if any, for such period and for the current fiscal year to date, all prepared in accordance with generally accepted accounting principles, all in reasonable detail, subject to changes resulting from year-end audit adjustments;

3.2 As soon as practicable after the end of the first and second month of each quarter, and in any event within thirty (30) days thereafter, an unaudited consolidated balance sheet of the Company and its subsidiaries, if any, at the end of such month, and unaudited consolidated statements of income and cash flow for such month (including a comparison of actual financial results versus the budgeted results for such periods); and

3.3 By December 30 of each year, a budget for the following year, prepared on a monthly basis, and promptly after prepared, any other budgets or revised budgets prepared

by the Company, such budget(s) to be in a form and to contain such items, which may include, without limitation, balance sheets, income statements, and statements of cash flow, as shall be determined by the Board of Directors, including the approval of the Series A Directors.

3.4 The Company shall provide to ABS all monthly, quarterly and annual reports, and any and all other reports and/or certificates required by or in connection with the loan documentation entered into by and between the Company and the Company's lenders, to be delivered to ABS at or about the same time such reports and/or certificates are delivered to the Company's lenders.

4. Inspection Rights. After giving reasonable notice to the Company, each Investor shall have the right to visit the Company and view the Company's minutes, books, records, consents and the like ("Inspection Rights"), which Inspection Rights shall be consistent with such rights afforded to members of the Board of Directors under applicable law, provided, however, that in the event that any such Investor invoking Inspection Rights does not then owe fiduciary obligations to the Company (i.e. as a director), such Investor shall agree in writing to hold in confidence and trust all information so provided by the Company or to which such Investor shall have been granted access.

5. Right of Participation.

5.1 Right of Participation to Purchase New Securities. The Company hereby grants to each Investor the right of participation to purchase up to its "Pro Rata Share" (as defined below) of New Securities which the Company may, from time to time, propose to sell and issue. The Investors may purchase said New Securities on the same terms and at the same price at which the Company proposes to sell the New Securities. The "Pro Rata Share" of each Investor, for purposes of this right of participation, is the ratio of (i) the total number of shares of Common Stock held by such Investor (including any shares of Common Stock into which the Convertible Securities and all other Derivative Securities held by such Investor are convertible), to (ii) the total number of shares of Common Stock (including any shares of Common Stock into which the outstanding Convertible Securities and all other Derivative Securities are convertible) outstanding immediately prior to the issuance of the New Securities.

5.2 Notice.

(a) In the event the Company proposes to undertake an issuance of New Securities, it shall give to each Investor written notice (the "Initial Notice") of its intention, describing the type of New Securities, the material terms of the New Securities, including the price and the intended offerees, the terms upon which the Company proposes to issue the same, the number of shares which such Investor is entitled to purchase pursuant to Section 5. 1, and a statement that each Investor shall have 10 days to respond to such Initial Notice. Each Investor shall have 10 days from the date of receipt of the Initial Notice to agree to purchase any or all of its Pro Rata Share of the New Securities for the price and upon the terms specified in the Initial Notice by giving written notice to the Company and stating therein the quantity of New Securities to be purchased and forwarding payment for such New Securities to the Company if immediate payment is required by such terms.

(b) The Company shall promptly, in writing (the “Secondary Notice”), inform each Investor that elects to purchase all of the New Securities available to it (each, a “Participating Investor”) of any other Investor’s failure to do likewise. During the 10 day period commencing after receipt of the Secondary Notice, each Participating Investor shall be entitled to obtain that portion of the New Securities for which Investors were entitled to, but did not, subscribe equal to the proportion that the number of Registrable Securities then held by such Participating Investor bears to the total number of Registrable Securities then held by all Participating Investors who wish to purchase some of the unsubscribed shares.

5.3 Sale of New Securities. In the event that the Participating Investors fail to exercise in full their rights of participation within the 10 day period following receipt of the Secondary Notice, the Company shall have 75 days thereafter to sell or enter into an agreement (pursuant to which the sale of New Securities covered thereby shall be closed, if at all, within 15 days after the date of such agreement) to sell the New Securities respecting which such Participating Investor’s rights were not exercised, at a price and upon general terms no more favorable to the purchaser thereof than specified in the Initial Notice. In the event the Company has not sold or entered into an agreement to sell the New Securities within such 75-day period (or sold and issued New Securities in accordance with the foregoing within 15 days from the date of such agreement), the Company shall not thereafter issue or sell any New Securities without first offering such securities to such Investor in the manner provided above

5.4 Termination and Waiver of Right of Participation. The right of participation granted pursuant to this Section 5 shall terminate upon the closing of a Qualified Public Offering. The right of participation granted under this Section 5 may be waived with respect to any particular sale of New Securities as to all Investors or transferees by the holders of a majority in interest of the Registrable Securities held by the Investors.

## 6. Demand Registration.

6.1 Request for Registration on Form Other Than Form S-3. Subject to the terms of this Agreement, in the event that the Company shall receive from the Holders of at least 20% of the Registrable Securities at any time after the earlier of (i) five years after the date of this Agreement, or (ii) six months after the closing of the Company’s initial public offering of shares of Common Stock under a Registration Statement, a written request that the Company effect any Registration with respect to all or a part of the Registrable Securities on a form other than Form S-3 for an offering of at least 20% of the then outstanding Registrable Securities, with an anticipated aggregate offering price to the public, net of Selling Expenses, of greater than \$10,000,000, the Company shall (a) promptly, but in no event later than 10 days after such request was given, give written notice of the proposed Registration to all other Holders, and (b) as soon as practicable, and in any event within 60 days after the date of such request, file a Form S-1 Registration Statement covering all of the Registrable Securities specified in such request, together with any Registrable Securities of any Holder joining in such request as are specified in a written request given within 20 days after written notice from the Company. The Company shall not be obligated to take any action to effect any such registration pursuant to this Section 6.1 after the Company has effected two such Registrations pursuant to this Section 6.1 and such Registrations have been declared effective.

6.2 Request for Registration on Form S-3. If a Holder or Holders of Registrable Securities request that the Company file a Registration Statement on Form S-3 (or any successor form to Form S-3) for a public offering of shares of Registrable Securities the reasonably anticipated aggregate price to the public of which, net of Selling Expenses, would not be less than \$3,000,000, and the Company is a registrant entitled to use Form S-3 to register the Registrable Securities for such an offering, the Company shall (a) promptly, but in no event later than 10 days after such request was given, give notice thereof to all Holders, and (b) as soon as practicable, and in any event within 60 days after the date of such request, file a Form S-3 Registration Statement covering all of the Registrable Securities specified in such request, together with any Registrable Securities of any Holder joining in such request as are specified in a written request given within 20 days after written notice from the Company, provided, however, that the Company shall not be required to effect more than (i) two Registrations pursuant to this Section 6.2 in any 12 month period, and (ii) four Registrations pursuant to this Section 6.2 requested by the Holders of Registrable Securities. The substantive provisions of Section 6.5 shall be applicable to each Registration initiated under this Section 6.2.

6.3 Right of Deferral. Notwithstanding the foregoing, the Company shall not be obligated to file a registration statement pursuant to this Section 6:

(a) if the Company, within 20 days of the receipt of the request of the Initiating Holders, gives notice of its bona fide intention to effect the filing of a Registration Statement with the Commission within 60 days of receipt of such request (other than to a Registration of securities in a Rule 145 transaction or with respect to an employee benefit plan), provided that the Company is actively employing commercially reasonable efforts to cause such Registration Statement to become effective;

(b) within six months immediately following the effective date of any Registration Statement pertaining to the securities of the Company (other than a registration of securities in a Rule 145 transaction or with respect to an employee benefit plan); or

(c) if the Company shall furnish to such Holders a certificate signed by the President of the Company stating that in the good faith judgment of the Board it would be detrimental to the Company or its stockholders for a Registration Statement to be filed in the near future, then the Company shall have the right to defer filing such Registration Statement for a period not to exceed 120 days from the receipt of the request to file such registration by such Holder, provided, however, that the Company shall not exercise the right contained in this subsection (c) more than once in any 12 month period with respect to a demand by the holders of Registrable Securities.

6.4 Registration of Other Securities in Demand Registration. Any Registration Statement filed pursuant to the request of the Initiating Holders under this Section 6 may, subject to the provisions of Section 6.5, include securities of the Company other than Registrable Securities.

6.5 Underwriting in Demand Registration.

(a) Notice of Underwriting. If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 6, and the Company shall include such information in the written notice referred to in Sections 6.1 and 6.2. The right of any Holder to Registration pursuant to Section 6 shall be conditioned upon such Holder's agreement to participate in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting.

(b) Inclusion of Other Holders in Demand Registration. If the Company, officers, or directors of the Company holding Common Stock other than Registrable Securities, as the case may be, or holders of securities other than Registrable Securities, request inclusion in such Registration, the Initiating Holders, to the extent they deem advisable and consistent with the goals of such Registration, may, in their sole discretion, on behalf of all Holders, offer to any or all of the Company, such officers or directors, and such holders of securities other than Registrable Securities that such securities other than Registrable Securities be included in the underwriting and may condition such offer on the acceptance by such persons of the terms of this Section 6.

(c) Selection of Underwriter in Demand Registration. The Company shall (together with all Holders proposing to distribute their securities through such underwriting) enter into an underwriting agreement with the representative ("Underwriter's Representative") of the underwriter or underwriters selected for such underwriting by the Holders of a majority of the Registrable Securities being registered by the Initiating Holders and agreed to by the Company.

(d) Marketing Limitation in Demand Registration. If the Underwriter's Representative advises the Initiating Holders in writing that market factors (including, without limitation, the aggregate number of shares of Common Stock requested to be Registered, the general condition of the market, and the status of the persons proposing to sell securities pursuant to the Registration) require a limitation of the number of shares to be underwritten, then (i) first, the Common Stock (other than Registrable Securities) held by officers or directors of the Company, (ii) second, the securities other than Registrable Securities, and (iii) third, the securities requested to be registered by the Company, shall be excluded from such Registration to the extent required by such limitation. If a limitation of the number of shares is still required, the Initiating Holders shall so advise all Holders and the number of shares of Registrable Securities that may be included in the Registration and underwriting shall be allocated among all holders of Registrable Securities in proportion, as nearly as practicable, to the respective amounts of Registrable Securities entitled to inclusion in such Registration held by such Holders at the time of filing the Registration Statement. No Registrable Securities or other securities excluded from the underwriting by reason of this Section 6.5(d) shall be included in such Registration Statement.

(e) Right of Withdrawal in Demand Registration. If any Holder of Registrable Securities, or a holder of other securities entitled (upon request) to be included in such Registration, disapproves of the terms of the underwriting, such person may elect to withdraw therefrom by written notice to the Company, the Underwriter's Representative and the Initiating Holders, delivered at least seven days prior to the effective date of the Registration Statement. The securities so withdrawn shall also be withdrawn from the Registration Statement.

## 7. Piggyback Registration.

7.1 Notice of Piggyback Registration and Inclusion of Registrable Securities. Subject to the terms of this Agreement, if the Company decides to Register any of its Common Stock (either for its own account or the account of a security holder or holders) on a form that would be suitable for a registration involving Registrable Securities, the Company shall: (i) promptly give each Holder written notice thereof (which shall include a list of the jurisdictions in which the Company intends to attempt to qualify such securities under the applicable Blue Sky or other state securities laws), and (ii) include in such Registration (and any related qualification under Blue Sky laws or other compliance), and in any underwriting involved therein, all the Registrable Securities specified in a written request delivered to the Company by any Holder within 20 days after delivery of such written notice from the Company.

### 7.2 Underwriting in Piggyback Registration.

(a) Notice of Underwriting in Piggyback Registration. If the Registration of which the Company gives notice is for a Registered public offering involving an underwriting, the Company shall so advise the Holders as a part of the written notice given pursuant to Section 7.1. In such event, the right of any Holder to Registration shall be conditioned upon such underwriting and the inclusion of such Holder's Registrable Securities in such underwriting to the extent provided in this Section 7. All Holders proposing to distribute their securities through such underwriting shall (together with the Company and the other holders distributing their securities through such underwriting) enter into an underwriting agreement with the Underwriter's Representative for such offering. The Holders shall have no right to participate in the selection of the underwriters for an offering pursuant to this Section 7.

(i) Marketing Limitation in Piggyback Registration. If the Underwriter's Representative advises the Holders seeking registration of Registrable Securities pursuant to this Section 7 in writing that market factors (including, without limitation, the aggregate number of shares of Common Stock requested to be Registered, the general condition of the market, and the status of the persons proposing to sell securities pursuant to the Registration) require a limitation of the number of shares to be underwritten, the Underwriter's Representative (subject to the allocation priority set forth in Section 7.2(c)) may exclude some or all Registrable Securities from such registration and underwriting, provided, however, that all other securities, other than the securities to be issued on behalf of the Company, are entirely excluded from such Registration before any Registrable Securities are excluded.

(b) Allocation of Shares in Piggyback Registration. If the Underwriter's Representative limits the number of shares to be included in a Registration pursuant to Section 7.2(b), the number of shares to be included in such Registration and underwriting shall be allocated among the Holders requesting and contractually entitled (without violating Section 13 herein) to include such securities in such Registration, in proportion, as nearly as practicable, to the respective amounts of Registrable Securities which such Holders would otherwise be entitled to include in such Registration. No Registrable Securities or other securities excluded from the underwriting by reason of this Section 7.2(c) shall be included in the Registration Statement.

(c) Withdrawal in Piggyback Registration. If any Holder disapproves of the terms of any such underwriting, such person may elect to withdraw therefrom by written notice to the Company and the Underwriter's Representative delivered at least seven (7) days prior to the effective date of the Registration Statement. Any Registrable Securities or other securities excluded or withdrawn from such underwriting shall be withdrawn from such Registration.

8. Expenses of Registration. Registration Expenses incurred in connection with two Registrations pursuant to Section 6. 1, and four Registrations for Holders of Registrable Securities pursuant to Section 6.2, and unlimited Registrations pursuant to Section 7, shall be borne by the Company. All Registration Expenses incurred in connection with any other Registration, qualification, or compliance, shall be apportioned among the Holders and other holders of the securities so registered on the basis of the number of shares so registered. Notwithstanding the above, the Company shall not be required to pay for any expenses of any Registration proceeding begun pursuant to Section 6 if, for any reason other than as a result of a breach of this Agreement by the Company, the Registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (which Holders shall bear such expenses), unless the Holders of a majority of the Registrable Securities agree to forfeit their right to one demand Registration pursuant to Section 6. All Selling Expenses shall be borne by the holders of the securities Registered pro rata on the basis of the number of shares Registered.

9. Termination of Registration Rights; Delay of Registration.

9.1 Termination. The rights to cause the Company to register securities granted under Sections 6 and 7 of this Agreement and to receive notices pursuant to Section 7 of this Agreement shall terminate, with respect to each Holder, upon the earlier date of: (i) three (3) years after the closing date of the Company's initial underwritten public offering of Common Stock of the Company pursuant to a Registration Statement, or (ii) upon any of the following events: (a) any liquidation, dissolution, or winding up of the Company, whether voluntary or not, (b) the sale, lease, assignment, transfer, conveyance or disposal of all or substantially all of the assets of the Company, (c) the exclusive license of all or substantially all of the material intellectual property rights of the Company, or (d) the acquisition of the Company by means of consolidation, corporate reorganization, merger or other transaction or series of related transactions in which stockholders of the Company immediately prior to such transaction(s) do not own at least a majority of the outstanding voting securities of the successor entity.

9.2 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of Sections 6-11.

10. Registration Procedures and Obligations. Whenever required under this Agreement to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the Commission a Registration Statement with respect to such Registrable Securities and use commercially reasonable efforts to cause such Registration Statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such Registration Statement effective for up to 120 days (180 days for a Registration Statement on Form S-3); provided, however, that (i) such one hundred twenty (120) day period shall be extended for a period of time equal to the period that the Holder refrains, at the request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable Commission rules, such one hundred twenty (120) day period shall be extended for up to 90 days, if necessary, to keep the Registration Statement effective until all such Registrable Securities are sold].

(b) Prepare and file, as soon as is reasonably practicable, with the Commission, such amendments and supplements to such Registration Statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement.

(c) Furnish to the Holders such numbers of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned by them.

(d) Register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders, provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business in any jurisdiction where it is not so qualified or to file a general consent to service of process in any such states or jurisdictions, and provided, further, that in the event any jurisdiction in which the securities shall be qualified imposes a non-waivable requirement that expenses incurred in connection with the qualification of the securities be borne by selling shareholders, such expenses shall be payable pro rata by selling shareholders.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter of such offering. Each Holder participating in such underwriting shall also enter into and perform its obligations under such an agreement.

(f) Notify each Holder of Registrable Securities covered by such Registration Statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing.



(g) Provide a transfer agent and registrar for all Registrable Securities registered pursuant to such Registration Statement and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(h) Furnish, at the request of any Holder requesting registration of Registrable Securities pursuant to this Agreement, on the date that such Registrable Securities are delivered for sale in connection with a registration pursuant to this Agreement, (i) an opinion, dated such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters (with a copy provided to each holder of Registrable Securities) in an underwritten public offering, and (ii) a letter dated such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the underwriters (with a copy provided to each holder of Registrable Securities).

(i) List the Registrable Securities covered by such registration statement with any securities exchange on which the Common Stock of the Company is then listed, or such securities exchange as shall be selected by the Company, or, if the Company fails to make an application to so list within 30 days of a request for the same by the Holders in connection with a Registered public offering involving an underwriting, the Holders may determine the place of listing, subject to qualification by the Company to list its shares thereon.

(j) Notify, as promptly as practicable, each seller of Registrable Securities under such registration statement of (i) the effectiveness of such registration statement or any post-effective amendments thereto, (ii) the filing of any post-effective amendments to such registration statement, (iii) the filing of a supplement to such registration statement, or (iv) the issuance of a stop order with respect to such registration statement.

(k) Make available for inspection upon reasonable notice during the Company's regular business hours by each seller of Registrable Securities, any underwriter participating in any distribution pursuant to such registration statement, and any attorney, accountant, or other agent retained by such seller or underwriter, all material financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors and employees to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent in connection with such registration statement.

11. Information Furnished by Holder. It shall be a condition precedent of the Company's obligations under this Agreement that each Holder of Registrable Securities included in any Registration furnish to the Company such information regarding such Holder and the distribution proposed by such Holder or Holders as the Company may reasonably request.

## 12. Indemnification.

12.1 Company's Indemnification of Holders. To the extent permitted by law, the Company shall indemnify each Holder, each of its officers, directors, and constituent partners, legal counsel for the Holders, and each person controlling such Holder, with respect to which Registration, qualification, or compliance of Registrable Securities has been effected

pursuant to this Agreement, and each underwriter, if any, and each person who controls any underwriter against all claims, losses, damages, liabilities, or actions in respect thereof (collectively, "Damages") to the extent such Damages arise out of or are based upon any untrue statement (or alleged untrue statement) of a material fact contained in any prospectus or other document (including any related Registration Statement) incident to any such Registration, qualification, or compliance, or are based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, Exchange Act, or any state securities law and the Company shall reimburse each such Holder, each such underwriter, and each person who controls any such Holder or underwriter, for any legal and any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability, or action; provided, however, that the indemnity contained in this Section 12.1 shall not apply to amounts paid in settlement of any such Damages if settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld); and provided, further, that the Company shall not be liable in any such case to the extent that any such Damages arise out of or are based upon any untrue statement or omission based upon written information furnished to the Company by such Holder, underwriter, or controlling person and stated to be for use in connection with the offering of securities of the Company.

12.2 Holder's Indemnification of Company. To the extent permitted by law, each Holder shall, severally but not jointly, if Registrable Securities held by such Holder are included in the securities as to which such Registration, qualification or, compliance is being effected pursuant to this Agreement, indemnify the Company, each of its directors and officers, each legal counsel and independent accountant of the Company, each underwriter, if any, of the Company's securities covered by such a Registration Statement, each person who controls the Company or such underwriter within the meaning of the Securities Act, and each other such Holder, each of its officers, directors, and constituent partners, and each person controlling such other Holder, against all Damages arising out of or based upon any untrue statement (or alleged untrue statement) of a material fact contained in any such Registration Statement, prospectus, offering circular, or other document, or any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation or alleged violation by such Holder of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law, and shall reimburse the Company, such Holders, such directors, officers, partners, persons, law and accounting firms, underwriters, or control persons for any legal and any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability, or action, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such Registration Statement, prospectus, offering circular, or other document in reliance upon and in conformity with written information furnished to the Company by such Holder and stated to be specifically for use in connection with the offering of securities of the Company, provided, however, that the indemnity contained in this Section 12.2 shall not apply to amounts paid in settlement of any such Damages if settlement is effected without the consent of such Holder (which consent shall not be unreasonably withheld) and provided, further, that each Holder's liability under this Section 12.2 shall not exceed such Holder's proceeds from the offering of securities (net of the Selling Expenses paid by such Holder) made in connection with such Registration.

12.3 Indemnification Procedure. Promptly after receipt by an indemnified party under this Section 12 of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under this Section 12, notify the indemnifying party in writing of the commencement thereof and generally summarize such action. The indemnifying party shall have the right to participate in and to assume the defense of such claim, provided, however, that the indemnifying party shall be entitled to select counsel for the defense of such claim with the approval of any parties entitled to indemnification, which approval shall not be unreasonably withheld; provided further, however, that if either party reasonably determines that there may be a conflict between the position of the Company and the Holders in conducting the defense of such action, suit, or proceeding by reason of recognized claims for indemnity under this Section 12, then counsel for such party shall be entitled to conduct the defense to the extent reasonably determined by such counsel to be necessary to protect the interest of such party with the fees and expenses of such counsel to be paid by the indemnifying party. The failure to notify an indemnifying party promptly of the commencement of any such action, if prejudicial to the ability of the indemnifying party to defend such action, shall relieve such indemnifying party, to the extent so prejudiced, of any liability to the indemnified party under this Section 12, but the omission so to notify the indemnifying party shall not relieve such party of any liability that such party may have to any indemnified party otherwise than under this Section 12.

12.4 Contribution. If the indemnification provided for in this Section 12 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any Damages referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such Damages in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions that resulted in such Damages as well as any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission, provided, however, that each Holder's liability for contribution shall not exceed such Holder's proceeds from the offering of securities (net of the Selling Expenses paid by such Holder) made in connection with a Registration.

12.5 Conflicts. Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

12.6 Survival of Obligations. The obligations of the Company and Holders under this Section 12 shall survive the completion of any offering of Registrable Securities in a registration statement under this Agreement or otherwise.

13. Limitations on Registration Rights Granted to Other Securities. From and after the date of this Agreement, the Company shall not, without the consent of the Holders of a majority of the Registrable Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company providing for the granting to such holder of any information or Registration rights.

14. Market Standoff. Each Holder hereby agrees that, if so requested by the Company and the Underwriter's Representative (if any) in connection with the Company's initial public offering, such Holder shall not sell, make any short sale of, loan, grant any option for the purchase of, or otherwise transfer or dispose of any Registrable Securities or other securities of the Company without the prior written consent of the Company and the Underwriter's Representative for such period of time (not to exceed 180 days) following the effective date of a Registration Statement of the Company filed under the Securities Act as may be requested by the Underwriter's Representative provided, however, that all officers, directors and key employees of the Company and stockholders who hold 5% or more of the issued and outstanding securities of the Company, enter into similar agreements. In order to enforce the foregoing covenant, (i) the Company shall have the right to place restrictive legends on the certificates representing the shares subject to this Section 14 and to impose stop transfer instructions with respect to the Registrable Securities and such other shares of stock of each Holder (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period and (ii) the Holder agrees to execute the form of agreement requested by the Company and/or underwriter, subject to the provisions herein contained. Notwithstanding the foregoing, the provisions of this Section 14 shall not apply to any securities issued by the Company that are purchased by Holders on the open market.

All certificates evidencing Convertible Securities and Registrable Securities shall bear such restrictive legends as the Company and the Company's counsel deem necessary or advisable under applicable law or pursuant to this Agreement, including, without limitation, the following:

“THE SECURITIES REPRESENTED HEREBY ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR A PERIOD OF UP TO 180 DAYS FOLLOWING THE EFFECTIVE DATE OF A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, FOR AN OFFERING OF THE COMPANY'S SECURITIES PURSUANT TO THE MARKET STANDOFF PROVISIONS OF AN INVESTOR RIGHTS AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL PURCHASER OF SUCH SECURITIES.”

15. Reports Under the Exchange Act. With a view to making available to the Holders the benefits of Rule 144 promulgated under the Securities Act and any other rule or regulation of the Commission that may at any time permit a Holder to sell securities of the Company to the public without Registration or pursuant to a registration on Form S-3, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144, at all times after 90 days after the effective date of the first Registration Statement filed by the Company for the offering of its securities to the public;

(b) take such action as is necessary to enable the Holders to utilize Form S-3 for the sale of their Registrable Securities, such action to be taken as soon as practicable after the end of the fiscal year in which the first Registration Statement filed by the Company for the offering of its securities to the general public is declared effective;

(c) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(d) furnish to any Holder, so long as the Holder owns any Registrable Securities, promptly upon request (i) a written statement by the Company that it has complied with the reporting requirements of Rule 144 (at any time after 90 days after the effective date of the first Registration Statement filed by the Company), the Securities Act, and the Exchange Act (at any time after it has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the Commission which permits the selling of any such securities without Registration or pursuant to such form.

#### 16. Miscellaneous.

16.1 Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder to a transferee of Registrable Securities that (i) is an Affiliate of a Holder; (ii) is a Holder's Immediate Family Member or trust for the benefit of an individual Holder or one or more of such Holder's Immediate Family Members; or (iii) is transferred at least 25% of the Registrable Securities then held by such Holder; provided, however, that (x) the Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; and (y) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement. The rights and obligations of the Company hereunder may not be assigned under any circumstances. Subject to the foregoing, the terms and conditions of this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

16.2 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, excluding those laws that direct the application of the laws of another jurisdiction.

16.3 Headings. The headings of the sections of this Agreement are for convenience and shall not by themselves determine the interpretation of this Agreement.

16.4 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed effectively given (i) upon actual delivery to the party to be notified, (ii) three (3) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iii) one business day after deposit with a recognized overnight courier, specifying next business day delivery, addressed (a) if to an Investor, at the Investor's address set forth on the Schedule of Investors, or at such other address as the Investor shall have furnished to the Company in writing upon 10 days' notice, (b) if to PMC, at PMC's address set forth below, or at such other address as PMC shall have furnished to the Company in writing upon 10 days' notice, or (c) if to the Company, at the following address or at such other address as the Company shall have furnished to PMC and the Investors upon 10 days' notice:

Everbridge, Inc.  
505 N. Brand Blvd., Suite 700  
Glendale, California 91203  
Attention: Chief Executive Officer

With a copy to:

Procopio, Cory, Hargreaves & Savitch LLP  
525 B Street, Suite 2200  
San Diego, CA 92101  
Attention: Roger C. Rappoport, Esq.

If to PMC :

PMC Financial Services Group, LLC  
1720 East Wilshire Avenue, 2<sup>nd</sup> Floor  
Santa Ana, California 92705  
Attention : Steven Enyeart

A copy of any notice given to the Investors shall also be sent to:

Nixon Peabody LLP  
100 Summer Street  
Boston, MA 02110  
Attention: Gregory M. O'Shaughnessy, Esq.

16.5 Amendment of Agreement and Waivers. Any provision of this Agreement may be amended (or any provisions waived) only by a written instrument signed by the Company and by persons holding at least a majority of the Registrable Securities (voting as a single class on an as-converted to Common Stock basis). Notwithstanding the foregoing, any provision of this Agreement may be waived by the waiving party on such party's own behalf without the consent of any other party. Anything herein to the contrary notwithstanding, the rights of PMC under this Agreement may not be amended, modified or waived, without the prior

written consent of PMC, unless such amendment, modification or waiver affects the rights of PMC under this Agreement in the same and proportional manner and extent as such amendment, modification or waiver affects the rights of the other Holders under this Agreement.

16.6 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then such provision(s) shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

16.7 Additional Investors. Persons who purchase from the Company shares of Series A-1 Preferred after the date of this Agreement and who execute signature pages to this Agreement shall become parties hereto and such persons shall thereby be bound by, and subject to, all of the terms and provisions of this Agreement applicable to a Holder or Investor, and no consent or waiver of any other party hereto, other than the Company, shall be required to add any such additional party. Exhibit A shall be updated to include such additional Investors.

16.8 Amendment and Restatement of Prior Agreement. The Prior Agreement is hereby amended and restated in its entirety. Such amendment and restatement is effective upon execution of this Agreement by the Company and by the holders of a majority of the Registrable Securities (as defined in the Prior Agreement), voting together as a single class on an as-converted to Common Stock basis. Upon such execution, the Prior Agreement shall have no further force or effect.

16.9 Entire Agreement. This Agreement constitutes the entire agreement among the parties with regard to the subject matter hereof and supercedes any and all prior negotiations, correspondence, understandings and agreements among the parties regarding the subject matter hereof.

16.10 Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

16.11 Costs and Attorneys' Fees. In the event that any action, suit or other proceeding is instituted concerning or arising out of this Agreement or any transaction contemplated hereunder, the prevailing party shall recover all of such party's costs and attorneys' fees incurred in each such action, suit or other proceeding, including any and all appeals or petitions therefrom.

16.12 Aggregation of Stock. All Registrable Securities held by Affiliated entities or persons shall be aggregated together for purposes of determining the availability of any rights under this Agreement.

16.13 Telecopy Execution and Delivery. A facsimile, telecopy or other reproduction of this Agreement may be executed by one or more parties hereto and delivered by such party by facsimile or any similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen. Such execution and delivery shall be

considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute and deliver an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

16.14 Counterparts. This Agreement may be executed by facsimile and in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all such counterparts together will constitute one and the same instrument.

***[Signature Page Follows]***



IN WITNESS WHEREOF, the parties hereto have executed this Third Amended and Restated Investor Rights Agreement as of the date first above written.

**EVERBRIDGE, INC.**  
a Delaware corporation

/s/ Cinta Putra  
Cinta Putra, Chief Executive Officer

*Signature Page to Third Amended and Restated  
Investor Rights Agreement*

**INVESTORS:**  
(Prior Investors)

ABS VENTURES IX L.P.

By: Calvert Capital V L.L.C.,  
its General Partner

By: /s/ Bruns Grayson  
Name: Bruns Grayson  
Title: Manager

/s/ Cinta Putra  
CINTA PUTRA

/s/ Jaime Ellertson  
JAIME ELLERTSON

/s/ Roger Rappoport  
ROGER RAPPOPORT

**INVESTORS:**  
(Effective Time Holders receiving Series A-1 Preferred in the Merger)

DOLPHIN EQUITY PARTNERS HI, LLC

BRMR, LLC

By: /s/ Richard Brekka  
Name: Richard Brekka  
Title: Managing Member

By: /s/ Barry Rubenstein  
Name: Barry Rubenstein  
Title: CEO

DOUGHTY HANSON

SIGNED by )  
DOUGHTY HANSON &CO )  
TECHNOLOGY II LP )  
acting through its General Partner, )  
Doughty Hanson & Co Technology II )  
Limited, acting by: )

/s/ Irwin Lieber  
IRWIN LIEBER

/s/ Richard Lund  
Authorized Signatory

SIGNED by )  
OFFICERS NOMINEES LIMITED )  
acting by: )

/s/ Richard Lund  
Authorized Signatory

**EXHIBIT A****Schedule of Investors**  
(Prior Investors)

| <u>Investor Name and Address</u>  | <u>No. Series A<br/>Preferred</u> | <u>No. Series A-1 Preferred</u> |                            |  | <u>Total</u> |
|---|-----------------------------------|---------------------------------|----------------------------|--|--------------|
|   |                                   | <u>Purchased 4-2-2009</u>       | <u>Purchased 4-20-2010</u> | <u>Additional Closing</u>                  |              |
| ABS Ventures IX L.P.<br>850 Winter Street<br>Suite 275<br>Waltham, MA 02451   | 17,862,140                        | 4,613,610                       | 5,767,012                  | 8,751,852<br>(Note Conversion<br>9-9-2011) | 36,994,614   |
| Roger Rappoport<br>c/o Procopio, Cory, Hargreaves & Savitch LLP<br>530 B Street, Suite 2100<br>San Diego, CA 92101            | 130,097                           | —                               | —                          |  | 130,097      |
| Jaime Ellertson<br>36 Thornberry Lane<br>Sudbury, MA 01776  | —                                 | —                               | 1,153,402                  |  | 1,153,402    |
| Eastward Capital Partners IV, L.P.<br>432 Cherry Street<br>West Newton, Massachusetts 02465<br>Attention: Mr. David Z. Alpert | —                                 | —                               | 131,487                    |  | 131,487      |
| Eastward Capital Partners V, L.P.<br>432 Cherry Street<br>West Newton, Massachusetts 02465<br>Attention: Mr. David Z. Alpert  | —                                 | —                               | 440,599                    |  | 440,599      |
| Eastward Investors, L.P.<br>432 Cherry Street<br>West Newton, Massachusetts 02465<br>Attention: Mr. David Z. Alpert           | —                                 | —                               | 4,613                      |  | 4,613        |
| Cinta Putra<br>c/o Everbridge, Inc.<br>505 N. Brand Blvd., Suite 700<br>Glendale, California 91203                            | —                                 | —                               | —                          | 988,854<br>(Note Conversion<br>1-20-2011)  | 988,854      |

Exhibit A

**Schedule of Investors**  
(Effective Time Holders receiving Series A-1 Preferred in the Merger)

| <u>Name and Address</u>  | <u>Number of Shares (Series A-1 Preferred)</u> |
|--|--|
| Dolphin Equity Partners III, LLC<br>590 Madison Avenue, 18 <sup>th</sup> Floor<br>New York, NY 10022 |  |
| BRMR, LLC<br>68 Wheatley Road<br>Brookville, NY 11545  |  |
| Doughty Hanson<br>45 Pall Mall London<br>London SW1Y 5JG<br>United Kingdom                           |  |
| Officers Nominees Limited<br>45 Pall Mall London<br>London SW1Y 5JG<br>United Kingdom                |  |
| Irwin Lieber<br>8 Applegreen Drive<br>Old Westbury, NY 11568   |  |

## SUBLEASE

THIS SUBLEASE (“**Sublease**”) is made and entered into as of March 30, 2016, by and between JACOBS ENGINEERING GROUP INC., a Delaware corporation (“**Sublandlord**”), and EVERBRIDGE, INC., a Delaware corporation (“**Subtenant**”).

WHEREAS, Sublandlord, as Tenant, and PR 155 NORTH LAKE, LLC, a Delaware limited liability company, successor-in-interest to CA-Century Square Limited Partnership (“**Landlord**”), as Landlord, entered into that certain Office Lease dated June 20, 2012 (“**Original Lease**”), as amended by that certain First Amendment dated as of October 31, 2012 (“**First Amendment**”), that certain Second Amendment dated as of April 24, 2013 (“**Second Amendment**”), and that certain Third Amendment dated as of June 13, 2013 (“**Third Amendment**”; together with the Original Lease, First Amendment, and Second Amendment, the “**Lease**”) for 83,936 RSF consisting of (i) the entire eleventh (11th) floor of the Building consisting of 19,263 RSF, identified as Suite 1100 (“**Suite 1100**”); (ii) the entire tenth (10th) floor of the Building consisting of 19,263 RSF, identified as Suite 1000 (“**Suite 1000**”); (iii) the entire ninth (9th) floor of the Building consisting of 19,263 RSF, identified as Suite 900 (“**Suite 900**”); (iv) the entire fifth (5th) floor of the Building consisting of 19,263 RSF, identified as Suite 500 (“**Suite 500**”); and (v) 6,884 RSF on the ground floor of the Building, identified as Suite 150 (“**Suite 150**”) (collectively, the “**Premises**”) in the building located at 155 North Lake Avenue, Pasadena, California, 91101 (“**Building**”).

WHEREAS, Subtenant desires to sublease Suite 900 portion from Sublandlord upon the terms and conditions herein contained.

WHEREAS, any capitalized terms used in this Sublease but not defined herein shall have the meanings set forth in the Lease.

NOW THEREFORE, for and in consideration of the foregoing and for other good and valuable consideration and the mutual agreements herein contained, the parties agree as follows:

1. Demise. On the terms and conditions of this Sublease and subject to receipt by Sublandlord of Landlord’s Consent (hereinafter defined), Sublandlord hereby subleases to Subtenant, and Subtenant accepts from Sublandlord, Suite 900, containing 19,263 RSF and shown on the plan attached hereto as Exhibit A (the “**Sublease Space**”).

2. Tenn., Early Access.

(a) The term of this Sublease (“**Sublease Term**”) shall commence on June 1, 2016, subject to full execution of Landlord’s Consent (the “**Commencement Date**”); and the Sublease Term shall expire on June 30, 2018, unless sooner terminated in accordance with the terms of this Sublease. Notwithstanding anything herein to the contrary, if the Lease expires or terminates at any time during the Sublease Term, then this Sublease shall also terminate automatically as of the date of the Lease expiration or termination. Except with respect to the Acceleration Option (as defined in the Lease) or due to Landlord’s default, as long as Subtenant is not in an Event of Default (hereinafter defined) under this Sublease, Sublandlord agrees not to voluntarily terminate the Term of the Lease with respect to the Sublease Space before the expiration of the Sublease Term (unless on account of Landlord’s default, a Casualty, or a Taking), without the prior consent of Subtenant, unless Landlord agrees to recognize the rights of Subtenant under this Sublease.

(b) Upon the later of (i) Sublandlord's receipt of Landlord's Consent (hereinafter defined) to this fully-executed Sublease, or (ii) April 1, 2016 (such later date, the "**Access Date**"), Sublandlord will provide Subtenant with access to the Sublease Space for the purpose of inspecting the Sublease Space and installing equipment and furniture therein.

Subtenant has no right to conduct business or otherwise use the Sublease Space during such early entry period, provided, however, Sublandlord does acknowledge that Subtenant will commence moving into the Sublease Space on May 27, 2016, and that Subtenant has the right to conduct business in the Sublease Space after such date. Subtenant's access shall be subject to the following conditions: (1) Subtenant has delivered to Sublandlord evidence that the insurance required to be maintained by Subtenant under this Sublease has been obtained, (2) Subtenant shall indemnify, defend, and hold Sublandlord harmless from any loss or damage to Building or the Sublease Space, and any death or personal injury to any person or persons arising out of such entry into the Sublease Space, except to the extent any such claim, liability, damage, loss, cost, or expense is caused by the gross negligence or willful misconduct of Sublandlord and/or its agents, contractors, or employees, and (3) Subtenant delivers to Sublandlord the first month's Rent payment. Any work in the Sublease Space shall be performed in accordance with Section 9 of this Sublease. Any early entry by Subtenant shall be on the terms of this Sublease, but no Rent shall accrue during the early entry period.

### 3. Rent.

(a) Base Rent and Additional Rent. Subtenant covenants and agrees to pay to Sublandlord the following Base Rent and Additional Rent (collectively, "**Rent**") during the Sublease Term:

(i) Base Rent. The monthly base rental ("**Base Rent**") for the Sublease Space shall be as follows:

| <u>Period</u>   | <u>Rentable<br/>Square<br/>Footage</u> | <u>Base Rent<br/>Rate Per RSF<br/>per year</u> | <u>Monthly Base<br/>Rent</u> |
|---|--|--|------------------------------|
| 06-01-16 to 06-30-16  | 19,263                                 | \$ 27.00                                       | \$34,041.75*                 |
| 07-01-16 to 05-31-17  | 19,263                                 | \$ 27.00                                       | \$43,341.75                  |
| 06-01-17 to 06-30-18  | 19,263                                 | \$ 27.81                                       | \$44,642.00                  |
| If Subtenant exercises the Extension Option under Section 25, then during the extension term, Base Rent for the Sublease Space shall be as follows: |  |  |                              |
| 07-01-18 to 06-30-19  | 19,263                                 | \$ 28.64                                       | \$45,974.36                  |
| 07-01-19 to 06-30-20  | 19,263                                 | \$ 29.50                                       | \$47,354.88                  |
| 07-01-20 to 06-30-21  | 19,263                                 | \$ 30.39                                       | \$48,783.55                  |
| 07-01-21 to 06-30-22  | 19,263                                 | \$ 31.30                                       | \$50,244.33                  |
| 07-01-22 to 12-31-23  | 19,263                                 | \$ 32.24                                       | \$51,753.26                  |

\* Monthly Base Rent reduced by \$9,300.00 to offset Subtenant's costs of removing any existing Furniture (hereinafter defined) from the Sublease Space.

(ii) Additional Rent. Subtenant shall pay to Sublandlord as additional rent (“**Additional Rent**”) all expenses incurred by Sublandlord due to Subtenant’s use of the Sublease Space and all other costs incurred under the Lease for the Sublease Space. Subtenant shall pay Sublandlord, as Additional Rent for each Expense Year that occurs in whole or in part during the Sublease Term, an amount (the “**Sublease Escalation**”) equal to Subtenant’s Share (as hereinafter defined) of the excess (if any) of (x) the amount payable by Sublandlord to Landlord for such Expense Year under Section 4 of the Lease (both estimates as well as actuals) in respect of escalations in Expenses and Taxes over (y) the amount payable by Sublandlord to Landlord for the Expense Year ending on December 31, 2016, under the Lease in respect of escalations in Expenses and Taxes. If the expiration date of the Sublease Term occurs on a day other than the last day of an Expense Year, then the Sublease Escalation for such Expense Year shall be a pro-rated amount (computed on a per diem basis), based upon the number of days within such Expense Year occurring within the Sublease Term. “**Subtenant’s Share**” means 22.95%, which percentage the parties agree is Subtenant’s percentage share of the Premises applicable to the Sublease Space and is subject to appropriate adjustment after the date hereof if either the size of the Premises or the size of the Sublease Space is increased or decreased. During the Sublease Term, Subtenant has the right to request from Sublandlord a copy of the Statement (as that term is defined in Section 4.4.1 of the Original Lease), the Estimate Statement (as that term is defined in Section 4.4.2 of the Original Lease), and any back-up information that Landlord has delivered to Sublandlord with respect to the actual Expenses and Taxes for the preceding calendar year.

(iii) Statement of Estimated Expenses and Taxes. Sublandlord shall promptly forward to Subtenant all estimates of Expenses and Taxes and Estimate Statement that Sublandlord receives from Landlord. After the expiration of a fiscal year, Landlord shall make a determination of the actual amounts payable by Sublandlord under the terms and conditions of the Lease. If it is determined that Sublandlord overpaid or underpaid the actual amounts of Expenses and Taxes, then the same appropriate adjustments to Expenses and Taxes (on a pro rata basis) will be made with Subtenant in accordance with the terms and conditions of the Lease. Upon timely request by Subtenant, Sublandlord agrees that it shall, to the extent permitted under the Lease, make a request to Landlord for reasonable supporting documentation in Landlord’s possession with respect to amounts shown in any year-end Estimate Statement.

(b) Payment. Subtenant shall pay Rent to Sublandlord in advance and without notice, on the first day of each and every month during the Sublease Term, without set off or deduction, at Jacobs Engineering Group Inc., 500 Washington Avenue, St. Louis, MO 63102, Attn: Cathy Kramer, or such other place as Sublandlord may designate in writing. Subtenant shall deliver to Sublandlord the first month’s Rent payment on or before the Access Date.

(c) Late Fee and Interest. If Subtenant shall fail to pay any Rent within five (5) business days after its due date, then Subtenant shall pay with the next installment a late charge equal to \$250.00. Any Rent that is not paid within 10 days after its due date shall bear interest, from its due date until paid, at the lesser of 10% per annum or the highest rate permitted by Law.

4. Intentionally omitted.

5. Security Deposit. To secure the faithful performance by Subtenant of all the covenants, conditions and agreements in this Sublease set forth and contained on the part of Subtenant to be fulfilled, kept, observed and performed, five (5) business days following execution of this Sublease, Subtenant shall deliver to Sublandlord a security deposit in the amount of \$44,642.00 (the “**Security Deposit**”). If Subtenant defaults, beyond any applicable grace or cure period, with respect to any provision of this Sublease, including payment of the Rent, then Sublandlord may use, apply, draw upon or retain all or any part of the Security Deposit to the extent necessary for the payment of any rent, or to compensate Sublandlord for any other loss, cost or damage that Sublandlord may suffer by reason of Subtenant’s default. If any portion of the Security Deposit is so used, applied, or drawn upon, Subtenant shall, within 30 days after notice thereof, deposit cash with Sublandlord in an amount sufficient to restore the Security Deposit to its original amount. Subtenant’s failure to do so shall be an Event of Default under this Sublease. Sublandlord shall not, unless otherwise required by law, be required to keep the Security Deposit separate from its general funds, nor pay interest to Subtenant. As long as Subtenant is not then in an Event of Default, the Security Deposit or any balance thereof shall be returned to Subtenant (or to the last transferee of Subtenant’s interest hereunder) after the expiration of the Sublease Term (or sooner termination of this Sublease) and upon Subtenant’s vacation of the Sublease Space in accordance with this Sublease, provided Subtenant has vacated the Sublease Space and surrendered possession thereof to Sublandlord in the condition required under this Sublease and the Lease. Sublandlord confirms that no improvements, alterations or installations have been made to the Sublease Space since the term commenced under the Lease other than cosmetic improvements such as painting.

6. Condition of Sublease Space. Subtenant hereby agrees that the Sublease Space shall be taken “AS IS”, with “ALL FAULTS” and “WITHOUT ANY REPRESENTATION OR WARRANTIES.” Sublandlord shall not be required to perform any demolition work, improvement work, or tenant-finish work therein or to provide any allowances therefor. Subtenant hereby acknowledges and agrees that it has investigated and inspected the condition of the Sublease Space and the suitability of same for Subtenant’s purposes. Subtenant hereby waives and disclaims any objection or cause of action based upon, or claim that its obligations hereunder should be reduced or limited because of, the physical condition of the Sublease Space or the suitability of same for Subtenant’s purposes. Subtenant acknowledges that neither Sublandlord nor any agent or employee of Sublandlord nor Landlord has made any representation or warranty with respect to the physical condition of the Sublease Space or with respect to the suitability of the same for Subtenant’s purposes. Subtenant expressly represents and warrants that Subtenant has relied solely on its own investigation and inspection of the Sublease Space in its decision to enter into the Sublease and let the Sublease Space in its “AS IS” condition. Any alterations or work performed in the Sublease Space shall be done at Subtenant’s sole cost and expense and shall be performed in a good and workmanlike manner and in compliance with all applicable law, building codes, and regulations.

7. Use. Subtenant shall use the Sublease Space only for general office purposes consistent with a first-class office building as permitted under the Lease, and Subtenant covenants not to use the Sublease Space for any other purpose whatsoever. Subtenant shall not use or occupy or suffer or permit the use or occupancy of the Sublease Space or any part thereof in any manner which, in Landlord’s or Sublandlord’s judgment, might adversely affect or interfere (i) with any services required to be furnished by Landlord, or (ii) with the proper and



economical rendition of any such service, or (iii) with the use or enjoyment of any part of the Building by Landlord, Sublandlord, or any other tenant, subtenant or occupant. Subtenant shall ensure that its use complies with all governmental regulations and zoning requirements and with the Lease. Subtenant shall comply with all laws relating to the use, condition, access to, and occupancy of the Sublease Space and will not commit waste.

8. Lease.

(a) Incorporation. A copy of the Lease is attached hereto as Exhibit B. Subtenant hereby assumes and agrees to perform all of the obligations of Sublandlord under the Lease with respect to the Sublease Space, accruing or payable during the Sublease Term in the manner and time required under the Lease. Except as otherwise set forth below, and to the extent consistent with the provisions of this Sublease, the terms, provisions, covenants, and conditions of the Lease are hereby incorporated by reference as if set forth at length herein on the following basis: The term “Landlord” in the Lease shall refer to Sublandlord herein, its successors and assigns; the term “Tenant” therein shall refer to Subtenant herein, its permitted successors and assigns; the term “Premises” therein shall refer to the Sublease Space under this Sublease; and the term “Lease” therein shall refer to this Sublease. This Sublease is subject to the terms, covenants, agreements, provisions, and conditions of the Lease, and Subtenant covenants with Sublandlord to observe, perform and be bound by each and every provision of the Lease as applicable to the Sublease Space or the Tenant to the same manner and extent as if such provisions were contained in this Sublease. Notwithstanding the foregoing provisions of this Section 6(a), the following provisions of the Lease are not incorporated into this Sublease: (i) Original Lease: Sections: 1.2.2 (except the last sentence is incorporated), 1.3, 1.4, 1.5, 1.6, 1.8, 1.9, 1.10, 1.11, 1.12, 1.15, 1.16; 2.1, 4.4, 4.6, 6.1, 6.2, 6.3, 7.1.2, clause (i) of the second sentence of 7.2, 8, the last sentence of 10.1, 11, 13, 17.2, 17.3, 19.4, 21, 25.4, 25.5, 25.7, Exhibit A, Exhibit A-1, Exhibit A-3, Exhibit A-4, Exhibit A-5, Exhibit B, Exhibit B-1, Exhibit B-2, Exhibit C, Exhibit F, Exhibit F-1, Exhibit G; (ii) First Amendment; (iii) Second Amendment; and (iv) Third Amendment. Any reference in the Lease to the obligations assumed by Subtenant hereunder that accrue during the Sublease Term shall survive and extend beyond the termination of this Sublease. Notwithstanding anything herein to the contrary, Subtenant acknowledges and agrees that Subtenant has no right or option to exercise Sublandlord’s extension option(s), right of first offer, acceleration option, termination option, or preferential rights, if any, set forth in the Lease.

(b) Tenant Obligations. Except as otherwise expressly provided herein, Subtenant shall perform each and every affirmative covenant and obligation of the “**Tenant**” under the Lease (and refrain from performing any act that is prohibited by any of the negative covenants of the Lease) as and when the same shall be required to be performed, where such obligation to perform (or refrain from performing) is (A) set forth in an express provision of this Sublease or (B) by its nature imposed upon the party then in possession of the Sublease Space.

(c) Sublandlord Obligations. Sublandlord shall duly observe and perform all of the terms and conditions of the Lease that are required to be performed or observed by Sublandlord as the tenant thereunder and are not required to be performed or observed by Subtenant under this Sublease.

(d) Sublandlord Representations. Sublandlord represents to Subtenant that: (A) the Lease is in full force and effect, (B) the copy of the Lease which is attached to this Sublease as Exhibit B is a true, correct and complete copy of the Lease, (C) Sublandlord has paid all Rent and all other amounts due under the Lease through the Commencement Date, and (D) to Sublandlord's actual knowledge, no default currently exists on the part of Sublandlord or, to Sublandlord's actual knowledge, Landlord, nor has there occurred any event which, with the giving of notice or passage of time or both, could constitute such a default or event of default.

(e) Consent. If the consent or approval of Landlord is required under the Lease, then the consent or approval of both Landlord and Sublandlord shall be required under this Sublease. In determining whether to grant or withhold any consent or approval hereunder, Sublandlord may expressly condition the same upon the consent or approval of Landlord. If Subtenant requests the consent of Sublandlord under any provisions of this Sublease, then Subtenant shall, as a condition to doing any such act and the receipt of such consent, reimburse Sublandlord for any and all reasonable costs and expenses actually incurred by Sublandlord in connection therewith, including without limitation reasonable attorneys' fees and amounts charged and incurred by Landlord.

(f) Indemnification Under Lease. Any provisions in the Lease requiring indemnification by Sublandlord of Landlord (and its partners, shareholders, officers, directors, affiliates, agents, employees and contractors) or releasing Landlord from liability shall be deemed an indemnification or release, as applicable, running from Subtenant to both Landlord and Sublandlord (and their partners, shareholders, officers, directors, affiliates, agents, employees and contractors). Each and every indemnification set forth in this Sublease, or incorporated into this Sublease from the Lease, shall survive the expiration or earlier termination of the Sublease Term.

(g) Time Limits. Wherever there are time limits contained in the Lease (i) calling or allowing for the service of notice by the Tenant thereunder, (ii) pertaining to events of default by the Tenant thereunder, or (iii) within which the Tenant thereunder must perform any act or observe any term, covenant or condition thereunder, the same shall be deemed amended for the purposes of this Sublease to provide for time limits of 3 days less and deadlines that are 3 days earlier than those provided for in the Lease where those timelines are greater than ten (10) days, and 1 day less and deadlines that are 1 day earlier than those provided for in the Lease where those timelines are ten (10) days or less.

(h) Transfer of Benefits, Landlord Obligations, Representations and Warranties; Lease Services. Sublandlord hereby grants to Subtenant the right to receive the services and benefits with respect to the Sublease Space that are to be provided by Landlord under the Lease, including Sections 6.1 and 6.2 of the Lease. Any covenant, representation, warranty, or other undertaking of Landlord in the Lease shall not be deemed to be made by, or otherwise constitute an obligation of, Sublandlord under this Sublease. Sublandlord has no duty to perform any obligations of Landlord that are, by their nature, the obligation of an owner or manager of real property. Sublandlord has no responsibility or liability to Subtenant for any default, failure, or delay on the part of Landlord in the performance or observance by Landlord of any of its obligations under the Lease. Except as set forth below in this section, Subtenant agrees that Sublandlord shall not be obligated to perform, and shall not be liable or responsible for the

performance by or failure of performance by Landlord, of any of its obligations under the Lease or under law (including without limitation provide services; comply with any laws or requirements of governmental authorities for the maintenance or operation of the Sublease Space; provide any reimbursement or other concession; provide the Building Standard Electricity or other utilities; pay any costs; maintain, repair, restore, service or insure the Sublease Space); and Subtenant shall have no claim against Sublandlord for any default of Landlord. Sublandlord shall use commercially reasonable efforts to cause Landlord to perform its obligations under the Lease and to assist Subtenant, at Subtenant's sole expense and without liability to Sublandlord, in seeking any and all services or obligations to be performed by Landlord contained in the Lease, including but not limited to: (i) such services and rights from Landlord; and (ii) Landlord's consent to any action for which the Lease or this Sublease require Landlord's consent; provided such commercially reasonable efforts shall not require Sublandlord to incur any out-of-pocket expenses in an effort to cause Landlord to perform its obligations under the Lease unless Subtenant agrees in writing to pay, and does pay, such expenses as and when incurred. Sublandlord does not warrant that any of the services referred to in this Sublease, or any other services that Landlord may supply, will be free from interruption, and Subtenant acknowledges that any such services may become unavailable or be suspended by reason of accident, repairs, inspections, alterations or improvements, or by delays beyond a party's reasonable control, including without limitation, governmental restrictions or regulations, governmental preemption, strikes, labor disputes, shortage of labor or materials, acts of God, fire, earthquake, floods, extreme weather conditions, enemy action, civil commotion, riot or insurrection, fire or other unavoidable casualty.

(i) Landlord Rights. If under the Lease Landlord reserves or is granted any right, including without limitation the right to enter the Sublease Space, said right shall inure to the benefit of Landlord as well as Sublandlord with respect to the Sublease Space. Subtenant acknowledges any rights specifically reserved by Landlord under the Lease; and Subtenant further acknowledges that its possession and use of the Sublease Space is subject to such rights. Except as may be otherwise set forth herein, Subtenant hereby releases Sublandlord from all liability in connection with Landlord's exercise of such rights. Sublandlord shall not incur any liability whatsoever to Subtenant for any injury, inconvenience, incidental or consequential damages incurred or suffered by Subtenant as a result of the exercise by Landlord of any of the rights reserved to Landlord under the Lease, nor shall such exercise constitute a constructive eviction or a default by Sublandlord hereunder. Subtenant's obligations to pay Rent and any other charges due under this Sublease shall not be reduced or abated in the event that Landlord fails to provide any service, to perform any maintenance or repairs, or to perform any other obligation of Landlord under the Lease.

9. Alterations. Excluding the initial improvements made pursuant to this Sublease identified in Exhibit C attached hereto, Subtenant shall not make any alterations, improvements, or additions to the Sublease Space ("**Alterations**") without the prior written consent of Sublandlord, which consent shall not be unreasonably withheld, conditioned or delayed, and Landlord, which consent shall be governed by the standards set forth in the Lease relating to Alterations performed by Sublandlord. Subtenant shall reimburse Sublandlord for all out-of-pocket costs payable by Sublandlord with regard to reviewing any proposed Alterations and all other reasonable out-of-pocket costs Sublandlord actually incurs in connection with reviewing Subtenant's proposed Alterations including, without limitation, fees and costs for engineers,

architects, attorneys and other consultants. Notwithstanding anything in this Sublease to the contrary, if Landlord notifies Sublandlord to remove any Alterations at the termination of the Lease in accordance with the Lease, then Subtenant, at its sole cost and expense, shall remove such Alterations before the termination or expiration date of this Sublease. This obligation shall survive the termination or expiration of this Sublease.

10. Subtenant's Obligations. As between Sublandlord and Subtenant, Subtenant shall be responsible for and shall pay for the following:

(a) Any and all sums of money that are or may become payable by Sublandlord to Landlord under the Lease caused by the actions or omissions of Subtenant or any Subtenant Party (hereinafter defined) and any and all charges of Landlord under the Lease to the extent related to a request by Subtenant or caused by Subtenant's failure to perform its obligations under this Sublease.

(b) All maintenance, repairs, and replacements as to the Sublease Space to the extent Sublandlord is obligated to perform the same under the Lease. All such maintenance, repairs, and replacements shall be performed in accordance with the Lease. Subtenant shall pay for all utilities or services necessary for the Sublease Space.

(c) Any revenue tax or charge, occupancy tax, business use tax, or any other tax or charge that may be levied against the Sublease Space or Subtenant's use or occupancy thereof during the Term.

(d) Any expenses imposed by Landlord under the Lease with respect to the Sublease Space.

11. Default. Any act, omission by Subtenant that would constitute a breach or default by the Tenant under the Lease shall constitute a default or an "**Event of Default**" by Subtenant under this Sublease, provided that any time periods for cure of a default, if applicable, shall be shortened as set forth in Section 8(f) of this Sublease, and in no event shall Subtenant have a cure period that would cause a default to extend past any applicable cure period under the Lease.

12. Remedies. Upon the occurrence of an Event of Default by Subtenant, Sublandlord may exercise any remedy against Subtenant that Landlord may exercise for any default or breach by Sublandlord under the Lease, as well as any other remedies available to Sublandlord at law or in equity. It is hereby understood, and Subtenant hereby covenants with Sublandlord, that the occurrence of any Event of Default by Subtenant shall not relieve Subtenant from the obligation of Subtenant to make the monthly payments of rent hereinbefore reserved, at the times and in the manner aforesaid. In addition to any other remedies Sublandlord may have at law or equity and/or under this Sublease, Subtenant shall pay upon demand all of Sublandlord's reasonable costs, charges and expenses, including fees of counsel, agents and others retained by Sublandlord, whether or not suit is filed, incurred in connection with the recovery under this Sublease or for any other relief against Subtenant.

13. Right to Cure Defaults. If Subtenant fails timely to perform any of its obligations under this Sublease other than the payment of rent and fails to commence curing such non-performance within the applicable grace and cure periods set forth herein, then Sublandlord shall

have the right, but not the obligation, with notice to Subtenant and without waiving or releasing Subtenant from any obligations hereunder, to perform any such obligations of Subtenant in such manner and to such extent as Sublandlord shall reasonably deem necessary, and in exercising any such right, pay any incidental costs and expenses, employ attorneys, and incur and pay reasonable attorneys' fees. Subtenant shall pay to Sublandlord within thirty (30) days after demand all sums so paid by Sublandlord and all actual, reasonable out-of-pocket costs and expenses of Sublandlord in connection therewith, together with interest thereon at the Bank Prime Loan rate plus 4% per annum or the then maximum rate of interest that may lawfully be collected from Subtenant, whichever shall be less, from the date of the making of such expenditures until the date reimbursed by Subtenant.

14. Insurance and Indemnity.

(a) Subtenant's Insurance. Subtenant shall maintain the policies of insurance required to be maintained by the Tenant as set forth in Article 10 of the Lease. All such policies shall be issued by reputable insurance companies reasonably approved by Sublandlord and Landlord, and such policies cannot be modified or cancelled without at least 30 days' prior written notice to Sublandlord. Subtenant shall name Sublandlord and Landlord (and on Landlord's request, any mortgagee of Landlord) as additional insureds under the general liability and umbrella policies required by the Lease and as loss payees under any property policy; and each policy shall contain a waiver of subrogation in favor of Sublandlord. On or before the Commencement Date, Subtenant shall furnish to Sublandlord said policies or certificates thereof evidencing that the required coverage is being maintained, together with such evidence as Sublandlord shall deem reasonably satisfactory of the payment of premiums thereon. Sublandlord shall not be liable to Subtenant or any other person or corporation, including employees, for any damage to their property caused by water, rain, snow, frost, fire, storm or accidents, theft, or by breakage, stoppage, or leakage of water, gas, heating, and sewer pipes or plumbing, upon, about, or adjacent to the Sublease Space.

(b) Indemnification. Subtenant shall defend, indemnify, and hold harmless Sublandlord from and against any and all claims, liabilities, damages, losses, costs, and expenses (including reasonable attorneys' fees) in any way arising out of, relating to, or connected with (a) any breach, default or failure to perform on the part of a Subtenant Party under this Sublease, (b) any act or omission of a Subtenant Party that constitutes a default under the Lease, (c) any activity, work, or other thing done, permitted, or suffered by Subtenant or a Subtenant Party in or about the Sublease Space, the Building, or the land or any part thereof, and any negligence or willful misconduct of a Subtenant Party, (d) the use or occupancy of the Sublease Space, the Building, or the land or any part thereof by a Subtenant Party, (e) any holdover by a Subtenant Party beyond the expiration (or earlier termination) of the Term, and (f) any actions taken by Sublandlord following Subtenant's request of Sublandlord to take action pursuant to the terms hereof or the Lease, in each case, except to the extent any such claim, liability, damage, loss, cost, or expense is caused by the negligence or misconduct of Sublandlord and/or its agents, contractors, or employees. Subtenant assumes all risk of damage or loss to its property or injuries or death to persons, in, on, or about the Sublease Space, from all causes, except to the extent such damage or loss is caused by the negligence or misconduct of Sublandlord and/or its agents, contractors, or employees. The provisions of this Section 14 shall survive the expiration or earlier termination of this Sublease. As used in this Sublease, a "**Subtenant Party**" refers

individually and collectively to Subtenant and/or any of Subtenant's agents, employees, affiliates, contractors, invitees, subtenants, licensees, assignees, or anyone claiming by, through or under Subtenant.

15. Damage to or Destruction of the Sublease Space. To the extent that Sublandlord's Rent with respect to the Sublease Space abates pursuant to the Lease, either in the event of a fire or other casualty or upon any exercise of the power of eminent domain or any other provision of the Lease, Subtenant shall be entitled to an abatement of Rent for the same period of time and for the same portion of Rent that Sublandlord abates on its behalf. If the Building or Sublease Space are damaged by fire or other casualty and Sublandlord shall, pursuant to the terms of the Lease, elect to terminate the Lease, then this Sublease shall cease and terminate on the date of termination of the Lease, and Rent shall be apportioned from the time of the damage. Otherwise, this Sublease shall remain in full force and effect. Except as provided in the Lease, Sublandlord shall have no obligation hereunder to repair any portion of the Building or Sublease Space, whether or not this Sublease shall be terminated, which obligation shall be Landlord's to the extent required under the Lease. If all or any part of the Sublease Space is damaged and this Sublease is not terminated, then Subtenant shall (to the extent that Subtenant is responsible under this Sublease or the Lease and Landlord is not so obligated) promptly and with due diligence repair and restore any personal property, leasehold improvements, and alterations installed in the Sublease Space.

16. Assignment and Subletting. Except with respect to a Permitted Transfer (as defined in Section 14.8 of the Original Lease), Subtenant has no right to, and hereby covenants and agrees that Subtenant shall not (a) assign its interest in this Sublease, in whole or in part, (b) permit this Sublease to be assigned by operation of law or otherwise, (c) sublease the Sublease Space in whole or in part, (d) permit the Sublease Space or any portion therein to be occupied by any person(s) other than Subtenant, or (e) pledge or encumber this Sublease, the term and estate hereby granted or the rentals hereunder, without Sublandlord's consent, which shall not be unreasonably withheld or delayed, and without Landlord's consent. Any Transfer shall comply with the terms and conditions of Section 14 of the Original Lease. Any Transfer attempted without Sublandlord's consent or without strict compliance with Section 14 of the Original Lease shall be an automatic Event of Default by Subtenant.

17. Surrender and Holdover. At the expiration of the Term or earlier termination of this Sublease, Subtenant shall promptly yield up the Sublease Space in the condition required under the Lease and this Sublease. Subtenant shall have no right to occupy the Sublease Space or any portion thereof after the expiration of this Sublease or after termination of the Lease or this Sublease or Subtenant's right to possession in consequence of an Event of Default hereunder. In the event Subtenant or any Subtenant Party holds over, Sublandlord may exercise any and all remedies available to it at law or in equity to recover possession of the Sublease Space, and to recover actual, direct damages incurred by Sublandlord (including, without limitation, damages payable by Sublandlord to Landlord by reason of such holdover, plus the reasonable attorneys' fees and costs incurred by Sublandlord in connection with Subtenant's holdover). Subtenant shall indemnify and hold harmless Sublandlord for, from, and against any and all liabilities, losses, obligations, damages (direct or indirect), penalties, claims, costs and expenses (including, without limitation, reasonable attorneys' fees and other charges) that are paid, suffered or incurred by Sublandlord as a result of the failure of, or the delay by, Subtenant

in so surrendering the Sublease Space including, without limitation, all sums payable by Sublandlord to Landlord, or other liabilities of Sublandlord to Landlord under the Lease resulting from such delay. For the period that Subtenant or a Subtenant Party holds over, Subtenant shall pay to Sublandlord rent equal to the greater of: (i) holdover rent for which Sublandlord is liable under the Lease; or (ii) 175% of the rent payable under this Sublease. The acceptance by Sublandlord of any lesser sum shall be construed as payment on account and not in satisfaction of damages for such holding over. The provisions of this Section 15 shall survive the expiration or earlier termination of this Sublease.

18. Compliance With Laws. Subtenant and its agents, employees, contractors, licensees, and invitees shall at all times at Subtenant's expense comply with the following: (a) all federal, state, and local laws, ordinances, rules, and regulations of any governmental authority, including all environmental laws, pertaining to Subtenant's use of the Sublease Space, (b) all permits, licenses, and governmental authorizations issued or granted to Subtenant in connection with Subtenant's use of the Sublease Space, and (c) any recorded covenants, conditions, and restrictions affecting the Building or the land. Subtenant and its agents, employees, contractors, licensees, and invitees, shall at all times, conduct their operations on the Sublease Space in a manner that will not damage or otherwise negatively impact the Sublease Space or the Premises, including Sublandlord's use of the portion of the Premises not subleased to Subtenant pursuant to this Sublease.

19. Sublandlord's Reserved Rights. Sublandlord reserves the right to inspect the Sublease Space or to exhibit the Sublease Space to persons having a legitimate interest therein at any time during the Sublease Term, upon reasonable advance written notice to Subtenant.

20. Notices. All notices and other communications that are required or permitted hereunder shall be in writing and shall be delivered by hand, by United States certified or registered mail, postage prepaid, return receipt requested, or by nationally recognized overnight courier service, addressed to the respective parties at the addresses set forth below:

|                 |   |
|-----------------|---|
| Sublandlord:    | Jacobs Engineering Group Inc.<br>155 North Lake Avenue<br>Pasadena, CA 91101<br>Attention: Kevin C. Berryman    |
| with a copy to: | Husch Blackwell LLP<br>190 Carondelet Avenue, Suite 600<br>St. Louis, MO 63105<br>Attention: Richard E. Feldman |
| Subtenant       | Everbridge, Inc.<br>25 Corporate Drive, Fourth Floor<br>Burlington, MA 01803<br>Attention: Jeff Lortz           |
| with a copy to: | Everbridge, Inc.<br>25 Corporate Drive, Fourth Floor<br>Burlington, MA 01803<br>Attention: Elliot J. Mark       |

Notices shall be deemed given upon the earlier to occur of actual receipt or refusal of receipt, one (1) day after the deposit thereof with a nationally recognized overnight courier service or personal delivery. Either party hereto may designate a different or additional address for the giving of notice by notice to the other party hereto.

21. Brokers. Subtenant represents and warrants to Sublandlord that Subtenant has not dealt with any broker, finder or agent in connection with this Sublease other than Cushman & Wakefield, Inc. and Newmark Knight Frank (collectively, the “**Brokers**”). Sublandlord represents and warrants to Subtenant that it has not dealt with a broker, finder or agent in connection with this Sublease other than the Brokers. With regard to Sublease between Sublandlord and Subtenant, Cushman & Wakefield (“**C&W**”) makes the following disclosure: C&W represents both the Sublandlord and the Subtenant. The undersigned acknowledges and agrees with the above disclosure and consents to the agency relationship specified. Subtenant agrees to indemnify Sublandlord and hold Sublandlord harmless from any and all claim, suits, or judgments, including reasonable attorney fees, for any fees, commissions, or compensation that arose out of or are in any way connected with any agency representation of Subtenant in connection with this Sublease other than the Brokers. Sublandlord agrees to indemnify Subtenant and hold Subtenant harmless from any and all claim, suits, or judgments, including reasonable attorney fees, for any fees, commissions, or compensation that arose out of or are in any way connected with any other agency representation of Sublandlord in connection with this Sublease other than the Brokers. Sublandlord will pay the Brokers a brokerage commission pursuant to a separate agreement between Sublandlord and Brokers.

22. Consent of Landlord. Notwithstanding anything contained herein to the contrary, the parties agree that Sublandlord’s execution of this Sublease and Subtenant’s right to possession of the Sublease Space hereunder is expressly conditioned upon the written consent to this Sublease by Landlord (“**Landlord’s Consent**”), and this Sublease shall not take effect unless and until Landlord’s Consent has been obtained. Promptly following delivery of an executed original of this Sublease by Subtenant to Sublandlord, Sublandlord will request Landlord’s Consent. Subtenant promptly shall deliver to Sublandlord any information reasonably requested by Landlord in connection with its approval of this Sublease including without limitation with respect to the nature and operation of Subtenant’s business and/or the financial condition of Subtenant. In connection with requesting such Landlord’s Consent, Sublandlord shall (i) have no liability to Subtenant in the event that Landlord does not give Landlord’s Consent, and (ii) not be required to pay any consideration to Landlord in order to obtain such Landlord’s Consent or to commence a legal proceeding against Landlord.

23. Parking. Under the terms and conditions of the Lease (including without limitation Landlord’s consent) and as long as Subtenant is not in an Event of Default, Subtenant shall be entitled to use up to 77 unreserved parking passes in the Parking Facility. Subtenant shall pay Sublandlord Additional Rent for each unreserved parking pass at the rate of \$90.00 per unreserved parking pass per month, which is subject to increase from time to time to reflect the prevailing market rates charged in the Parking Facility, under the terms and conditions of the Lease. In addition, if Sublandlord is under utilizing the parking ratio allocated to Sublandlord



under the Lease, then Sublandlord agrees, upon written request from Subtenant, to allow Subtenant to rent an approved number of additional parking spaces on a month to month basis at the parking rate set forth in the Lease. Sublandlord may recapture said additional parking spaces at any time by notifying Subtenant that said additional parking spaces shall not be available for Subtenant's use commencing one month after the date of Sublandlord's notice.

24. Furniture. In consideration of the obligations of Subtenant under this Sublease, Sublandlord grants a license to Subtenant to use the furniture and furnishings located within the Sublease Space as of the Commencement Date (the "**Furniture**"). Subtenant agrees to accept the Furniture on the Commencement Date "as is, where is, with all faults", and without representation or warranty of any kind, nature or description relative to the same, including representations concerning merchantability, fitness or fitness for a particular purpose, all of which are hereby expressly disclaimed by Sublandlord and waived by Subtenant. Sublandlord acknowledges that Subtenant has the right to remove Furniture from the Sublease Space during the initial month of the Sublease Term. During the Sublease Term, Subtenant shall (x) insure the remaining Furniture against loss or damage by fire or other casualty (and all of the provisions of this Sublease applicable to insurance required to be carried by Subtenant shall be applicable thereto) and (y) maintain the Furniture in at least as good a condition and working order as when delivered to Subtenant, subject to reasonable wear and tear and damage by fire or other casualty. Upon request by Sublandlord, Subtenant shall deliver to Sublandlord within 5 days of such request, evidence that Subtenant is maintaining the insurance coverage with regard to the Furniture as required under this Section 22. Notwithstanding anything herein to the contrary, the Furniture is and shall remain the sole and exclusive property of Sublandlord during the initial year of the Sublease Term. As of June 1, 2017, Sublandlord shall be deemed to have transferred, conveyed, and delivered to Subtenant all of the Furniture in its "as is, where is condition, with all faults", and without any representation or warranty of any kind, nature or description relative to the same, including representations concerning merchantability, fitness or fitness for a particular purpose. Notwithstanding the foregoing, if before such transfer date Subtenant desires to remove certain Furniture ("**Removal Furniture**"), then after reasonable prior notice to Sublandlord regarding such Removal Furniture and as long as Subtenant is not in default of this Sublease, Sublandlord will transfer ownership of such Removal Furniture to Subtenant, provided that until June 1, 2017, Sublandlord will not transfer ownership to Subtenant of more than twenty-five percent (25%) of the Furniture. Upon such transfer, Subtenant may, at Subtenant's sole cost and expense, discard, sell or otherwise dispose of such Removal Furniture. In any event, Subtenant shall remove the Furniture at the end of the Sublease Term. Upon request by Subtenant, Sublandlord agrees to deliver a bill of sale to Subtenant upon the transfer date. Sublandlord and Subtenant hereby agree that little or no value will be attributable to the Furniture at the time of the Furniture transfer and that no part of the Base Rent payable by Subtenant hereunder will be attributable to the transfer of the Furniture by Sublandlord to Subtenant. Notwithstanding anything in this Sublease to the contrary, Sublandlord shall have no liability to Subtenant on account of any malfunction, stoppage, breakage or failure of any of the Furniture to perform for their intended use or for the inability of Subtenant to use any of said Furniture, and Subtenant hereby releases Sublandlord from any liability to Subtenant for any loss or damage incurred by Subtenant arising out of any such malfunction, stoppage, breakage, failure or the inability of use.

25. Signage. Subtenant has no signage rights unless Landlord grants rights to Subtenant at its sole discretion. Notwithstanding the foregoing, Sublandlord does not object to

Subtenant including language requesting Building Directory Signage in the Consent document from the Landlord. Subject to the terms and conditions of the Lease and subject to receipt of Landlord's consent, Sublandlord agrees that Subtenant may place signage in the elevator lobby of the 9th floor and on the entrance door of the Sublease Space. If such signage is installed, then at the end of the Sublease Term, Subtenant shall be responsible, at Subtenant's sole cost, for removing any signage installed by Subtenant and repairing any damage.

26. Extension Option.

(a) Exercise of Option. Provided that as of the time of the giving of the extension Notice (hereinafter defined) and the commencement date of the extension term (a) Subtenant is the Subtenant originally named herein, (b) no Event of Default has occurred beyond any applicable cure period or would exist but for the passage of time or the giving of notice, or both, and (c) the Sublandlord has not exercised its Acceleration Option as set forth in Section 4 of Exhibit F of the Lease, Subtenant has the right to contact Sublandlord as of June 1, 2017, to inquire if Sublandlord intends to exercise its Acceleration Option. In the event Sublandlord elects not to exercise the Acceleration Option, then Subtenant shall have the right to extend the Sublease Term (the "**Extension Option**") until December 31, 2023 (the "**Extended Expiration Date**"). To exercise such Extension Option, Subtenant shall give Sublandlord written notice (the "**Notice**") of such election before July 15, 2017. Such extension term shall commence July 1, 2018 and shall be on the same terms and conditions as set forth in this Sublease, except that (i) Base Rent during the extension term shall be pursuant to Section 2(a)(i) for the extension term; (ii) Subtenant shall have no further renewal or extension option; (iii) Sublandlord shall sublease to Subtenant the Sublease Space in their then-current condition; (iv) Sublandlord shall not provide to Subtenant any allowances, abated rent, or other tenant inducements; and (v) Subtenant shall remove the Furniture on or before the Extended Expiration Date.

(b) Documentation of Sublease Term Extension. If Subtenant timely sends the Notice and exercises the Extension Option, then Sublandlord and Subtenant shall execute an amendment to this Sublease documenting the extension of the Sublease Term on the terms provided in this Sublease, except as set forth above in Section 25(a). The failure by Sublandlord and Subtenant to execute such amendment shall not affect the extension of the Sublease Term in accordance with this Section 25.

(c) Option Conditions. If Subtenant fails or is unable timely to exercise its right hereunder, such right shall lapse, time being of the essence with respect to the exercise thereof (it being understood that Subtenant's right hereunder is a one-time right only). At Sublandlord's option, the Extension Option shall terminate if (1) the Lease, Sublease, or Subtenant's right to possession of the Sublease Space is terminated, (2) Subtenant Transfers any of its interest in the Sublease or any portion of the Sublease Space, or Subtenant is not occupying all of the Sublease Space, or (3) Sublandlord determines, in its sole but reasonable discretion, that Subtenant's financial condition or creditworthiness has materially deteriorated since the date of this Sublease. Subtenant acknowledges and agrees that this Extension Option shall be null and void if Sublandlord exercises the Acceleration Option or otherwise terminates the Lease.

27. Miscellaneous.

(a) This Sublease shall be governed by and construed, both as to its validity and as to the performance of the parties, in accordance with the laws of the State of California. An amendment to this Sublease shall be effective only if it is a written agreement signed by both parties hereto.

(b) This Sublease (and the exhibits hereto) constitutes the entire agreement between Sublandlord and Subtenant relating to the subject matter hereof, superseding all prior agreements or undertakings between such parties, oral or written. If any clause or provision of this Sublease (or the exhibits hereto) is or becomes illegal, invalid, or unenforceable because of present or future laws or any rule, decision, or regulation of any governmental body or entity, the intention of the parties hereto is that the remaining parts of this Sublease shall not be affected thereby.

(c) Any time Sublandlord's consent shall be required under the terms of this Sublease, Sublandlord agrees not to unreasonably withhold, condition or delay such consent. Notwithstanding the foregoing, it shall be deemed reasonable for Sublandlord to deny such consent if Landlord's consent shall also be deemed to be required under the Lease, and Landlord refuses to grant such consent.

(d) All terms, conditions, and covenants of this Sublease shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.

(e) If either party is successful in enforcing against the other any legal or equitable remedy for a breach of any provision of this Sublease, then the successful party shall be entitled to recover its expenses and reasonable attorneys' fees as determined by the court as part of the judgment or decree.

(f) Neither party shall be deemed in default with respect to any of the terms, covenants, and conditions of this Sublease on such party's part to be performed, if such party's failure to timely perform same is due in whole or in part to any strike, lockout, labor trouble (whether legal or illegal), civil disorder, failure to power, restrictive governmental laws and regulations, riots, insurrections, war, shortages, accidents, casualties, acts of God, acts caused directly by the other party or the other party's agents, employees, and invitees or any other cause beyond the reasonable control of such party. Notwithstanding the foregoing, the provisions of this Section shall not excuse or delay Subtenant's obligation to pay rent as and when it becomes due under this Sublease.

(g) Sublandlord and Subtenant hereby warrant and represent to one another that they have the authority and legal ability to enter into and perform this Sublease and their respective obligations hereunder and all actions required in connection with the authorization, execution, delivery, and performance of this Sublease have been duly taken and, when executed and delivered by Sublandlord and Subtenant, this Sublease shall be and constitute the valid, legal, and binding obligations of the parties hereto.

(h) Time is of the essence of this Sublease and each and all of its provisions.

(i) Under no circumstances shall Sublandlord be liable to Subtenant under any theory of tort, contract, strict liability, or other legal or equitable theory for any punitive,

special, incidental, indirect, or consequential damages, each of which is hereby excluded by agreement of the parties regardless of whether or not any party has been advised of the possibility of such damages. Except as a result of Subtenant's holdover in the Sublease Space or failure to surrender the Sublease Space in the required condition, or any breach or default under Section 18, under no circumstances shall Subtenant be liable to Sublandlord under any theory of tort, contract, strict liability, or other legal or equitable theory for any punitive, special, incidental, indirect, or consequential damages, each of which is hereby excluded by agreement of the parties regardless of whether or not any party has been advised of the possibility of such damages.

(j) This Sublease may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. If any signature to this Sublease is delivered by e-mail delivery of a portable document format (.pdf or similar format) data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof.

(k) The recitals set forth at the beginning of this Sublease are incorporated into this Sublease by reference as if fully set forth herein.

(l) Subtenant shall fully comply with all present or future governmental programs intended to manage parking, transportation or traffic in and around the Project and/or the Building, and in connection therewith, Subtenant shall take responsible action for the transportation planning and management of all employees located at the Sublease Space by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities.

(m) If Subtenant shall perform all of the covenants and agreements herein required to be performed by Subtenant, then Subtenant shall, subject to the terms of this Sublease and the terms of the Lease, at all times during the Sublease Term, have peaceful and quiet enjoyment of the Sublease Space against any person claiming by, through or under Sublandlord, but not otherwise.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties have executed this Sublease as of the day and year first above written.

**Sublandlord:**

JACOBS ENGINEERING GROUP INC., a Delaware corporation

By: /s/ Kevin C. Berryman  
Kevin C. Berryman  
Executive Vice President  
Chief Financial Officer

**Subtenant:**

EVERBRIDGE, INC., a Delaware corporation

By: /s/ Jeffrey Lortz  
Name: Jeffrey Lortz  
Title: CIO

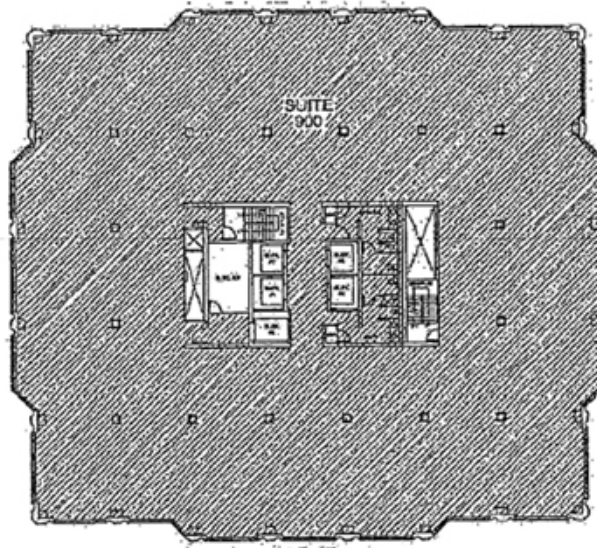
**EXHIBIT A**

**(Sublease Space)**

**EXHIBIT A-2**

**CENTURY SQUARE**

**OUTLINE OF PREMISES ON 9<sup>TH</sup> FLOOR**



9th Floor  
155 North Lake Avenue

## SUBLEASE

Acquia, Inc., a Delaware corporation with a place of business at 53 State Street, Boston, Massachusetts ("Sublessor"), and Everbridge, a Delaware corporation with a place of business at 500 North Brand Blvd., Suite 1000, Glendale, CA 91203 ("Sublessee"), make this Sublease as of February 27, 2015.

### Preliminary Statement

Sublessor is the tenant under a Lease dated June 14, 2011 by and between Sublessor and Burlington Centre owner LLC, a Delaware limited liability company, as successor in interest to MEPT Burlington, LLC, a Delaware limited liability company ( "Lessor"), as landlord, (being hereinafter referred to as the "Lease" , a copy of which is attached hereto as Exhibit A), with respect to premises (the "Premises" ) consisting of approximately 35,454 rentable square feet on the fourth floor of the building (the "Building") commonly known as 25 Corporate Drive, Burlington, Massachusetts, as more particularly described in the Lease.

Sublessor desires to sublet to Sublessee, and Sublessee desires to accept from Sublessor, the entire Premises containing approximately 35,454 rentable square feet, as further shown on Exhibit B (the "Subleased Premises"), on the terms and conditions set forth in this Sublease.

### Agreement

In consideration of the mutual covenants of this Sublease and other valuable consideration, the receipt and sufficiency of which Sublessee and Sublessor hereby acknowledge, Sublessor and Sublessee agree as follows:

1. Subleased Premises. Sublessor hereby subleases to Sublessee, and Sublessee hereby subleases from Sublessor, the Subleased Premises subject to the terms and conditions of this Sublease. Sublessor shall deliver the Subleased Premises to Sublessee on the Commencement Date (as hereinafter defined) in such "AS IS, WHERE IS" condition as exists on the date delivered to Sublessee, free of all occupants other than Sublessee, vacuumed, dusted, and carpets spot cleaned. Upon delivery of possession of the Subleased Premises to Sublessee in accordance with the terms hereof, Sublessee shall confirm the same and thereafter be deemed to have accepted the Subleased Premises in the condition delivered and to have acknowledged that the same are in good condition and satisfactory to Sublessee in all respects and Sublessor has no obligation to make any improvements to such portion of the Sublease Premises. Sublessee acknowledges that Sublessor has made no representations or warranties concerning the Subleased Premises or the Building or their fitness for Sublessee's purposes, except as expressly set forth in this Sublease.

2. Term. The term of this Sublease (the "Sublease Term") shall commence on the earlier of (i) the date on which the Sublessee takes possession of the Subleased Premises to commence operation of its business, and (ii) May 15, 2015, subject in either case to Lessor having consented to the terms of this Sublease as further set forth herein (the "Commencement Date") and shall terminate on May 30, 2017 or such sooner date upon which the Sublease Term may expire or terminate under this Sublease, the Lease or pursuant to law. Promptly following the final determination of the Commencement Date and upon request of Sublessor, Sublessor and Sublessee shall jointly execute a written declaration specifying the actual Commencement Date.

3. Use. Sublessee shall use and occupy the Subleased Premises only for the use permitted under the Lease (the “Permitted Uses”). Sublessee shall also comply with all laws governing or affecting Sublessee’s use of the Subleased Premises, and Sublessee acknowledges that Sublessor has made no representations or warranties concerning whether the Permitted Uses comply with such laws.

4. Monthly Base Rent. Commencing on the date that is six (6) weeks after the Commencement Date (the “Rent Commencement Date”), Sublessee shall pay to Sublessor rent at an annual rate of \$549,537 (“Base Rent”), in equal monthly installments of \$45,794.75 in advance on the first day of each calendar month during the Sublease Term. The first monthly installment shall be delivered to Sublessor by Sublessee upon approval of the Sublease by Lessor and prior to possession of the Subleased Premises by Sublessee. If the Sublease Term includes a partial calendar month at its beginning or end, the monthly installment of Base Rent for such partial month shall be prorated at the rate of 1/30 of the monthly installment for each day in such partial month within the Sublease Term and shall be payable in advance on the first day of such partial month occurring within the Sublease Term. The Base Rent shall be paid to Sublessor at its offices located at the address set forth in the opening paragraph of this Sublease, Attention: Controller, or such other place as Sublessor may designate in writing, in lawful money of the United States of America, without demand, deduction, offset or abatement. All sums due under this Sublease other than Base Rent shall be deemed “Additional Rent”. Any installment of Base Rent or Additional Rent not paid on the date when due shall bear interest at the lesser of (a) an annual rate of eighteen percent (18%) or (b) the highest rate permitted by law, from the date due until the date paid.

5. Operating Expenses, Taxes and Utilities. Sublessee shall pay (i) 0% of the sums payable under Section 3.4 of the Lease with respect to operating Expenses, (ii) 0% of the sums payable under Section 3.4.7 of the Lease with respect to Property Taxes , (iii) ) 100% of the sums payable under Section 3.5 of the Lease with respect to utilities, and (iv) all other additional rent and other charges payable under the Lease with respect to the Subleased Premises or due to any act or omission of Sublessee, its agents, employees or contractors. Sublessee shall make estimated payments of the amounts due above to Sublessor to the extent Lessor requires the same of Sublessor, as tenant under the Lease. Unless a shorter period exists for payment of the same under the Lease, all amounts for which no time period is specified herein shall be due to Sublessor from Sublessee within ten (10) business days of billing for the same. In addition, Sublessee shall pay the appropriate utility companies for all utilities consumed within the Subleased Premises during the Sublease Term to the extent directly contracted and/or sub-metered. Sublessee’s obligations hereunder shall survive the expiration or earlier termination of this Sublease.

6. Security Deposit. Upon execution of this Sublease, Sublessee shall pay to Sublessor the sum of \$91,589.50 (the “Security Deposit”) as security for the full and timely payment and performance of Sublessee’s obligations under this Sublease. If Sublessee fails to pay or perform in a full and timely manner any of its obligations under this Sublease, Sublessor may apply all or



any portion of the Security Deposit toward curing any such failure and compensating Sublessor for any loss, damage or expenses arising from such failure. If Sublessor so applies any portion of the Security Deposit, Sublessee shall, within five (5) business day, pay to Sublessor the amount necessary to restore the Security Deposit to its original amount, and failure to do so shall automatically be deemed an Event of Default, without the need for additional notice and/or cure periods. Sublessor may commingle the Security Deposit with Sublessor's funds and shall not be obligated to pay interest on the Security Deposit to Sublessee. If Sublessor assigns its interest in this Sublease and transfers the Security Deposit (or any balance thereof) to its assignee, Sublessee shall look only to such assignee for the application and return of the Security Deposit.

7. **Subordination to Lease.** (a) This Sublease is subject and subordinate to the terms and conditions of the Lease and Sublessor does not purport to convey, and Sublessee does not hereby take, any greater rights in the Sublease Premises than those accorded to or taken by Sublessor as tenant under the Lease. Sublessee shall not cause a default under the Lease or permit its employees, agents, contractors or invitees to cause a default under the Lease. If the Lease terminates before the end of the Sublease Term, Sublessor shall not be liable to Sublessee for any damages arising out of such termination.

(b) Except as otherwise specified in this Sublease, all of the terms and conditions of the Lease are incorporated as a part of this Sublease, but all references in the Lease to "Landlord", "Tenant", "Premises", "Lease Term", "Rent", "Use", "Commencement Date", and "Security Deposit" shall be deemed to refer, respectively, to Sublessor, Sublessee, Subleased Premises, Sublease Term, Base Rent, Commencement Date, and Security Deposit, as defined in this Sublease. Capitalized terms used but not defined in this Sublease shall have the meaning ascribed to such terms in the Lease. In the event of a conflict or ambiguity between the provisions of the Lease and the provisions of this Sublease, the provisions of this Sublease shall govern and control. To the extent incorporated into this Sublease, Sublessee shall perform the obligations of the Sublessor, as tenant under the Lease. Notwithstanding any other provision of this Sublease, Sublessor, as Sublessor under this Sublease, shall have the benefit of all rights, remedies and limitations of liability enjoyed by Lessor, as the landlord under the Lease, but (i) Sublessor shall have no obligations under this Sublease to perform the obligations of Lessor, as landlord under the Lease, including, without limitation, any obligation to provide services, perform maintenance or repairs, or maintain insurance, and Sublessee shall seek such performance and obtain such services solely from the Lessor; (ii) Sublessor shall not be bound by any representations or warranties of the Lessor under the Lease; (iii) in any instance where the consent of Lessor is required under the terms of the Lease, the consent of Sublessor and Lessor shall be required; and (iv) Sublessor shall not be liable to Sublessee for any failure or delay in Lessor's performance of its obligations, as landlord under the Lease, nor shall Sublessee be entitled to terminate this Sublease or abate the Base Rent or Additional Rent due hereunder. Upon request of Sublessee, Sublessor shall, at Sublessee's expense, use reasonable efforts to cooperate with Sublessee in its efforts to cause Lessor to perform its obligations under the Lease. Notwithstanding the foregoing and except as set forth in the following paragraph, the following provisions of the Lease are incorporated herein with the following specified modifications: (i) intentionally deleted (ii) Section 4.12 except that all references to "Landlord" shall be deleted and the phrase "Lessor and Sublessor" inserted in replacement thereof **[INDEMNITY]**; (iii) Section 4.15 except that all references to "Landlord" and Tenant shall be deleted and the terms

“Lessor” and “Sublessor” inserted in replacement thereof **[WAIVER OF CLAIMS]**; (iv) Section 4.8 except that all references to “Landlord” shall be deleted and the phrase “Lessor and Sublessor” inserted in replacement thereof **[ACCESS]**; (v) Sections 4.9-4.10 provided that all references to “Landlord” shall remain references to the **Lessor [OBLIGATION TO REPAIR IN EVENT OF CASUALTY AND CONDEMNATION]**; (vi) Section 4.24 provided that all references to “Landlord” shall remain references to the Lessor **[RIGHT TO SUBORDINATE]**; and (vii) Section 5.3 except that all references to “Landlord” shall be deleted and the phrase “Lessor and Sublessor” inserted in replacement thereof **[RIGHT TO PERFORM]**, (viii) Section 4.18 except that all references to Landlord shall be deleted and the phrase “Lessor or Sublessor” **[ESTOPPEL AND FINANCIAL STATEMENTS]**

(c) Further notwithstanding any contrary provision of this Sublease, the following terms and conditions of the Lease (and references thereto) are not incorporated as provisions of this Sublease: **BASE RENT, BROKERS, COMMENCEMENT DATE, TENANT’S CONTRIBUTION, TENANT IMPROVEMENT COSTS, LEASE TERM, PLANS AND SPECIFICATIONS, OPTION TO EXTEND, POTENTIAL EXTENSION SPACE, RIGHT OF FIRST OFFER, LEASE SECURITY DEPOSIT, ALLOWANCES, SIGNS, SUBORDINATION/OBLIGATION TO DELIVER SNDA (Section 4.24.2), NOTICES, HOLDOVER.**

(d) Notwithstanding any contrary provision of this Sublease, (i) in any instances where Lessor, as landlord under the Lease, has a certain period of time in which to notify Sublessor, as tenant under the Lease, whether Lessor will or will not take some action, Sublessor, as Sublessor under this Sublease, shall have an additional ten-day period after receiving such notice in which to notify Sublessee, (ii) in any instance where Sublessor, as tenant under the Lease, has a certain period of time in which to notify Lessor, as landlord under the Lease, whether Sublessor will or will not take some action, Sublessee, as Sublessee under this Sublease, must notify Sublessor, as Sublessor under this Sublease, at least five business days before the end of such period, but in no event shall Sublessee have a period of less than five days in which so to notify Sublessor unless the period under the Lease is five days or less, in which case the period under this Sublease shall be one day less than the period provided to Sublessor under the Lease, and (iii) in any instance where a specific grace period is granted to Sublessor, as Sublessee under the Lease, before Sublessor is considered in default under the Lease, Sublessee, as tenant under this Sublease, shall be deemed to have a grace period which is ten days less than Sublessor before Sublessee is considered in default under this Sublease, but in no event shall any grace period be reduced to less than five days unless the period under the Lease is five days or less, in which case the period under this Sublease shall be one day less than the period provided to Sublessor under the Lease.

(e) Sublessor shall, in its capacity as tenant under the Master Lease, perform and fulfill all of its remaining covenants, obligations and agreements under the Lease in accordance with the provisions thereof, but only to the extent such covenants, obligations and agreements have not been assumed by Sublessee pursuant to this Sublease, and shall not do anything which would cause the Lease to be terminated or forfeited. Unless Sublessor first obtains Sublessee’s prior written consent which may be granted or withheld in Sublessee’s sole discretion, Sublessor covenants that it will not agree to voluntarily terminate the Lease nor will it enter into any agreement that will modify or amend the Lease so as to adversely affect Sublessee’s right to use

and occupy the Sublease Premises or any other rights of Sublessee under this Sublease, or increase or materially affect the obligations of Sublessee under this Sublease. Further, Sublessor will promptly provide Sublessee with copies of all notices of default that Sublessor delivers to, or receives from, the Lessor under the Lease. Sublessor will indemnify, defend and hold Sublessee harmless from and against any and all liabilities, claims, demands, actions, losses, damages, obligations, costs and expenses, including, without limitation, reasonable attorneys' fees incurred or suffered by Sublessee by reason of Sublessor's failure to comply with the provisions of this paragraph.

8. Assignments and Subleases. Notwithstanding any provision of the Lease incorporated herein to the contrary, Sublessee shall not assign, mortgage, transfer (by operation of law or otherwise), or hypothecate this Sublease or sublet, license or permit and other party to use or occupy any portion of the Subleased Premises (individually, a "Transfer") without the prior written consent of Sublessor and Lessor, which they may grant, withhold or condition in their respective sole discretion. The following transactions shall be deemed assignments of this Sublease requiring such prior written consent: (i) any assignment, mortgage, pledge or other transfer of this Sublease; (ii) any sublease, license or occupancy agreement with respect to any portion of the Subleased Premises; (iii) if Sublessee or any of its successors or assigns is a corporation, any sale, pledge or other transfer of all or a majority of the capital stock of Sublessee or any such successor or assign (unless such stock is publicly traded on a recognized security exchange or over-the-counter market), any merger, consolidation or reorganization of or into Sublessee or any such successor or assign, and any sale of all or substantially all of the assets of Sublessee or such successor or assign; (iv) if Sublessee or any of its successors or assigns is a partnership, limited liability partnership or limited liability company, any change in its partners or members; and (v) if Sublessee is a trust, any change in the identity of its trustees or any transfer of a beneficial interest in such trust. If Sublessor and Lessor consent to any such Transfer, such Transfer shall comply with the requirements of Section 4.16 of the Lease. Lessor's refusal to consent to a Transfer shall be deemed a reasonable reason for Sublessor to withhold its consent to a Transfer, without any obligation on the part of Sublessor to dispute Lessor's refusal. Nothing contained herein shall be deemed to limit or amend the rights of Lessor under Section 4.16 of the Lease. Any attempt by Sublessee to Transfer the Subleased Premises or the Sublease without the prior written consent of both Sublessor and Lessor shall be void. No consent by the Sublessor pursuant to this Section shall be deemed a waiver of the obligation to obtain the Sublessor's consent on any subsequent occasion; no waiver of the foregoing restrictions or any portion thereof shall constitute a waiver or consent in any other instance; and Sublessee shall remain at all times primarily liable for the performance and payment of all terms, conditions, covenants and agreements contained herein.

9. Insurance. During the Sublease Term, Sublessee shall maintain insurance of such types, in such policies, with such endorsements and coverages, and in such amounts as are set forth in Section 4.13 of the Lease, and such additional insurance as may be required by Sublessor, in Sublessor's reasonable discretion. All insurance policies shall name Lessor, Sublessor and any other party required by either as additional insureds and shall contain an endorsement that such policies may not be reduced or canceled without 10 days written notice to Lessor and Sublessor following such change. Sublessee shall obtain a waiver of subrogation for the benefit of Sublessor and Lessor to the extent required of "Tenant" for the benefit of "Landlord" under

Section 4.15 of the Lease. Sublessee shall promptly pay all insurance premiums and shall provide Sublessor with policies or certificates evidencing such insurance upon Sublessee's execution of this Sublease and prior to entering the Subleased Premises.

10. Alterations. Notwithstanding any provisions of the Lease incorporated herein to the contrary, Sublessee shall not make any alterations, improvements or installations in the Subleased Premises without in each instance obtaining the prior written consent of both Lessor and Sublessor, which they may grant, withhold or condition in their respective reasonable discretion. If Sublessor and Lessor consent to any such alterations, improvements or installations, Sublessee shall perform and complete such alterations, improvements and installations at its expenses, in compliance with applicable laws and in compliance with Section 4.4 and other applicable provisions of the Lease. If Sublessee performs any alterations, improvements or installations without obtaining the prior written consent of both Lessor and Sublessor, Sublessor may remove such alterations, improvements or installations, restore the Subleased Premises and repair any damage arising from such a removal or restoration, and Sublessee shall be liable to Sublessor for all costs and expenses incurred by Sublessor in the performance of such removal, repairs or restoration.

11. Indemnification by Sublessee. Sublessee agrees to protect, defend (with counsel reasonably approved by Sublessor), indemnify and hold Sublessor harmless from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable attorneys' fees, (other than those arising solely from any negligence or willful misconduct of Sublessor or its agents or employees in or about Subleased Premises), arising or resulting from: (i) the conduct or management of or from any work or thing whatsoever done in or about the Subleased Premises during the Sublease Term or any period which Sublessee may occupy the same; (ii) any condition arising, and any injury to or death of persons, damage to property or other event occurring or resulting from an occurrence in or about the Subleased Premises during the term hereof; (iii) any breach or default on the part of Sublessee in the performance of any covenant or agreement on the part of Sublessee to be performed pursuant to the terms of this Sublease or (iv) from any negligent act, omission or willful misconduct on the part of Sublessee or any or its agents, employees, licensees, invitees or assignees. Sublessee further agrees to protect, defend (with counsel reasonably approved by Sublessor), indemnify and hold Sublessor harmless from and against any and all third party claims, damages, liabilities, costs and expenses, including reasonable attorneys' fees, incurred in connection with any such indemnified claim or any action or proceeding brought in connection therewith. The foregoing shall survive the expiration or early termination of this Sublease.

12. Default. In the event of a default by Sublessee in the full and timely performance of its obligations under the Sublease, including, without limitation, its obligation to pay Base Rent or Additional Rent, Sublessor shall have all of the rights and remedies available to "Landlord" under the Lease as though Sublessor were "Landlord" and Sublessee were "Tenant", including without limitation the rights and remedies set forth in Section 5 of the Lease. The foregoing shall survive the expiration or early termination of this Sublease.

13. Brokers. Sublessor and Sublessee each represent and warrant to the other that it has not dealt with any broker other than Cushman & Wakefield of MA (the "Broker") in connection with the consummation of this Sublease. Sublessor and Sublessee each shall indemnify and hold harmless the other against any loss, damage, claims or liabilities arising out of the failure of its representation or the breach of its warranty set forth in the previous sentence.

14. Notices. All notices and demands under this Sublease shall be in writing and shall be effective (except for notices to Lessor which shall be given in accordance with Section 6.1 of the Lease) upon the earlier of (i) receipt at the address set forth below by the party being served, or (ii) two days after being sent to address set forth below by United States certified mail, return receipt requested, postage prepaid, or (iii) one day after being sent to address set forth below by a nationally recognized overnight delivery service that provides tracking and proof of receipt. A notice given on behalf of a party hereto by its attorney shall be deemed a notice from such party.

|                  |  |
|------------------|--|
| If to Lessor:    | As required under the Lease.   |
| If to Sublessor: | At the address set forth in the opening paragraph of this Sublease,<br>Attention: General Counsel  |
| With a copy to:  | Jeffrey K. Ganguly<br>Dain Torpy, P.C.<br>745 Atlantic Avenue<br>Boston Massachusetts 02111        |
| If to Sublessee: | At the address set forth in the opening paragraph of this Sublease,<br>Attention: Legal Department |

Either party may change its address for notices and demands under this Sublease by notice to the other party.

15. Entire Agreement. This Sublease contains all of the agreements, conditions, warranties and representations relating to the sublease of the Subleased Premises and may be amended or modified only by written instruments executed by both Sublessor and Sublessee.

16. Authority. Sublessor and Sublessee each represent and warrant to the other that the individual(s) executing and delivering this Sublease on its behalf is/are duly authorized to do so and that this Sublease is binding on Sublessee and Sublessor in accordance with its terms. Simultaneously with the execution of this Sublease, Sublessee shall deliver evidence of such authority to Sublessor in a form reasonably satisfactory to Sublessor.

17. Condition Precedent. This Sublease, and the rights and obligations of Sublessor and Sublessee under this Sublease (other than those obligations which arise hereunder prior to the Commencement Date), are subject to the condition that Lessor consent to the subleasing of the Subleased Premises to the extent required under the Lease, and this Sublease shall be effective only upon the receipt by Sublessor of such consent. Sublessee agrees to join such consent if so requested by Lessor in the form requested by Lessor. In the event such consent is not received within thirty (30) days of the date of this Sublease Sublessor shall have the right to rescind its execution of this Sublease, and upon exercise of such right, this Sublease shall be void and the installment of Base Rent and the Security Deposit, as applicable, which are paid on Sublessee's execution of this Sublease shall be returned to Sublessee.

18. Holdover. Upon the expiration of the Sublease Term or earlier termination of this Sublease, Sublessee covenants to quit and surrender to Sublessor the Subleased Premises, broom clean, in such order and condition as is required under the Lease at the expiration of the Lease term, ordinary wear and tear and damage by fire or other casualty excepted, and at Sublessee's expense, to remove all property of Sublessee. Any property not so removed shall be deemed to have been abandoned by Sublessee and may be retained or disposed of at Sublessee's expense by Sublessor, as Sublessor shall desire. If Sublessee or any of its property remains on the Sublease Premises beyond the expiration or earlier termination of this Sublease, such holding over shall not be deemed to create any tenancy at will, but the Sublessee shall be a tenant at sufferance only and shall pay rent at a daily rate equal to one and one-half times the Rent due under the Lease with respect to the entire Premises, even if the Subleased Premises is less than the entire Premises, and other charges due thereunder and shall, in addition, perform and observe all other obligations and conditions to be performed or observed by Sublessee hereunder. In addition, Sublessee shall indemnify and hold harmless Sublessor from and against any and all liability, loss, cost, damage and expenses suffered or incurred by Sublessor arising out of or resulting from any failure on the part of Sublessee to yield up the Subleased Premises when and as required under this Sublease. The foregoing shall survive the expiration or early termination of this Sublease.

19. Not an Offer. The submission of an unsigned copy of this Sublease to Sublessee for Sublessee's consideration does not constitute an offer to sublease the Subleased Premises. This Sublease shall become binding only upon the execution and delivery of this Sublease by Sublessor and Sublessee, subject to Section 17 above.

20. No Offset; Independent Covenants; Waiver. Base Rent and Additional Rent (collectively, "Rent") shall be paid without notice or demand, and without setoff, counterclaim, defense, abatement, suspension, deferment, reduction or deduction, except as expressly provided herein or in the Lease. Sublessee waives all rights (i) to any abatement, suspension, deferment, reduction or deduction of or from Rent, except to the extent otherwise expressly set forth herein, and (ii) to quit, terminate or surrender this Sublease or the Subleased Premises or any part thereof, except as expressly provided herein or the Lease. **SUBLESSEE HEREBY ACKNOWLEDGES AND AGREES THAT THE OBLIGATIONS OF SUBLESSEE HEREUNDER SHALL BE SEPARATE AND INDEPENDENT COVENANTS AND AGREEMENTS, THAT RENT SHALL CONTINUE TO BE PAYABLE IN ALL EVENTS AND THAT THE OBLIGATIONS OF SUBLESSEE HEREUNDER SHALL CONTINUE UNAFFECTED, UNLESS THE REQUIREMENT TO PAY OR PERFORM THE SAME SHALL HAVE BEEN TERMINATED PURSUANT TO AN EXPRESS PROVISION OF THIS SUBLEASE. SUBLESSOR AND SUBLESSEE EACH ACKNOWLEDGES AND AGREES THAT THE INDEPENDENT NATURE OF THE OBLIGATIONS OF SUBLESSEE HEREUNDER REPRESENTS FAIR, REASONABLE, AND ACCEPTED COMMERCIAL PRACTICE WITH RESPECT TO THE TYPE OF PROPERTY SUBJECT TO THIS SUBLEASE, AND THAT THIS AGREEMENT IS THE PRODUCT OF FREE AND INFORMED NEGOTIATION DURING WHICH BOTH SUBLESSOR AND SUBLESSEE WERE REPRESENTED BY COUNSEL SKILLED IN**

NEGOTIATING AND DRAFTING COMMERCIAL SUBLEASES IN MASSACHUSETTS, AND THAT THE ACKNOWLEDGEMENTS AND AGREEMENTS CONTAINED HEREIN ARE MADE WITH FULL KNOWLEDGE OF THE HOLDING IN WESSON V. LEONE ENTERPRISES, INC., 437 MASS. 708 (2002). SUCH WAIVER AND ACKNOWLEDGEMENTS BY SUBLEASE ARE A MATERIAL INDUCEMENT TO SUBLESSOR ENTERING INTO THIS SUBLEASE.

21. ANTI-TERRORISM REPRESENTATIONS

Sublessee represents and warrants to Sublessor that:

(a) Sublessee is not, and shall not during the Sublease Term become, a person or entity with whom Sublessor is restricted from doing business under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107-56 (commonly known as the “USA Patriot Act”) and Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 and regulations promulgated pursuant thereto, including, without limitation, persons and entities named on the Office of Foreign Asset Control Specially Designated Nationals and Blocked Persons List (collectively, “Prohibited Persons”); and

(b) Sublessee is not currently conducting any business or engaged in any transactions or dealings, or otherwise associated with, any Prohibited Persons in connection with the use or occupancy of the Premises; and

(c) Sublessee will not in the future during the Sublease Term engage in any transactions or dealings, or be otherwise associated with, any Prohibited Persons in connection with the use or occupancy of the Subleased Premises.

22. Furniture. Sublessee shall have the right to use all furniture, installed audio/video equipment, kitchen appliances, Datacom and telecom racks, patch panels and wiring located within the Subleased Premises as listed on Exhibit C (the “Furniture”). Sublessor expressly disclaims any warranties with respect to the Furniture and the same is provided to Sublessee in “AS IS, WHERE IS” condition. The Furniture shall become the property of Sublessee and Sublessee shall be obligated to remove the Furniture within the Subleased Premises at the expiration of the Sublease Term in accordance with Section 4.7 of the Lease.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, Sublessor and Sublessee execute this Sublease as of the date first written above.

**SUBLESSOR**

**ACQUIA, INC.**

By: /s/ William Sorenson  
Name: William Sorenson  
Title: CFO

**SUBLESSEE**

**EVERBRIDGE**

By: /s/ Jaime Ellertson  
Name: Jaime Ellertson  
Title: CEO



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**Exhibit A**

“Lease”

GROSS LEASE  
(w/Base Amounts)

THIS LEASE (this “Lease”) is made as of June 14, 2011. by and between

“Landlord”      MEPT Burlington, LLC, a Delaware limited liability company and  
“Tenant”        Acquia, Inc., a Delaware corporation.

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#### LISTING OF EXHIBITS

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| Exhibit A | Intentionally Omitted                                       |
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| Exhibit C | Listing of Plans and Specifications for Tenant Improvements |
| Exhibit D | Form of Lease Memorandum                                    |
| Exhibit E | Rules and Regulations                                       |
| Exhibit F | Letter of Credit Criteria                                   |
| Exhibit G | Cleaning Specifications                                     |
| Exhibit H | Exterior Signage  |

SECTION 1: DEFINITIONS

**Access Laws:** The Americans With Disabilities Act of 1990 (including the Americans with Disabilities Act Accessibility Guidelines for Building and Facilities) and all other Governmental Requirements relating to the foregoing.

**Additional Rent:** Defined in paragraph captioned “Additional Rent”.

**Affiliate:** An entity directly or indirectly controlling, controlled by, or under common control with Tenant (control being defined as ownership of more than fifty percent (50%) of the beneficial ownership of the entity in question).

**Base Amount Allocable to the Premises:** Defined in paragraph captioned “Additional Rent”.

**Base Rent:** The monthly amount of Base Rent and the portion of the Lease Term during which such monthly amount of Base Rent is payable shall be determined from the following table. For convenience and ease of reference, the annual rental rate for the computation of Base Rent and the annual Base Rent are also set forth in tabular form with the annual Base Rent equaling the monthly Base Rent installment multiplied by twelve. In the case of any conflict or inconsistency between the monthly Base Rent installment and the other illustrative figures set forth in tabular form or in any computations utilizing such figures, the monthly Base Rent installment so specified shall be controlling and conclusive.

| Applicable Portion of Lease Term | Rate<br>Per/Rentable<br>Sq. Ft./Annum | Annual Base<br>Rent | Monthly Base<br>Rent<br>Installment<br>(Annual÷ 12) |
|----------------------------------|---------------------------------------|---------------------|---|
| Months 01 through 12             | \$ 23.00                              | \$815,442.00        | \$67,953.50   |
| Months 13 through 24             | \$ 24.00                              | \$850,896.00        | \$70,908.00   |
| Months 25 through 36             | \$ 24.50                              | \$868,623.00        | \$72,385.25   |
| Months 37 through 48             | \$ 25.00                              | \$886,350.00        | \$73,862.50   |
| Months 49 through 69             | \$ 25.50                              | \$904,077.00        | \$75,339.75   |

The above rent schedule begins on the first day of the first full month of the Lease Term beginning on or after the Commencement Date. If the Commencement Date is a date other than the first day of a calendar month, Base Rent for the partial month in which the Commencement Date occurs shall be at the same rate as months 1 through 12, but shall be prorated as provided in Paragraph 3.2 hereof.

Notwithstanding the foregoing, Landlord shall abate (a) all Base Rent applicable to the Premises for the period beginning on the Commencement Date and ending on the date which is the one (1) month anniversary of the Commencement Date (the “First Month”), and (b) fifty percent (50%) of the Base Rent applicable to the Premises for the eight (8) month period immediately following the First Month (such eight (8) month period together with the First Month is referred to herein as the “Abatement Period”), provided, however, if the Lease is terminated prior to the expiration of the lease Term as a result of an Event of Default by Tenant, in addition to all other damages to which landlord may be entitled under the Lease and applicable law, Tenant immediately and without notice shall pay landlord the full unamortized amount of all Base Rent which had been abated as aforesaid (collectively, the “Abated Rent”) (with the Abated Rent amortized on a straight line basis over a sixty-three (63) month period beginning on the first day of the seventh (7<sup>th</sup>) full calendar month of the lease Term). Although landlord shall abate a portion of the Base Rent payable for the Abatement Period as provided above, Tenant acknowledges and agrees that Tenant shall be liable for all Additional Rent payable during such period, including without limitation, tenant electric charges.

**BOMA:** The Standard Method for Measuring Floor Area in Office Buildings (ANSI/BOMA 265.1-1996) as published by the Building Owners and Managers Association.

**Brokers:** Tenant was represented in this transaction by CB Richard Ellis- N.E. Partners, LP, a licensed real estate broker. Landlord also was represented in this transaction by CB Richard Ellis - N.E. Partners, LP, a licensed real estate broker.

**Building:** The building located on the Land at 25 Corporate Drive, Burlington, Massachusetts, commonly known as 500 Burlington Centre and containing approximately 124, 854 rentable square feet as measured in accordance with BOMA.

**Business Day:** Calendar days, except for Saturdays and Sundays and holidays when banks are generally closed in Boston, Massachusetts.

**Claims:** An individual and collective reference to any and all claims, demands, damages, injuries, losses, liens, liabilities, penalties, fines, lawsuits, actions, other proceedings and expenses (including reasonable attorneys' fees and expenses incurred in connection with the proceeding whether at Trial or on appeal).

**Commencement Date:** The earlier to occur of: (a) September 1, 2011; or (b) the date on which Tenant first uses all or any part of the Premises for the conduct of its business.

**ERISA:** The Employee Retirement Income Security Act of 1974, as now or hereafter amended, and the regulations promulgated under it.

**Estimated Operating Costs Allocable to the Premises:** Defined in paragraph captioned "Additional Rent".

**Events of Default:** One or more of those events or states of facts defined in the paragraph captioned "Events of Default".

**Fair Market Rent:** The prevailing base rent and additional rent (including provisions for escalations, subsequent increases, market concessions and incentives such as tenant improvements and free rent periods, and other adjustments) for new leases or lease renewals (as applicable) of a comparable term then currently being negotiated or executed for comparable space located in the office park in which the Building is located, or if no new leases or lease renewals (as applicable) are then being negotiated or executed in such office park, new leases or lease renewals (as applicable) then being negotiated or executed for comparable space located elsewhere in similar first class office properties or equivalent buildings located in the Burlington, Massachusetts area (the "Comparable Properties"), in either case considering the relative age, condition and location of the Building and the Comparable Properties, the relative condition of the Building's and Comparable Properties' systems, the relative condition of the Premises and such comparable space.

**GAAP:** Generally Accepted Accounting Principles.

**Governmental Agency:** The United States of America, the state in which the Land is located, any county, city, district, municipality or other governmental subdivision, court or agency or quasi-governmental agency having jurisdiction over the Land and any board, agency or authority associated with any such governmental entity, including the fire department having jurisdiction over the Land.

**Governmental Requirements:** Any and all statutes, ordinances, codes, laws, rules, regulations, orders and directives of any Governmental agency as now or later amended.

**Green Agency Ratings:** Any one or more of the following ratings, as same may be in effect or amended or supplemented from time to time: The U.S. EPA's EnerStar® rating and/or Design to Earn Energy Star, the Green Building Initiative's Green Globes™ for Continual Improvement of Existing Buildings (Green Globes™-CIEB), the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system, LEED EBOM (existing buildings operations and maintenance) and any applicable substitute third party or government mandated rating systems.

**Hazardous Substance(s):** Asbestos, PCBs, petroleum or petroleum-based chemicals or substances, urea formaldehyde or any chemical, material, element, compound, solution, mixture, substance or other matter of any kind whatsoever which is now or later defined, classified, listed, designated or regulated as hazardous, toxic or radioactive by any Governmental agency.

**Land:** The land upon which the Building is located in Burlington, Middlesex County, Commonwealth of Massachusetts.

**Landlord:** The limited liability company named on the first page of this Lease, or its successors and assigns as provided in paragraph captioned "Assignment by Landlord".

**Landlord's Agents:** The managers, officers and employees of Landlord and the consultants and advisors to the Landlord and employees of the foregoing.

**Lease Memorandum:** Defined in paragraph entitled "Lease Memorandum".

**Lease Security Deposit:** The letter of credit delivered by Tenant to Landlord as described in the paragraph entitled "Security Provisions."

**Lease Term:** Commencing on the Commencement Date and ending on the last day of that calendar month which is sixty-nine (69) months after the Commencement Date provided that, if the

Commencement Date is the first day of a calendar month, the Lease Term shall end on the last day of the sixty-ninth (69<sup>th</sup>) calendar month of the Lease Term including the calendar month in which the Commencement Date occurs.

**Lender:** Defined in paragraph entitled “Landlord’s Default”.

**Manager:** CB Richard Ellis – N.E. Partners, LP, or its replacement as specified by written notice from Landlord to Tenant.

**Manager’s Address:** 25 Corporate Drive, Burlington, Massachusetts 01803, which address may be changed by written notice from Landlord to Tenant.

**Monument Sign:** The existing monument sign at the entrance to the Park, as the same may be modified, expanded or replaced by Landlord from time to time in Landlord’s discretion.

**Operating Costs:** Defined in paragraph captioned “Additional Rent”.

**Operating Costs Allocable to the Premises:** Defined in paragraph captioned “Additional Rent”.

**Park:** The office park in which the Building is located, known as Burlington Centre Office Park.

**Parking Ratio:** 3.1 stalls per 1,000 rentable square feet of the Premises.

**Permitted Transferee:** A party to which Tenant has either assigned its interest in this Lease or sublet all or any portion of the Premises subject to and in accordance with the terms and provisions of subparagraph 4.16.8 or subparagraph 4.16.9.

**Permitted Use:** General business office uses (including administrative and executive office uses, including computer and data rooms ancillary thereto), so long as such use is consistent with Governmental Requirements and with comparable buildings of the same or similar use as the Building located in the metropolitan area in which the Building is located.

**Plans and Specifications:** (a) Those certain plans and specifications for the Tenant Improvements, if any, as listed in Exhibit C and any modifications to them approved in writing by Landlord and Tenant; or (b) if Exhibit C does not include a listing of such plans and specifications, then such plans and specifications shall be prepared by Tenant (the “Preparing Party”) and delivered to Landlord (the “Receiving Party”) and approved by Landlord and Tenant as set forth in the paragraph entitled “Plans and Specifications”.

**Potential Expansion Space:** Any rentable area located on the third floor of the Building.

**Prepaid Rent:** Sixty-Seven Thousand Nine Hundred Fifty-Three and 50/100 Dollars (\$67, 953.50), to be applied toward Base Rent for the second and third full calendar months of the Lease Term.

**Premises:** The portion of the Building designated as Suite 400 and depicted on the plan attached as Exhibit B and agreed by Landlord and Tenant for all purposes under this Lease to consist of approximately thirty-five thousand four hundred fifty-four (35, 454) rentable square feet as measured in accordance with BOMA. The number of rentable square feet recited above shall be final, conclusive and controlling.

**Prime Rate:** Defined in paragraph captioned “Default Rate”.

**Property Taxes:** (a) Any form of ad valorem real or personal property tax or assessment imposed by any Governmental Agency on the Land, Building, related improvements or any personal property owned by Landlord associated with such Land, Building or improvements; (b) any other form of tax or assessment, license fee, license tax, tax or excise on rent or any other levy, charge, expense or imposition made or required by any Governmental Agency on any interest of Landlord in such Land, Building, related improvements or personal property; (c) any fee for services charged by any Governmental Agency for any services such as fire protection, street, sidewalk and road maintenance, refuse collection, school systems or other services provided or formerly provided to property owners and residents within the general area of the Land; (d) any governmental impositions allocable to or measured by the area of any or all of such Land, Building, related improvements or personal property or the amount of any base rent, additional rent or other sums payable under any lease for any or all of such Land, Building, related improvements or personal property; (e) any gross receipts or other excise tax allocable to, measured by or a function of any one or more of the matters referred to in clause (d); (f) any impositions by any Governmental agency on any transaction evidenced by a lease of any or all of such Land, Building, related improvements or personal property or charge with respect to any document to which Landlord is a party creating or transferring an interest or an estate in any or all of such Land, Building, related improvements or personal property; (g) any increase in any of the foregoing based upon construction of

improvements or change of ownership of any or all of such Land, Building, related improvements or personal property, and (h) tax consultant fees and expenses and costs of appeals of any Property Taxes. Property Taxes shall also include a share of all of the foregoing applicable to all common area driveways, sidewalks, service areas, open spaces and other portions of the Park not located on the Land and which tenants of the Building are permitted to use and/or which benefit the Land or the Building, which Property Taxes shall be allocated to all buildings in the Park benefited by such areas and/or whose tenants have the right to use such areas on an equitable basis as reasonably determined by Landlord. Property Taxes shall not include taxes on Landlord's net income or any capital levy, transfer, capital stock, franchise, gift, estate or inheritance tax or interest or penalties incurred by Landlord as a result of Landlord's late payment of Property Taxes unless such late payment was caused, in whole or in part, by Tenant's failure to timely pay any amounts due under this Lease.

**Restrictions:** Any covenants, conditions and restrictions applicable to the Land.

**Telecommunication Facilities:** Equipment, facilities, apparatus and other materials utilized for the purpose of electronic telecommunication, including cable, switches, wires, conduit and sleeves.

**Telecommunication Services:** Services associated with electronic telecommunications, whether in a wired or wireless mode. Basic voice telephone services are included within this definition.

**Tenant:** The person or entity(ies) named on the first page of this Lease.

**Tenant Alterations:** Defined in paragraph captioned "Tenant Alterations".

**Tenant Improvement Allowance:** The maximum amount, if any, to be contributed by Landlord to reimburse Tenant for Tenant Improvement Costs and the Construction Monitoring Fee (each as defined in paragraph 2.5.1 hereof), which maximum shall not exceed One Million Sixty-Three Thousand Six Hundred Twenty and 00/100 Dollars (\$1,063, 620.00) (calculated based upon Thirty and 00/100 Dollars (\$30.00) per rentable square foot of the Premises).

**Tenant Improvements:** Those alterations or improvements to the Premises as appear and are depicted in the Plans and Specifications.

**Tenant's Agents:** Any and all officers, partners, contractors, subcontractors, consultants, licensees, agents, concessionaires, subtenants, servants, employees, customers, guests, invitees or visitors of Tenant.

**Tenant's Pro Rata Share:** A fraction, the numerator of which is the rentable square feet of the Building (as set forth in the definition of "Building"), and the denominator of which is the rentable square feet of the Premises (as set forth in the definition of "Premises"). As of the date hereof, Tenant's Pro Rata Share is 35, 454/124, 854 = twenty-eight and forty one-hundredths percent (28.40%), which shall be final, conclusive and controlling during the Lease Term for all purposes, except as may be adjusted in connection with any expansion or reduction in the Premises.

**Year:** A calendar year commencing January 1 and ending December 31 or that portion of the calendar year within the Lease Term.

## **SECTION 2: PREMISES AND TERM**

### **2.1 Lease of Premises.**

**2.1.1 Initial Premises.** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, upon the terms and conditions set forth in this Lease. In addition to the Premises, Tenant shall have the nonexclusive right, in common with Landlord and all others to whom Landlord has granted or may hereafter grant rights, to use (a) the common lobbies, corridors, stairways, elevators and loading platforms of the Building, and if the Premises include less than an entire floor, the common toilets, corridors and elevator lobby for such floor, and (b) the common walkways and driveways of the Park for access, ingress, egress, parking and vehicular circulation to the Building, and any common area facilities of the Park from time to time made available by Landlord for the use of tenants of the Park. Tenant's use of all such common areas shall be subject to such reasonable restrictions and regulations as Landlord may from time to time impose and the rights of Landlord set forth herein.

#### **2.1.2 Right of First Offer.**

(a) While this Lease is in full force and effect, provided that no Event of Default then exists and not more than one monetary Event of Default has occurred during the twelve (12) month periods immediately preceding both the date of the Acceptance Notice and the Offer Space Inclusion Date (each as defined below) and further provided that Acquia, Inc. or a Permitted Transferee is itself occupying at least fifty percent (50%) of the



Premises then demised to Tenant, in each case both as of the date of the Acceptance Notice and the Offer Space Inclusion Date, in the event that any of the Potential Expansion Space shall become available (or is anticipated to become available) for lease during the Lease Term as a result of the expiration or termination of any lease now existing or hereafter entered into, Landlord shall first offer such Potential Expansion Space to Tenant at the Landlord's then current asking rates for the Building by written notice (a "**ROFO Notice**") on an "**AS IS**" basis as of the date of the ROFO Notice for the balance of the Lease Term, subject to any (i) prior rights of first offer and/or first refusal held by third parties and (ii) renewal rights of current tenants, in the case of either (i) or (ii) existing as of the date of this Lease with respect to such Potential Expansion Space. The date on which Landlord delivers possession of any Potential Expansion Space to Tenant in connection with Tenant's exercise of the within right of first offer is referred to herein as the Offer Space Inclusion Date". Tenant's within right of first offer as to any particular Potential Expansion Space is a one time right. If any Potential Expansion Space is available as of the date hereof, Tenant shall be deemed not to have exercised its right of first offer with respect to such Potential Expansion Space and Landlord shall have no obligation to offer such Potential Expansion Space to Tenant again pursuant to the within right of first offer. Notwithstanding the foregoing or anything herein to the contrary, any exercise by Tenant of the within right of first offer shall be conditioned upon Landlord's approval of Tenant's financial condition based upon Landlord's standard underwriting criteria and a review of Tenant's then current financial statements.

(b) The leasing of Potential Expansion Space pursuant to the within right of first offer shall be on the same terms, covenants and conditions as provided for herein with respect to the Premises except (i) Base Rent and escalations for Operating Costs and Property Taxes shall be at the Landlord's then asking rates for the Building as set forth in Paragraph 2.1.2(a) above, and (ii) Landlord shall have no obligation to prepare, refurbish or construct the Premises or any part thereof or otherwise provide any amount of improvement allowance in respect of the Potential Expansion Space. Such ROFO Notice shall include the anticipated availability date (the "**Anticipated Availability Date**") for the Potential Expansion Space. Tenant shall have fifteen (15) Business Days from the ROFO Notice within which to accept Landlord's offer in writing to lease all (but not less than all) of the offered Potential Expansion Space. If Tenant has not accepted Landlord's offer set forth in any ROFO Notice in writing (an "**Acceptance Notice**") within said fifteen (15) Business Day time period and/or has not executed an amendment to this Lease satisfactory to Landlord in its reasonable discretion (a "**ROFO Amendment**") within ten (10) Business Days after Landlord's delivery of same to the Tenant (in each case time being of the essence), then such right of first offer shall expire as to such Potential Expansion Space and be of no further force or effect, and the Landlord shall be free to lease all or any portion of the applicable Potential Expansion Space to any third party at any time thereafter on the same terms and conditions as offered to Tenant or on such other terms and conditions as Landlord shall determine.

(c) Notwithstanding the foregoing or anything herein to the contrary, if less than two (2) years were to remain on the Lease Term as of the Anticipated Availability Date for any Potential Expansion Space offered to Tenant, Tenant may not exercise such right of first offer unless the Extension Option (as defined in subparagraph 2.2.2 hereof) is still available to Tenant and Tenant exercises such Extension Option (provided that, at Landlord's option, the Fair Market Rent for the Extension Option for both the then existing Premises and the Potential Expansion Space shall not be determined prior to the date which is nine (9) months prior to the then expiration date of the Lease Term).

(d) If Tenant timely accepts Landlord's ROFO Notice to lease any Potential Expansion Space and Landlord is unable to deliver possession of the Potential Expansion Space to Tenant for any reason beyond Landlord's reasonable control on or before the Anticipated Availability Date as set forth in the ROFO Notice, the applicable Potential Expansion Space shall become part of the Premises leased hereunder on the date on which Landlord is able to so deliver possession and Landlord shall have no liability to Tenant therefor and this Lease shall not in any way be impaired. In such case, the date on which Landlord is able to so deliver possession shall be the Offer Space Inclusion Date.

## **2.2 Lease Term.**

**2.2.1 Initial Lease Term.** The Lease Term shall be for the period stated in the definition of that term, unless earlier terminated or otherwise extended as provided in this Lease.

**2.2.2 Option to Extend.** While this Lease is in full force and effect, provided that no Event of Default then exists and not more than one (1) monetary Event of Default has occurred within the immediately preceding twelve (12) month period, and further provided that the Acquia, Inc. has not assigned

this Lease nor sublet more than fifty percent (50%) of the Premises then demised to Tenant under this Lease (excluding transfers to Permitted Transferees). in each case both as of the time of option exercise and as of the commencement of the herein additional term, Tenant shall have the right or option (the “Extension Option”) to extend the original term of this Lease for one (1) period of five (5) years (the “Option Period”). Such extension of the original term shall be on the same terms and covenants as provided for in the original term except that (a) Tenant shall have no further option to extend the Lease Term, (b) Base Rent for the Option Period shall be one hundred percent (100%) of the then Fair Market Rent for the Premises as determined in accordance with subparagraph 2.2.3, and (c) Landlord shall have no obligation to prepare, refurbish or construct the Premises or any part thereof prior to the commencement of the Option Period or otherwise provide any amount of improvement allowance in respect of the Premises. Any exercise of such Extension Option by Tenant as provided herein shall be irrevocable. If the Fair Market Rent has not been determined as of the commencement date of the Option Period, Tenant initially shall pay Base Rent plus escalations for the extended term at the same rate as in effect as of the date immediately preceding the commencement of the Option Period, with a retroactive adjustment to be made within ten (10) Business Days after the determination of Fair Market Rent. Notice (the “Option Notice”) of Tenant’s intention to exercise the Extension Option must be given to Landlord, in writing, at least nine (9) months prior to the then current expiration of the Lease Term (time being of the essence) or the Extension Option shall lapse and be of no further force or effect. If Tenant exercises the Extension Option, after the determination of the Fair Market Rent for the Premises as herein provided, the Landlord and Tenant shall execute an amendment to this Lease confirming same, provided that the failure of Landlord or Tenant to execute such an amendment shall not relieve such party of its obligations with respect to the Option Period.

**2.2.3 Determination of Fair Market Rent for Extension Option.** If Tenant exercises the Extension Option as provided above, Landlord and Tenant shall have a period of twenty (20) days after Landlord’s receipt of the Option Notice to agree upon the Fair Market Rent for the Premises. If Landlord and Tenant fail to reach agreement on the Fair Market Rent for the Premises, then the Fair Market Rent for the Premises shall be determined by three (3) licensed commercial real estate brokers, one of whom shall be named by Landlord, one of whom shall be named by Tenant, and the third of whom shall be selected by the brokers chosen by Landlord and by Tenant. All such brokers shall be independent and none of the brokers nor their firms shall have been employed by Landlord (with respect to the Park), Tenant or their affiliates for the immediately preceding five (5) years. A broker shall not be disqualified if he/she or their firm have been employed by Landlord or any of its affiliates within the preceding five (5) years with respect to any property other than the Park. Furthermore, each such broker shall be a commercial real estate broker licensed in Massachusetts, specializing in office leasing in the so-called “Route 128 corridor”, with not less than ten (10) years experience in appraising comparable commercial properties in such market and recognized as reputable within the local real estate industry (each such broker being defined herein for purposes of this paragraph as a “Qualified Broker”). The parties each agree to select their Qualified Broker within ten (10) days after the expiration of the aforesaid twenty (20) day period. The third Qualified Broker shall be selected by the first two Qualified Brokers within ten (10) days after the first two (2) Qualified Brokers have been selected. If a party fails to timely select a Qualified Broker, the determination of the Fair Market Rent for the Premises shall be made by the Qualified Broker selected by the other party. Within fifteen (15) days after the third Qualified Broker has been selected, all of the Qualified Brokers shall meet to attempt to agree upon the Fair Market Rent for the Premises. If the Qualified Brokers are unable to reach agreement, all Qualified Brokers shall, within fifteen (15) days after the expiration of the preceding fifteen (15) day period, arrange to simultaneously submit to Landlord and Tenant in writing the Fair Market Rent for the Premises he or she deems appropriate (each such Qualified Broker’s determination of Fair Market Rent for purposes of this paragraph being referred to herein as an “Appraisal”). If none of the Appraisals varies from the mean of the other two (2) Appraisals by more than ten percent (10%), the mean of the determinations of all three (3) Appraisals shall be the Fair Market Rent for the Premises. If, on the other hand, any single Appraisal varies from the mean of the other two (2) Appraisals by more than ten percent (10%), the mean of the two (2) Appraisals which are closest shall be the Fair Market Rent for the Premises. The Fair Market Rent for the Premises determined in accordance with this subparagraph 2.2.3 shall be final and binding on Landlord and Tenant. Each of the parties to this Lease shall pay the costs of the services of the Qualified Broker selected by that party, and the cost of the services of the third Qualified Broker shall be divided equally between Landlord and Tenant.

## **2.3 Plans and Specifications.**

**2.3.1** If there are no Plans and Specifications attached as Exhibit C, then Tenant shall retain Packard Designs or another licensed architect of its choice, subject to Landlord's prior written approval, to prepare the Plans and Specifications for the Tenant Improvements. The plans and specifications shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, delayed, or conditioned provided that such Plans and Specifications comply with the requirements of this paragraph 2.3 and do not affect any structural element of the Building. Tenant acknowledges that the Landlord seeks to maintain Green Agency Ratings for the Building. Tenant agrees to use commercially reasonable efforts to (a) design the Tenant Improvements consistent with commercially recognized sustainability practices and materials so as to maintain such Green Agency Ratings for the Building; (b) seek and maintain LEED for Commercial Interiors certification with respect to the Tenant Improvements; and (c) register the Premises with the U.S. Green Building Council prior to completion of the Plans and Specifications, provided that no such reasonable efforts shall require Tenant to incur, as to any material component of the Tenant Improvements, a substantial increase in the cost of such component of the Tenant Improvements.

**2.3.2** Following execution of the Lease by Tenant, Tenant shall cause its architect to furnish to Landlord for Landlord's approval space plans sufficient to convey the architectural design of the Premises, including, without limitation, the location of doors, partitions, electrical and telephone outlets, plumbing fixtures, heavy floor loads and other special requirements (collectively, the "Space Plan"). Landlord shall not unreasonably withhold, delay or condition its consent provided that the Space Plan complies with the requirements of this Paragraph 2.3 and does not affect any structural element of the Building. If required by Landlord in its reasonable discretion, Tenant's architect shall consult with Landlord's engineer in preparing the Space Plan, and incorporate such engineer's reasonable requirements into the Space Plan. The fees of such engineer, not to exceed Two Thousand Five Hundred Dollars (\$2, 500.00), shall be a Tenant Improvement Cost (as hereafter defined). If Landlord shall disapprove of any portion of the Space Plan, Landlord shall advise Tenant of the reasons therefor and shall notify Tenant of the revisions to the Space Plan that are reasonably required by Landlord for the purpose of obtaining approval. Thereafter, Tenant shall submit to Landlord, for Landlord's approval, a redesign of the Space Plan, incorporating the revisions required by Landlord. Landlord's approval of such redesign shall be given or withheld by Landlord in accordance with the standards applicable to the original Space Plan as provided above. The foregoing process shall continue until Tenant's Space Plan has been approved by Landlord as provided herein.

**2.3.3** Tenant shall cause its architect to prepare complete Plans and Specifications from Tenant's approved Space Plan and submit same to Landlord for approval. Landlord shall not unreasonably withhold, delay or condition its consent provided that the Plans and Specifications comply with the requirements of this Paragraph 2.3 and do not affect any structural element of the Building. The Plans and Specifications shall (a) be compatible with the Building shell and with the design, construction and equipment of the Building; (b) comply with all Governmental Requirements; (c) comply with all applicable insurance regulations; and (d) be consistent with the approved Space Plan in all material respects. If required by Landlord, Tenant's architect shall consult with Landlord's engineer in preparing the Plans and Specifications, and incorporate such engineer's requirements into the Plans and Specifications. The fees of such engineer, not to exceed Two Thousand Five Hundred Dollars (\$2, 500.00), shall be a Tenant Improvement Cost. If Landlord shall disapprove of any portion of the Plans and Specifications, Landlord shall advise Tenant of the reasons therefor and shall notify Tenant of the revisions to the Plans and Specifications that are reasonably required by Landlord for the purpose of obtaining approval. Thereafter, Tenant shall submit to Landlord, for Landlord's approval, redesign of the Plans and Specifications, incorporating the revisions required by Landlord. Landlord's approval of such redesign shall be given or withheld by Landlord in accordance with the standards applicable to the original Plans and Specifications as provided above. The foregoing process shall continue until Tenant's Plans and Specifications have been approved by Landlord as provided herein.

**2.4 Commencement Date.** After the execution and delivery of this Lease by all parties hereto, Landlord shall deliver possession of the Premises to the Tenant for the purpose of making the Tenant Improvements in accordance with the terms hereof. The Commencement Date shall be the date set forth in the definition of that term in Section 1 hereof. Tenant acknowledges that the Premises shall be delivered **AS IS** and that no representations as to the condition of the Premises have been made by Landlord. The taking of possession by Tenant shall establish that the Premises are in good and satisfactory condition when possession was so taken (except for any latent defects in the

base building systems affecting the Premises not reasonably capable of discovery upon the delivery of the Premises to Tenant) and the Commencement Date shall occur as provided in the definition of that term. Tenant shall notify Landlord of any latent defects in the base building systems affecting the Premises within one hundred twenty (120) days after the Commencement Date. Landlord shall commence correction of such latent defects within a reasonable period after receipt of written notice thereof from Tenant and shall diligently pursue such corrective measures to completion. If Tenant fails to notify the landlord of any latent defects in the base building systems affecting the Premises within such period, Tenant shall be deemed to have waived any rights on account thereof. In no event shall Tenant's refusal or failure to take possession of the Premises delay or postpone the occurrence of the Commencement Date. Tenant's possession of the Premises prior to the Commencement Date for purposes of moving in furniture and equipment, preparing cabling and wiring and performing the Tenant Improvements as provided above, shall be subject to all of the terms and conditions of this Lease, except that Tenant shall not be required to pay Base Rent with respect to the period of time prior to the Commencement Date during which Tenant performs such work. Tenant, however, shall be liable for payment of any above standard services (such as after hours HVAC service) that are provided to Tenant during the period of Tenant's possession prior to the Commencement Date.

Subject to all of the terms and conditions of this Lease other than the payment of Base Rent, during the period from delivery of the Premises to Landlord as provided above to the Commencement Date, Tenant shall have the right to access the Premises for the purpose of installing Tenant's furniture, fixtures and equipment therein.

## **2.5 Tenant's Contribution to Tenant Improvement Costs.**

**2.5.1** Upon receipt of possession of the Premises, the Tenant shall prepare the Premises for Tenant's occupancy and complete the Tenant Improvements in accordance with the Plans and Specifications in all material respects and at the Tenant's sole cost and expense (all such costs and expenses, including all hard and soft costs such as and without limitation, all labor and materials, architectural, engineering, permitting, and space planning fees are hereinafter collectively referred to as the "Tenant Improvement Costs"). Tenant shall make no changes to the Plans and Specifications or the work reflected in the Plans and Specifications without the consent of the Landlord, which consent shall not be unreasonably withheld, delayed or conditioned provided such changes do not affect any structural elements of the Building or Building systems. Tenant's completion of the Tenant Improvements shall be performed by Tenant's contractors, who shall (a) be selected by Tenant and approved by Landlord (such approval not to be unreasonably withheld, delayed or conditioned), and (b) work under the direction of Tenant or, if directed in writing by Tenant, Tenant's qualified representative. Landlord shall have the right, at Landlord's sole cost and expense, to have its representative at the Premises at all times during the construction of the Tenant Improvements to review and monitor the performance of same, and Tenant shall pay Landlord a construction monitoring fee equal to one percent (1%) of the Tenant Improvement Costs (the "Construction Monitoring Fee"). The Tenant Improvements shall be performed by contractors employed by Tenant under one or more construction contracts, in form and content approved in advance in writing by Landlord (which approval shall be subject to Landlord's discretion and may include a requirement that the prime contractor and the respective subcontractors of any tier: (a) be parties to, and bound by, a collective bargaining agreement with a labor organization affiliated with the Building and Construction Trades Council of the AFL-CIO and (b) employ only members of such organization to perform work within their respective jurisdictions). However, at Landlord's sole option, in clause (a) of the immediately preceding sentence of this paragraph, the following substitutions may be made: (1) a project labor agreement in place of a collective bargaining agreement, and (2) an independent, nationally recognized labor organization in place of a labor organization affiliated with the Building and Construction Trades Council of the AFL-CIO. Such contractors also shall comply with all requirements in Paragraph 4.5 of this Lease.

**2.5.2** All Tenant Improvements, regardless of which party constructed or paid for them, shall become the property of Landlord upon the expiration or earlier termination of this Lease and shall remain upon and be surrendered with the Premises upon the expiration or earlier termination of this Lease; provided that, at Landlord's elect on and upon notice to Tenant, Tenant shall be required to remove all or any portion of the Tenant Improvements upon the expiration or earlier termination of this Lease. Without limiting the foregoing, Tenant shall remove any and all wiring and cabling installed by Tenant. Notwithstanding the foregoing, except as provided below in this subparagraph 2.5.2, if Tenant's submission of its Plans and Specifications to the Landlord for approval is accompanied by a written request that

Landlord identify any Tenant Improvements that Landlord may require Tenant to remove upon the expiration or earlier termination of the Lease and such request includes a notice at the top of the page having a heading in at least 12-point type, bold and all capital letters stating **“LANDLORD’S APPROVAL MUST IDENTIFY ANY TENANT IMPROVEMENTS WHICH LANDLORD MAY REQUIRE TENANT TO REMOVE UPON THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE”**, then Landlord shall identify such Tenant Improvements (if any) by written notice to Tenant given at the time of Landlord’s approval of the Plans and Specifications, and Tenant shall not be required to remove any such Tenant Improvements not so identified. In all events, Landlord reserves the right to require Tenant to remove any wiring and cabling installed by Tenant. All unattached and moveable partitions, trade fixtures, moveable equipment or furniture located in the Premises and acquired by or for the account of Tenant which can be removed without structural damage to the Building or Premises, and all personalty brought into the Premises by Tenant (“Tenant’s Property.”) shall be owned by Tenant and may be removed by Tenant subject to and in accordance with Paragraph 4.7 hereof

**2.5.3** Tenant shall be solely responsible for the design and construction of the Tenant Improvements. Notwithstanding Landlord’s review and approval of the Plans and Specifications, Landlord shall have no liability to Tenant or to any other person for errors or omissions in the Plans and Specifications (Landlord’s review and approval of the Plans and Specifications being for Landlord’s own purposes). Tenant shall indemnify, defend, protect and hold Landlord and Landlord’s Agents harmless from all Claims which arise in any way, directly or indirectly from or in connection with the design and construction of the Tenant Improvements, including without limitation, claims arising from the work of Tenant’s architect, engineer, employees or agents.

**2.5.4** Landlord shall grant an allowance to Tenant in an amount up to the Tenant Improvement Allowance (as defined in Section 1.1 hereof) to be used solely to reimburse the Tenant for the Tenant Improvement Costs and to pay the Construction Monitoring Fee. Subject to the terms and conditions hereof, the Tenant Improvement Allowance shall be available for disbursement in up to a maximum of five (5) draws (each a “Tenant Allowance Advance”) plus one (1) final draw of the Retainage (as defined below) in the following manner. At least twenty (20) Business Days before the date upon which the Tenant desires a Tenant Allowance Advance or an advance of the Retainage, the Tenant shall submit an itemized requisition (a “Requisition”) on a form acceptable to the Landlord in its reasonable discretion, stating the amount of the advance, the items(s) to be reimbursed from the proceeds thereof, and the date upon which the advance is desired. Each Tenant Allowance Advance shall be subject to retainage in the amount of ten percent (10%) (the “Retainage”). Landlord’s obligation to make any Tenant Allowance Advance shall be subject to Tenant’s satisfaction of all of the following conditions other than item number (6), and Landlord’s obligation to advance the Retainage shall be subject to Tenant’s satisfaction of each and all of the following conditions numbered (1) through (6): (1) Tenant shall have submitted to Landlord a certification signed by Tenant’s architect certifying that all work on the Tenant Improvements which has been completed through the date of such certification (which shall be no earlier than the date of the subject Requisition) has been completed in all material respects in accordance with Plans and Specifications approved by the landlord and attaching thereto an executed waiver or release of liens from Tenant’s general contractor for the Tenant Improvements for all work performed and materials delivered through the date of such Requisition, which waiver and release shall be in such form as landlord may reasonably require. (2) Tenant shall have provided landlord with executed waivers or releases of liens from each of Tenant’s subcontractors and suppliers for all work performed and materials delivered through the date of such Requisition, which waivers and releases shall be in such form as landlord may reasonably require, (3) Tenant shall have submitted to landlord a certification of Tenant’s general contractor for the Tenant Improvements identifying each contractor, subcontractor and supplier who performed labor and/or supplied materials for the Tenant Improvements through the date of such Requisition, (4) Tenant shall have furnished landlord with copies of third party invoices, for all work performed and materials delivered which are included in such Requisition, (5) at the time of such Tenant Allowance Advance there shall exist no event which is, or solely with the passage of time and/or giving of notice would be, an Event of Default, and (6) with respect to the advance of the Retainage, Tenant shall have submitted to landlord an issued and effective certificate of occupancy for the Premises for the Permitted Use and a certification signed by Tenant’s architect certifying that the Tenant Improvements have been completed in accordance with Plans and Specifications approved by the landlord and attaching thereto executed final waivers or releases of liens from Tenant’s general contractor and each of Tenant’s subcontractors and suppliers in connection with the Tenant Improvements in such form as landlord

may reasonably require, plus a certificate of Tenant's general contractor identifying each contractor, subcontractor and supplier who performed labor and/or supplied materials for the Tenant Improvements. The foregoing items (1) through (6) above are herein collectively referred to as the "Tenant Allowance Conditions". Subject to satisfaction of all of the Tenant Allowance Conditions applicable to a particular Tenant Allowance Advance and/or advance of the Retainage, Landlord shall pay to Tenant, within twenty (20) Business Days after receipt by Landlord of a written request from Tenant for a Tenant Allowance Advance or the Retainage (as applicable) in accordance with the foregoing (or on such later date as requested by Tenant), the lesser of (a) the full amount of the remaining undisbursed Tenant Improvement Allowance (after taking into account all Tenant Allowance Advances and deducting the aggregate amount of any undisbursed Retainage, except in the case of a final Requisition for the Retainage, and any unpaid balance of the Construction Monitoring Fee), if the aggregate sum of the invoices submitted pursuant to item (4) above equals or exceeds the full amount of the Tenant Improvement Allowance, or (b) the aggregate sum of invoices submitted pursuant to item (4) above (less the aggregate amount of any undisbursed Retainage, except in the case of a final Requisition for the Retainage, and any unpaid balance of the Construction Monitoring Fee), if said aggregate sum is less than the full amount of the Tenant Improvement Allowance. Tenant shall not be entitled to any credit, trade off or cash payment for any unused portion of the Tenant Improvement Allowance, and Landlord shall have no obligation to Tenant with respect to any such unused portion of the Tenant Improvement Allowance. Further, notwithstanding anything herein to the contrary, in the event that Tenant has not completed the Tenant Improvements and/or satisfied all of the conditions for payment of the Tenant Improvement Allowance on or before the date which is eight (8) months after the Commencement Date, Landlord shall have no further obligation to make any Tenant Allowance Advance.

**2.5.5** In all events, on or before the date which is eight (8) months after the Commencement Date, (a) Tenant shall complete the Tenant Improvements, and (b) if not already done pursuant to Paragraph 2.5.4 above, Tenant shall submit to Landlord an issued and effective certificate of occupancy for the Premises for the Permitted Use and a certification signed by Tenant's architect certifying that the Tenant Improvements have been completed in accordance with Plans and Specifications approved by the Landlord, together with executed final waivers or releases of liens from Tenant's general contractor and each of Tenant's subcontractors and suppliers in connection with the Tenant Improvements in such form as Landlord may reasonably require, plus a certificate of Tenant's general contractor identifying each contractor, subcontractor and supplier who performed labor and/or supplied materials for the Tenant Improvements.

**2.6 Lease Memorandum.** Following the Commencement Date, Landlord may prepare and submit to the Tenant a Lease Memorandum substantially in the form of Exhibit D, completed in good faith by Landlord, and executed by Landlord. The information inserted on the Lease Memorandum shall be controlling and conclusive and shall prevail over any inconsistent provision in this Lease on (a) the mutual execution of the Lease Memorandum by Landlord and Tenant or (b) the lapse of seven (7) days following delivery of the Lease Memorandum to Tenant without Tenant delivering to Landlord a written objection to all or part of the information in the Lease Memorandum. If Tenant does object in good faith to any information set forth in the Lease Memorandum, it shall execute the Lease Memorandum subject to its specifically-stated, written objections. Tenant must explain the reasons for its objections in reasonable detail. That portion of the Lease Memorandum to which no objection was made shall be conclusive and controlling. Tenant's refusal or failure to execute a Lease Memorandum shall neither prevent nor delay the occurrence of the Commencement Date. In no event shall the Lease Memorandum be recorded.

## **2.7 Use and Conduct of Business.**

**2.7.1** The Premises are to be used only for the Permitted Uses, and for no other business or purpose without the prior consent of Landlord. Landlord makes no representation or warranty as to the suitability of the Premises for Tenant's intended use. Tenant shall, at its own cost and expense, obtain and maintain any and all licenses, permits, and approvals necessary or appropriate for its use, occupation and operation of the Premises for the Permitted Uses. Tenant's inability to obtain or maintain any such license, permit or approval necessary or appropriate for its use, occupation or operation of the Premises shall not relieve it of its obligations under this Lease, including the obligation to pay Base Rent and Additional Rent.

**2.7.2** No act shall be done in or about the Premises that is unlawful or that will increase the existing rate of insurance on any or all of the Land or Building. Tenant shall not commit (or allow to be committed or exist to the extent occurring in the Premises): (a) any waste, (b) any public or private nuisance, or (c) any act or condition

which disturbs the quiet enjoyment of any other tenant in the Building, violates any of Landlord's contracts affecting any or all of the Land or Building, creates or contributes to any work stoppage, strike, picketing, labor disruption or dispute, interferes in any way with the business of Landlord or any other tenant in the Building or with the rights or privileges of any contractors, subcontractors, licensees, agents, concessionaires, subtenants, servants, employees, customers, guests, invitees or visitors or any other persons lawfully in and upon the Land or Building, or causes any impairment or reduction of the good will or reputation of the Land or Building.

**2.7.3** Tenant shall not, without the prior consent of Landlord, use any apparatus, machinery, device or equipment in or about the Premises which will cause any substantial noise or vibration or any material increase in the normal consumption level of electric power. If any of Tenant's apparatus, machinery, devices or equipment should disturb the quiet enjoyment of any other tenant in the Building, then Tenant shall provide, at its sole cost and expense, adequate insulation or take other such action, including removing such apparatus, machinery, devices or equipment, as may be necessary to eliminate the disturbance. Except as to those that will be used exclusively for the benefit of Tenant and Tenant's employees and invitees, no food or beverage dispensing machines shall be installed by Tenant in the Premises without the prior written consent of Landlord.

**2.7.4** Tenant shall not use or operate the Premises in any manner that will cause the Building or any part thereof not to conform with Landlord's sustainability practices or the certification of the Building issued pursuant to any Green Agency Rating, provided Tenant has received actual written notice of such practices or prohibition.

**2.8 Compliance with Governmental Requirements and Rules and Regulations.** Except as otherwise expressly stated herein to be Landlord's responsibility, Tenant shall comply with all Governmental Requirements and Restrictions relating to its use, occupancy and operation of the Premises and shall observe such reasonable rules and regulations as may be adopted and published by Landlord from time to time for the safety, care and cleanliness of the Premises and the Building, and for the preservation of good order in the Building and for the administration and management of the Building (collectively, the "Rules and Regulations"). Current Rules and Regulations are attached to this Lease as Exhibit E. In the event of any conflict or inconsistency between the terms and provisions of this Lease and the Rules and Regulations, the terms and provisions of this Lease shall control.

## **2.9 Intentionally Omitted.**

## **2.10 Sustainable Building Operations.**

**2.10.1** This Building is or may become in the future certified under certain Green Agency Ratings or operated pursuant to Landlord's sustainable building practices, as same may be in effect or modified from time to time. Landlord's sustainability practices address, without limitation, whole-building operations and maintenance issues including chemical use; indoor air quality; energy efficiency; water efficiency; recycling programs; exterior maintenance programs; and systems upgrades to meet green building energy, water, Indoor Air Quality, and lightning performance standards. All of Tenant's construction and maintenance methods and procedures, material purchases, and disposal of waste must be in compliance with minimum standards and specifications as outlined by the Green Agency Ratings, in addition to all Governmental Requirements.

**2.10.2** Tenant shall use proven energy and carbon reduction measures, including energy efficient bulbs in task lighting; use of lighting controls; daylighting measures to avoid overlighting interior spaces; closing shades on the south side of the building to avoid over heating the space; turning off lights and equipment at the end of the work day; and purchasing ENERGY STAR® qualified equipment, including but not limited to lighting, office equipment, commercial and residential quality kitchen equipment, vending and ice machines; and purchasing products certified by the U.S. EPA's Water Sense® program.

**2.11 Recycling and Waste Management.** Tenant covenants and agrees, at its sole cost and expense: (a) to comply with all present and future Governmental Requirements regarding the collection, sorting, separation, and recycling of garbage, trash, rubbish and other refuse (collectively, "trash"); (b) to comply with Landlord's reasonable recycling policy, as stated in the Rules and Regulations (as such policy may be amended or supplemented from time to time), as part of Landlord's sustainability practices where it may be more stringent than applicable Governmental Requirements, including without limitation, recycling such categories of items designated by Landlord and transporting such items to any recycling areas designated by Landlord; (c) to sort and separate its trash and recycling into such categories as are provided by Governmental Requirements or Landlord's then-current sustainability practices; (d) that each separately sorted category of trash and recycling shall be placed in separate receptacles as directed by Landlord; (e) that Landlord reserves the right to refuse to collect or accept from Tenant

any waste that is not separated and sorted as required by Governmental Requirements, and to require Tenant to arrange for such collection at Tenant's sole cost and expense, utilizing a contractor satisfactory to Landlord; and (f) that Tenant shall pay all costs, expenses, fines, penalties or damages that may be imposed on landlord or Tenant by reason of Tenant's failure to comply with the provisions of this paragraph 2.11.

### **SECTION 3: BASE RENT, ADDITIONAL RENT AND OTHER SUMS PAYABLE UNDER LEASE**

**3.1 Payment of Rental.** Tenant agrees to pay Base Rent, Additional Rent and any other sum due under this Lease to Landlord without demand, deduction, credit, adjustment or offset of any kind or nature, in lawful money of the United States when due under this Lease, at the offices of Manager at Manager's Address, or to such other party or at such other place as Landlord may from time to time designate in writing.

**3.2 Base Rent.** On execution of this Lease, Tenant shall pay to Landlord the amount specified in the definition of Prepaid Rent for the months specified in the definition of that term. Tenant agrees to pay the monthly installments of Base Rent to Landlord, without demand and in advance, on or before the first day of each calendar month of the Lease Term. The monthly Base Rent installment for any partial month at the beginning or end of the Lease Term shall be prorated. Base Rent for any partial month at the beginning of the Lease Term shall be paid by Tenant on the Commencement Date.

#### **3.3 Lease Security Provisions.**

**3.3.1** On execution of this Lease, as security for the full and faithful payment of all sums due under this Lease and the full and faithful performance of every covenant and condition of this Lease to be performed by Tenant, Tenant shall deliver a letter of credit in the amount of Five Hundred Eighty Thousand and 00/100 Dollars (\$580, 000.00) in favor of Landlord. The letter of credit initially delivered pursuant to this paragraph and all substitutions, replacements and renewals of it, must be consistent with and shall satisfy all the requirements in the letter of credit criteria set forth on Exhibit F hereto. The term "Letter of Credit" shall mean and refer to a letter of credit conforming to this subparagraph. If a Letter of Credit has not been delivered to and accepted by Landlord on or before the full execution of this Lease, at Landlord's election, the failure to deliver such Letter of Credit may be treated by Landlord (a) as a condition subsequent to the effectiveness of this Lease such that this Lease shall be voidable by Landlord by notice to Tenant at any time prior to Landlord's receipt of the Letter of Credit or (b) as an Event of Default. If Landlord elects to treat the failure to deliver the Letter of Credit on execution of this Lease as an Event of Default, Landlord may pursue all available rights and remedies, including the right to specific performance and the right to attach assets of Tenant. Pending delivery of the Letter of Credit, Landlord also may defer contracting for Tenant Improvements and/or suspend work on same.

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**3.3.2** Tenant shall have the right to reduce the amount of the Letter of Credit on or after each of the dates set forth below to the amount set forth opposite such date (each such date on which the amount of the Letter of Credit may first be reduced is referred to herein as a “Reduction Date”), provided that on each Reduction Date and on the date any such reduction is implemented (a) the Lease is in full force and effect, (b) all Base Rent and Additional Rent then due has been paid in full and not more than two (2) monetary Events of Default have theretofore occurred at any time during the Lease Term, (c) Tenant had a positive net income for the twelve (12) month period immediately preceding the applicable Reduction Date as determined in accordance with generally accepted accounting principles (“GAAP”) and certified to Landlord by an independent certified public accountant acceptable to Landlord, (d) Tenant has a tangible net worth determined in accordance with GAAP certified to Landlord by an independent certified public accountant satisfactory to Landlord equal to or greater than the tangible net worth of Tenant as of the date of this Lease, and (e) Landlord approves Tenant’s financial condition based upon Landlord’s standard underwriting criteria and a review of Tenant’s then current financial statements prepared in accordance with GAAP and certified to Landlord by an independent certified public accountant satisfactory to Landlord. Notwithstanding the foregoing, if Tenant does not otherwise have audited financials available, Landlord shall accept any of the foregoing certifications required under clauses (c), (d) and (e) from the Tenant’s chief financial officer.

| <u>Reduction Date</u> | <u>Required Amount of Letter of Credit</u> | <u>Reduction Amount</u> |
|-----------------------|--|-------------------------|
| September 1, 2014     | \$ 386,667.00                              | \$ 193,333.00           |
| September 1, 2015     | \$ 193,333.00                              | \$ 193,333.00           |

Except as set forth in the next sentence, if the conditions for reduction of the Letter of Credit are satisfied with respect to any Reduction Date, upon the written request of the Tenant, Landlord shall permit Tenant to replace or amend the Letter of Credit accordingly. If on any Reduction Date the Letter of Credit shall not be reduced because one (1) or more of the conditions set forth in clauses (a) through (f) above were not satisfied, the Letter of Credit may be reduced on any subsequent Reduction Date but only by the applicable Reduction Amount (instead of to the applicable Required Amount of Letter of Credit).

**3.3.3** Landlord may draw on the Letter of Credit, in whole or in part at Landlord’s election, without advance notice to Tenant at any time or from time to time on or after (a) the occurrence of any Event of Default, (b) if Tenant, or anyone in possession of the Leased Premises through Tenant, holds over after the expiration or earlier termination of this Lease, (c) Landlord is given notice by the issuer of the Letter of Credit that it is terminating the Letter of Credit, (d) a confirming bank gives notice to Landlord that it will cease to act in that capacity, (e) the Letter of Credit expires on a specified date by its terms and is not renewed or replaced at least sixty (60) days in advance of its expiration date, (f) to the extent permitted by law, in the event any bankruptcy, insolvency, reorganization or any other debtor creditor proceeding is instituted by or against Tenant, or (g) the issuing or confirming bank’s Bank Financial Strength rating falls below the minimum rating specified in paragraph 3 of Exhibit F to this Lease and Tenant fails to replace such Letter of Credit with another letter of credit which satisfies all of the requirements set forth on Exhibit F within ten (10) days after notice from Landlord.

**3.3.4** Landlord may apply any sum drawn on the Letter of Credit to amounts owing to Landlord under this Lease in such order and priority as Landlord elects in its absolute discretion. If any of the proceeds drawn on the Letter of Credit are not applied immediately to sums owing to Landlord under this Lease, Landlord may retain any such excess proceeds as a cash Lease Security Deposit for application, at Lender’s election, to future sums owing to Landlord under this Lease, in such order and priority as Landlord elects in its absolute discretion. Tenant shall, within five (5) Business Days after Landlord’s demand, restore the amount of the Letter of Credit drawn so that the Letter of Credit is restored to the original amount of the Letter of Credit. If Tenant does not restore the Letter of Credit to its original amount within the required time period, such non-restoration shall be considered an Event of Default.

**3.3.5** Additionally, Landlord's draw and application of all or any portion of the proceeds of the Letter of Credit shall not impair any other rights or remedies provided under this Lease or under applicable law and shall not be construed as a payment of liquidated damages. If Tenant shall have fully complied with all of the covenants and conditions of this Lease, the Letter of Credit shall be returned to Tenant or, if Landlord has drawn on the Letter of Credit as provided herein, the remaining proceeds of the Letter of Credit which are in excess of sums due the Landlord shall be repaid to Tenant, without interest, within thirty (30) days after the expiration or termination of the Lease Term and delivery of possession of the Leased Premises to Landlord in accordance with this Lease.

**3.3.6** On any request by Landlord made during the Lease Term, Tenant shall cooperate in accomplishing any reasonable modification of the Letter of Credit requested by Landlord. If the Letter of Credit should be lost, mutilated, stolen or destroyed, Tenant shall cooperate in obtaining the issuance of a replacement.

**3.3.7** Tenant shall not assign or grant any security interest in the Letter of Credit and any attempt to do so shall be void and of no effect.

**3.3.8** In the event of a sale or transfer of Landlord's estate or interest in the Land and Building, and so long as Landlord shall also transfer its interest in this Lease. Landlord shall have the right to transfer the Letter of Credit to the vendee or the transferee, Tenant shall pay any transfer fees charged by the issuing bank and Landlord shall thereafter be considered released by Tenant from all liability for the return of the Letter of Credit. Tenant shall cooperate in effecting such transfer.

**3.3.9** No mortgagee or purchaser of any or all of the Building at any foreclosure proceeding brought under the provisions of any mortgage shall (regardless of whether the Lease is at the time in question subordinated to the lien of any mortgage) be liable to Tenant or any other person for any or all amounts drawn against the Letter of Credit or any other or additional lease security deposit or other payment made by Tenant under the provisions of this Lease), unless Landlord has actually delivered it in cash to such mortgagee or purchaser, as the case may be.

**3.4 Additional Rent.** Definitions of certain terms used in this paragraph are set forth in the last subparagraph of this paragraph entitled "Additional Rent". Tenant agrees to pay to Landlord additional rent as computed in this paragraph (individually and collectively the "Additional Rent"):

**3.4.1 Estimated Operating Costs.** Tenant shall pay to Landlord as Additional Rent one-twelfth (1/12) of the amount, if any, by which the Estimated Operating Costs Allocable to the Premises exceeds the Base Amount Allocable to the Premises. This sum shall be paid in advance on or before the first day of each calendar month of the Lease Term. Landlord shall furnish Tenant a written statement of Estimated Operating Costs Allocable to the Premises in advance of the commencement of each Year. If such written statement is furnished after the commencement of the Year (or as to the first Year during the Lease Term, after the Commencement Date), then, within twenty (20) Business Days after receipt of such written statement from Landlord, Tenant shall also make a retroactive lump-sum payment to Landlord equal to the monthly payment amount multiplied by the number of months during the Year (or as to the first Year during the Lease Term, after the Commencement Date) for which no payment was paid. Notwithstanding the foregoing, Landlord reserves the right, from time to time during each Year, to revise in good faith the Estimated Operating Costs Allocable to the Premises and upon notice to Tenant of such revision, Tenant shall adjust its future payments to Landlord under this subparagraph 3.4.1 accordingly. The current Estimated Operating Costs Allocable to the Premises for calendar year 2011 are \$9.66 per rentable square foot.

**3.4.2 Actual Costs.** After the close of each Year, Landlord shall deliver to Tenant a written statement setting forth the Operating Costs Allocable to the Premises during the preceding Year. If such Operating Costs Allocable to the Premises for any Year exceed the Estimated Operating Costs Allocable to the Premises paid by Tenant to Landlord pursuant to subparagraph 3.4.1 for such Year, Tenant shall pay the amount of such excess to Landlord within twenty (20) Business Days after receipt of such statement by Tenant. If such statement shows the Operating Costs Allocable to the Premises to be less than the Estimated Operating Costs Allocable to the Premises paid by Tenant to Landlord pursuant to subparagraph 3.4.1, then the amount of such overpayment shall be paid by Landlord to Tenant within twenty (20) Business Days following the date of such statement or, at Landlord's option (except after the expiration of the Lease Term when no further rent payments are due from Tenant), shall be credited towards the installment(s) of Additional Rent next coming due from Tenant.

**3.4.3 Determination.** The determination of Operating Costs Allocable to the Premises shall be made by Landlord in good faith in accordance with the terms hereof.

**3.4.4 Operating Cost Audit.** Landlord shall maintain records concerning estimated and actual Operating Costs Allocable to the Premises for no less than twelve (12) months following the period covered by the statement or statements furnished Tenant, after which time landlord may dispose of such records. Provided that Tenant is not then in default of its obligation to pay Base Rent, Additional Rent or other payments required to be made by it under this Lease, Tenant may, at Tenant's sole cost and expense, cause a Qualified Person (defined below) to inspect Landlord's records for the prior Year. Such inspection, if any, shall be conducted no more than once each Year, during Landlord's normal business hours within ninety (90) calendar days after receipt of Landlord's written statement of Operating Costs Allocable to the Premises for the previous year, upon first furnishing landlord at least twenty (20) Business Days prior written notice. In no event shall Tenant be permitted to review Landlord's records for any particular Year more than once. As a condition to Tenant's right to conduct such inspection, Tenant agrees (i) to promptly furnish Landlord (at Tenant's cost) with a copy of all final reports of Tenant's examination of Landlord's records, and (ii) except as required by applicable law, that neither Tenant nor any of Tenant's Agents shall divulge the contents of landlord's records or the results of its examination to any third party. Any errors disclosed by the review shall be promptly corrected by Landlord; provided, however, that if Landlord disagrees with any such claimed errors, Landlord shall have the right to cause another review to be made by an auditor of Landlord's choice. In the event the results of the review of records (taking into account, if applicable, the results of any additional review caused by Landlord) reveal that Tenant has overpaid obligations for a preceding period, the amount of such overpayment shall be paid by Landlord to Tenant within thirty (30) days following such review or, at Landlord's option (except after the expiration of the Lease Term), credited against Tenant's subsequent installment(s) of Operating Costs Allocable to the Premises due to Landlord under the Lease. In the event that such results show that Tenant has underpaid its obligations for a preceding period, the amount of such underpayment shall be paid by Tenant to landlord with the next succeeding installment obligation of estimated Operating Costs Allocable to the Premises (except after the expiration of the Lease Term, in which case Tenant shall pay Landlord the amount of such underpayment within thirty (30) days following such examination).

**3.4.5 End of Term.** If this Lease shall terminate on a day other than the last day of a Year, (a) Landlord shall estimate the Operating Costs Allocable to the Premises and Property Taxes Allocable to the Premises for such Year predicated on the most recent reliable information available to Landlord; (b) the amount determined under clause (a) of this sentence shall be prorated by multiplying such amount by a fraction, the numerator of which is the number of days within the Lease Term in such Year and the denominator of which is 360; (c) the Operating Costs Base Amount Allocable to the Premises shall be prorated in the manner described in clause (b); (d) the clause (c) amount (i.e., the prorated Operating Costs Base Amount Allocable to the Premises) shall be deducted from the clause (b) amount (i.e., the prorated Operating Costs Allocable to the Premises); (e) if the clause (d) amount exceeds the Estimated Operating Costs Allocable to the Premises paid by Tenant for the last Year in the lease Term, then Tenant shall pay the excess to Landlord within ten (10) Business Days after landlord's delivery to Tenant of a statement for such excess; and (f) if the Estimated Operating Costs Allocable to the Premises paid by Tenant for the last Year in the Lease Term exceeds the clause (d) amount, then Landlord shall refund to Tenant the excess within the ten (10) Business Day period described in clause (e) provided that Landlord shall not be obligated to pay such refund for so long as there exists an uncured Event of Default, Landlord's and Tenant's obligations under this paragraph shall survive the expiration or other termination of this Lease.

**3.4.6 Definitions.** Each underlined term in this subparagraph shall have the meaning set forth next to that underlined term:

**Operating Costs Base Amount Allocable to the Premises:** The Operating Costs Allocable to the Premises for the year beginning January 1, 2011 and ending December 31, 2011 (the "Base Year").

**Estimated Operating Costs Allocable to the Premises:** Landlord's written estimate of Operating Costs Allocable to the Premises for a Year to be given by Landlord to Tenant pursuant to subparagraph 3.4.1.

**Operating Costs (net of Property Taxes):** All actual expenses paid or incurred by Landlord for maintaining, operating, owning and repairing any or all of the Land, Building, Premises, related improvements, and the personal property used in conjunction with such Land, Building, Premises and related improvements, except for Property Taxes. Included are all expenses paid or incurred by Landlord for: (a) utilities, including electricity, water, gas, sewers, fire sprinkler charges, refuse

collection, Telecommunication Services, cable television, steam, heat, cooling or any other similar service and which are not payable directly by tenants in the Building; (b) supplies; (c) cleaning, painting and janitorial services (including window washing), landscaping and landscaping maintenance (including irrigating, trimming, mowing, fertilizing, seeding and replacing plants), snow removal and other services; (d) security services, if any; (e) insurance premiums and applicable insurance deductible payments by Landlord; (f) management fees; (g) compensation (including employment taxes and fringe benefits) of all persons and business organizations who perform duties in connection with any service, repair, maintenance, replacement or improvement or other work included in this subparagraph, provided that if any such person or entity performs such duties with regard to one or more other buildings or properties, the shared costs and expenses of such duties shall be equitably prorated and apportioned between the Building and/or the other buildings or properties, as applicable; (h) license, permit and inspection fees; (i) assessments and special assessments due to deed restrictions, declarations or owners associations or other means of allocating costs of a larger tract of which the Land is a part, including, without limitation, (1) an appropriate share of the cost of operating, maintaining, repairing and replacing any common areas and facilities made available to Tenant which are not located on the Land but are located within the Park, which common areas and facilities may include, without limitation, any exercise facility now or hereafter located in the Park, which costs shall be allocated to all buildings in the Park on a pro rata basis based upon each such building's total rentable square footage; and (2) an appropriate share of the cost of maintaining and repairing any monument and/or other signage for the Park, which costs shall be allocated to all buildings in the Park on a pro rata basis based upon each such building's total rentable square footage; (j) rental of any machinery or equipment; (k) audit fees and accounting services related to the Building, and charges for the computation of the rents and charges payable by tenants in the Building (but only to the extent the cost of such fees and services are in addition to the cost of the management fee); (l) the cost of repairs or replacements; (m) charges under maintenance and service contracts; (n) legal fees and other expenses of legal or other dispute resolution proceedings; (o) maintenance and repair of the roof and roof membranes, (p) costs incurred by Landlord for compliance with any and all Governmental Requirements, including Access Laws, and to increase the efficiency of any electrical, mechanical or other system servicing the Building or the Land; (q) elevator service and repair, if any; (r) business taxes and license fees; (s) any other expense or charge which in accordance with generally accepted accounting and management principles would be considered an expense of maintaining, operating, owning or repairing the Building; (t) insurance endorsements or insurance policies purchased in order to repair, replace and re-commission the Building for re-certification pursuant to any Green Agency Rating (or, in the event the Building has not achieved any certification under any Green Agency Rating, such insurance that is purchased in order to facilitate rebuilding the building upon a casualty so as to achieve such certification) or support achieving energy and carbon reduction targets; (u) all costs of maintaining, managing, reporting, commissioning, and recommissioning the Building or any part thereof that was designed and/or built to be sustainable and conform with any Green Agency Rating, and all costs of applying, reporting and commissioning the Building or any part thereof to seek certification under any Green Agency Rating; and (v) the amortization of Includable Capital Costs in accordance with the next sentence. "Includable Capital Costs" means and refers to any costs which are required to be capitalized under generally accepted accounting principles to the extent such costs are for (1) items that are primarily for the purpose of (A) reducing or avoiding increases in Operating Costs in Landlord's good faith estimate, or (B) promoting the health, safety or well being of the Building and/or its occupants, and/or their contractors, agents, invites and guests, (2) replacing, modifying and/or adding improvements or equipment mandated by any Governmental Requirement either enacted or which takes effect after the date of this Lease or as a result of any new interpretation adopted by governmental authorities after the Commencement Date and any repairs, disposals or removals necessitated thereby (including, but not limited to, the cost of complying with Access Laws), or (3) any other items necessary to carry out Landlord's maintenance, repair, replacement and other obligations under this Lease. Includable Capital Costs shall be amortized with interest return at the Prime Rate plus two (2) percentage points over the estimated useful life of the capital improvement as determined by Landlord in accordance with GAAP and the annual amortization

of principal and interest attributable to the Lease Term shall be an Operating Cost. Includable Capital Costs referred to in the previous sentence shall include: replacement of roof structure and roof membranes; exterior painting; parking area resurfacing, resealing and restriping parking areas and driveways and upgrading Building common systems and facilities (including HVAC systems, and if owned by Landlord, Telecommunication Facilities).

**Exclusions from Operating Costs:** Operating Costs shall not include any of the following:

- (i) ground lease payments or any other payments under any superior lease;
- (ii) interest and amortization of funds borrowed by Landlord (including principal or interest payments of mortgage debts of Landlord) for items other than Includable Capital Costs;
- (iii) costs in connection with leasing space in the Building, including brokerage commissions, advertising and space planning expenses incurred in procuring tenants, attorneys' fees, space planning costs, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Building;
- (iv) and salaries, wages, or other compensation paid to officers or executives of Landlord in their capacities as officers and executives;
- (v) the cost of repairs or other work to the extent Landlord is actually reimbursed by insurance or condemnation proceeds;
- (vi) lease concessions, rental abatements and construction allowances granted to specific tenants;
- (vii) costs incurred in connection with the sale, financing or refinancing of the Building;
- (viii) fines, interest and penalties incurred due to the late payment of Property Taxes or Operating Costs unless such fines, interest and/or penalties was caused, in whole or in part, by Tenant's failure to timely pay any amounts due under this Lease;
- (ix) organizational expenses associated with the creation and operation of the entity which constitutes Landlord;
- (x) any penalties or damages that Landlord pays to Tenant under this Lease or to other tenants in the Building under their respective leases;
- (xi) depreciation and amortization on the initial construction of the Building;
- (xii) capital improvements and capital expenditures required to be capitalized in accordance with generally accepting accounting principles, other than Includable Capital Costs (the amortization of which shall be included in Operating Costs as provided above);
- (xiii) charges for special items or services billed separately to tenants of the Building;
- (xiv) costs of any items to the extent Landlord actually receives reimbursement from (a) warranties, (b) insurance proceeds, or (c) generally from a third party, including, without limitation, Landlord's cost of electricity and other services which it has sold to tenants and for which Landlord has been reimbursed (other than pursuant to the reimbursement of Operating Costs by tenants);
- (xv) costs, including permit, license and inspection costs, incurred with respect to the installation of tenant improvements made for new tenants in the Building, or incurred in renovating or otherwise improving, modifying, decorating, painting or redecorating vacant leasable space for occupancy by tenants or other occupants of the Building (or any cash or other consideration paid by Landlord on account of, with respect to or in lieu of the tenant work or alterations);
- (xvi) costs associated with the operation of the business of the ownership or entity which constitutes "Landlord" (including, but not limited to, costs of defending any lawsuits with any mortgagee, legal fees incurred in the negotiation and enforcement of tenant leases and costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Building), as the same are distinguished from the costs of operating the Building, the Land or the Park;
- (xvii) fines, penalties and interest incurred solely as a result of Landlord's negligence or willful misconduct;
- (xviii) any bad debt loss, rent loss, or reserves for such items;
- (xix) repairs necessitated by the gross negligence of Landlord or Landlord's Agents or required to cure known violations of Governmental Regulations, easements or covenants applicable to the Building or land in effect on the Commencement Date and any penalties or interest incurred or accumulated for any such violations;

- (xx) management fees to the extent materially in excess of market rate management fees for comparable properties in the Burlington, Massachusetts area;
- (xxi) contributions to reserves for expenses, including reserves for (a) Operating Costs, or (b) capital improvements to the Building (whether or not otherwise allocable under this Lease);
- (xxii) cost of any disputes between Landlord, any employee or agent of Landlord, and any tenants, mortgagees or ground lessors of Landlord;
- (xxiii) contributions to political or charitable organizations, and
- (xxiv) costs incurred to comply with Governmental Requirements relating to the removal of Hazardous Substances which were in either caused by Landlord or were in existence in the Building or on the Land prior to the date hereof (but specifically excluding Permitted Hazmat Costs, as defined below), and were of such a nature that a federal, state or municipal governmental authority, if it had then had knowledge of the presence of such Hazardous Substances, in the state, and under the conditions that they then existed in the Building or on the Land, would have then required the removal of such Hazardous Substances or other remedial or containment action with respect thereto. As used herein, "Permitted Hazmat Costs" means and refers to all costs and expenses incurred by Landlord in connection with the acquisition, storage, handling, removal and disposal of any Hazardous Substances used by Landlord in the ordinary course of business and in compliance with applicable Governmental Requirements in maintaining, operating, servicing, repairing and replacing any equipment at the Building or on the Land, all of which shall be included in Operating Costs.

**Gross-Up Provision:** If less than ninety-five percent (95%) of the net rentable area of the Building is occupied by tenants at all times during any Year, then Operating Costs for such Year that vary based on occupancy may be determined as if the Building had been ninety-five percent (95%) occupied at all times during such Year by tenants. If Operating Costs for any Year is determined as provided in the prior sentence, Operating Costs for the Base Year shall also be determined in such manner.

**Operating Costs Allocable to the Premises:** The product of Tenant's Pro Rata Share times Operating Costs (net of Property Taxes).

**Qualified Person:** This means an accountant or other person experienced in accounting for income and expenses of office projects, who is engaged solely by Tenant on terms which do not entail any compensation based or measured in any way upon any savings in Additional Rent or reduction in Operating Costs Allocable to the Premises achieved through the inspection process described in this subparagraph.

**Property Tax Base Amount:** Tenant's Pro Rata Share of the Property Taxes payable for the fiscal tax year 2012 (beginning July 1, 2011 and ending June 30, 2012).

**Property Taxes Allocable to the Premises:** Tenant's Pro Rata Share of Property Taxes.

**3.4.7 Property Tax Escalation.** In addition to the payments required by the previous subparagraphs of this paragraph, Tenant shall pay as Additional Rent to Landlord one-twelfth (1/12) of the amount, if any, by which (a) Landlord's estimate of the Property Taxes Allocable to the Premises for the current tax year exceeds the Property Tax Base Amount. This sum shall be paid in advance on or before the first day of each calendar month of the Lease Term. After the close of each tax year during the Lease Term, Landlord shall deliver to Tenant a written statement setting forth (1) the actual Property Taxes Allocable to the Premises for the preceding tax year, (2) the difference between the amount referred to in clause (1) and the Property Tax Base Amount and (3) the differential between the amount referred to in clause (2) and the sum of the tentative monthly payments toward such amount made by Tenant. If the differential referred to in clause (3) of the previous sentence represents an underpayment by Tenant, such differential shall be paid to Landlord within twenty (20) Business Days after delivery of Landlord's written statement to Tenant; if such differential represents an overpayment by Tenant, Landlord shall, at its option, either credit such overpayment to the installment(s) of Additional Rent next coming due from Tenant or refund such overpayment to Tenant within twenty (20) Business Days after Tenant's concurrence in the amount due as a refund. If the Lease Term begins or ends on a day other than the beginning<sup>1</sup> or end of a tax year, the amount due as described in clause (2) of this subparagraph

shall be prorated on a per diem basis with reference to the tax year. The provisions of this subparagraph shall survive the expiration or other termination of this Lease. Property Taxes Allocable to the Premises for the fiscal tax year ending June 30, 2011 are estimated to be \$2.87 per rentable square foot.

**3.4.8 Tenant's Costs.** Tenant agrees to reimburse or pay Landlord within twenty (20) Business Days after invoice from Landlord for (a) any cleaning expenses incurred by Landlord, including carpet cleaning, garbage and trash removal expenses, over and above the normal cleaning provided by Landlord, if any, or due to the presence of a lunchroom or kitchen or food or beverage dispensing machines within the Premises, (b) any expense incurred by Landlord for usage in the Premises of heating, ventilating and air conditioning services, elevator services, electricity, water, janitorial services, or any other services or utilities over and above reasonable and customary usage for the Premises, (c) any expense incurred by Landlord relating to or arising out of the usage by Tenant or Tenant's Agents of the public or common areas of the Building or Land, or any of the equipment contained therein, which usage is over and above the normal usage for such public or common areas or equipment, and (d) any other direct expense incurred by Landlord on Tenant's behalf. Landlord reserves the right to install and activate separate metering of electricity, water or other utilities to the Premises, and Tenant agrees to reimburse or pay Landlord within twenty (20) Business Days after invoice from Landlord for all costs of such separate metering, in which case the Operating Costs Base Amount Allocable to the Premises and Operating Costs shall be adjusted accordingly.

**3.4.9 Payments Deemed Additional Rent.** Any sums payable under this Lease pursuant to this paragraph or otherwise shall be Additional Rent and, in the event of nonpayment of such sums, Landlord shall have the same rights and remedies with respect to such nonpayment as it has with respect to nonpayment of the Base Rent due under this Lease.

### **3.5 Utilities.**

**3.5.1** Landlord shall have the right from time to time to select the company or companies providing electricity, gas, fuel, one or more categories of Telecommunication Services and any other utility services to the Building. Landlord reserves the right to change electricity providers for the Building at any time and to purchase green or renewable energy. With the exception of water, sewer, electricity and HVAC, Tenant shall contract directly and pay for all utilities used on or from the Premises together with any taxes, penalties, surcharges or similar charges relating to such utilities. If any such service is not separately metered to the Premises or is not otherwise separately accounted for and billed to Tenant, the cost therefor shall be an Operating Cost under this Lease, provided that the cost of electric current for lights and convenience outlets shall be billed by Landlord to Tenant separately from, and in addition to, Operating Costs. Landlord estimates that the present cost of electric current for lights and convenience outlets (exclusive of any other purposes) shall be One and 75/100 Dollars (\$1.75) per rentable square foot. Landlord makes no warranty or representation that such cost will not increase during the Lease Term due to increases in electric rates and/or electricity consumption, as the case may be.

**3.5.2** Tenant acknowledges that space on the Building rooftop and in Building risers, equipment rooms and equipment closets is limited. If Tenant requires Telecommunication Services for the Premises other than from the provider or providers of Telecommunication Services selected by Landlord and whose Telecommunication Facilities are installed in or about the Building or on the rooftop of the Building, provision for alternate or supplemental Telecommunication Services or Telecommunication Facilities has been made in a license agreement accompanying and made part of this Lease. Unless otherwise required by law, neither Tenant, nor a provider of Telecommunication Services to Tenant, in the future shall be entitled to locate or install Telecommunication Facilities in, on or about the Building without (a) first obtaining Landlord's advance, written consent (given in its absolute discretion) and (b) the advance execution by Landlord and Tenant of a satisfactory agreement granting a license to Tenant for such purposes and setting forth the scope, the additional rent, if any, royalties and the other terms and conditions of that license, and (c) Tenant negotiating and obtaining the right, if any is required, to bring such Telecommunication Facilities across public or private property to an approved entry point to the Building. The agreement referred to in clause (b) of the previous sentence shall be incorporated in and become part of this Lease. Any future application by Tenant for permission to locate or install Telecommunication Facilities shall (1) be in such form and shall be accompanied by such supporting information as the Landlord may require, (2) be subject to such procedures, regulations and controls as the Landlord may specify and (3) be accompanied by such payment as the Landlord may reasonably request to reimburse Landlord for its costs of evaluating and processing the application and in negotiating and preparing the agreement described earlier in this subparagraph.

**3.5.3** Landlord shall in no case be liable or in any way be responsible for damages or loss to Tenant arising from the failure of, diminution of or interruption in electrical power, natural gas, fuel, Telecommunication Services, sewer, water, or garbage collection services, other utility service or building service of any kind to the Premises, unless such interruption in, deprivation of or reduction of any such service was caused by the negligence or willful misconduct of landlord, its agents or contractors or by a failure in facilities, equipment or systems in the Landlord's ownership. To the extent that Landlord bears any responsibility for any such interruption, deprivation or reduction in utility or building services to the Premises, Landlord's responsibility and Tenant's remedy shall be limited to an abatement in Base Rent for the period beginning with (a) the day which is five (5) Business Days after the date on which Tenant delivers notice to Landlord of such interruption, deprivation or reduction and that Tenant is being deprived of all reasonable use of the Premises and ending on (b) the date such interruption, deprivation or reduction which is Landlord's responsibility is not causing Tenant to be deprived of all reasonable use of the Premises.

**3.5.4** HVAC service shall be provided to the Premises Mondays through Fridays from 8:00a.m. to 6:00p.m., except for holidays ("Building Standard Hours"). Landlord shall provide HVAC service at times in addition to Building Standard Hours ("After-Hours HVAC"); provided, however, Tenant gives Landlord notice prior to 1:00 p.m. on the same day such After-Hours HVAC is required with respect to service on Business Days and prior to 1:00 p.m. on the immediately preceding Business Day with respect to service on non-Business Days. The charge to Tenant for After-Hours HVAC shall be at Landlord's then-standard hourly rate in effect from time to time for After-Hours HVAC; provided, however there will be no charge for After-Hours HVAC on Saturdays between 8:00AM and 12:00 noon (although Tenant must request same as set forth in the preceding sentence). Any HVAC service on holidays shall be considered After-Hours HVAC.

**3.5.5** Tenant shall not install any supplemental HVAC, space heaters or other utilities or energy-intensive equipment ("Supplemental Utilities Equipment") in the Premises without Landlord's prior written consent. In the event that Landlord consents in writing to such installation, Tenant shall be responsible, all at its sole cost and expense, for the installation, maintenance, and repair of any of Supplemental Utilities Equipment, and, at Landlord's election, shall remove same from the Premises upon the expiration or termination of the Lease Term at Tenant's sole cost and expense. If Tenant's request for Landlord's approval of any Supplemental Utilities Equipment is accompanied by a written request that Landlord identify all or any portion thereof that Landlord may require Tenant to remove upon the expiration or earlier termination of this Lease, Landlord shall identify such Supplemental Utilities Equipment (if any) by a written notice to Tenant given at the time of Landlord's approval if, but only if, Tenant's request for approval of such Supplemental Utilities Equipment is submitted with a notice at the top of the page having a heading in at least 12-point type, bold and all capital letters stating "**LANDLORD'S APPROVAL MUST IDENTIFY ANY SUPPLEMENTAL UTILITIES EQUIPMENT WHICH LANDLORD MAY REQUIRE TENANT TO REMOVE UPON THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE**", and Tenant shall have no obligation to remove any Supplemental Utilities Equipment which has not been so identified by Landlord. Tenant agrees that it will maintain and repair any Supplemental Utilities Equipment, and major components thereof, in first-class condition, and any such equipment will be operated on sensors or timers that limit the operation of such Supplemental Utilities Equipment to hours of occupancy in the areas immediately adjacent to the occupying personnel. Tenant shall, at its sole cost and expense, enter into a regularly scheduled preventative maintenance/service Contract with a maintenance contractor or the seller of any such Supplemental Utilities Equipment, and upon Landlord's reasonable request, Tenant will provide Landlord with reasonable evidence of such maintenance and repair. Upon Landlord's request, at reasonable times and upon prior notice to Tenant (except in the event of an emergency, where no notice is required) Landlord shall have the right to inspect, on not less than a monthly basis, the aforementioned Supplemental Utilities Equipment and major components provided Landlord shall use commercially reasonable efforts to minimize Landlord's interference with Tenant's business. Tenant shall not permit any Supplemental Utilities Equipment to disturb or interfere with any of the Building's systems or any other tenant in the Building, and Tenant will remove, at Tenant's sole cost and expense, any such Supplemental Utilities Equipment at Landlord's direction in the event of such disturbance or interference. Landlord reserves the right to separately submeter (or cause Tenant to separately submeter) any Supplemental Utilities Equipment, all at Tenant's sole cost and expense. Notwithstanding anything herein to the contrary, in the event that any Supplemental Utilities Equipment is required to be removed from the Premises by Tenant



pursuant to the terms of this paragraph 3.5.5, Landlord may perform such removal at its election if Tenant fails to remove same within fourteen (14) days after notice from Landlord (provided that the foregoing shall not be construed so as to permit any such disturbance or interference to continue during such fourteen (14) day period), and Tenant shall reimburse Landlord for any costs relating thereto, or in the event that Tenant performs such removal. Tenant shall be responsible to Landlord for any damage caused to the Premises or Building in connection therewith.

**3.5.6** Tenant shall be required to submit to Landlord any electricity consumption data and costs in a format deemed reasonably acceptable by Landlord.

**3.6 Holdover.** Tenant is not authorized to hold over beyond the expiration or earlier termination of the Lease Term. If Landlord consents to a holdover and no other agreement is reached between Tenant and Landlord concerning the duration and terms of the Holdover, Tenant's holdover shall be a month-to-month tenancy. During such tenancy, Tenant shall pay to Landlord one and one-half times the rate of Base Rent in effect on the expiration or termination of the Lease Term plus all Additional Rent and other sums payable under this Lease, and shall be bound by all of the other covenants and conditions specified in this Lease, so far as applicable. If the Landlord does not consent to the Tenant's remaining in possession. Landlord shall have all the rights and remedies provided for by law and this Lease, including the right to recover consequential damages suffered by Landlord in the event of Tenant's wrongful refusal to relinquish possession of the Premises. The Base Rent applicable for the period that Tenant wrongfully remains in possession shall in be increased to twice the rate of Base Rent in effect on the expiration or termination of the Lease Term.

**3.7 Late Charge.** If Tenant fails to make any payment of Base Rent, Additional Rent or other amount when due under this Lease, a late charge is immediately due and payable by Tenant equal to five percent (5%) of the amount of any such payment. Landlord and Tenant agree that this charge compensates Landlord for the administrative costs caused by the delinquency. The parties agree that Landlord's damage would be difficult to compute and the amount stated in this paragraph represents a reasonable estimate of such damage. Assessment or payment of the late charge contemplated in this paragraph shall not excuse or cure any Event of Default or breach by Tenant under this lease or impair any other right or remedy provided under this Lease or under law.

**3.8 Default Rate.** Any Base Rent. Additional Rent or other sum payable under this Lease which is not paid when due shall bear interest at a rate equal to the lesser of: (a) the published prime or reference rate then in effect at a national banking institution designated by Landlord (the "**Prime Rate**"), plus four (4) percentage points, or (b) the maximum rate of interest per annum permitted by applicable law (the "**Default Rate**"), but the payment of such interest shall not excuse or cure any Event of Default or breach by Tenant under this Lease or impair any other right or remedy provided under this Lease or under law.

## **SECTION 4: MANAGEMENT AND LEASING PROVISIONS**

### **4.1 Maintenance and Repair by Landlord.**

**4.1.1** Subject to the paragraphs captioned "**Damage or Destruction**" and "**Condemnation**". Landlord shall maintain the public and common areas of the Building in good order and condition subject to reasonable wear and tear. Landlord shall make such repairs thereto as become necessary after obtaining actual knowledge of the need for such repairs. All repair costs shall be included in Operating Costs, except for damage occasioned by the act or omission of Tenant or Tenant's Agents which shall be paid for entirely by Tenant upon demand by Landlord. Notwithstanding the foregoing, Tenant shall not be responsible for reasonable wear and tear to the public and common areas of the Building, except to the extent of Tenant's obligation to pay its Pro Rata Share of Operating Costs. In the event any or all of the Building becomes in need of maintenance or repair which Landlord is required to make under this Lease, Tenant shall immediately give written notice to Landlord, and Landlord shall not be obligated in any way to commence such maintenance or repairs until a reasonable time elapses after Landlord's receipt of such notice.

**4.1.2** Landlord shall not be liable by reason of any injury to or interference with Tenant/s business arising from the making of any repairs, alterations, additions or improvements in or to the Premises or the Building or to any appurtenances or equipment therein. There shall be no abatement of rent because of such repairs, alterations, additions or improvements or because of any delay by Landlord in making the same.

**4.1.3** Subject to the terms and conditions hereof, Landlord shall also furnish janitorial services to the Premises in accordance with the cleaning specifications attached hereto as **Exhibit H**, as such specifications may be modified from time to time by the Landlord in its reasonable discretion and with due regard for the first class nature of the Building.

## **4.2 Maintenance and Repair by Tenant.**

**4.2.1** Except as is expressly set forth as Landlord's responsibility pursuant to the paragraph captioned "Maintenance and Repair by Landlord," Tenant shall at Tenant's sole cost and expense keep, clean and maintain the interior, non-structural portions of the Premises in good condition and repair, including interior painting, cleaning of the interior side of all exterior glass, plumbing and utility fixtures and installations located entirely within and exclusively servicing the Premises, plumbing and utility fixtures and installations located outside of the Premises but which exclusively serve the Premises, carpets and floor coverings, all interior wall surfaces and coverings (including tile and paneling), window replacement, exterior and interior doors, roof penetrations and membranes in connection with any Tenant installations on the roof, light bulb replacement (which lighting purchases must comply with Landlord's sustainability practices and shall be reported to Landlord in a format suitable to Landlord) and interior preventative maintenance. All maintenance and repairs made by Tenant must comply with Landlord's sustainability practices and any applicable Green Agency Rating, as the same may change from time to time. If Tenant fails to maintain or repair the Premises in accordance with this paragraph, then Landlord may, but shall not be required to, enter the Premises upon two (2) Business Days prior written notice to Tenant (or immediately without any notice in the case of an emergency) to perform such maintenance or repair at Tenant's sole cost and expense. Tenant shall pay to Landlord the cost of such maintenance or repair plus a ten percent (10%) administration fee within ten (10) Business Days of written demand from Landlord.

**4.2.2** Without limiting the generality of paragraphs 3.5.5 or 4.2.1 hereof, Tenant shall be responsible at Tenant's sole cost and expense for the maintenance, repair and/or replacement of any special heating, ventilating, air conditioning, plumbing, electrical or other systems and fixtures installed solely to service the Premises, whether installed or paid for by Landlord or Tenant.

## **4.3 Common Areas/Security.**

**4.3.1** The common areas of the Building shall be subject to Landlord's sole management and control. Without limiting the generality of the immediately preceding sentence, Landlord reserves the exclusive right as it deems necessary or desirable to install, construct, remove, maintain and operate lighting systems, facilities, improvements, equipment, Telecommunication Facilities and signs on, in or to all parts of the common areas; change the number, size, height, layout, or locations of walks, driveways and truckways or parking areas now or later forming a part of the Land or Building; make alterations or additions to the Building or common area; close temporarily all or any portion of the common areas to make repairs, changes or to avoid public dedication; grant easements to which the Land will be subject; replat, subdivide, or make other changes to the Land; place or relocate or cause to be placed or located utility lines and Telecommunication Facilities through, over or under the Land and Building; and use or permit the use of all or any portion of the roof of the Building. Landlord reserves the right to relocate parking areas and driveways (if any) and to build additional improvements in the common areas. Except in the case of an emergency or as required by Governmental Requirements. Landlord shall use commercially reasonable efforts to minimize Landlord's interference with Tenant's business in connection with the rights reserved in this Paragraph 4.3.1

**4.3.2** Landlord has no duty or obligation to provide any security services in, on or around the Premises, Land or Building, and Tenant recognizes that security services, if any, provided by Landlord will be for the sole benefit of Landlord and the protection of Landlord's property and under no circumstances shall Landlord be responsible for, and Tenant waives any rights with respect to, Landlord providing security or other protection for Tenant or Tenant's Agents or property in, on or about the Premises, Land or Building. Subject to Landlord's prior approval, Tenant may, at its sole cost and expense, install, establish and maintain security services within the Premises; provided that, such security services (including any apparatus, facilities, equipment or people utilized in connection with the provision of such security services) comply with the Governmental Requirements and shall not cause the Building to be out of compliance with the Governmental Requirements. Notwithstanding the foregoing, any such security services installed, established or maintained by Tenant must not unreasonably affect or impact any portion of the Building or the Land other than the Premises and shall not in any way limit or interfere with Landlord's ability to exercise its rights as provided in the paragraph captioned "Access". Tenant's rights under this subparagraph are subject to all the obligations, limitations and requirements as set forth in the paragraphs captioned "Tenant Alterations" and "Tenant's Work Performance".

**4.4 Tenant Alterations.** Tenant shall not make any alterations, additions or improvements in or to the Premises, or make changes to locks on doors, or add, disturb or in any way change any floor covering, wall covering, fixtures, plumbing, wiring or Telecommunication Facilities (individually and collectively "Tenant Alterations"), without first obtaining the consent of Landlord which may be withheld in Landlord's absolute discretion. Notwithstanding the foregoing, so long as Tenant complies with all applicable Governmental Requirements and other terms and conditions of this Lease, upon at least five (5) Business Days advance written notice to Landlord but without Landlord's consent, Tenant may make interior non-structural Tenant Alterations with an aggregate cost which does not exceed Ten Thousand Dollars (\$10, 000.00) in any period of twelve (12) consecutive calendar months which (a) are entirely cosmetic or functional in nature (such as painting and carpeting, shelving or cubicles), (b) do not affect any of the Building's mechanical, HVAC, electrical, plumbing or other systems, (c) do not involve the installation or demolition of any interior wall or door, and (d) do not require the issuance of any permit by any Governmental agency (Tenant Alterations satisfying all of the foregoing items (a) through (d) are referred to herein as "Permitted Alterations"). Tenant shall deliver to Landlord full and complete plans and specifications for any proposed Tenant Alterations and, if consent by Landlord is given, all such work shall be performed at Tenant's expense by Landlord or by Tenant at Landlord's election. Tenant shall pay to Landlord all costs incurred by Landlord for any architecture, engineering, supervisory and/or legal services in connection with any Tenant Alterations, including, without limitation, Landlord's review of the Plans and Specifications. Without limiting the generality of the foregoing, Landlord may require Tenant (if Landlord has elected to require Tenant to perform the Tenant Alterations), at Tenant's sole cost and expense, to obtain and provide Landlord with proof of insurance coverage and, subject to Paragraph 4.5 hereof, a payment and performance bond, in forms, amounts and by companies acceptable to Landlord. Should Tenant make any alterations without Landlord's prior written consent, or without satisfaction of any conditions established by Landlord, Landlord shall have the right, in addition to and without limitation of any right or remedy Landlord may have under this Lease, at law or in equity, to require Tenant to remove some or all of Tenant Alterations, or at Landlord's election, Landlord may remove such Tenant Alterations and restore the Premises at Tenant's expense. Nothing contained in this paragraph or the paragraph captioned "Tenant's Work Performance" shall be deemed a waiver of the provisions of the paragraph captioned "Mechanic's Liens".

**4.5 Tenant's Work Performance.** If Landlord elects to require Tenant to perform the Tenant Alterations, Landlord may, in its absolute discretion, require that Tenant provide a payment and performance bond to cover the entire work to be performed, which bond must be in form, amount and by a company acceptable to Landlord. Notwithstanding the foregoing, Landlord shall not require Tenant to obtain a payment and performance bond if the aggregate cost of the Tenant Alterations (including all related Tenant Alterations which may be part of a larger project or a series of related projects) is less than Fifty Thousand Dollars (\$50, 000.00). Any Tenant Alterations to be performed under this paragraph shall be performed by contractors employed by Tenant under one or more construction contracts, in form and content approved in advance in writing by Landlord. Approval shall be subject to Landlord's discretion and' shall include a requirement that the prime contractor and the respective subcontractors of any tier performing the Tenant Alterations: (a) be parties to, and bound by, a collective bargaining agreement with a labor organization affiliated with the Building and Construction Trades Council of the AFL-CIO applicable to the geographic area in which the Building is located and to the trade or trades in which the work under the contract is to be performed and (b) employ only members of such labor organizations to perform work within their respective jurisdictions. The previous sentence shall apply whether it is Landlord or Tenant performing or contracting for any such alterations, additions improvements or installations. Waivers or exceptions to the requirement in the third sentence of this paragraph may be given only in writing by Landlord. With the specific, prior written approval of Landlord, which may be withheld in Landlord's sole and absolute discretion, in clause (a) of the third sentence of this paragraph the following substitutions may be made: (1) a project labor agreement in place of a collective bargaining agreement, and (2) an independent, nationally recognized labor organization in place of a labor organization affiliated with the Building and Construction Trades Council of the AFL-CIO. Tenant's contractors, workers and suppliers shall work in harmony with and not interfere with workers or contractors of Landlord or other tenants of Landlord. If Tenant's contractors, workers or suppliers do, in the opinion of Landlord, cause such disharmony or interference, Landlord's consent to the continuation of such work may be withdrawn upon written notice to Tenant. All Tenant Alterations shall be (1) completed

in accordance with the plans and specifications approved by Landlord; (2) completed in accordance with all Governmental Requirements; (3) carried out promptly in a good and workmanlike manner; (4) of all new materials; and (5) free of defect in materials and workmanship. In addition to the above requirements, Tenant shall use commercially reasonable efforts to contract for services to be performed in or about the Premises with companies which are a Responsible Contractor. A “Responsible Contractor” is defined as a contractor or subcontractor who pays workers a fair wage and Fair Benefits as evidenced by payroll and employee records and who complies with a service-disabled veteran business policy. “Fair Benefits” are defined as including employer-paid family health care coverage, pension benefits, and apprenticeship programs. Any and all Tenant Alterations that affects at least fifty percent (50%) of the Premises will be performed in accordance with landlord’s sustainability practices, (as same may be in effect or amended or supplemented from time to time) and any Green Agency Ratings, as the same may change from time to time. Tenant further agrees to engage a qualified third party LEED or Green Globe Accredited Professional or similarly qualified professional during the design phase through implementation of any Tenant Alterations covered by the preceding sentence, in order to review all plans, material procurement, demolition, construction and waste management procedures to ensure they are in full conformance to Landlord’s sustainability practices, as aforesaid, and Tenant agrees to seek and maintain LEED for Commercial Interiors certification for such Tenant Alterations. Tenant shall pay for all damage to the Premises. Building and Land caused by Tenant or Tenant’s Agents. Tenant shall indemnify, defend and hold harmless Landlord and Landlord’s Agents from any Claims arising as a result of the Tenant Alterations or any defect in design, material or workmanship of any Tenant Alterations.

**4.6 Surrender of Possession.** Tenant shall, at the expiration or earlier termination of this Lease, surrender and deliver the Premises to Landlord in as good condition as when received by Tenant from Landlord or as later improved, excepting reasonable use and wear and damage by casualty and taking by eminent domain excepted (but in each case only to the extent Tenant is not obligated to repair such damage under Paragraphs 4.9 or 4.10 hereof), and free from all tenancies or occupancies by any person claiming by, through or under Tenant.

**4.7 Removal of Property.** Upon expiration or earlier termination of this Lease, Tenant may remove its personal property, office supplies and office furniture and equipment if (a) such items are readily moveable and are not attached to the Premises; (b) such removal is completed prior to the expiration or earlier termination of this Lease; (c) Tenant is not in default of any covenant or condition of this Lease at the time of such removal; and (d) Tenant promptly repairs all damage caused by or resulting from such removal. All other property in the Premises and any Tenant Alterations (including, wall-to-wall carpeting, paneling, wall covering, lighting fixtures and apparatus or Telecommunication Facilities or any other article affixed to the floor, walls, ceiling or any other part of the Premises or Building) shall become the property of Landlord and shall remain upon and be surrendered with the Premises; provided, however, at Landlord’s sole election, Tenant shall be obligated, at its sole cost and expense, to remove all (or such portion as Landlord shall designate) of the Tenant Alterations (including Telecommunication Facilities), repair any damages resulting from such removal and return the Premises to the same condition as existed prior to such Tenant Alterations. Notwithstanding the foregoing, if Tenant’s submission of its plans and specifications to Landlord for approval of any Tenant Alterations requiring Landlord’s approval is accompanied by a written request that Landlord identify any Tenant Alterations that Landlord may require Tenant to remove upon the expiration or earlier termination of this Lease, Landlord shall identify such Tenant Alterations (if any) by a written notice (a “Removal Notice”) to Tenant given at the time of Landlord’s approval of such plans and specifications if, but only if, Tenant’s request for approval of such plans and specifications is submitted with a notice at the top of the page having a heading in at least 12- point type, bold and all capital letters stating “**LANDLORD’S APPROVAL MUST IDENTIFY ANY TENANT ALTERATIONS WHICH LANDLORD MAY REQUIRE TENANT TO REMOVE UPON THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE**”, and Tenant shall have no obligation to remove any Tenant Alterations which have not been so identified by Landlord. In all events, unless otherwise agreed in writing by Landlord, Tenant shall be required to remove all wiring and cabling installed in the Building by or at the request of the Tenant. Tenant waives all rights to any payment or compensation for such Tenant Alterations (including Telecommunication Facilities). If Tenant shall fail to remove any of its property from the Premises, Building or Land at the expiration or earlier termination of this Lease or when Landlord has the right of re-entry, Landlord may, at its option, remove and store such property at Tenant’s expense without liability for loss of or damage to such property, such storage to be for the account and at the expense of Tenant. Tenant shall pay all costs incurred by Landlord within five

(5) Business Days after demand for such payment. If Tenant fails to pay the cost of storing any such property, Landlord may, at its option, after it has been stored for a period of twenty (20) Business Days or more, sell or permit to be sold, any or all such property at public or private sale (and Landlord may become a purchaser at such sale), in such manner and at such times and places as Landlord in its sole discretion may deem proper, without notice to Tenant, and Landlord shall apply the proceeds of such sale: first, to the cost and expense of such sale, including reasonable attorney's fees actually incurred; second, to the payment of the costs or charges for storing any such property; third, to the payment of any other sums of money which may then be or later become due Landlord from Tenant under this Lease; and, fourth, the balance, if any, to Tenant.

**4.8 Access.** Tenant shall permit Landlord and Landlord's Agents to enter into the Premises at any time on at least one (1) Business Day's notice (except in case of emergency in which case no notice shall be required), for the purpose of inspecting the same or for the purpose of repairing, altering or improving the Premises or the Building. Except in the case of an emergency or as required by Governmental Requirements, Landlord shall use commercially reasonable efforts to minimize Landlord's interference with Tenant's business in connection with the exercise of Landlord's rights reserved in the prior sentence. Nothing contained in this paragraph shall be deemed to impose any obligation upon Landlord not expressly stated elsewhere in this Lease. When reasonably necessary, Landlord may temporarily close Building or Land entrances, Building doors or other facilities, without liability to Tenant by reason of such closure and without such action by Landlord being construed as an eviction of Tenant or as relieving Tenant from the duty of observing or performing any of the provisions of this Lease. Landlord shall have the right to enter the Premises at any time during the last nine (9) months of the Lease Term and at any time during the Lease Term that an Event of Default exists for the purpose of showing the Premises to prospective tenants and to erect on the Premises a suitable sign indicating the Premises are available. Tenant shall give written notice to Landlord at least twenty (20) Business Days prior to vacating the Premises and shall arrange to meet with Landlord for a joint inspection of the Premises prior to vacating. In the event of Tenant's failure to give such notice or arrange such joint inspection, Landlord's inspection at or after Tenant's vacating the Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration. Landlord shall not be liable for the consequences of admitting by passkey, or refusing to admit to the Premises, Tenant or any of Tenant's Agents.

#### **4.9 Damage or Destruction.**

**4.9.1** If the Premises are damaged by fire, earthquake or other casualty, Tenant shall give immediate written notice (a "Casualty Notice") thereof to Landlord. After Landlord's receipt of the Casualty Notice, Landlord shall make a determination (based upon the advice of Landlord's architect, engineer, contractor or other professional) of the time required to substantially repair such damage ("Landlord's Estimated Restoration Period"), and Landlord shall so notify Tenant of same. If Landlord estimates that the damage can be repaired in accordance with the then-existing Governmental Requirements within twelve (12) months after Landlord's receipt of the Casualty Notice and if there are sufficient insurance proceeds available to repair such damage, then Landlord shall proceed with reasonable diligence to restore the Premises to substantially the condition which existed prior to the damage and this Lease shall not terminate. If, in Landlord's estimation, the damage cannot be repaired within such twelve (12) month period or if there are insufficient insurance proceeds available to repair such damage, Landlord may elect in its absolute discretion to either: (a) terminate this Lease or (b) restore the Premises to substantially the condition which existed prior to the damage and this Lease will continue. If Landlord's Estimated Restoration Period exceeds twelve (12) months from the date of Landlord's receipt of the Casualty Notice, Tenant also shall have the right to terminate this Lease by giving Landlord written notice of such termination within ten (10) Business Days after Landlord's delivery to Tenant of notice of the Landlord's Estimated Restoration Period (time being of the essence). If Landlord restores the Premises under this paragraph, then Landlord shall use commercially reasonable efforts to proceed toward completion of the restoration and (1) Tenant shall pay to Landlord, upon demand, Tenant's Pro Rata Share of any applicable deductible amount specified under Landlord's insurance and (2) notwithstanding anything to the contrary contained herein, Landlord shall not be required to repair or restore Tenant Improvements, Tenant Alterations (including Telecommunication Facilities), or any or all furniture, fixtures, equipment, inventory, improvements or other property which was in or about the Premises at the time of the damage and was not owned by Landlord. In the case of damage to the Premises or the Building which is of a nature or extent that (a) such damage materially

interferes with Tenant's access to or use of a portion but not all of the Premises (such portion being referred to herein as the "Materially Affected Premises"), Base Rent and Additional Rent otherwise payable hereunder shall be abated by the percentage that the rentable area of the Materially Affected Premises bears to the total rentable area of the Premises, for the period beginning on the date of the Casualty Notice and ending on the earlier of (i) the date that Landlord has substantially completed its repairs to the Materially Affected Premises and (ii) the date that Tenant uses any portion of the Materially Affected Premises for the conduct of its business, or (b) such damage materially interferes with Tenant's access to or use of the entire Premises, all Base Rent and Additional Rent otherwise payable hereunder shall be abated for the period beginning on the date of the Casualty Notice and ending on the earlier of (i) the date that landlord has substantially completed its repairs to the Premises and (ii) the date that Tenant uses any portion of the Premises for the conduct of its business. Except for the abatement of rent if and to the extent provided herein, Tenant agrees to look to the provider of Tenant's insurance for coverage for the loss of Tenant's use of the Premises and any other related losses or damages incurred by Tenant during any reconstruction period. If this Lease has not been terminated by Landlord or Tenant as provided above, the validity and effect of this Lease shall not be impaired in any way by the failure of Landlord to complete repairs and restoration of the Premises or the Building prior to the expiration of Landlord's Estimated Restoration Period. Notwithstanding the foregoing, if the Premises have not been restored to the condition required by Landlord hereunder prior to the later of the expiration of Landlord's Estimated Restoration Period or the date which is twelve (12) months after landlord's receipt of the Casualty Notice (which date in each case shall be extended one day for each day of delay caused by any act or omission of Tenant and for events of Force Majeure as contemplated in Paragraph 6.8 hereof), then Tenant shall have the right to cancel this Lease upon not less than forty-five (45) , days prior written notice given to the Landlord within ten (10) Business Days after the expiration of such period (time being of the essence), provided such cancellation shall be void and this Lease shall continue in full force and effect in the event that substantial completion of the Premises is achieved within such forty-five (45) day period (which date shall be extended one day for each day of delay caused by any act or omission of Tenant and for events of Force Majeure as contemplated in Paragraph 6.8 hereof).

**4.9.2** If the Building is damaged by fire, earthquake or other casualty and more than fifty percent (50%) of the Building is rendered untenantable, without regard to whether the Premises are affected by such damage, Landlord may in its absolute discretion and without limiting any other options available to landlord under this Lease or otherwise, elect to terminate this Lease by notice in writing to Tenant within forty (40) Business Days after the occurrence of such damage if Landlord is also terminating the leases of other tenants in the Building who are similarly situated to Tenant. Such notice shall be effective twenty (20) Business Days after receipt by Tenant unless a later date is set forth in Landlord's notice.

**4.9.3** Notwithstanding anything contained in this Lease to the contrary, if there is damage to the Premises or Building and the holder of any indebtedness secured by a mortgage or deed of trust covering any such property requires that the insurance proceeds be applied to such indebtedness or if the insurance proceeds are otherwise inadequate to complete the repair of the damages to the Premises, the Building or both, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within fifteen (15) Business Days after Landlord is notified of such requirement.

**4.9.4** Notwithstanding the foregoing, if the Premises or the Building are wholly or partially damaged or destroyed within the final six (6) months of the Term, to such an extent that the cost of restoration would exceed fifty percent (50%) of the replacement cost of the Premises and/or the Building in its or their entirety at the time such damage or destruction occurs, Landlord may, at its option, elect to terminate this Lease upon written notice to Tenant within thirty (30) days following such damage or destruction. Further, notwithstanding the foregoing, if the Premises are wholly or partially damaged or destroyed within the final six (6) months of the Lease Term to such an extent that the cost of restoration would exceed fifty percent (50%) of the replacement cost of the Premises in its entirety at the time such damage or destruction occurs and Landlord estimates that less than three (3) months will remain in the Lease Term on the date by which Landlord estimates completion of its restoration work, then Tenant also may terminate this Lease upon written notice to Landlord within thirty (30) days following such damage or destruction.

**4.10 Condemnation.** If all of the Premises, or such portions of the Building as may be required for the Tenant's reasonable use of the Premises, are taken by eminent domain or by conveyance in lieu thereof, this Lease shall automatically terminate as of the date the physical taking occurs, and all Base Rent,

Additional Rent and other sums payable under this Lease shall be paid to that date. In case of taking ·Of a part of the Premises or a portion of the Building not required for the Tenant's reasonable use of the Premises, then this Lease shall continue in full force and effect and the Base Rent shall be equitably reduced based on the proportion by which the floor area of the Premises is reduced, such reduction in Base Rent to be effective as of the date the physical taking occurs. Additional Rent and all other sums payable under this Lease shall not be abated but Tenant's Pro Rata Share may be redetermined as equitable under the circumstances. Landlord reserves all rights to damages or awards for any taking by eminent domain relating to the Premises, Building, Land and the unexpired term of this Lease. Tenant assigns to Landlord any right Tenant may have to such damages or award and Tenant shall make no claim against Landlord for damages for termination of its leasehold interest or interference with Tenant's business. Tenant shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Tenant may be entitled for Tenant's moving expenses or other relocation costs; provided that, such expenses or costs may be claimed only if they are awarded separately in the eminent domain proceedings and not as a part of the damages recoverable by Landlord.

**4.11 Parking.** Tenant shall have the nonexclusive privilege to use parking spaces on the Land in common with other tenants of Landlord, but only in areas reasonably designated by Landlord and only on a first-come-first-served basis. Tenant's parking privileges shall be subject to the reasonable rules and regulations relating to parking adopted by Landlord from time to time and delivered to Tenant in writing. Landlord shall have the right to grant designated, reserved parking stalls to other tenants in the Building, provided that if Landlord grants reserved parking stalls to another tenant of the Building, then Landlord shall offer a pro rata number (based upon the relative number of rentable square feet of the Building leased by Tenant and such other party) of designated, reserved parking stalls to Tenant on the same terms and conditions as offered to such other tenant(s) of the Building. In no event shall the number of parking stalls used by Tenant and Tenant's Agents exceed the number of stalls allocated to Tenant in the definition of the Parking Ratio, provided, however, that nothing in this sentence shall be deemed to alter the first-come-first-served basis of parking as provided in this paragraph 4.11. Landlord makes no representations or warranties concerning the availability of parking for Tenant's use at any time during the Term. Landlord shall have no obligation whatsoever to monitor or police the use of the parking or other common areas.

**4.12 Indemnification.**

**4.12.1** Tenant shall indemnify, defend and hold harmless Landlord and Landlord's Agents from and against any and all Claims of third parties, to the extent arising out of (a) the possession, use or occupancy of the Premises or the business conducted in the Premises, (b) any willful misconduct or negligent or unlawful act or omission of Tenant or Tenant's Agents, or (c) any breach or default under this Lease by Tenant. The obligations of this paragraph shall be subject to the paragraph captioned "Waiver of Subrogation".

**4.12.2** Except as specified in the next sentence, neither Landlord nor Landlord's Agents shall, to the extent permitted by law, have any liability to Tenant, or to Tenant's Agents, for (1) any Claims arising out of any cause whatsoever, including repair to any portion of the Premises; (2) interruption in or interference with the use of the Premises or any equipment therein; (3) any accident or damage resulting from any use or operation by Landlord, Tenant or any person or entity of heating, cooling, electrical, sewerage or plumbing equipment or apparatus or Telecommunication Facilities; (4) termination of this Lease by reason of damage to the Premises or Building; (5) fire, robbery, theft, vandalism, mysterious disappearance or a casualty of any kind or nature; (6) actions of any other tenant of the Building or of any other , person or entity; (7) inability to furnish any service required of Landlord as specified in this Lease; or (8) leakage in any part of the Premises or the Building from rain, ice or snow, or from drains, pipes or plumbing fixtures in the Premises or the Building. Landlord shall be responsible only for Claims arising solely out of the negligence or willful misconduct of Landlord in failing to repair or maintain the Building as required by this Lease after notice by Tenant as required by the paragraph captioned "Maintenance and Repair by Landlord"; but in no event shall Landlord's responsibility extend to any interruption to Tenant's business or any indirect or consequential losses suffered by Tenant or Tenant's Agents or extend beyond Landlord's responsibility as set forth in the paragraph entitled "Utilities" when that paragraph is applicable. Subject to the foregoing limitations and exclusions, Landlord shall indemnify, defend and hold harmless Tenant from and against any and all Claims of third parties, to the extent arising out of (a) any willful misconduct or negligent or unlawful act or omission of Landlord or Landlord's Agents, or (b) any breach or default under this Lease by Landlord, but in no event shall Landlord's responsibility under the foregoing clauses (a) or (b) extend to any interruption to Tenant's business or any indirect or consequential losses. The obligations of this paragraph shall be subject to the paragraph captioned "Waiver of Subrogation".

#### **4.13 Tenant Insurance.**

**4.13.1** Tenant shall, throughout the Lease Term, at its own expense, keep and maintain in full force and effect the following policies, each of which shall be endorsed as needed to provide that the insurance afforded by these policies is primary and that all insurance carried by Landlord is strictly excess and secondary and shall not contribute with Tenant's liability insurance:

(a) A policy of commercial general liability insurance, including a contractual liability endorsement covering Tenant's obligations under the paragraph captioned "Indemnification", insuring against claims of bodily injury and death or property damage or loss with a combined single limit at the Commencement Date of this Lease of not less than Two Million Dollars (\$2, 000, 000.00), which limit shall be reasonably increased during the Lease Term at Landlord's request to reflect both increases in liability exposure arising from inflation as well as from changing use of the Premises or changing legal liability standards, which policy shall be payable on an "occurrence" rather than a "claims made" basis, and which policy names Landlord, Bentall Kennedy (U.S.) LP, the Manager and, at Landlord's request, Landlord's mortgage lender(s) and/or investment advisors, as additional insureds;

(b) A policy of extended property insurance (which is commonly called "all risk") covering Tenant Improvements, Tenant Alterations (including Telecommunication Facilities), and any and all furniture, fixtures, equipment, inventory, improvements and other property in or about the Premises which is not owned by Landlord, for one hundred percent (100%) of the then current replacement cost of such property;

(c) Business interruption insurance in an amount sufficient to cover costs, damages, lost income, expenses, Base Rent, Additional Rent and all other sums payable under this Lease, should any or all of the Premises not be usable for a period of up to twelve (12) months;

(d) A policy of worker's compensation insurance as required by applicable law and employer's liability insurance with limits of no less than One Million Dollars (\$1,000,000.00); and

(e) A policy of comprehensive automobile liability insurance, including loading and unloading, and covering owned, non-owned and hired vehicles, with limits of no less than One Million Dollars (\$1,000,000.00) per occurrence.

**4.13.2** All insurance policies required under this paragraph shall be with companies reasonably approved by Landlord and each policy shall provide that it is not subject to cancellation, lapse or reduction in coverage except after thirty (30) days' written notice to Landlord. Prior to the Commencement Date and from time to time thereafter, Tenant shall deliver to Landlord, Bentall Kennedy (U.S.) LP, the Manager, and, at Landlord's request, any other parties hereunder required to be named as additional insureds, certificates evidencing the existence and amounts of all such policies.

**4.13.3** If Tenant fails to acquire or maintain any insurance or provide any certificate required by this paragraph, Landlord may, but shall not be required to, obtain such insurance or certificates and the costs associated with obtaining such insurance or certificates shall be payable by Tenant to Landlord on demand.

**4.14 Landlord's Insurance.** Landlord shall, throughout the Lease Term, keep and maintain in full force and effect:

**4.14.1** A policy of commercial general liability insurance, insuring against claims of bodily injury and death or property damage or loss with a combined single limit at the Commencement Date of not less than One Million Dollars (\$1, 000, 000.00) per occurrence and Two Million Dollars (\$2, 000, 000.00) in the aggregate, which policy shall be payable on an "occurrence" rather than a "claims made" basis;

**4.14.2** A policy of extended property insurance (what is commonly called "all risk") covering the Building and Landlord's personal property, if any, located on the Land in the amount of one hundred percent (100%) of the then current replacement value of such property; and

**4.14.3** Landlord may, but shall not be required to, maintain other types of insurance as Landlord deems appropriate, including but not limited to, property insurance coverage for earthquakes and floods in such amounts as Landlord deems appropriate. Such policies may be "blanket" policies which cover other properties owned by Landlord.

**4.15 Waiver of Subrogation.** Notwithstanding anything in this Lease to the contrary, Landlord and Tenant hereby each waive and release the other from any and all Claims or any loss or damage that may occur to the Land, Building, Premises, or personal property located therein, by reason of fire or other casualty regardless of cause or origin, including the negligence or misconduct of Landlord, Tenant,



Landlord's Agents or Tenant's Agents, but only to the extent of the insurance proceeds paid to such releasor under its policies of insurance or, if it fails to maintain the required policies, the insurance proceeds that would have been paid to such releasor if it had maintained such policies. Each party to this Lease shall promptly give to its insurance company written notice of the mutual waivers contained in this subparagraph, and shall cause its insurance policies to be properly endorsed, if necessary, to prevent the invalidation of any insurance coverages by reason of the mutual waivers contained in this subparagraph.

#### **4.16 Assignment and Subletting by Tenant.**

**4.16.1** Tenant shall not have the right to assign, transfer, mortgage or encumber this lease in whole or in part, nor sublet the whole or any part of the Premises, nor allow the occupancy of all or any part of the Premises by another, without first obtaining Landlord's written consent, which consent shall not be unreasonably withheld or conditioned provided that no Event of Default exists. Notwithstanding any permitted assignment or subletting, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of all sums payable under this Lease and for compliance with all of its other obligations as tenant under this Lease. Landlord's acceptance of Base Rent, Additional Rent or any other sum from any assignee, sublessee, transferee, mortgagee or encumbrance holder shall not be deemed to be Landlord's approval of any such conveyance. Upon the occurrence of an Event of Default, if the Premises or any part of the Premises are then subject to an assignment or subletting, Landlord may, at its option, collect directly from such assignee or subtenant all rents becoming due to Tenant under such assignment or sublease and apply such rents against any sums due to Landlord from Tenant under this Lease. No such collection shall be construed to constitute a novation or release of Tenant from the further performance of Tenant's obligations under this Lease. Landlord's right of direct collection shall be in addition to and not in limitation of any other rights and remedies provided for in this Lease or at law. Tenant hereby assigns to Landlord all of such assignments and subleases and any rent, lease security deposits and other sums payable under such assignments and subleases as collateral to secure the performance of the obligations of Tenant under this Lease.

**4.16.2** In the event Tenant desires to assign this Lease or to sublet all or any portion of the Premises, Tenant shall give written notice of such desire to landlord setting forth the name of the proposed subtenant or assignee, the proposed term, the nature of the proposed subtenant's or assignee's business to be conducted on the Premises, the rental rate, and any other particulars of the proposed subletting or assignment that Landlord may reasonably request. Without limiting the preceding sentence, Tenant shall also provide Landlord with: (a) such financial information as Landlord may request concerning the proposed subtenant or assignee, including recent financial statements certified as accurate and complete by a certified public accountant and by the president, managing partner or other appropriate officer of the proposed subtenant or assignee; (b) proof satisfactory to Landlord that the proposed subtenant or assignee will within a reasonable time occupy and thereafter use the entire Premises (or any sublet portion of the Premises) for the remainder of the lease Term (or for the entire term of the sublease, if shorter) in compliance with the terms of this Lease; and (c) a copy of the proposed sublease or assignment or letter of intent. Tenant shall pay to Landlord, upon Landlord's demand therefor, Landlord's reasonable attorneys' fees incurred in the review of such documentation and in documenting Landlord's consent, plus an administrative fee of \$500.00 as landlord's fee for processing such proposed assignment or sublease. Receipt of such fees shall not obligate Landlord to approve the proposed assignment or sublease.

**4.16.3** In determining whether to grant or withhold consent to a proposed assignment or sublease, landlord may consider, and weigh, any factor it deems relevant, in its sole and absolute discretion.

**4.16.4** Within fifteen (15) Business Days after Landlord's receipt of all required information to be supplied by Tenant pursuant to this paragraph, Landlord shall notify Tenant of Landlord's approval, disapproval or conditional approval of any proposed assignment or subletting or of Landlord's election to recapture as described below. Landlord shall have no obligation to respond unless and until all required information has been submitted. In the event Landlord approves of any proposed assignment or subletting, Tenant and the proposed assignee or sublessee shall execute and deliver to Landlord a consent to assignment (or subletting) and assumption agreement in form and content satisfactory to landlord.

**4.16.5** Any transfer, assignment or hypothecation of any of the stock or interest in Tenant, or the assets of Tenant, or any other transaction, merger, reorganization or event, however constituted which (a) results in fifty percent (50%), or more of such stock, interest or assets going into different ownership, or (b) is a subterfuge denying Landlord the benefits of this paragraph, shall be deemed to be an assignment within the meaning and provisions of this paragraph and shall be subject to the provisions of this paragraph.

**4.16.6** If Landlord consents to any assignment or sublease and Tenant receives rent or any other consideration, either initially or over the term of the assignment or sublease, in excess of the Base Rent and Additional Rent (or, in the case of a sublease of a portion of the Premises, in excess of the Base Rent paid by Tenant on a square footage basis under this Lease) (such amount being referred to herein as the "Gross Profit"), Tenant shall pay to Landlord fifty percent (50%) of the Net Profit. As used herein, the "Net Profit" means the Gross Profit less the reasonable and customary marketing and transaction expenses incurred by Tenant in making such assignment or sublease, including, without limitation, costs or allowances for leasehold improvements and leasing commissions, provided that, for purposes of calculating the Net Profit, such expenses shall be amortized over the term of the applicable assignment or sublease.

**4.16.7** Landlord shall have the right to recapture the Premises or the applicable portion thereof (a "Recapture") by giving written notice of such Recapture to Tenant within fifteen (15) Business Days after receipt of Tenant's written request for Landlord's consent to such proposed assignment or subletting. Tenant shall have no right to retract its request for Landlord's consent to assign or sublease once such request has been made. Such Recapture shall terminate this Lease as to the applicable space effective on the prospective effective date of assignment or subletting, which shall be the last day of a calendar month and shall not be earlier than forty-five (45) Business Days after receipt of Tenant's request hereunder. If less than the entire Premises are recaptured, this Lease shall remain in full force and effect with respect to that remaining area not recaptured by Landlord. Tenant shall surrender that portion of the Premises recaptured by Landlord in accordance with the terms and conditions of this Lease. Notwithstanding the first sentence of this subparagraph, Landlord shall have no right to Recapture the Premises or applicable portion thereof if Tenant's proposed sublet together with any previous sublets encompass, in the aggregate, net rentable area of less than fifty percent (50%) of the total net rentable area of Premises and the terms of all such sublets expire at least six (6) months prior to the last day of the Lease Term (exclusive of any Option Period which has not been properly exercised as of the date of execution of any such sublet).

**4.16.8** Notwithstanding anything to the contrary in this Lease, provided that all amounts due under this Lease have been paid in full and further provided that no Event of Default exists, upon not less than ten (10) Business Days advance written notice to Landlord but without Landlord's consent, Tenant may assign this Lease or sublet all or any portion of the Premises to an Affiliate of the Tenant, provided (a) that Tenant has delivered to Landlord satisfactory evidence that the assignee or subtenant is an Affiliate of the Tenant, (b) Tenant reimburses Landlord on demand for all reasonable costs and expenses incurred by Landlord in determining compliance with the terms of this subparagraph 4.16.8, including reasonable attorneys' fees, and (c) such entity remains an Affiliate of Tenant subsequent to the date of such assignment and for the remainder of the Lease Term. In all events, Tenant shall remain liable for its obligations under this Lease despite any such transfer.

**4.16.9** Notwithstanding anything to the contrary in this lease, provided that all amounts due under this Lease have been paid in full and further provided that no Event of Default exists, Tenant may, upon not less than ten (10) Business Days advance written notice to Landlord (or, if such advance notice is prohibited by law, promptly after such notice is permitted) but without Landlord's consent, assign this lease in conjunction or connection with any merger, consolidation, corporate reorganization (other than pursuant to the bankruptcy laws), or the sale of all or substantially all of the assets of Tenant or the sale or other transfer of all or substantially all of the Tenant's stock or other ownership interests (directly or indirectly), provided that the resulting or surviving corporation or transferee (as applicable) (a) assumes all of the liabilities and obligations of the Tenant under this Lease in a writing in form and substance reasonably satisfactory to Landlord, and (b) has a tangible net worth immediately following such transaction certified to Landlord by an independent certified public accountant satisfactory to Landlord equal to or greater than the tangible net worth of Tenant as of the date of this Lease or the date immediately prior to such transaction (whichever is greater), in each case as determined in accordance with GAAP. Tenant agrees (x) that it shall furnish to Landlord evidence of any such completed transfer within five (5) Business Days after the date of such transfer, (y) that Tenant shall remain liable for its obligations under this Lease, despite any such transfer, and (z) to reimburse Landlord on demand for all reasonable costs and expenses incurred by Landlord in determining compliance with the terms of this subparagraph 4.16.9, including reasonable attorneys' fees.

**4.17 Assignment by Landlord.** Landlord shall have the right to transfer and assign, in whole or in part, its rights and obligations under this Lease and in any and all of the Land or Building. If Landlord sells or transfers any or all of the Building, including the Premises, Landlord and Landlord's Agents shall, upon consummation of such sale or transfer, be released automatically from any liability relating to obligations or covenants under this lease to be performed or observed after the date of such transfer, and in such event, Tenant agrees to look solely to Landlord's successor-in-interest with respect to such liability; provided that, as to the Lease Security Deposit and Prepaid Rent, Landlord shall not be released from liability therefor unless Landlord has delivered (by direct transfer or credit against the purchase price) the Lease Security Deposit or Prepaid Rent to its successor-in-interest.

**4.18 Estoppel Certificates and Financial Statements.** Tenant shall, from time to time, upon the written request of Landlord, execute, acknowledge and deliver to Landlord or its designee a written statement stating: (a) the date this lease was executed and the date it expires; (b) the date Tenant entered into occupancy of the Premises; (c) the amount of monthly Base Rent and Additional Rent and the date to which such Base Rent and Additional Rent have been paid; and (d) certifying that (1) this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date of the agreement so affecting this Lease); (2) Landlord is not in breach of this Lease (or, if so, a description of each such breach) and that no event, omission or condition has occurred which would result, with the giving of notice or the passage of time, in a breach of this Lease by Landlord; (3) this Lease represents the entire agreement between the parties with respect to the Premises; (4) all required contributions by Landlord to Tenant on account of Tenant Improvements have been received; (5) on the date of execution, there exist no defenses or offsets which the Tenant has against the enforcement of this Lease by the Landlord; (6) no Base Rent, Additional Rent or other sums payable under this Lease have been paid in advance except for Base Rent and Additional Rent for the then current month; (7) no security has been deposited with landlord (or, if so, the amount of such security); (8) it is intended that any Tenant's statement may be relied upon by a prospective purchaser or mortgagee of Landlord's interest or an assignee of any such mortgagee; and (9) such other information as may be reasonably requested by Landlord. If Tenant fails to respond within ten (10) Business Days of its receipt of a written request by Landlord as provided in this paragraph, such shall be a breach of this Lease and Tenant shall be deemed to have admitted the accuracy of any information supplied by Landlord to a prospective purchaser, mortgagee or assignee, provided, however, that a bona fide, good-faith dispute about the accuracy of the contents of the estoppel certificate prepared by Landlord shall not constitute non-delivery, provided that Tenant has certified those items that are not in dispute therein and Tenant certifies the details of such dispute in such estoppel certificate. In addition, Tenant shall, from time to time, upon the written request of Landlord, deliver to or cause to be delivered to Landlord or its designee then current financial statements (including a statement of operations and balance sheet and statement of cash flows) certified as accurate by Tenant's chief financial officer (or, if available, by a certified public accountant) and prepared in conformance with generally accepted accounting principles for (i) Tenant, (ii) any entity which owns a controlling interest in Tenant, (iii) any entity the controlling interest of which is owned by Tenant, (iv) any successor entity to Tenant by merger or operation of law, and (v) any guarantor of this lease. Notwithstanding the foregoing, Landlord shall not request such financial statements more than twice in any twelve (12) month period unless an Event of Default exists or such request is made in connection with a sale, financing or refinancing contemplated by Landlord. All such financial statements shall be kept confidential by Landlord and shall only be disclosed on a confidential basis to actual and prospective purchasers of the Building and to actual and prospective investors, lenders, accountants, and other professional advisors of Landlord.

**4.19 Modification for Lender.** If, in connection with obtaining construction, interim or permanent financing for the Building or Land, Landlord's lender, if any, shall request reasonable modifications to this Lease as a condition to such financing, Tenant will not unreasonably withhold or delay its consent to such modifications; provided that, such modifications do not increase the obligations of Tenant under this Lease or materially adversely affect Tenant's rights under this Lease.

**4.20 Hazardous Substances.**

**4.20.1** Neither Tenant, any of Tenant's Agents nor any other person shall store, place, generate, manufacture, refine, handle, or locate on, in, under or around the Land or Building any Hazardous Substance, except for storage, handling and use of reasonable quantities and types of cleaning fluids and office supplies in the Premises in the ordinary course and the prudent conduct of Tenant's business in the

Premises. Tenant agrees that (a) the storage, handling and use of such permitted Hazardous Substances must at all times conform to all Governmental Requirements and to applicable fire, safety and insurance requirements; (b) the types and quantities of permitted Hazardous Substances which are stored in the Premises must be reasonable and appropriate to the nature and size of Tenant's operation in the Premises and reasonable and appropriate for a first-class building of the same or similar use and in the same market area as the Building; and (c) no Hazardous Substance shall be spilled or disposed of on, in, under or around the Land or Building or otherwise discharged from the Premises or any area adjacent to the Land or Building. In no event will Tenant be permitted to store, handle or use on, in, under or around the Premises any Hazardous Substance which will increase the rate of fire or extended coverage insurance on the Land or Building, unless: (1) such Hazardous Substance and the expected rate increase have been specifically disclosed in writing to Landlord; (2) Tenant has agreed in writing to pay any rate increase related to each such Hazardous Substance; and (3) Landlord has approved in writing each such Hazardous Substance, which approval shall be subject to Landlord's discretion.

**4.20.2** Tenant shall indemnify, defend and hold harmless Landlord and Landlord's Agents from and against any and all Claims arising out of any breach of any provision of this paragraph, which expenses shall also include laboratory testing fees, personal injury claims, clean-up costs and environmental consultants' fees. Tenant agrees that Landlord may be irreparably harmed by Tenant's breach of this paragraph and that a specific performance action may appropriately be brought by Landlord; provided that, Landlord's election to bring or not bring any such specific performance action shall in no way limit, waive, impair or hinder Landlord's other remedies against Tenant.

**4.20.3** As of the execution date of this Lease, Tenant represents and warrants to Landlord that, except as otherwise disclosed by Tenant to Landlord, Tenant has no intent to bring any Hazardous Substances on, in or under the Premises except for the type and quantities authorized in the first paragraph of the paragraph captioned "Hazardous Substances".

#### **4.21 Access Laws.**

**4.21.1** Tenant agrees to notify Landlord immediately if Tenant receives notification or otherwise becomes aware of: (a) any condition or situation on, in, under or around the Land or Building which may constitute a violation of any Access Laws or (b) any threatened or actual lien, action or notice that the Land or Building is not in compliance with any Access Laws. If Tenant is responsible for such condition, situation, lien, action or notice under this paragraph, Tenant's notice to Landlord shall include a statement as to the actions Tenant proposes to take in response to such condition, situation, lien, action or notice.

**4.21.2** Tenant shall not alter or permit any assignee or subtenant or any other person to alter the Premises in any manner which would violate any Access Laws or increase Landlord's responsibilities for compliance with Access Laws, without the prior approval of the Landlord. In connection with any such approval, Landlord may require a certificate of compliance with Access Laws from an architect, engineer or other person acceptable to Landlord. Tenant agrees to pay the reasonable fees incurred by such architect, engineer or other third party in connection with the issuance of such certificate of compliance. Landlord's consent to any proposed Tenant Alteration shall (a) not relieve Tenant of its obligations or indemnities contained in this paragraph or this Lease or (b) be construed as a warranty that such proposed alteration complies with any Access Law.

**4.21.3** Tenant shall be solely responsible for all costs and expenses relating to or incurred in connection with: (a) failure of the Premises to comply with the Access Laws; and (b) bringing the Building and the common areas of the Building into compliance with Access laws, if and to the extent such noncompliance arises out of or relates to: (1) Tenant's particular manner of use of the Premises, including the hiring of employees; (2) any Tenant Alterations to the Premises; or (3) any Tenant Improvements constructed in the Premises at the request of Tenant, regardless of whether such improvements are constructed prior to or after the Commencement Date.

**4.21.4** Landlord shall be responsible for all costs and expenses relating to or incurred in connection with bringing the common areas of the Building into compliance with Access Laws, unless such costs and expenses are Tenant's responsibility as provided in the preceding subparagraph. Any cost or expense paid or incurred by Landlord to bring the Premises or common areas of the Building into compliance with Access Laws which is not Tenant's responsibility under the preceding subparagraphs shall be amortized over the useful economic life of the improvements (not to exceed ten (10) years) with interest at the Prime Rate plus two (2) percentage points compounded daily, and shall be an Operating Cost for purposes of this Lease.

**4.21.5** Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord's Agents from and against any and all Claims arising out of or relating to any failure of Tenant or Tenant's Agents to comply with Tenant's obligations under this paragraph.

**4.21.6** The provisions of this paragraph shall supersede any other provisions in this Lease regarding Access Laws, to the extent inconsistent with the provisions of any other paragraphs.

**4.22 Quiet Enjoyment.** Landlord covenants that Tenant, upon paying Base Rent, Additional Rent and all other sums payable under this Lease and performing all covenants and conditions required of Tenant under this Lease shall and may peacefully have, hold and enjoy the Premises without hindrance or molestation by Landlord subject to the provisions of this Lease.

**4.23 Signs.**

**4.23.1 Directory and Interior Sign.** Tenant shall be permitted to have its entity name listed on the main directory sign for the Building situated in the main lobby of the Building. Tenant also shall be permitted to have one (1) entryway sign bearing Tenant's name next to Tenant's entryway into the Premises. Said sign shall be installed by Landlord at Landlord's expense and shall be of a size, design and coloration, and in a location consistent with Landlord's standard tenant entryway signage for the Building.

**4.23.2 Exterior Building Sign.**

(a) Notwithstanding anything to the contrary in the Rules and Regulations and subject to Tenant obtaining any and all necessary governmental approvals and the terms and conditions set forth herein, beginning on the date which is thirty (30) days prior to the Commencement Date and during such portion of the Lease Term that Acquia, Inc. (or a Permitted Transferee of all of Tenant's rights under this Lease) itself continues to lease and actually use and occupy at least the greater of (a) seventeen thousand seven hundred twenty-seven (17, 727) rentable square feet of space in the Building under this Lease or (b) fifty percent (50%) of the Premises then leased by Tenant hereunder (the greater of the foregoing (a) and (b) is referred to herein as the "**Minimum Occupancy Requirement**"), Tenant shall have the exclusive right at Tenant's sole cost and expense to install and maintain one (1) exterior sign (identifying Acquia, Inc. or the Permitted Transferee of all of Tenant's rights under this Lease) on the Building façade in the location and of the size, colors, design, and specifications set forth in **Exhibit H** attached to this Lease (the "**Exterior Sign**"), provided that the installation and maintenance of such Exterior Sign complies with all Governmental Requirements and all matters of record. The installation of such Exterior Sign shall constitute a Tenant Alteration and, as such, shall be subject to all terms hereof applicable to Tenant Alterations including, without limitation, the paragraph entitled "Tenant's Work Performance. If **Exhibit H** does not describe the exact size, colors, design, and specifications of such Exterior Sign, then the same shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything herein to the contrary, in no event shall Tenant be permitted to use any of the Tenant Improvement Allowance for any costs related to the Exterior Sign, including, without limitation, the cost of designing, fabricating, installing, maintaining or removing the Exterior Sign. If, at any time during the Lease Term, Acquia, Inc. (or a Permitted Transferee of all of Tenant's rights under this Lease) ceases to satisfy the Minimum Occupancy Requirement and/or an Event of Default occurs, Landlord in its sole discretion may terminate Tenant's right to maintain the Exterior Sign and may require Tenant to permanently remove the Exterior Sign.

(b) Prior to installation of the Exterior Sign, Tenant shall obtain any and all necessary permits and approvals required by applicable Governmental Requirements. At Tenant's request and at Tenant's sole cost and expense, Landlord shall cooperate with and assist Tenant in any reasonable way Tenant from time to time may request in connection with its efforts to obtain such permits and approvals, and Tenant shall reimburse Landlord on demand for any reasonable expenses incurred by Landlord in connection therewith. Thereafter, Tenant shall at all times maintain all necessary permits and approvals required by the applicable Governmental Requirements in effect from time to time. Any and all costs in connection with the permitting, fabrication, installation and maintenance of the Exterior Sign shall be borne by Tenant. Tenant agrees to maintain the Exterior Sign in good condition at all times. Upon vacation of the Premises on the expiration or earlier termination of this Lease or at such earlier time as Tenant is no longer permitted to maintain the Exterior Sign, Tenant shall be responsible, at its sole cost, for the removal of the Exterior Sign and the repair, painting and/or replacement of the structure to which the Exterior Sign is attached. If Tenant fails to perform such work, Landlord may cause the same to be performed, and the reasonable cost thereof shall be Additional Rent immediately due and payable upon rendition of a bill therefor.

**4.23.3 Monument Sign.** Notwithstanding anything to the contrary in the Rules and Regulations and subject to Tenant obtaining any and all necessary governmental approvals and the terms and conditions set forth herein, beginning on the date which is thirty (30) days prior to the Commencement Date and during such portion of the Lease Term that Acquia, Inc. (or a Permitted Transferee of all of Tenant's rights under this Lease) itself continues to lease and actually use and occupy sufficient space in the Building under this Lease to satisfy the Minimum Occupancy Requirement, Tenant shall have the non-exclusive right at Tenant's sole cost and expense to install and maintain a panel (identifying Acquia, Inc. or such Permitted Transferee) on the Monument Sign, the size, location, colors, design, and specifications of which panel (the "Monument Sign Panel") shall be subject to Landlord's prior written approval. Such approval by Landlord shall be in landlord's discretion with respect to the location and size of the Monument Sign Panel on the Monument Sign, but shall not be unreasonably withheld as to the colors, design, and specifications thereof. Landlord shall have the right to grant other tenants of the Park the right to maintain identification panels on the Monument Sign. Prior to installation of its Monument Sign Panel, Tenant shall obtain any and all necessary permits and approvals required by applicable Governmental Requirements and Restrictions. Thereafter, Tenant shall at all times maintain all necessary permits and approvals required by applicable Governmental Requirements and Restrictions in effect from time to time. Any and all costs in connection with the permitting, fabrication, installation and maintenance of the Tenant's Monument Sign Panel shall be borne by Tenant. Tenant agrees to maintain its Monument Sign Panel in good condition at all times. Upon vacation of the Premises on the expiration or earlier termination of this Lease or at such earlier time as Tenant is no longer permitted to maintain its Monument Sign Panel on the Monument Sign, Tenant shall be responsible, at its sole cost, for the removal of such Monument Sign Panel and for the repair of any damage to the Monument Sign caused by such removal. If Tenant fails to perform such work, Landlord may cause the same to be performed and the reasonable cost thereof shall be Additional Rent immediately due and payable upon rendition of a bill therefor. Notwithstanding the foregoing or anything herein to the contrary, if, at any time during the Lease Term, Acquia, Inc. (or a Permitted Transferee of all of Tenant's rights under this Lease) ceases to satisfy the Minimum Occupancy Requirement and/or an Event of Default occurs, Landlord in its sole discretion may terminate Tenant's right to maintain the Monument Sign Panel and may require Tenant to permanently remove the Monument Sign Panel.

#### **4.24 Subordination.**

**4.24.1** Tenant subordinates this Lease and all rights of Tenant under this Lease to any mortgage, deed of trust, ground lease or vendor's lien, or similar instrument which may from time to time be placed upon the Premises (and all renewals, modifications, replacements and extensions of such encumbrances), and each such mortgage, deed of trust, ground lease or lien or other instrument shall be superior to and prior to this lease. Notwithstanding the foregoing, the holder or beneficiary of such mortgage, deed of trust, ground lease, vendor's lien or similar instrument shall have the right to subordinate or cause to be subordinated any such mortgage, deed of trust, ground lease, vendor's lien or similar instrument to this Lease or to execute a non-disturbance agreement in favor of Tenant on the standard form utilized by such lender or ground lessor. At the request of Landlord, the holder of such mortgage or deed of trust or any ground lessor, Tenant shall execute, acknowledge and deliver promptly in recordable form any instrument or subordination agreement that Landlord or such holder may request. Tenant further covenants and agrees that if the lender or ground lessor acquires the Premises as a purchaser at any foreclosure sale or otherwise, Tenant shall recognize and attorn to such party as landlord under this lease, and shall make all payments required hereunder to such new landlord without deduction or set-off and, upon the request of such purchaser or other successor, execute, deliver and acknowledge documents confirming such attornment. Tenant waives the provisions of any law or regulation, now or hereafter in effect, which may give or purport to give Tenant any right to terminate or otherwise adversely affect this Lease or the obligations of Tenant hereunder in the event that any such foreclosure or termination or other proceeding is prosecuted or completed.

**4.24.2** If at any time during the Lease Term the Building is encumbered by a mortgage, then upon Tenant's written request, Landlord shall use commercially reasonable efforts to obtain for Tenant, at no cost to Landlord, a subordination, non-disturbance and attornment agreement from the holder of such mortgage, in the standard form customarily employed by such holder. provided that Landlord shall have no liability to Tenant, and the effectiveness of this Lease and the subordination of this Lease to any mortgage shall not be affected, in the event that it is unable to obtain any such agreement. Tenant shall reimburse Landlord, within thirty (30) days after demand therefor, for Landlord's out-of-pocket costs, including fees charged by the holder(s) of any mortgage(s) and its or their counsel and other reasonable attorney's fees and disbursements, incurred in connection with such efforts.

**4.25 Workers Compensation Immunity.** If and to the extent that Tenant is obligated to indemnify, defend or hold harmless Landlord or Landlord's Agents from any Claims arising from its use of the Premises or any act or failure to act by Tenant or Tenant's Agents or otherwise, Tenant expressly waives, to and in favor of Landlord and Landlord's Agents, its statutory workers compensation act employers immunity relative to any injury to an employee or employees of Tenant.

**4.26 Brokers.** Each party to this Lease shall indemnify, defend and hold harmless the other party from and against any and all Claims asserted against such other party by any real estate broker, finder or intermediary relating to any act of the indemnifying party in connection with this Lease. Landlord shall be responsible for paying any commission or fee owed to Landlord's broker, CB Richard Ellis-N.E. Partners, LP, in connection with this Lease and CB Richard Ellis-N.E. Partners, LP shall be responsible for the payment of any commission or fee owed to CB Richard Ellis-N.E. Partners, LP in its capacity as Tenant's broker in connection with this Lease pursuant to a written agreement between the CB Richard Ellis-N.E. Partners, LP brokers.

**4.27 Limitation on Recourse.**

**4.27.1** Landlord has executed this Lease by its authorized representative signing solely in a representative capacity. Notwithstanding anything contained in this Lease to the contrary, Tenant confirms that the covenants of Landlord are made and intended, not as personal covenants of the Landlord's authorized representative or for the purpose of binding such authorized representative personally, but solely in the exercise of the representative powers conferred upon such authorized representative by their principal. Liability with respect to the entry and performance of this Lease by or on behalf of Landlord, however it may arise, shall be asserted and enforced only against Landlord's estate and equity interest in the Building and, to the extent arising from and after the date of any final judgment against Landlord that is no longer subject to appeal, the rents, profits and proceeds thereof. Neither Landlord nor any of Landlord's Agents shall have any personal liability in the event of any claim against Landlord arising out of or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Premises. Further, in no event whatsoever shall any Landlord's Agent have any liability or responsibility whatsoever arising out of or in connection with this Lease, the relationship of Landlord and Tenant or Tenant's use of the Premises. Any and all personal liability, if any, beyond that which may be asserted under this paragraph, is expressly waived and released by Tenant and by all persons claiming by, through or under Tenant.

**4.27.2** None of Tenant's officers or directors shall have any personal liability under this Lease, provided that the foregoing shall in no way limit the liability of Tenant hereunder.

**4.28 Mechanic's Liens and Tenant's Personal property Taxes.**

**4.28.1** Tenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord or Tenant in the Premises or to charge the rentals payable under this Lease for any Claims in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs. Tenant shall immediately pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises on which any lien is or can be validly and legally asserted against its leasehold interest in the Premises and Tenant shall indemnify, defend and hold harmless Landlord from any and all Claims arising out of any such asserted Claims. Tenant agrees to give Landlord immediate written notice of any such Claim.

**4.28.2** Tenant shall be liable for all taxes levied or assessed against personal property, furniture or fixtures placed by Tenant in the Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and Landlord elects to pay them or if the assessed value of Landlord's property is increased by inclusion of such personal property, furniture or fixtures and Landlord elects to pay the taxes based on such increase, Tenant shall reimburse Landlord for the sums so paid by Landlord, upon demand by Landlord.

**4.29 Intentionally Omitted.**

**4.30 No Offset; Independent Covenants; Waiver.** Rent shall be paid without notice or demand, and without setoff, counterclaim, defense, abatement, suspension, deferment, reduction or deduction, except as expressly provided herein. Tenant waives all rights (i) to any abatement, suspension, deferment, reduction or deduction of or from Rent except to the extent otherwise expressly set forth herein, and (ii)

to quit, terminate or surrender this Lease or the Premises or any part thereof, except as expressly provided herein. **TENANT HEREBY ACKNOWLEDGES AND AGREES THAT THE OBLIGATIONS OF TENANT HEREUNDER SHALL BE SEPARATE AND INDEPENDENT COVENANTS AND AGREEMENTS, THAT RENT SHALL CONTINUE TO BE PAYABLE IN ALL EVENTS AND THAT THE OBLIGATIONS OF TENANT HEREUNDER SHALL CONTINUE UNAFFECTED, UNLESS THE REQUIREMENT TO PAY OR PERFORM THE SAME SHALL HAVE BEEN TERMINATED PURSUANT TO AN EXPRESS PROVISION OF THIS LEASE. LANDLORD AND TENANT EACH ACKNOWLEDGES AND AGREES THAT THE INDEPENDENT NATURE OF THE OBLIGATIONS OF TENANT HEREUNDER REPRESENTS FAIR, REASONABLE, AND ACCEPTED COMMERCIAL PRACTICE WITH RESPECT TO THE TYPE OF PROPERTY SUBJECT TO THIS LEASE, AND THAT THIS AGREEMENT IS THE PRODUCT OF FREE AND INFORMED NEGOTIATION DURING WHICH BOTH LANDLORD AND TENANT WERE REPRESENTED BY COUNSEL SKILLED IN NEGOTIATING AND DRAFTING COMMERCIAL LEASES IN MASSACHUSETTS, AND THAT THE ACKNOWLEDGEMENTS AND AGREEMENTS CONTAINED HEREIN ARE MADE WITH FULL KNOWLEDGE OF THE HOLDING IN WESSON V. LEONE ENTERPRISES, INC., 437 MASS.708 (2002). SUCH WAIVER AND ACKNOWLEDGEMENTS BY TENANT ARE A MATERIAL INDUCEMENT TO LANDLORD ENTERING INTO THIS LEASE.**

**4.31 Occupancy.** Prior to the expiration or earlier termination of the Lease Term, Tenant shall not vacate the Premises without providing Landlord with at least thirty (30) days advance notice. Tenant's furnishing of such notice shall not relieve Tenant of any of its obligations under this Lease. Without limiting any of such obligations, Tenant shall inspect the Premises no less than once each month during the remainder of the Lease Term to ensure that the Premises are in good order and condition.

## **SECTION 5: DEFAULT AND REMEDIES**

### **5.1 Events of Default.**

**5.1.1** The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Tenant ("Event of Default"):

(a) abandonment of all or any portion of the Premises;

(b) failure by Tenant to make any payment of Base Rent, Additional Rent or any other sum payable by Tenant under this Lease within three (3) Business Days after its due date;

(c) failure by Tenant to observe or perform any covenant or condition of this Lease, other than the making of payments, where such failure shall continue for a period of fifteen (15) days after written notice from Landlord, provided, however, if cure is not reasonably capable of being completed within such time period, Tenant shall have such additional reasonable time (not to exceed an additional sixty (60) days) as is required to cure such default as long as Tenant promptly commences such cure within said fifteen (15) day period and thereafter diligently pursues such cure to completion;

(d) the failure of Tenant to surrender possession of the Premises at the expiration or earlier termination of this Lease in the condition required by this Lease;

(e) (1) the making by Tenant of any general assignment or general arrangement for the benefit of creditors; (2) the filing by or against Tenant of a petition in bankruptcy, including reorganization or arrangement, unless, in the case of a petition filed against Tenant, unless the same is dismissed within thirty (30) Business Days; (3) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located in the Premises or of Tenant's interest in this Lease; (4) any execution, levy, attachment or other process of law against any property of Tenant or Tenant's interest in this Lease, unless the same is dismissed within thirty (30) Business Days; or (5) adjudication that Tenant is bankrupt; (6) the making by Tenant of a transfer in fraud of creditors; or

(f) any information furnished by or on behalf of Tenant to Landlord in connection with the entry of this Lease is determined to have been materially false, misleading or incomplete when made.

(g) the failure of the Tenant to deliver the Letter of Credit within the time period specified in the paragraph captioned "Lease Security".

#### **5.1.2 Intentionally Omitted.**

**5.1.3** If a petition in bankruptcy is filed by or against Tenant, and if this Lease is treated as an "unexpired lease" under applicable bankruptcy law in such proceeding, then Tenant agrees that Tenant shall not attempt nor cause any trustee to attempt to extend the applicable time period within which this Lease must be assumed or rejected.



**5.2 Remedies.** If any Event of Default occurs, Landlord may at any time after such occurrence, with or without notice or demand except as stated in this paragraph, and without limiting Landlord in the exercise of any right or remedy at law which Landlord may have by reason of such Event of Default, exercise the rights and remedies, either singularly or in combination, as are specified or described in the subparagraphs of this paragraph.

**5.2.1** Landlord may terminate this Lease and all rights of Tenant under this Lease either immediately or at some later date by giving Tenant written notice that this Lease is terminated. If Landlord so terminates this Lease, then Landlord may recover from Tenant the sum of:

(a) the unpaid Base Rent, Additional Rent and all other sums payable under this Lease which have been earned at the time of termination;

(b) interest at the Default Rate on the unpaid Base Rent, Additional Rent and all other sums payable under this Lease which have been earned at the time of termination; plus

(c) the amount by which the unpaid Base Rent, Additional Rent and all other sums payable under this Lease which would have been earned after termination until the time of award exceeds the amount of such rental loss, if any, as Tenant affirmatively proves could have been reasonably avoided and interest on such excess at the Default Rate; plus

(d) the amount by which the aggregate of the unpaid Base Rent, Additional Rent and all other sums payable under this Lease for the balance of the Lease Term after the time of award exceeds the amount of such rental loss, if any, as Tenant affirmatively proves could be reasonably avoided, with such difference being discounted to present value at the Prime Rate at the time of award; plus

(e) any other amount necessary to compensate Landlord for the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which, in the ordinary course of things, would be likely to result from such failure, including, leasing commissions, tenant improvement costs, renovation costs and advertising costs; plus

(f) all such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

**5.2.2** Landlord shall also have the right, with or without terminating this Lease, to re-enter the Premises and remove all persons and property from the Premises. Landlord may cause property so removed from the Premises to be stored in a public warehouse or elsewhere at the expense and for the account of Tenant.

**5.2.3** Intentionally Omitted.

**5.2.4** If Tenant abandons or surrenders the Premises without Landlord's consent, or if Landlord re-enters the Premises as provided in subparagraph 5.2.2 or takes possession of the Premises pursuant to legal proceedings or through any notice procedure provided by law, then, if Landlord does not elect to terminate this Lease, Landlord may, from time to time, without terminating this Lease, either (a) recover all Base Rent, Additional Rent and all other sums payable under this Lease as they become due or (b) relet the Premises or any part of the Premises on behalf of Tenant for such term or terms, at such rent or rents and pursuant to such other provisions as Landlord, in its sole discretion, may deem advisable, all with the right, at Tenant's cost, to make alterations and repairs to the Premises and recover any deficiency from Tenant as set forth in subparagraph 5.2.6.

**5.2.5** None of the following remedial actions, singly or in combination, shall be construed as an election by Landlord to terminate this Lease unless Landlord has in fact given Tenant written notice that this Lease is terminated: (a) an act by Landlord to maintain or preserve the Premises; (b) any efforts by Landlord to relet the Premises; (c) any repairs or alterations made by Landlord to the Premises; (d) re-entry, repossession or reletting of the Premises by Landlord pursuant to this paragraph; or (e) the appointment of a receiver, upon the initiative of Landlord, to protect Landlord's interest under this Lease. If Landlord takes any of the foregoing remedial action without terminating this Lease, Landlord may nevertheless at any time after taking any such remedial action terminate this lease by written notice to Tenant.

**5.2.6** If Landlord relets the Premises, Landlord shall apply the revenue from such reletting as follows: first, to the payment of any indebtedness of Tenant to Landlord other than Base Rent, Additional Rent or any other sums payable by Tenant under this Lease; second, to the payment of any cost of reletting (including finders' fees and leasing commissions); third, to the payment of the cost of any alterations, improvements, maintenance and repairs to the Premises; and fourth, to the payment of Base Rent, Additional Rent and other sums due and payable and unpaid under this Lease. Landlord shall hold and apply the residue, if any, to payment of future Base Rent, Additional Rent and other sums payable

under this Lease as the same become due, and shall deliver the eventual balance, if any, to Tenant. Should revenue from letting during any month, after application pursuant to the foregoing provisions, be less than the sum of the Base Rent, Additional Rent and other sums payable under this Lease and Landlord's expenditures for the Premises during such month, Tenant shall be obligated to pay such deficiency to Landlord as and when such deficiency arises.

**5.2.7** Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies provided in this Lease or by law (all such remedies being cumulative), nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any Base Rent, Additional Rent or other sum payable under this Lease or of any damages accruing to Landlord by reason of the violation of any of the covenants or conditions contained in this Lease.

**5.3 Right to Perform**. If Tenant shall fail to pay any sum of money, other than Base Rent or Additional Rent, required to be paid by it under this Lease or shall fail to perform any other act on its part to be performed under this Lease, and such failure shall continue for fifteen (15) days after notice of such failure by Landlord, or such shorter time if reasonable under the circumstances, Landlord may, but shall not be obligated to, and without waiving or releasing Tenant from any obligations of Tenant, make such payment or perform such other act on Tenant's part to be made or performed as provided in this Lease. Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment of sums due under this paragraph as in the case of default by Tenant in the payment of Base Rent.

**5.4 Landlord's Default**. Landlord shall not be in default under this Lease unless Landlord fails to perform obligations required of Landlord within twenty (20) Business Days after written notice is delivered by Tenant to Landlord and to the holder of any mortgages or deeds of trust (collectively, "Lender") covering the Premises whose name and address shall have theretofore been furnished to Tenant in writing, specifying the obligation which Landlord has failed to perform; provided, however, that if the nature of Landlord's obligation is such that more than twenty (20) Business Days are required for performance, then Landlord shall not be in default if Landlord or Lender commences performance within such twenty (20) Business Day period and thereafter diligently prosecutes the same to completion. All obligations of Landlord hereunder shall be construed as covenants, not conditions. In the event of any default, breach or violation of Tenant's rights under this Lease by Landlord, Tenant's exclusive remedy shall be either an action for specific performance or an action for actual damages. Tenant hereby waives the benefit of any laws granting it the right to perform Landlord's obligation, a lien upon the property of Landlord and/or upon Rent due Landlord, or the right to terminate this Lease or withhold Rent on account of any landlord default.

## **SECTION 6: MISCELLANEOUS PROVISIONS**

**6.1 Notices**. Any notice, request, approval, consent or written communication required or permitted to be delivered under this Lease shall be: (a) in writing; (b) transmitted by personal delivery, express or courier service, United States Postal Service in the manner described below, or electronic means of transmitting written material; and (c) deemed to be delivered on the earlier of the date received or four (4) Business Days after having been deposited in the United States Postal Service, postage prepaid. Such writings shall be addressed to Landlord or Tenant, as the case may be, at the respective designated addresses set forth opposite their signatures, or at such other address(es) as they may, after the execution date of this lease, specify by written notice delivered in accordance with this paragraph, with copies to the persons at the addresses, if any, designated opposite each party's signature. Those notices which contain a notice of breach or default or a demand for performance may be sent by any of the methods described in clause (b) above, but if transmitted by personal delivery or electronic means, shall also be sent concurrently by certified or registered mail, return receipt requested.

**6.2 Attorney's Fees and Expenses**. In the event either party requires the services of an attorney in connection with enforcing the terms of this Lease, or in the event suit is brought for the recovery of Base Rent, Additional Rent or any other sums payable under this Lease or for the breach of any covenant or condition of this Lease, or for the restitution of the Premises to Landlord or the eviction of Tenant during the Lease Term or after the expiration or earlier termination of this Lease, the non-breaching party shall be entitled to a reasonable sum for attorney's and paralegal's fees, expenses and court costs, including those relating to any appeal.

**6.3 No Accord and Satisfaction.** No payment by Tenant or receipt by Landlord of an amount less than the Base Rent or Additional Rent or any other sum due and payable under this Lease shall be deemed to be other than a payment on account of the Base Rent, Additional Rent or other such sum, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, nor preclude Landlord's right to recover the balance of any amount payable or Landlord's right to pursue any other remedy provided in this Lease or at law.

**6.4 Successors; Joint and Several Liability.** Except as provided in the paragraph captioned "Limitation on Recourse" and subject to the paragraph captioned "Assignment and Subletting by Landlord", all of the covenants and conditions contained in this Lease shall apply to and be binding upon Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns. In the event that more than one person, partnership, company, corporation or other entity is included in the term "Tenant", then each such person, partnership, company, corporation or other entity shall be jointly and severally liable for all obligations of Tenant under this Lease.

**6.5 Choice of Law.** This Lease shall be construed and governed by the laws of the state in which the Land is located. Tenant consents to Landlord's choice of venue for any legal proceeding brought by Landlord or Tenant to enforce the terms of this Lease.

**6.6 No Waiver of Remedies.** The waiver by Landlord or Tenant of any covenant or condition contained in this Lease shall not be deemed to be a waiver of any subsequent breach of such covenant or condition nor shall any custom or practice which may develop between the parties in the administration of this Lease be construed to waive or lessen the rights of Landlord or Tenant to insist on the strict performance by Tenant or Landlord (as applicable) of all of the covenants and conditions of this Lease. No act or thing done by Landlord or Landlord's Agents during the Lease Term shall be deemed an acceptance or a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless made in writing and signed by Landlord. The mention in this Lease of any particular remedy shall not preclude Landlord from any other remedy it might have, either under this Lease or at law, nor shall the waiver of or redress for any violation of any covenant or condition in this Lease or in any of the rules or regulations attached to this Lease or later adopted by Landlord, prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of Base Rent, Additional Rent or any other sum payable under this Lease with knowledge of a breach of any covenant or condition in this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of the rules and regulations attached to this Lease or later adopted, against Tenant or any other tenant in the Building, shall not be deemed a waiver. Any waiver by Landlord must be in writing and signed by Landlord to be effective.

**6.7 Offer to Lease.** The submission of this Lease in a draft form to Tenant or its broker or other agent does not constitute an offer to Tenant to lease the Premises. This Lease shall have no force or effect until: (a) it is executed and delivered by Tenant to Landlord; and (b) it is executed and delivered by Landlord to Tenant.

**6.8 Force Majeure.** Except as to the obligation of Tenant to pay Base Rent, Additional Rent or other charges hereunder, in the event that Landlord or Tenant shall be delayed, hindered in or prevented from the performance of any act or obligation required under this Lease by reason of acts of God, strikes, lockouts, labor troubles or disputes, inability to procure or shortage of materials or labor, failure of power or utilities, delay in transportation, fire, vandalism, accident, flood, severe weather, other casualty, Governmental Requirements (including mandated changes in the Plans and Specifications or the Tenant Improvements resulting from changes in pertinent Governmental Requirements or interpretations thereof), riot, insurrection, civil commotion, sabotage, explosion, war, natural or local emergency, acts or omissions of others, including Tenant or Landlord (as applicable), or other reasons of a similar or dissimilar nature beyond a party's reasonable control ("Force Majeure") not solely the fault of, or under the exclusive control of, the non-performing party, then performance of such act or obligation shall be excused for the period of the delay and the period for the performance of any such act or obligation shall be extended for the period equivalent to the period of such delay. In no event shall the payment of money be excused by reason of Force Majeure.

**6.9 Landlord's Consent.** Unless otherwise provided in this Lease, whenever Landlord's consent, approval or other action is required under the terms of this Lease, such consent, approval or action shall be subject to Landlord's judgment or discretion exercised in good faith and shall be delivered in writing.

**6.10 Severability; Captions.** If any clause or provision of this Lease is determined to be illegal, invalid, or unenforceable under present or future laws, the remainder of this Lease shall not be affected by such determination, and in lieu of each clause or provision that is determined to be illegal, invalid or

unenforceable, there be added as a part of this Lease a clause or provision and similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable. Headings or captions in this Lease are added as a matter of convenience only and in no way define, limit or otherwise affect the construction or interpretation of this Lease.

**6.11 Interpretation.** Whenever a provision of this Lease uses the term (a) “include” or “including”, that term shall not be limiting but shall be construed as illustrative, (b) “covenant”, that term shall include any covenant, agreement, term or provision. (c) “at law”, that term shall mean as specified in any applicable statute, ordinance or regulation having the force of law or as determined at law or in equity, or both, and (d) “day”, that uncapitalized word shall mean a calendar day. This Lease shall be given a fair and reasonable interpretation of the words contained in it without any weight being given to whether a provision was drafted by one party or its counsel.

**6.12 Incorporation of Prior Agreement; Amendments.** This Lease contains all of the agreements of the parties to this Lease with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties to this Lease or their respective successors in interest.

**6.13 Authority.**

**6.13.1** If Tenant is a partnership, company, corporation or other entity, Tenant represents and warrants to Landlord that Tenant is duly authorized to so execute and deliver this Lease and that all partnership, company, corporation or other entity actions and consents required for execution of this Lease by Tenant have been given, granted or obtained. If Tenant is a partnership, company, corporation or other business organization, it shall, within ten (10) Business Days after demand by Landlord, deliver to Landlord satisfactory evidence of the due authorization of this Lease and the authority of the person executing this Lease on its behalf.

**6.13.2** Landlord represents and warrants to Tenant that Landlord is duly authorized to so execute and deliver this Lease and that all partnership, company, corporation or other entity actions and consents required for execution of this Lease by Landlord have been given, granted or obtained.

**6.14 Time of Essence.** Time is of the essence with respect to the performance of every covenant and condition of this Lease.

**6.15 Survival of Obligations.** Notwithstanding anything contained in this Lease to the contrary or the expiration or earlier termination of this Lease, any and all obligations of either party accruing prior to the expiration or termination of this Lease shall survive the expiration or earlier termination of this Lease, and either party shall promptly perform all such obligations whether or not this Lease has expired or terminated. Such obligations shall include any and all indemnity obligations set forth in this Lease.

**6.16 Consent to Service.** Tenant irrevocably consents to the service of process of any action or proceeding at the address of the Premises. Nothing in this paragraph shall affect the right to serve process in any other manner permitted by law.

**6.17 Landlord's Authorized Agents.** Notwithstanding anything contained in the Lease to the contrary, including without limitation, the definition of Landlord's Agents, only officers of Landlord, are authorized to amend, renew or terminate this Lease, or to compromise any of Landlord's claims under this Lease or to bind Landlord in any manner. Without limiting the effect of the previous sentence, no property manager or broker shall be considered an authorized agent of Landlord to amend, renew or terminate this Lease, to compromise any of Landlord's claims under this Lease or to bind Landlord in any manner.

**6.18 Waiver of Jury Trial.** Landlord and Tenant irrevocably waive the respective rights to trial by jury in any action, proceeding or counterclaim brought by either against the other (whether in contract or tort) on any matter arising out of or relating in any way to this Lease, the relationship of Landlord and Tenant or Tenant's use or occupancy of the Premises.

**6.19 Specially Designated National or Blocked Person.** Tenant hereby represents its compliance with all applicable anti-money laundering laws, including, without limitation, the USA Patriot Act, and the laws administered by the United States Treasury Department's Office of Foreign Assets Control, including, without limitation, Executive Order 13224. Tenant further represents (i) that it is not, and it is not owned or controlled directly or indirectly by any person or entity, on the Specially Designated Nationals (SDN) List published by the United States Treasury Department's Office of Foreign Assets Control and (ii) that it is not a person otherwise identified by government or legal authority as a person with whom a U.S. Person is prohibited from transacting business. As of the date hereof, a list of such designations and the text of Executive Order 13224 are published under the Internet address

www.ustreas.gov/offices/enforcement/ofac. Tenant covenants and agrees to deliver to Landlord any certification or other evidence requested from time to time by Landlord in its reasonable discretion, confirming Tenant’s compliance with this paragraph 6.19.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]**

IN WITNESS WHEREOF, this Lease has been executed the day and year first above set forth.

Designated Address for Landlord:

MEPT Burlington, LLC  
c/o Bentall Kennedy (U.S.) LP  
Attention: Executive Vice President - Asset Management  
12.15 Fourth Ave., Suite 2400  
Seattle, WA 98161  
Facsimile (206) 682-4769

with copies to:

MEPT Burlington, LLC  
c/o Bentall Kennedy (U.S.) LP  
Attn: Senior Vice President - Asset Management  
7315 Wisconsin Avenue, Suite 350 West  
Bethesda, MD 20814  
Facsimile: (301) 656-9339

and

MEPT Burlington, LLC  
c/o New Tower Trust Company  
Attn: President/MEPT  
or Patrick O. Mayberry  
Three Bethesda Metro Center  
Suite 1600  
Bethesda, MD 20814  
Facsimile: (240) 235-9961

with a copy to Manager at:

CB Richard Ellis — N.E. Partners, LP  
25 Corporate Drive  
Burlington, Massachusetts 01803  
Facsimile: (781) 272-6226

Designated Address for Tenant:

Prior to the Commencement Date:

Acquia, Inc.  
150 Presidential Way, Suite 310  
Woburn, MA 01801  
Attention: Michael Kerr, CFO  
Facsimile: 781 935 9113

From and After the Commencement Date

Acquia, Inc.  
25 Corporate Drive, Suite 400  
Burlington, M.A 01803  
Attention: Michael Kerr, CFO  
Facsimile: 781 935 9113

LANDLORD:

MEPT Burlington, LLC, a Delaware limited liability company

By: MEPT Edgemoor REIT, LLC, its Manager

By: Bentall Kennedy (U.S.) LP, its Authorized Signatory

By: Bentall Kennedy (U.S.) G.P. LLC, its  
General Partner

By: /s/ Jeanette R. Flory

Name: Jeanette R. Flory

Its: Senior Vice President 6/15/11

TENANT:

Acquia Inc., a Delaware corporation

By: /s/ Thomas Erickson

Name: Thomas Erickson

Its: CEO

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With a copy in either instance to:

Langer & McLaughlin, LLP  
855 Boylston Street, 6th Floor  
Boston, MA 02116  
Attention: Douglas McLaughlin, Esq.  
Fax: 617-536-9040

LANDLORD ACKNOWLEDGEMENT

)  
) ss.  
)

On this 15<sup>th</sup> day of June, 2011, before me personally appeared Jeanette R. Flory, to me known to be a SVP of Bentall Kennedy (U.S.) G.P. LLC, a Washington limited liability company, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company as General Partner of Bentall Kennedy (U.S.) LP, as aforesaid, for the uses and purposes therein mentioned, and on oath stated that she (he or she) was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

/s/ Norman Hawkins

Name: Norman Hawkins

NOTARY PUBLIC in and for the State of Maryland residing at  
Washington, DC. My appointment expires: August 24, 2014.

[NOTARIAL SEAL]

TENANT ACKNOWLEDGEMENT

)  
) ss.  
)

On this 8<sup>th</sup> day of June, 2011, before me, a Notary Public in and for the of Thomas Erickson, personally appeared to me the CEO of Acquia, Inc., the Delaware corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that s/he/they was/were authorized to execute said instrument

WITNESS my hand and official sea hereto affixed the day and year first as above written.

/s/ Sharon Darwin

Name: Sharon Darwin

NOTARY PUBLIC in and for the State of MA, residing at  
Haverhill, MA. My appointment expires: 11/24/17.

[NOTARIAL SEAL]



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EXHIBIT A to Lease

Intentionally Omitted

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**Exhibit B**

“Plan of Subleased Premises”

DRAWING SHOWING LOCATION  
PREMISES



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**Exhibit C**

**FURNITURE**

## Exhibit A: Furniture & Equipment List

New Subtenant will take ownership or use of the following furniture and Equipment now located at 25 Corporate Drive, 4th Floor premises;

- all office furniture (including, freestanding desk and chairs, whiteboards, side chairs, casual sitting furniture, all furniture in the round phone rooms, all conference room tables, chairs and credenzas and any “mounted” TVs and projectors, all installed or connected video conference equipment, *(excluding MacMini & Google Chrome Devices)*)
- all lobby furniture, reception desk, chairs, all mobile/wheeled desks and chairs behind the reception area, all small break room appliances (refrigerator, microwave, dishwashers)
- all racks and patch panels in the Corp IT telco/data room, the Corp IT 1/2 rack mounted to wall and associated patch panels in copy area
- the Physical security card access system and cards used to secure the Acquia office (ties into building security system)
- all kitchen appliances in large cafe/kitchen area including standard refrigerator, coffee makers, 2 x sliding door refrigerators for beverages, etc.) – converted to Everbridge responsibility lease or otherwise *(if possible)*
- the transfer of lease options on any leased equipment and services (but please provide an itemized list of all printer and copiers you wish to leave) — *If possible*
- all kitchen area tables, chairs couches, TVs mounted to walls
- all training room 1/2 rack and audio/visual system in training room, control panel, microphones, etc.
- all training room tables and chairs
- Excludes telephone system (handsets, control box, conference room telephones)

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2008

EQUITY INCENTIVE PLAN

OF

EVERBRIDGE, INC.

Adopted March 12, 2008

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2008 EQUITY INCENTIVE PLAN

ADOPTED BY THE BOARD: MARCH 12, 2008  
APPROVED BY THE STOCKHOLDERS: MAY 12, 2008  
TERMINATION DATE: MARCH 12, 2018

1. **GENERAL.**

(a) **Purposes.** The purposes of the Plan are as follows:

(i) To provide additional incentive for selected Employees, Directors and Consultants to further the growth, development and financial success of the Company by providing a means by which such persons can personally benefit through the ownership of capital stock of the Company; and

(ii) To enable the Company to secure and retain key Employees, Directors and Consultants considered important to the long-term success of the Company by offering such persons an opportunity to own capital stock of the Company.

(b) **Eligible Stock Award Recipients.** The persons eligible to receive Stock Awards under the Plan are the Employees, Directors and Consultants of the Company and its Affiliates.

(c) **Available Stock Awards.** The following Stock Awards are available under the Plan: (i) Incentive Stock Options; (ii) Nonstatutory Stock Options; (iii) stock bonuses; and (iv) rights to acquire restricted stock.

2. **DEFINITIONS.**

(a) **"Affiliate"** means:

(i) with respect to Incentive Stock Options, any "parent corporation" or "subsidiary corporation" of the Company, whether now existing or hereafter created or acquired, as those terms are defined in Sections 424(e) and 424(f) of the Code, respectively; and

(ii) with respect to Stock Awards other than Incentive Stock Options, any entity described in paragraph (a) of this Section 2(a), plus any other corporation, limited liability company, partnership or joint venture, whether now existing or hereafter created or acquired, with respect to which the Company beneficially owns more than fifty percent (50%) of: (1) the total combined voting power of all outstanding voting securities or (2) the capital or profits interests of a limited liability company, partnership or joint venture.

(b) **"Award Shares"** means the shares of Common Stock of the Company issued or issuable pursuant to a Stock Award, including Option Shares issued or issuable pursuant to an Option.

(c) **"Board"** means the Board of Directors of the Company.



**(d) “Change in Control”** shall mean:

(i) The direct or indirect sale or transfer, in a single transaction or a series of related transactions, by the stockholders of the Company of voting securities, in which the holders of the outstanding voting securities of the Company immediately prior to such transaction or series of transactions hold, as a result of holding Company securities prior to such transaction, in the aggregate, securities possessing less than twenty percent (20%) of the total combined voting power of all outstanding voting securities of the Company or of the acquiring entity immediately after such transaction or series of related transactions;

(ii) A merger or consolidation in which the Company is not the surviving entity, except for a transaction in which the holders of the outstanding voting securities of the Company immediately prior to such merger or consolidation hold as a result of holding Company securities prior to such transaction, in the aggregate, securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the surviving entity (or the parent of the surviving entity) immediately after such merger or consolidation;

(iii) A reverse merger in which the Company is the surviving entity but in which the holders of the outstanding voting securities of the Company immediately prior to such merger hold as a result of holding Company securities prior to such transaction, in the aggregate, securities possessing less than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the Company or of the acquiring entity immediately after such merger; or

(iv) The sale, transfer or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company, except for a transaction in which the holders of the outstanding voting securities of the Company immediately prior to such transaction(s) receive as a distribution with respect to securities of the Company, in the aggregate, securities possessing more than fifty percent (50%) of the total combined voting power of all outstanding voting securities of the acquiring entity immediately after such transaction(s).

**(e) “Code”** means the Internal Revenue Code of 1986, as amended.

**(f) “Committee”** means a committee appointed by the Board in accordance with Section 3(c).

**(g) “Common Stock”** means the shares of common stock of the Company.

**(h) “Company”** means Everbridge, Inc., a Delaware corporation.

**(i) “Consultant”** means any natural person, including an advisor, engaged by the Company or an Affiliate to render bona fide services and who is providing such services at the time a Stock Award is granted; provided that the term “Consultant” shall not include a person who provides services in connection with the offer and sale of securities in a capital-raising transaction or in connection with promoting or maintaining a market for the Company’s securities.

(j) **“Director”** means a member of the Board.

(k) **“Disability”** means total and permanent disability as defined in Section 22(e)(3) of the Code and as interpreted by the Board in each case.

(l) **“Employee”** means a regular employee of the Company or an Affiliate, including an Officer or Director, who is treated as an employee in the personnel records of the Company or an Affiliate, but not individuals who are classified by the Company or an Affiliate as: (i) leased from or otherwise employed by a third party, (ii) independent contractors, or (iii) intermittent or temporary workers. The Company’s or an Affiliate’s classification of an individual as an “Employee” (or as not an “Employee”) for purposes of this Plan shall not be altered retroactively even if that classification is changed retroactively for another purpose as a result of an audit, litigation or otherwise. Neither service as a Director nor receipt of a director’s fee shall be sufficient to make a Director an “Employee.”

(m) **“Fair Market Value”** means, as of any date, the value of the Common Stock of the Company determined as follows:

(i) If the Common Stock is then listed or admitted to trading on a Nasdaq market system or a stock exchange which reports closing sale prices, the Fair Market Value shall be the closing sale price on the date of valuation on such Nasdaq market system or principal stock exchange on which the Common Stock is then listed or admitted to trading, or, if no closing sale price is quoted on such day, then the Fair Market Value shall be the closing sale price of the Common Stock on such Nasdaq market system or such exchange on the next preceding day for which a closing sale price is reported;

(ii) If the Common Stock is not then listed or admitted to trading on a Nasdaq market system or a stock exchange which reports closing sale prices, the Fair Market Value shall be the average of the closing bid and asked prices of the Common Stock in the over-the-counter market on the date of valuation; or

(iii) If neither (i) nor (ii) is applicable as of the date of valuation, then the Fair Market Value shall be determined by the Board in good faith using any reasonable method of valuation, which determination shall be conclusive and binding on all interested parties.

(n) **“Incentive Stock Option”** means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code and the regulations promulgated thereunder.

(o) **“Nonstatutory Stock Option”** means an Option not intended to qualify as an Incentive Stock Option.

(p) **“Officer”** means any person designated by the Board as an officer.

(q) **“Option”** means a stock option granted pursuant to the Plan.

(r) **“Option Agreement”** means a written agreement between the Company and an Optionee evidencing the terms and conditions of an individual Option grant. Each Option Agreement shall be subject to the terms and conditions of the Plan and any rules and regulations adopted by the Board and incorporated therein.

(s) **“Optionee”** means the Participant to whom an Option is granted or, if applicable, such other person who holds an outstanding Option.

(t) **“Option Shares”** means the shares of Common Stock of the Company issued or issuable pursuant to the exercise of an Option.

(u) **“Participant”** means an Optionee or any other person to whom a Stock Award is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Stock Award.

(v) **“Plan”** means this 2008 Equity Incentive Plan.

(w) **“Securities Act”** means the Securities Act of 1933, as amended.

(x) **“Stock Award”** means any right granted under the Plan, including an Option, a stock bonus and a right to acquire restricted stock.

(y) **“Stock Award Agreement”** means a written agreement, including an Option Agreement, between the Company and a holder of a Stock Award evidencing the terms and conditions of an individual Stock Award grant. Each Stock Award Agreement shall be subject to the terms and conditions of the Plan and any additional rules and regulations adopted by the Board and incorporated therein.

(z) **“Ten Percent Stockholder”** means a person who owns (or is deemed to own pursuant to Section 424(d) of the Code) stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any of its Affiliates.

(aa) **“Termination of Service”** means:

(i) With respect to Stock Awards granted to a Participant in his or her capacity as an Employee, the time when the employer-employee relationship between the Participant and the Company (or an Affiliate) is terminated for any reason, including, without limitation a termination by resignation, discharge, death or retirement;

(ii) With respect to Stock Awards granted to a Participant in his or her capacity as a Director, the time when the Participant ceases to be a Director for any reason, including without limitation a cessation by resignation, removal, failure to be reelected, death or retirement, but excluding cessations where there is a simultaneous or continuing employment of the former Director by the Company (or an Affiliate) and the Board expressly deems such cessation not to be a Termination of Service;

(iii) With respect to Stock Awards granted to a Participant in his or her capacity as a Consultant, the time when the contractual relationship between the Participant and the Company (or an Affiliate) is terminated for any reason; and

(iv) With respect to Stock Awards granted to a Participant in his or her capacity as an Employee, Director or Consultant of an Affiliate, when such entity ceases to qualify as an Affiliate under this Plan, unless earlier terminated as set forth above.

Except as otherwise herein set forth, the Board, in its absolute discretion, shall determine the effect of all other matters and issues relating to a Termination of Service.

### **3. ADMINISTRATION.**

**(a) Administration by Board.** The Plan shall be administered by the Board unless and until the Board delegates administration to a Committee or an Officer, as provided in Section 3(c) and/or Section 3(d), respectively, below.

**(b) Powers of the Board.** The Board shall have the power, except as otherwise provided in the Plan:

(i) To determine from time to time (A) which of the persons eligible under the Plan shall be granted Stock Awards; (B) when and how the Stock Awards shall be granted; (C) what type or combination of types of Stock Awards will be granted; (D) the terms and conditions of each Stock Award granted (which need not be identical), including, without limitation, the transferability or repurchase of such Stock Awards or Award Shares issuable thereunder, as applicable, and the circumstances under which Stock Awards become exercisable or vested or are forfeited or expire, which terms may but need not be conditioned upon the passage of time, continued employment, the satisfaction of performance criteria, the occurrence of certain events, or other factors; and (E) the number of Award Shares subject to a Stock Award that shall be granted to a Participant.

(ii) To construe and interpret the Plan and Stock Awards granted under it, and to make exceptions to any such provisions in good faith and for the benefit of the Company, and to establish, amend and revoke rules and regulations for the Plan's administration. The Board, in the exercise of its power, may correct any defect, omission or inconsistency in the Plan or in any Stock Award Agreement in a manner and to the extent it shall deem necessary or expedient to make the Plan fully effective.

(iii) To settle all controversies regarding the Plan and Stock Awards granted under it.

(iv) To accelerate the time at which a Stock Award may first be exercised or the time during which a Stock Award or any part thereof will vest in accordance with the Plan, notwithstanding the provisions in the Stock Award stating the time at which it may first be exercised or the time during which it will vest.

(v) To suspend or terminate the Plan at any time. Suspension or termination of the Plan shall not impair rights and obligations under any Stock Award granted while the Plan is in effect except with the written consent of the affected Participant.

(vi) To submit any amendment to the Plan for stockholder approval.

(vii) To amend the Plan in any respect the Board deems necessary or advisable to provide eligible Employees with the maximum benefits provided or to be provided under the provisions of the Code and the regulations promulgated thereunder relating to Incentive Stock Options or to bring the Plan or Incentive Stock Options granted under it into compliance therewith.

(viii) To amend the terms of any one or more Stock Awards, including, but not limited to, amendments to provide terms more favorable than previously provided in the Stock Award Agreement, subject to any specified limits in the Plan that are not subject to Board discretion; *provided, however*, that the rights under any Stock Award shall not be impaired by any such amendment unless (a) the Company requests the consent of the affected Participant, and (b) such Participant consents in writing. Notwithstanding the foregoing, subject to the limitations of applicable law, if any, and without the affected Participant's consent, the Board may amend the terms of any one or more Stock Awards if necessary to maintain the qualified status of the Stock Award as an Incentive Stock Option or to bring the Stock Award into compliance with Section 409A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder.

(ix) To amend the Plan as provided in Section 15.

(x) To prescribe and amend the terms of the agreements or other documents evidencing Stock Awards made under this Plan (which need not be identical).

(xi) To place such restrictions on the sale or other disposition of Award Shares as may be deemed appropriate by the Board.

(xii) To determine whether, and the extent to which, adjustments are required pursuant to Section 10.

(xiii) Generally, to exercise such powers and to perform such acts as the Board deems necessary or expedient to promote the best interests of the Company.

**(c) Delegation to a Committee.** The Board may delegate administration of the Plan to a committee of the Board composed of not fewer than two (2) members (the "Committee"). If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board (and references in the Plan to the Board shall thereafter be deemed to be references to the Committee), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and revert in the Board the administration of the Plan.

**(d) Delegation to an Officer.** The Board may delegate to one or more Officers of the Company the authority to do one or both of the following (i) designate Employees who are not Officers to be recipients of Stock Awards and the terms thereof, and (ii) determine the number of shares of Common Stock to be subject to Stock Awards granted to such Employees; *provided, however*, that the Board resolutions regarding such delegation shall specify the total number of shares of Common Stock that may be subject to the Stock Awards granted by such Officer and that such Officer may not grant a Stock Award to himself or herself. Notwithstanding anything to the contrary in this Section 3(d), the Board may not delegate to an Officer authority to determine the Fair Market Value of the Common Stock as herein contemplated.

**(e) Effect of Change in Status.** The Board shall have the absolute discretion to determine the effect upon a Stock Award, and upon an individual's status as an Employee, Consultant or Director under the Plan, including whether a Participant shall be deemed to have experienced a Termination of Service or other change in status, and upon the vesting, expiration or forfeiture of a Stock Award or Award Shares issuable in respect thereof, in the case of (i) a Termination of Service for Cause, (ii) any leave of absence approved by the Company or an Affiliate, (iii) any transfer between the Company and any Affiliate or between any Affiliates, (iii) any change in the Participant's status from an Employee to a Consultant or member of the Board of Directors, or vice versa, and (v) any Employee who becomes employed by any partnership, joint venture, corporation or other entity not meeting the requirements of an Affiliate.

**(f) Determinations of the Board.** All decisions, determinations and interpretations by the Board regarding this Plan shall be final and binding on all Participants or other persons claiming rights under the Plan or any Stock Award. The Board shall consider such factors as it deems relevant to making such decisions, determinations and interpretations including, without limitation, the recommendations or advice of any Director, Officer or Employee of the Company and such attorneys, consultants and accountants as it may select. A Participant or other holder of a Stock Award may contest a decision or action by the Board with respect to such person or Stock Award only on the grounds that such decision or action was arbitrary or capricious or was unlawful, and any review of such decision or action shall be limited to determining whether the Board's decision or action was arbitrary or capricious or was unlawful.

**(g) Arbitration.** Any dispute or claim concerning any Stock Awards granted (or not granted) pursuant to the Plan or any disputes or claims relating to or arising out of the Plan shall be fully, finally and exclusively resolved by binding and confidential arbitration conducted pursuant to the rules of Judicial Arbitration and Mediation Services, Inc. ("JAMS") in the County of Los Angeles, California. In addition to any other relief, the arbitrator may award to the prevailing party recovery of its attorneys' fees and costs. By accepting a Stock Award, Participants and the Company waive their respective rights to have any such disputes or claims tried by a judge or jury.

#### **4. SHARES SUBJECT TO THE PLAN.**

Subject to the provisions of Section 10 relating to adjustments upon changes in stock, the Award Shares that may be issued pursuant to Stock Awards shall not exceed in the aggregate Eight Million Four Hundred Sixty-Five Thousand Five Hundred (8,465,500) shares of the

Company's Common Stock. Of such amount, Eight Million Four Hundred Sixty-Five Thousand Five Hundred (8,465,500) Award Shares may be issued pursuant to Incentive Stock Options. In the event that (a) all or any portion of any Stock Award granted or offered under the Plan can no longer under any circumstances be exercised or otherwise become vested, or (b) any Award Shares are reacquired by the Company which were initially the subject of a Stock Award Agreement, the Award Shares allocable to the unexercised or unvested portion of such Stock Award, or the Award Shares so reacquired, shall again be available for grant or issuance under the Plan.

**5. ELIGIBILITY.**

**(a) General.** Incentive Stock Options may be granted only to Employees; all other Stock Awards may be granted only to Employees, Directors and Consultants. In the event a Participant is both an Employee and a Director, or a Participant is both a Director and a Consultant, the Stock Award Agreement shall specify the capacity in which the Participant is granted the Stock Award; *provided, however*, if the Stock Award Agreement is silent as to such capacity, the Stock Award shall be deemed to be granted to the Participant as an Employee or as a Consultant, as applicable.

**(b) Ten Percent Stockholders.** A Ten Percent Stockholder shall not be granted an Incentive Stock Option unless the exercise price of such Option is at least one hundred ten percent (110%) of the Fair Market Value of the Common Stock at the date of grant and the Option is not exercisable after the expiration of five (5) years from the date of grant.

**(c) Consultants.** A Consultant shall not be eligible for the grant of a Stock Award if, at the time of grant, either the offer or the sale of the Company's securities to such Consultant is not exempt under Rule 701 of the Securities Act ("Rule 701") because of the nature of the services that the Consultant is providing to the Company, because the Consultant is not a natural person, or because of any other provision of Rule 701, unless the Company determines that such grant need not comply with the requirements of Rule 701 and will satisfy another exemption under the Securities Act as well as comply with the securities laws of all other relevant jurisdictions.

**6. OPTION AGREEMENT PROVISIONS.**

Each Option shall be granted pursuant to a written Option Agreement, signed by an Officer of the Company and by the Optionee, which shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate. The provisions of separate Option Agreements need not be identical, but each Option Agreement shall include (through incorporation of the provisions hereof by reference in the Option Agreement or otherwise) the substance of each of the following provisions (except to the extent that any such provision indicates it is permissible rather than mandatory):

**(a) Term.** No Incentive Stock Option shall be exercisable after the expiration of ten (10) years from the date of its grant or such shorter period specified in the Option Agreement; *provided, however*, that an Incentive Stock Option granted to a Ten Percent Stockholder shall be subject to the provisions of Section 5(b).

**(b) Exercise Price of an Option.** Subject to the provisions of Section 5(b) regarding Incentive Stock Options granted to Ten Percent Stockholders, the exercise price of each Incentive Stock Option shall be not less than the Fair Market Value of the Common Stock subject to the Option on the date the Option is granted. The Board shall determine the exercise price of each Nonstatutory Stock Option. Notwithstanding the foregoing, an Incentive Stock Option may be granted with an exercise price lower than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Option if such Incentive Stock Option is granted pursuant to an assumption of or substitution for another option in a manner consistent with the provisions of Section 424(a) of the Code.

**(c) Consideration.** The purchase price of Common Stock acquired pursuant to the exercise of an Option shall be paid, to the extent permitted by applicable law and as determined by the Board in its sole discretion, by any combination of the methods of payment set forth below. The Board shall have the authority to grant Options that do not permit all of the following methods of payment (or otherwise restrict the ability to use certain methods) and to grant Options that require the consent of the Company to utilize a particular method of payment. The methods of payment permitted by this Section 6(c) are:

(i) by cash or check;

(ii) pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of Common Stock, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds;

(iii) by delivery to the Company (either by actual delivery or attestation) of shares of Common Stock;

(iv) by a “net exercise” arrangement pursuant to which the Company will reduce the number of shares of Common Stock issued upon exercise by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price; *provided, however*, that the Company shall accept a cash or other payment from the Participant to the extent of any remaining balance of the aggregate exercise price not satisfied by such reduction in the number of whole shares to be issued; *provided, further, however*, that shares of Common Stock will no longer be outstanding under an Option and will not be exercisable thereafter to the extent that (A) shares are used to pay the exercise price pursuant to the “net exercise,” (B) shares are delivered to the Participant as a result of such exercise, and (C) shares are withheld to satisfy tax withholding obligations; or

(v) in any other form of legal consideration that may be acceptable to the Board.

**(d) Transferability.** The following restrictions on the transferability of Options shall apply:

(i) **Restrictions on Transfer.** An Option shall not be transferable except by will or by the laws of descent and distribution and shall be exercisable during the lifetime of the



Optionee only by the Optionee; provided, however, that the Board may, in its sole discretion, permit transfer of the Option to a revocable trust or as otherwise permitted by Rule 701 of the Securities Act. Notwithstanding the foregoing, however, an Incentive Stock Option shall not be transferable other than by will or the laws of descent and distribution, and shall be exercisable only by the Optionee during the Optionee's lifetime, except as otherwise permitted by the Board and by Sections 421, 422 and 424 of the Code and the regulations and other guidance thereunder.

(ii) **Domestic Relations Orders.** Notwithstanding the foregoing, an Option may be transferred pursuant to a domestic relations order; *provided*, however, that if an Option is an Incentive Stock Option, such Option shall be deemed to be a Nonstatutory Stock Option as a result of such transfer.

(iii) **Beneficiary Designation.** Notwithstanding the foregoing, the Optionee may, by delivering written notice to the Company, in a form provided by or otherwise satisfactory to the Company, designate a third party who, in the event of the death of the Optionee, shall thereafter be the beneficiary of an Option with the right to exercise the Option and receive the Common Stock or other consideration resulting from an Option exercise. In the absence of such a designation, the executor or administrator of the Optionee's estate shall be entitled to exercise the Option and receive the Common Stock or other consideration resulting from an Option exercise.

(e) **Vesting.** Each Option shall vest and become exercisable in one or more installments, at such time or times and subject to such conditions, including without limitation the achievement of specified performance goals or objectives established with respect to one or more performance criteria, as shall be determined by the Board.

(f) **Termination of Service.** In the event of the Termination of Service of an Optionee for any reason (other than for "Cause," as defined in a Stock Option Agreement, or upon the Optionee's death or Disability), the Optionee may exercise his or her Option, but only within such period of time as is set forth in the Option Agreement (and in no event later than the expiration of the term of such Option as set forth in the Option Agreement). In the case of an Incentive Stock Option, such exercise period provided in the Option Agreement shall not exceed three (3) months from the date of termination.

(g) **Disability of Optionee.** In the event of a Termination of Service of an Optionee as a result of the Optionee's Disability, the Optionee may exercise his or her Option within the period specified in the Option Agreement (in no event to exceed twelve (12) months from the date of such termination in the case of an Incentive Stock Option), and only to the extent that the Optionee was entitled to exercise the Option at the date of such termination (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement).

(h) **Death of Optionee.** In the event that (i) an Optionee's Termination of Service occurs as a result of the Optionee's death, or (ii) an Optionee dies within the period (if any) specified in the Option Agreement after the Optionee's Termination of Service for a reason other than death, then, notwithstanding Section 6(f) above, the Option may be exercised (to the extent the Optionee was entitled to exercise such Option as of the date of death) by the Optionee's estate, by a person who acquired the right to exercise the Option by bequest or inheritance or by

a person designated to exercise the option upon the Optionee's death, but only within the period ending on the earlier of (i) the date that is twelve (12) months after the date of Termination of Service, or (ii) the expiration of the term of such Option as set forth in the Option Agreement.

**(i) Termination for Cause.** In the event of the Termination of Service of an Optionee for Cause, except as otherwise determined by the Board in the specific situation, all Options granted to such Optionee shall expire as set forth in the Stock Option Agreement.

**(j) Extension of Termination Date.** An Optionee's Option Agreement may provide that if the exercise of the Option following an Optionee's Termination of Service (other than for Cause or upon the Optionee's death or Disability) would be prohibited at any time solely because the issuance of shares of Common Stock would violate the registration requirements under the Securities Act, then the Option shall terminate on the earlier of (i) the expiration of a period of three (3) months after the termination of the Optionee's Continuous Service during which the exercise of the Option would not be in violation of such registration requirements, or (ii) the expiration of the term of the Option as set forth in the Option Agreement.

**(k) Non-Exempt Employees.** No Option granted to an Employee that is a non-exempt employee for purposes of the Fair Labor Standards Act of 1938, as amended, shall be first exercisable for any shares of Common Stock until at least six months following the date of grant of the Option. The foregoing provision is intended to operate so that any income derived by a non-exempt employee in connection with the exercise or vesting of an Option will be exempt from his or her regular rate of pay.

**(l) Early Exercise.** The Option may, but need not, include a provision whereby the Optionee may elect at any time prior to a Termination of Service to exercise the Option as to any part or all of the Option Shares prior to the full vesting of the Option. Any unvested Option Shares so purchased may be subject to an unvested share repurchase option in favor of the Company or to any other restriction the Board determines to be appropriate.

**(m) Right of Repurchase.** The Option Agreement may, but need not, include a provision whereby the Company may elect to repurchase all or any part of the vested shares of Common Stock acquired by the Optionee pursuant to the exercise of the Option.

**(n) Right of First Refusal.** The Option Agreement may, but need not, include a provision whereby the Company may elect to exercise a right of first refusal following receipt of notice from the Optionee of the intent to transfer all or any part of the shares of Common Stock received upon the exercise of the Option.

## **7. PROVISIONS OF STOCK AWARDS OTHER THAN OPTIONS.**

**(a) Stock Bonus Awards.** Each stock bonus agreement shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate. The terms and conditions of stock bonus agreements may change from time to time, and the terms and conditions of separate stock bonus agreements need not be identical, but each stock bonus agreement shall include (through incorporation of provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions (except to the extent that any such provision indicates it is permissible rather than mandatory):

**(i) Consideration.** A stock bonus may be awarded in consideration for past services actually rendered to the Company or an Affiliate for its benefit, provided that the Participant remains eligible to receive Stock Awards hereunder at the time of the award.

(ii) **Vesting.** Award Shares issued pursuant to a stock bonus agreement may, but need not, be subject to a share repurchase option in favor of the Company in accordance with a vesting schedule to be determined by the Board.

(iii) **Termination of Service.** In the event of a Termination of Service, the Company may reacquire any or all of the Award Shares held by the Participant which have or have not vested as of the date of termination under the terms of the stock bonus agreement.

(iv) **Transferability.** Unless otherwise determined by the Board, rights to acquire Award Shares under the stock bonus agreement shall not be transferable except by will or by the laws of descent and distribution, or, to the extent permitted by the Board, to a revocable trust or as otherwise permitted by Rule 701 of the Securities Act.

**(b) Restricted Stock Purchase Awards.** Each restricted stock purchase agreement shall be in such form and shall contain such terms and conditions as the Board shall deem appropriate. The terms and conditions of the restricted stock purchase agreements may change from time to time, and the terms and conditions of separate restricted stock purchase agreements need not be identical, but each restricted stock purchase agreement shall include (through incorporation of provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions (except to the extent that any such provision indicates it is permissible rather than mandatory):

(i) **Purchase Price.** The purchase price under each restricted stock purchase agreement shall be such amount as the Board shall determine and designate in such restricted stock purchase agreement, including no consideration or such minimum consideration as may be required by applicable law.

(ii) **Consideration.** The purchase price of Common Stock acquired pursuant to the restricted stock purchase agreement, if any, shall be paid either: (a) in cash at the time of purchase; (b) at the discretion of the Board, according to a deferred payment or other similar arrangement with the Participant; or (c) in any other form of legal consideration that may be acceptable to the Board in its discretion.

(iii) **Vesting.** Award Shares acquired under the restricted stock purchase agreement may, but need not, be subject to a share repurchase option in favor of the Company in accordance with a vesting schedule to be determined by the Board.

(iv) **Termination of Service.** In the event of a Participant's Termination of Service, the Company may repurchase or otherwise reacquire any or all of the Award Shares held by the Participant which have or have not vested as of the date of termination under the terms of the restricted stock purchase agreement.

(v) **Transferability.** Unless otherwise determined by the Board, rights to acquire Award Shares under the restricted stock purchase agreement shall not be transferable except by will, by the laws of descent and distribution, or, to the extent permitted by the Board, to a revocable trust or as otherwise permitted by Rule 701 of the Securities Act.

**8. COVENANTS OF THE COMPANY.**

**(a) Availability of Shares.** During the terms of the Stock Awards, the Company shall keep available at all times the number of shares of Common Stock required to satisfy such Stock Awards.

**(b) Compliance with Laws and Regulations.** This Plan, the grant and exercise of Stock Awards thereunder, and the obligation of the Company to sell, issue or deliver Award Shares under such Stock Awards, shall be subject to all applicable federal, state and local laws, rules and regulations and to such approvals by any governmental or regulatory agency as may be required. The Company shall not be required to register in a Participant's name or deliver any Award Shares prior to the completion of any registration or qualification of such Shares under any federal, state or local law or any ruling or regulation of any government body which the Board shall determine to be necessary or advisable. To the extent the Company is unable to or the Board deems it infeasible to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary or advisable for the lawful issuance and sale of any Award Shares hereunder, the Company shall be relieved of any liability with respect to the failure to issue or sell such Award Shares as to which such requisite authority shall not have been obtained. No Option shall be exercisable and no Award Shares shall be issued and/or transferable under any other Stock Award unless a registration statement with respect to the Award Shares underlying such Stock Award is effective and current or the Company has determined that such registration is unnecessary.

**9. USE OF PROCEEDS.**

Proceeds from the sale of Award Shares shall constitute general funds of the Company and shall be used for general operating capital of the Company.

**10. ADJUSTMENTS UPON CHANGE IN COMMON STOCK.**

If any change is made in the Common Stock subject to the Plan or subject to any Stock Award without the receipt of consideration by the Company (through merger, consolidation, reorganization, recapitalization, reclassification, stock dividend, dividend in property other than cash, stock split, reverse stock split, liquidating dividend, exchange of shares, change in corporate structure or other distribution of the Company's equity securities), the Plan and all outstanding Stock Awards will be appropriately adjusted in the class and maximum number of shares subject to the Plan and the class and number of shares and price per share of Common Stock subject to outstanding Stock Awards. Such adjustment shall be made by the Board, the determination of which shall be final, binding and conclusive.

**11. ADJUSTMENTS UPON CHANGE IN CONTROL.**

(a) The Board shall have the discretion to provide in each Stock Award Agreement the terms and conditions that relate to (i) vesting of such Stock Award in the event of a Change in Control, and (ii) assumption of such Stock Award Agreements or issuance of comparable securities under an incentive program in the event of a Change in Control. The aforementioned terms and conditions may vary in each Stock Award Agreement.

(b) If the terms of an outstanding Option Agreement provide for accelerated vesting in the event of a Change in Control, or to the extent that an Option is vested and not yet exercised, the Board in its discretion may provide, in connection with the Change in Control transaction, for the purchase or exchange of each Option for an amount of cash or other property having a value equal to the difference (or “spread”) between: (x) the value of the cash or other property that the Optionee would have received pursuant to the Change in Control transaction in exchange for the vested Option Shares issuable upon exercise of the Option had the Option been exercised immediately prior to the Change in Control, and (y) the aggregate exercise price of the vested Option Shares. If in such case the aggregate exercise price of the vested Option Shares is greater than or equal to the value of the cash or other property that the Optionee would have received pursuant to the Change in Control transaction in exchange for the vested Option Shares had the Option been exercised immediately prior to the Change in Control, then the Option shall be cancelled and Optionee shall receive no payment for such Option Shares. Upon such purchase, exchange or cancellation, the Option shall be terminated and Optionee shall have no further rights with respect to such Option.

(c) Outstanding Options shall terminate and cease to be exercisable upon consummation of a Change in Control except to the extent that the Options are assumed by the successor entity (or parent thereof) pursuant to the terms of the Change in Control transaction.

**12. ACCELERATION OF EXERCISABILITY AND VESTING.**

The Board shall have the power to accelerate the time at which any or all Stock Awards may first be exercised or the time during which any or all Stock Awards or any part thereof will vest in accordance with the Plan, notwithstanding the provisions in any Stock Award stating the time at which it may first be exercised or the time during which it will vest. By approval of the Plan, the Company’s stockholders consent to any such accelerations in the Board’s sole discretion.

**13. DISSOLUTION OR LIQUIDATION.**

In the event of a dissolution or liquidation of the Company, then all outstanding Stock Awards shall terminate immediately prior to such event.

**14. MISCELLANEOUS.**

(a) **Stockholder Rights.** Neither a Participant nor any person to whom a Stock Award is transferred shall be deemed to be the holder of, or to have any of the rights of a holder with respect to, any Award Shares unless and until such person has satisfied all requirements for exercise of the Stock Award pursuant to its terms and the Company has duly issued a stock certificate for such Award Shares.

**(b) No Employment or Other Service Rights.** Nothing in the Plan or any Stock Award Agreement shall confer upon any Participant any right to continue to serve the Company or an Affiliate in the capacity in effect at the time the Stock Award was granted or shall affect the right of the Company or an Affiliate to terminate (i) the employment of an Employee with or without notice and with or without Cause; (ii) the service of a Consultant pursuant to the terms of such Consultant's agreement with the Company or an Affiliate; or (iii) the service of a Director pursuant to the Bylaws or Certificate of Incorporation of the Company or an Affiliate, and any applicable provisions of the corporate law of the state in which the Company or the Affiliate is incorporated, as the case may be.

**(c) Incentive Stock Option \$100,000 Limitation.** To the extent that the aggregate Fair Market Value (determined at the time of grant) of Common Stock with respect to which Incentive Stock Options are exercisable for the first time by any Optionee during any calendar year (under all plans of the Company and any Affiliates) exceeds One Hundred Thousand Dollars (\$100,000), the Options or portions thereof that exceed such limit (according to the order in which they were granted) shall be treated as Nonstatutory Stock Options, notwithstanding any contrary provision of the applicable Option Agreement(s).

**(d) Investment Assurances.** The Company may require a Participant, as a condition of exercising an Option or otherwise acquiring Common Stock under any Stock Award, (i) to give written assurances satisfactory to the Company as to the Participant's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of exercising the Stock Award; and (ii) to give written assurances satisfactory to the Company stating that the Participant is acquiring Common Stock subject to the Stock Award for the Participant's own account and not with any present intention of selling or otherwise distributing the Common Stock. The foregoing requirements, and any assurances given pursuant to such requirements, shall be inoperative if (x) the issuance of the shares upon the exercise or acquisition of Common Stock under the Stock Award has been registered under a then currently effective registration statement under the Securities Act; or (y) as to any particular requirement, a determination is made by counsel for the Company that such requirement need not be met in the circumstances under the then applicable securities laws. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the Common Stock.

**(e) Withholding Obligations.** The Company may, in its sole discretion, satisfy any federal, state or local tax withholding obligation relating to a Stock Award by any of the following means (in addition to the Company's right to withhold from any compensation paid to the Participant by the Company) or by a combination of such means: (i) causing the Participant to tender a cash payment; (ii) withholding shares of Common Stock from the shares of Common

Stock issued or otherwise issuable to the Participant in connection with the Stock Award, provided that no shares of Common Stock are withheld with a value exceeding the minimum amount of tax required to be withheld by law (or such lower amount as may be necessary to avoid classification of the Stock Award as a liability); or (iii) by such other method as may be set forth in the Stock Award Agreement.

**(f) Compliance with Section 409A of the Code.** To the extent applicable, the Plan and Stock Award Agreements shall be interpreted in accordance with Section 409A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued or amended after the Effective Date (as defined in Section 17 below). Notwithstanding any provision of the Plan or Stock Award to the contrary, in the event that following the Effective Date the Board determines that any Stock Award may be subject to Section 409A of the Code and related Department of Treasury guidance (including such Department of Treasury guidance as may be issued after the Effective Date), the Board may adopt such amendments to the Plan and the applicable Stock Award Agreement or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Board determines are necessary or appropriate to (i) exempt the Stock Award from Section 409A of the Code and/or preserve the intended tax treatment of the benefits provided with respect to the Stock Award; or (ii) comply with the requirements of Section 409A of the Code and Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued or amended after the Effective Date.

#### **15. AMENDMENT OF THE PLAN.**

**(a) In General.** The Board at any time, and from time to time, may amend the Plan. However, no amendment shall be effective unless approved by the stockholders of the Company within twelve (12) months before or after the adoption of the amendment where the amendment will:

(i) Increase the number of shares reserved for Stock Awards under the Plan, except as provided in Section 10 relating to adjustments upon changes in Common Stock;

(ii) Modify the requirements as to eligibility for participation in the Plan (to the extent such modification requires stockholder approval in order for the Plan to satisfy the requirements of Section 422 of the Code); or

(iii) Modify the Plan in any other way if such modification requires stockholder approval in order for the Plan to satisfy the requirements of Section 422 of the Code.

**(b) Amendment to Maximize Benefits.** It is expressly contemplated that the Board may amend the Plan in any respect the Board deems necessary or advisable to provide Participants with the maximum benefits provided or to be provided under the provisions of the Code and the regulations promulgated thereunder relating to Incentive Stock Options and/or to bring the Plan and/or Incentive Stock Options granted under the Plan into compliance therewith.

**(c) No Impairment.** The rights and obligations under any Stock Award granted before any amendment of the Plan shall not be altered or impaired by such amendment unless the Company requests the consent of the person to whom the Stock Award was granted and such person consents in writing; *provided, however*, that notwithstanding anything to the contrary in this Section 15 or elsewhere in this Plan, no such consent shall be required with respect to any amendment or alteration if the Board determines in its sole discretion that such amendment or alteration either (i) is required or advisable in order for the Company, the Plan or the Stock Award to satisfy or conform to any law or regulation or to meet the requirements of any accounting standard, or (ii) is not reasonably likely to significantly diminish the benefits provided under such Award, or that any such diminishment has been adequately compensated.

**16. TERMINATION OR SUSPENSION OF THE PLAN.**

**(a) Termination or Suspension.** The Board may suspend or terminate the Plan at any time. Unless sooner terminated, the Plan shall terminate on March 12, 2018 (which shall be within ten (10) years from the date the Plan is adopted by the Board or approved by the stockholders of the Company, whichever is earlier), and no Stock Awards may be granted under the Plan while the Plan is suspended or after it is terminated, but Stock Awards and Stock Award Agreements then outstanding shall continue in effect in accordance with their respective terms.

**(b) No Impairment.** Rights and obligations under any Stock Award granted while the Plan is in effect shall not be altered or impaired by suspension or termination of the Plan, except as otherwise provided herein or with the consent of the person to whom the Stock Award was granted.

**17. EFFECTIVE DATE OF PLAN.**

The Plan shall become effective on March 12, 2008, which is the date that the Plan was adopted by the Board, provided that the stockholders of the Company approve or have approved the Plan within twelve (12) months of such date (the “Effective Date”). No Options granted under the Plan shall be exercised unless and until the Plan has been approved by the stockholders of the Company, and all Stock Awards granted under the Plan shall be rescinded if stockholder approval of the Plan is not obtained within such 12-month period.

**18. NON-EXCLUSIVITY OF THE PLAN**

Neither the adoption of this Plan by the Board nor the submission of this Plan to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as either may deem desirable, including, without limitation, the granting of stock options or restricted stock otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

**19. LIABILITY OF THE COMPANY.**

The Company and the members of the Board shall not be liable to a Participant or any other persons as to: (a) the non-issuance or non-transfer, or any delay of issuance or transfer, of



any Award Shares which results from the inability of the Company to comply with, or to obtain, or from any delay in obtaining from any regulatory body having jurisdiction, all requisite authority to issue or transfer Award Shares if counsel for the Company deems such authority reasonably necessary for lawful issuance or transfer of any such shares and, in furtherance thereof, appropriate legends may be placed on the stock certificates evidencing Award Shares to reflect such transfer restrictions; and (b) any tax consequence expected, but not realized, by any Participant or other person due to the receipt, exercise or settlement of any Option or other Stock Award granted hereunder.

**20. CHOICE OF LAW.**

The laws of the State of California shall govern all questions concerning the construction, validity and interpretation of this Plan, without regard to such state's conflict of laws rules.

OPTION AGREEMENT

EVERBRIDGE, INC. 2008 EQUITY INCENTIVE PLAN

(INCENTIVE STOCK OPTION OR NONSTATUTORY STOCK OPTION)

Effective as of May 12, 2008

Pursuant to the Stock Option Grant Notice ("Grant Notice") and this Option Agreement ("Option Agreement"), Everbridge Inc. (the "Company") has granted to Optionee an option under its 2008 Equity Incentive Plan (the "Plan"), to purchase the number of shares of the Company's Common Stock indicated in Optionee's Grant Notice, at the exercise price indicated in such Grant Notice. This Option Agreement is incorporated by reference into and made a part of the Grant Notice. Whenever capitalized terms are used in this Option Agreement, they shall have the meaning specified (i) in the Plan, (ii) in the relevant Grant Notice, or (iii) below, unless the context clearly indicates to the contrary.

The details of the Option granted to Optionee are as follows:

1. Term of Option. Subject to the maximum time limitations in Sections 5(b) and 6(a) of the Plan, the term of the Option shall be the period commencing on the Date of Grant and ending on the Expiration Date (as defined in the Grant Notice), unless terminated earlier as provided herein or in the Plan.

2. Exercise Price. The Exercise Price of the Option granted hereby shall be as provided in the Grant Notice.

3. Exercise of Option.

(a) The Grant Notice sets forth the rate at which the Option Shares shall become subject to purchase ("vest") by Optionee.

(b) In the event of a Change in Control of the Company, except as otherwise may be provided in the Plan or Grant Notice, the vesting of the Option shall not accelerate, and the Option shall terminate if not exercised (to the extent then vested and exercisable) at or prior to such Change in Control.

(c) Optionee shall exercise the Option, to the extent exercisable, in whole or in part, by sending written notice to the Company on a Notice of Exercise in the form attached to the Grant Notice of his or her intention to purchase Option Shares hereunder, together with a check in the amount of the full purchase price of the Option Shares to be purchased, or such other form of payment as permitted by the Grant Notice. Except as otherwise consented to by the Company, Optionee shall not exercise the Option at any one time with respect to less than five percent (5%) of the total Option Shares set forth in the Grant Notice unless Optionee exercises all of the Option then vested and exercisable.

(d) If the Option is an Incentive Stock Option, by Optionee's exercise of the Option, Optionee agrees that he or she will notify the Company in writing within fifteen (15) days after the date of any disposition of any of the shares of the Common Stock issued upon exercise of the Option that occurs within two (2) years after the date of the Date of Grant or within one (1) year after such shares of Common Stock are transferred upon exercise of the Option.

(e) Optionee agrees to complete and execute any additional documents which the Company reasonably requests that Optionee complete in order to comply with applicable federal, state and local securities laws, rules and regulations.

(f) Subject to the Company's compliance with all applicable laws, rules and regulations relating to the issuance of such Option Shares and Optionee's compliance with all the terms and conditions of the Grant Notice, this Option Agreement, and the Plan, the Company shall promptly deliver the Option Shares to Optionee.

(g) Except as otherwise provided herein or in the Plan, the Option may be exercised during the lifetime of Optionee only by Optionee.

(h) In the event that Optionee is an Employee eligible for overtime compensation under the Fair Labor Standards Act of 1938, as amended (i.e., a "Non-Exempt Employee"), Optionee may not exercise his or her Option until the later date (i) that he or she shall have completed at least six (6) months of service to the Company measured from the Date of Grant specified in Optionee's Grant Notice, or (ii) the date set forth in the Grant Notice.

4. Exercise Prior to Vesting ("Early Exercise"). If expressly permitted by the Grant Notice and subject to the provisions of this Option Agreement, Optionee may, at any time that is both (i) prior to a Termination of Service; and (ii) prior to the Expiration Date, elect to exercise all or part of the Option, including the nonvested portion of the Option; provided, however, that:

(a) a partial exercise of the Option shall be deemed to cover first any vested Option Shares and then the earliest vesting installment(s) of unvested Option Shares;

(b) any Option Shares so purchased from installments which have not vested as of the date of exercise shall be subject to a purchase option in favor of the Company, pursuant to an Early Exercise Stock Purchase Agreement in form satisfactory to the Company;

(c) Optionee shall enter into the Early Exercise Stock Purchase Agreement with a vesting schedule that will result in the same vesting as if no early exercise had occurred; and

(d) as provided in the Plan, if the Option is an Incentive Stock Option, to the extent that the aggregate Fair Market Value (determined at the time of grant) of Common Stock with respect to which the Option plus all other Incentive Stock Options held by Optionee are exercisable for the first time during any calendar year (under all plans of the Company and its Affiliates) exceeds One Hundred Thousand Dollars (\$100,000), the Options or portions thereof that exceed such limit (according to the order in which they were granted) shall be treated as Nonstatutory Stock Options.

5. Option Not Transferable. The Option granted hereunder shall not be transferable in any manner other than as provided in Section 6(d) of the Plan. More particularly (but without limiting the foregoing), the Option may not be assigned, transferred (except as expressly provided in the Plan), pledged or hypothecated in any way, shall not be assignable by operation of law and shall not be subject to execution, attachment or similar process. Any attempted assignment, transfer, pledge, hypothecation or other disposition of the Option contrary to the provisions hereof, or the levy of any execution, attachment or similar process upon the Option, shall be null and void and without effect.

6. Termination of Option.

(a) To the extent not previously exercised, the Option shall terminate on the Expiration Date; provided, however, that except as otherwise provided in this Section 6, the Option may not be exercised more than sixty (60) days after the Termination of Service of Optionee for any reason (other than for Cause, as defined in the Plan, or upon Optionee's death or Disability). Within such sixty (60)-day period, except as may otherwise be specifically provided in this Option Agreement or any other agreement between Optionee and the Company which has been approved by the Board, Optionee may exercise the Option only to the extent the same was exercisable on the date of such termination and said right to exercise shall terminate at the end of such period.

(b) In the event of the Termination of Service of Optionee as a result of Optionee's Disability, the Option shall be exercisable for a period of six (6) months from the date of such termination, but in no event later than the Expiration Date and only to the extent that the Option was exercisable on the date of such termination.

(c) In the event of the Termination of Service of Optionee as a result of Optionee's death, the Option shall be exercisable by Optionee's estate (or by the person who acquires the right to exercise the Option by will or by the laws of descent and distribution) for a period of twelve (12) months from the date of such termination, but in no event later than the Expiration Date and only to the extent that Optionee was entitled to exercise the Option on the date of death.

(d) In the event of the Termination of Service of Optionee for Cause (as defined below), unless otherwise determined by the Board, (A) the Option shall expire as of the date of the first occurrence giving rise to such termination or upon the Expiration Date, whichever is earlier; (B) Optionee shall have no rights with respect to any unexercised portion of the Option; and (C) any Option Shares issued in respect of the exercise of the Option on or after the date of the first act and/or event constituting Cause shall have occurred shall be deemed to have been issued in respect of an expired option, and shall thereupon be deemed null and void ab initio, and Optionee shall have no claims to, or rights in, any such Option Shares. "Cause" means with respect to Optionee, the occurrence of any of the following events, as reasonably determined by the Board in each case: (i) Optionee's commission of any felony or any crime

involving fraud, dishonesty or moral turpitude under the laws of the United States or any state thereof; (ii) Optionee's commission, or attempted commission, of, or participation in, a fraud or act of dishonesty against the Company or any Affiliate, or any of their respective employees, officers or directors; (iii) Optionee's intentional, material violation of any contract or agreement between the Optionee and the Company or any Affiliate or of any statutory duty owed to the Company or any Affiliate; (iv) Optionee's unauthorized use or disclosure of the Company's or an Affiliate's material confidential information or trade secrets; (v) Optionee's gross misconduct in connection with Optionee's service to the Company or an Affiliate; or (vi) Optionee's failure to promptly return all documents and other tangible items belonging to the Company or its Affiliates in the Participant's possession or control, including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such documents or information contained therein, upon a Termination of Service for any reason. "Cause" shall not require that a civil judgment or criminal conviction have been entered against, or guilty plea shall have been made by, Optionee regarding any of the matters referred to in clauses (i) through (vi). Accordingly, the Board shall be entitled to determine "Cause" based on the its good faith belief. If the Optionee is criminally charged with a felony or similar offense, that shall be a sufficient, but not a necessary, basis for such a belief. Unless otherwise specifically provided in the Grant Notice, the foregoing definition of "Cause" shall apply for all purposes relating to the Option, notwithstanding any employment or other agreement by and between Optionee and the Company or any Affiliate thereof that defines a termination on account of "Cause" (or a term having similar meaning). Any determination by the Board that an Optionee's Termination of Service is for Cause may be made following a Termination of Service and shall be communicated by written notice to Optionee within 30 days after a Termination of Service; provided, however, that after such 30-day period, the Board may make a determination that a Termination of Service is for "Cause" based upon clear and convincing evidence subsequently received by the Board, that an event or events constituting Cause have occurred on or prior the date of the Termination of Service and, in such event, any Option Shares issued in respect of the exercise of the Option on or after the date that the first act and/or event constituting Cause shall have occurred, shall be deemed to have been issued in respect of an expired option and shall thereupon be deemed null and void ab initio, and Optionee shall have no claims to, or rights in, any such Option Shares.

(e) Notwithstanding the foregoing, the Option is subject to earlier termination upon a Change in Control, as provided in Section 3(b) above and in Section 11 of the Plan, or upon the dissolution of the Company. If the Option will terminate in connection with a Change in Control, the Company shall provide written notice to Optionee of a proposed transaction constituting a Change in Control, not less than ten (10) days prior to the anticipated effective date of the proposed transaction.

(f) Notwithstanding anything herein to the contrary, no portion of any Option which is not exercisable by Optionee upon the Termination of Service of such Optionee shall thereafter become exercisable, regardless of the reason for such termination, except as may otherwise be specifically provided in this Option Agreement or any other agreement between Optionee and the Company which has been approved by the Board.

7. No Right to Continued Service. The Option does not confer upon Optionee any right to continue as an Employee or Director of, or Consultant to, the Company or an Affiliate, nor does it limit in any way the right of the Company or an Affiliate to terminate Optionee's employment or other relationship with the Company or an Affiliate, at any time, with or without Cause.

8. Right of Repurchase of Option Shares.

(a) In furtherance of, and not in limitation of Section 5, the Option Shares issued pursuant to the Option shall be subject to a right, but not an obligation, of repurchase by the Company and/or its assignee(s) (the "Right of Repurchase"), at the price determined under Section 8(b) below, if prior to the termination of the Right of Repurchase as provided in Section 10(d) below, a Termination of Service occurs for any reason, including as a result of Optionee's death or Disability. Without the Company's prior written consent, Option Shares issued by the Company shall not be transferable by Optionee during the period during which the Right of Repurchase applies, and the Company may take such steps as it deems necessary to ensure compliance with this restriction.

(b) The price per share at which the Company may exercise the Right of Repurchase (the "Repurchase Price") shall be the Fair Market Value of an Option Share on the date the Company exercises its Right of Repurchase, except as otherwise provided in an Early Exercise Stock Purchase Agreement referred to in Section 4.

(c) The Company's Right of Repurchase shall terminate if not exercised by written notice from the Company to Optionee within ninety (90) days after the Termination of Service (or within 90 days after the date of exercise in the case of Option Shares purchased after the Termination of Service). If the Company exercises its Right of Repurchase, it shall give notice thereof to Optionee within such ninety (90)-day period, and, upon receipt of such notice, Optionee shall immediately endorse and deliver to the Company the stock certificate(s) representing the Option Shares being repurchased, and the Company shall then promptly pay, pursuant to the provisions of Section 8(d) below, the total Repurchase Price to Optionee. If the Company exercises its Right of Repurchase, it may exercise its right with respect to all or part of such Option Shares.

(d) The Repurchase Price shall be paid first by cancellation of any obligation for accrued but unpaid interest outstanding under notes issued by Optionee upon purchase of the Option Shares (if any), next by cancellation of principal outstanding under such notes (if any), and finally by payment in cash of the balance due.

(e) In the event the Company does not elect to exercise its Right of Repurchase within the ninety (90)-day period, the Option Shares shall no longer be subject to repurchase by the Company pursuant to this Section 8.

9. Right of First Refusal. Optionee agrees that he or she will not sell or otherwise transfer any Option Shares (including transfer by operation of law) at any time before or after the expiration of the Right of Repurchase and prior to the termination of this Section 9 pursuant to Section 10(d) below unless such Option Shares shall first be offered to the Company as follows:

(a) Optionee shall deliver a notice (the "Notice") to the Company, stating (i) Optionee's bona fide intention to sell or transfer such Option Shares, to a third party purchaser in a bona fide arms length transaction, pursuant to a written agreement in respect thereof; (ii) the number of such Option Shares to be sold or transferred; (iii) the consideration for which Optionee proposes to sell or transfer such Option Shares; (iv) the terms of payment of such consideration and any other terms and conditions of sale; and (v) the name of the proposed purchaser or transferee.

(b) Within sixty (60) days after receipt of the Notice, the Company may elect to purchase any or all of the Option Shares to which the Notice refers, for the consideration per share and upon the terms and conditions specified in the Notice, except as set forth in Section 9(e) below for transfers involving non-cash consideration. If the Company elects not to purchase all such Option Shares, the Company may assign its right to purchase the remaining Option Shares. The Company's assignees may elect, within sixty (60) days after receipt by the Company of the Notice, to purchase any or all Option Shares to which the Notice refers which the Company has not elected to purchase, for the consideration per share and upon the terms and conditions specified in the Notice, except as set forth in Section 9(e) below. An election to purchase shall be made by written notice to Optionee, specifying the number of Option Shares to be purchased. If the Company and/or its assignees elect to purchase the offered Option Shares, they shall complete the purchase within ninety (90) days after receipt by the Company of the Notice, unless a longer period is set forth in the Notice.

(c) If the Company and/or its assignees do not elect to so purchase all of such offered Option Shares within such sixty (60)-day period, Optionee shall have no obligation to transfer such Option Shares to the Company and/or its assignees and Optionee shall have a period of thirty (30) days thereafter to transfer all (but not less than all) of such Option Shares to the transferee referred to in the Notice and for the same consideration and on the other terms as set forth therein; provided, however, that prior to any transfer of such Option Shares, the proposed transferee shall execute and deliver to the Company an agreement with the Company, in form and substance satisfactory to the Company, pursuant to which such transferee agrees to be subject to the relevant provisions of this Option Agreement.

(d) In the event that such Option Shares are not transferred to the transferee referred to in the Notice and in accordance with the terms of this Option Agreement within such 30-day period, the restrictions on transfer provided in this Section 9 shall again become applicable to the Option Shares.

(e) If part or all of the purchase consideration specified in a Notice delivered by Optionee pursuant to this Section 9 is other than cash or purchaser's promissory note or other evidence of indebtedness, the Company and its assignee(s) shall have the right to purchase the Option Shares specified in the Notice for a cash price equal to the Fair Market Value of the number of Option Shares to be so purchased by the Company and/or its assignee(s). The Fair Market Value of any Option Shares shall be as determined in good faith by the Company's Board of Directors.

(f) Notwithstanding anything in this Section 9 or elsewhere in this Agreement to the contrary, if at any time following the exercise of all or a portion of this Option, the Company's Bylaws contain provisions regarding the right of the Company to repurchase its securities from stockholders, then such provisions shall govern the rights of the Company and/or any other party to repurchase shares of the Company's stock from any stockholder, including the Option Shares, and the provisions of this Section 9 shall be inapplicable. Optionee agrees to be bound by all of the provisions of the Bylaws granting the Company a right to repurchase its securities, if any.

10. Other Provisions Regarding Transfer.

(a) Optionee, as a condition for accepting any Option Shares, shall not sell, transfer or pledge any Option Shares subject to the Right of Repurchase described in Section 8 or the right of first refusal described in Section 9 hereof, other than in the manner expressly permitted in this Option Agreement, and any such sale, transfer or pledge of the Option Shares in violation of this Agreement shall be void. The Company shall not be required (i) to transfer on its books any Option Shares which shall have been sold or transferred in violation of any of the provisions set forth in this Option Agreement or (ii) to treat as the owner of such Option Shares or accord the right to vote or pay dividends to any transferee to whom such Option Shares shall have been so transferred.

(b) Notwithstanding anything to the contrary contained herein, Optionee is under no restrictions as to the transfer by him or her of any or all of the issued Option Shares to his or her Related Transferees (as defined herein), provided that each such Related Transferee shall first (i) execute a written consent to be bound by all of the relevant provisions of this Option Agreement in form and substance satisfactory to the Company; and (ii) give a duplicate original of such consent to the Company. The “Related Transferees” of Optionee as used herein shall consist of Optionee’s spouse, his or her adult lineal descendants, the adult spouses of his or her lineal descendants and trusts for the benefit of any of the foregoing, Optionee and/or his or her minor lineal descendants. In the event of any transfer by Optionee to his or her Related Transferees of all or any part of the Option Shares (or in the event of any subsequent transfer by any such Related Transferee to another Related Transferee of Optionee), such Related Transferees shall receive and hold the Option Shares subject to the relevant terms of this Option Agreement and Optionee’s rights and obligations hereunder as though the Option Shares were still owned by Optionee and shall together with Optionee continue to be deemed to be the “Optionee” for purposes of this Option Agreement, including without limitation restrictions on the transfer of Option Shares. There shall be no further transfer of the Option Shares by a Related Transferee except between and among such Related Transferee, the Optionee and other Related Transferees of Optionee, or except as permitted by this Option Agreement. The Company advises Optionee to seek independent tax counsel prior to transferring any Option Shares to any Related Transferee.



(c) Optionee hereby grants to the Company a security interest in the Option Shares for the purpose of ensuring that a transfer in violation of the restrictions set forth in Sections 8, 9 and 10 of this Agreement does not occur. In furtherance of such security interest, the Company may, at its option, retain the certificate(s) evidencing the Option Shares, together with stock assignments executed in blank by Optionee, until such transfer restrictions terminate in accordance with Section 10(d). Optionee hereby grants to any officer(s) of the Company the power of attorney to cause the Option Shares to be transferred on the books of the Company in the event the Company and/or its assignees repurchase some or all of the Option Shares in accordance with this Option Agreement.

(d) The transfer restrictions provided in Sections 8, 9 and 10 hereof may be terminated on such conditions as the Board may determine in its sole discretion.

11. Notice of Tax Election. If Optionee makes any tax election relating to the treatment of the Option Shares under the Internal Revenue Code of 1986, as amended, Optionee shall promptly notify the Company of such election.

12. Market Stand-Off.

(a) By Optionee exercising his or her Option, Optionee agrees not to sell, dispose of, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, any shares of Common Stock or other securities of the Company held by Optionee, for a period of one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act or such longer period as necessary to permit compliance with NASD Rule 2711 and similar or successor regulatory rules and regulations (the "Lock-Up Period"); provided, however, that nothing contained in this section shall prevent the exercise of a repurchase option, if any, in favor of the Company during the Lock-Up Period. Optionee further agrees to execute and deliver such other agreements as may be reasonably requested by the Company and/or the underwriter(s) that are consistent with the foregoing or that are necessary to give further effect thereto. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to Optionee's shares of Common Stock until the end of such period. The underwriters of the Company's stock are intended third party beneficiaries of this Section 12(a) and shall have the right, power and authority to enforce the provisions hereof as though they were a party hereto.

(b) In order to enforce the provisions of this Section 12, the Company may impose stop-transfer instructions with respect to the Option Shares until the end of the applicable Lock-Up Period.

13. Acknowledgments of Optionee. Optionee acknowledges and agrees that:

(a) Although the Company has made a good faith attempt to qualify the Option as an incentive stock option within the meaning of Sections 421, 422 and 424 of the Code (if the Grant Notice provides that the Option is an Incentive Stock Option), the Company does not warrant that the Option granted herein constitutes an "incentive stock option" within the meaning of such sections, or that the transfer of Option Shares will be treated for federal income tax purposes as specified in Section 421 of the Code.

(b) In the event the Option is not an incentive stock option within the meaning of Sections 421, 422 and 424 of the Code (whether or not the Grant Notice provides that the Option is an Incentive Stock Option) and it is determined that the per share Exercise Price of the Option (as set forth in the Notice of Grant of Option) is less than the fair market value of a share of the Company's Common Stock as of the date of grant of the Option, Optionee could have deferred compensation pursuant to Section 409A of the Code in an amount equal to the difference between the fair market value of a share of the Company's Common Stock as of the date that the Option vests and the per share Exercise Price multiplied by the number of Option Shares then vesting (the "spread"). As a result, because the Option likely will not be compliant with the rules in respect of deferred compensation under Section 409A, Optionee could have taxable income (taxed at ordinary income tax rates) in an amount equal to the spread on each vesting date. Optionee would also incur a tax equal to 20% of the spread (and to the extent that Optionee is a California resident, Optionee could incur an additional tax equal to 20% of the spread). The Company does not warrant that the Exercise Price of the Option is equal to or greater than the fair market value of the Common Stock as of the date of grant. Because the issues relating to Section 409A are complex, the Company recommends that Optionee consult with his or her tax advisors as to the possible tax consequences arising from the grant of the Option.

(c) Optionee shall notify the Company in writing within fifteen (15) days of each disposition (including a sale, exchange, gift or a transfer of legal title) of the Option Shares made within three years after the issuance of such Option Shares.

(d) If the Grant Notice provides that the Option is an Incentive Stock Option, Optionee understands that if, among other things, he or she disposes of any Option Shares granted within two years of the granting of the Option to him or her or within one year of the issuance of such shares to him or her, then such Option Shares will not qualify for the beneficial treatment which Optionee might otherwise receive under Sections 421 and 422 of the Code.

(e) Optionee and his or her transferees shall have no rights as a shareholder with respect to any Option Shares until the date of the issuance of a stock certificate evidencing such Option Shares. No adjustment shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property) or distributions or other rights for which the record date is prior to the date such stock certificate is issued, except as provided in Section 10 of the Plan.

(f) All certificates representing the Option Shares shall have endorsed thereon the following legends, the provisions of which are hereby incorporated into this Option Agreement by this reference, and such other legends as the Company deems necessary or appropriate:

THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES

LAWS OF ANY STATE AND HAVE BEEN ISSUED AND SOLD PURSUANT TO AN EXEMPTION FROM THE ACT AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED BY THE HOLDERS THEREOF AT ANY TIME EXCEPT (1) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT FILED UNDER THE ACT COVERING THE SECURITIES, OR (2) IF, IN THE REASONABLE OPINION OF COUNSEL TO THE CORPORATION, SUCH SHARES MAY BE TRANSFERRED WITHOUT SUCH REGISTRATION.

IN ADDITION, THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF REPURCHASE AND RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE CORPORATION, AND THE SALE, TRANSFER OR HYPOTHECATION OF THE SECURITIES REPRESENTED HEREBY IS RESTRICTED BY THE PROVISIONS OF A STOCK OPTION AGREEMENT ENTERED INTO BY THE CORPORATION AND THIS STOCKHOLDER, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE CORPORATION AND ALL OF THE PROVISIONS OF WHICH ARE INCORPORATED HEREIN.

14. Investment Representations. As an inducement to the Company to grant the Option and issue the Option Shares to Optionee, Optionee hereby makes the following representations and warranties, and authorizes the Company to rely upon the same:

(a) Optionee will acquire the Option Shares for investment for his or her own account, not for resale, without any intention of or view toward or for participating, directly or indirectly, in a distribution of the Option Shares or any portion thereof.

(b) Optionee understands that an investment in the Company is speculative, that any possible profits therefrom are uncertain, and that he or she must bear the economic risks of the investment in the Company for an indefinite period of time.

(c) Optionee understands that the Option Shares have not been registered under the Securities Act in reliance on the exemption provided by Rule 701 promulgated thereunder for compensatory benefit plans; and that the Option Shares have not been registered or qualified under the "blue sky" laws of any state.

(d) Optionee understands that the Option Shares may have to be held indefinitely unless they are subsequently registered under the Securities Act and qualified or registered under other applicable securities laws, rules and regulations, which is unlikely, or unless an exemption from such qualification or registration is available.

(e) Optionee understands and agrees that (i) the legends set forth in Section 13(f) hereof will be placed on the certificate(s) evidencing the Option Shares and, except as otherwise herein provided for, on certificate(s) issued to transferees; (ii) the stock records of the Company will be noted with respect to such restrictions; (iii) the Company will not be under any obligation to register the Option Shares or to comply with any exemption available for sale of the Option Shares without registration; and (iv) the information or conditions necessary to permit routine sales of securities of the Company under Rule 144 of the Securities Act are not now available and it is not likely that they will become available in the foreseeable future.

(f) Optionee is a bona fide resident and domiciliary of, not a temporary transient resident of, and has his or her principal residence in, the state or other jurisdiction set forth under Optionee's signature in the Grant Notice, and Optionee does not have any present intention of moving his or her principal residence from such state or jurisdiction.

15. Withholding Obligations. Whenever Option Shares are to be issued under the Option Agreement, the Company shall have the right to require Optionee to remit to the Company an amount sufficient to satisfy federal, state and local withholding tax requirements prior to issuance and/or delivery of any certificate or certificates for such Option Shares.

16. No Obligation to Notify. The Company shall have no duty or obligation to Optionee to advise Optionee as to the time or manner of exercising the Option. Furthermore, except as specifically set forth herein or in the Plan, the Company shall have no duty or obligation to warn or otherwise advise Optionee of a pending termination or expiration of the Option or a possible period in which the Option may not be exercised. The Company has no duty or obligation to minimize the tax consequences of the Option granted to Optionee.

17. Miscellaneous.

(a) This Option Agreement shall bind and inure to the benefit of the parties' heirs, legal representatives, successors and permitted assigns.

(b) This Option Agreement, the Grant Notice and the Plan, constitute the entire agreement between the parties pertaining to the subject matter contained herein and they supersede all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Option Agreement shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Option Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. In the event there exists any conflict or discrepancy between any of the terms in the Plan and this Option Agreement, the terms of the Plan shall be controlling. A copy of the Plan has been delivered to Optionee and also may be inspected by Optionee at the principal office of the Company.

(c) By execution of the Grant Notice and delivery of a Notice of Exercise to the Company in connection with the exercise of the Option, as provided in Section 3 above, Optionee consents to the delivery of any notice to the stockholders given by the Company in the form of an electronic transmission, pursuant to, and as described in, Section 232 of the Delaware General Corporation Law.

(d) Should any portion of the Plan, the Grant Notice or this Option Agreement be declared invalid and unenforceable, then such portion shall be deemed to be severable from this Option Agreement and shall not affect the remainder hereof.

(e) All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (ii) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iii) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the Company at its principal executive office, and to Optionee at the address set forth in the Option Agreement, or at such other address as the Company or Optionee may designate by ten (10) days advance written notice to the other party hereto.

(f) Any dispute or claim concerning the Option Agreement or the Plan or any disputes or claims relating to or arising out of the Option Agreement or the Plan shall be fully, finally and exclusively resolved by binding and confidential arbitration conducted pursuant to the rules of Judicial Arbitration and Mediation Services, Inc. (“JAMS”) in the County of San Diego, California. In addition to any other relief, the arbitrator may award to the prevailing party recovery of its attorneys’ fees and costs. By executing the Option Agreement, the Company and Optionee waive their respective rights to have any such disputes or claims tried by a judge or jury.

(g) This Option Agreement shall be construed according to the laws of the State of California. This Option Agreement is made and entered into in San Diego County, California.

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ATTACHMENT III

NOTICE OF EXERCISE

EVERBRIDGE, INC.  
500 N. Brand Blvd., Suite 1000  
Glendale, CA 91203

Date of Exercise:

Ladies and Gentlemen:

This constitutes notice under my stock option that I elect to purchase the number of shares for the price set forth below.

Type of option (check one): Incentive ☐ Nonstatutory ☐

Stock option dated:

Number of shares as to which option is exercised:

Certificates to be issued in name of:

Total exercise price: \$

Cash or check payment delivered herewith: \$

By this exercise, I agree (i) to provide such additional documents as you may require pursuant to the terms of the 2008 Equity Incentive Plan, (ii) to provide for the payment by me to you (in the manner designated by you) of your withholding obligation, if any, relating to the exercise of this option, and (iii) if this exercise relates to an incentive stock option, to notify you in writing within fifteen (15) days after the date of any disposition of any of the shares of Common Stock issued upon exercise of this option that occurs within two (2) years after the date of grant of this option or within one (1) year after such shares of Common Stock are issued upon exercise of this option.

I hereby make the following certifications and representations with respect to the number of shares of Common Stock of the Company listed above (the “Shares”), which are being acquired by me for my own account upon exercise of the Option as set forth above:

I acknowledge that the Shares have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), and are deemed to constitute “restricted securities” under Rule 701 and Rule 144 promulgated under the Securities Act. I warrant and represent to the Company that I have no present intention of distributing or selling said Shares, except as permitted under the Option Agreement (as defined in the Stock Option Grant Notice executed by me), Securities Act and any applicable state securities laws.

I further acknowledge that I will not be able to resell the Shares except as otherwise permitted in the Option Agreement, and for at least ninety days (90) after the stock of the

Company becomes publicly traded (i.e., subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934) under Rule 701 and that more restrictive conditions apply to affiliates of the Company under Rule 144.

I further acknowledge that all certificates representing any of the Shares subject to the provisions of the Option shall have endorsed thereon appropriate legends reflecting the foregoing limitations, as well as any legends reflecting restrictions pursuant to the Option Agreement, the Company’s Certificate of Incorporation, Bylaws and/or applicable securities laws.

I further agree that, if required by the Company (or a representative of the underwriters) in connection with the first underwritten registration of the offering of any securities of the Company under the Securities Act, I will not sell, dispose of, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, any shares of Common Stock or other securities of the Company for a period of one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act or such longer period as necessary to permit compliance with NASD Rule 2711 and similar or successor regulatory rules and regulations (the “Lock Up Period”). I further agree to execute and deliver such other agreements as may be reasonably requested by the Company and/or the underwriter(s) that are consistent with the foregoing or that are necessary to give further effect thereto. In order to enforce the foregoing covenant, the Company may impose stop-transfer instructions with respect to securities subject to the foregoing restrictions until the end of such period.

Very truly yours,

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## INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT (the “**Agreement**”) is made and entered into as of \_\_\_\_\_, 20\_\_\_\_, between Everbridge, Inc., a Delaware corporation (the “**Company**”), and \_\_\_\_\_ (“**Indemnitee**”).

## RECITALS

A. Highly competent persons have become more reluctant to serve corporations as directors or officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

B. Although the furnishing of liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The By-laws and Certificate of Incorporation of the Company require the Company to indemnify the executive officers and directors of the Company and empower the Company to indemnify other officers, employees and agents as authorized by the General Corporation Law of the State of Delaware (“**DGCL**”). The By-laws and Certificate of Incorporation and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the Board, officers and other persons with respect to indemnification;

C. The uncertainties relating to liability insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

D. The Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company’s stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

E. It is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

F. This Agreement is a supplement to and in furtherance of the By-laws and Certificate of Incorporation of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and



G. Indemnitee does not regard the protection available under the Company's By-laws and Certificate of Incorporation and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he be so indemnified; and

H. Indemnitee may have certain rights to indemnification and/or insurance provided by other entities and/or organizations which Indemnitee and such other entities and/or organizations intend to be secondary to the primary obligation of the Company to indemnify Indemnitee as provided herein, with the Company's acknowledgement and agreement to the foregoing being a material condition to Indemnitee's willingness to serve on the Board.

I. This Agreement supersedes and replaces in its entirety any previous Indemnification Agreement entered into between the Company and the Indemnitee.

NOW, THEREFORE, in consideration of Indemnitee's agreement to serve as an officer or a director from and after the date hereof, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof:

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(a) if, by reason of his Corporate Status (as hereinafter defined), the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), Indemnitee shall be indemnified against all Expenses (as hereinafter defined), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him, or on his behalf, in connection with such Proceeding or any claim, issue or matter therein, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe the Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his Corporate Status, the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company. Pursuant to this Section 1(b), Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnitee, or on the Indemnitee's behalf, in connection with such Proceeding if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, if applicable law so provides, no indemnification against such Expenses shall be made in respect of any claim, issue or matter in such Proceeding as to which Indemnitee shall have been adjudged to be liable to the Company unless and to the extent that the Court of Chancery of the State of Delaware shall determine that such indemnification may be made.

(c) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, he shall be indemnified to the maximum extent permitted by law, as such may be amended from time to time, against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1 of this Agreement, the Company shall and hereby does indemnify and hold harmless Indemnitee against all Expenses, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him or on his behalf if, by reason of his Corporate Status, he is, or is threatened to be made, a party to or participant in any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the negligence or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Sections 6 and 7 hereof) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Sections 1 and 2 hereof is available, in respect of any threatened, pending or completed action, suit or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), the Company shall pay, in the first instance, the entire amount of any judgment or settlement of such action, suit or proceeding without requiring Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. The Company shall not enter into any settlement of any action, suit or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any threatened, pending or completed action, suit or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and

paid or payable by Indemnatee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than Indemnatee, who are jointly liable with Indemnatee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnatee, on the other hand, from the transaction from which such action, suit or proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than Indemnatee who are jointly liable with Indemnatee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnatee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which the law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than Indemnatee, who are jointly liable with Indemnatee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnatee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company hereby agrees to fully indemnify and hold Indemnatee harmless from any claims of contribution which may be brought by officers, directors or employees of the Company, other than Indemnatee, who may be jointly liable with Indemnatee.

(d) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnatee for any reason whatsoever, the Company, in lieu of indemnifying Indemnatee, shall contribute to the amount incurred by Indemnatee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnatee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnatee in connection with such event(s) and/or transaction(s).

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnatee is, by reason of his Corporate Status, a witness, or is made (or asked to) respond to discovery requests, in any Proceeding to which Indemnatee is not a party, he shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnatee in connection with any Proceeding by reason of Indemnatee's Corporate Status within thirty (30) days after the receipt by the Company of a statement or statements from Indemnatee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnatee and shall include or be preceded or accompanied by a written undertaking by or on

behalf of Indemnitee to repay any Expenses advanced if it shall ultimately be determined that Indemnitee is not entitled to be indemnified against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the DGCL and public policy of the State of Delaware. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, such failure actually and materially prejudices the interests of the Company.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following four methods, which shall be at the election of the Board: (i) unless a Change in Control has occurred: (1) by a majority vote of the Disinterested Directors, even though less than a quorum, (2) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum, (3) if there are no Disinterested Directors or if the Disinterested Directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to the Indemnitee, or (4) if so directed by the Board, by the stockholders of the Company; and (ii) if a Change in Control has occurred, then by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to the Indemnitee. For purposes hereof, Disinterested Directors are those members of the Board who are not parties to the action, suit or proceeding in respect of which indemnification is sought by Indemnitee.

(c) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(c). The Independent Counsel shall be selected by the Board. Indemnitee may, within 10 days after such written notice of selection shall have been given, deliver to the Company a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "**Independent Counsel**" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that

such objection is without merit. If, within 20 days after submission by Indemnatee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnatee may petition the Court of Chancery of the State of Delaware or other court of competent jurisdiction for resolution of any objection which shall have been made by the Indemnatee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay all reasonable fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnatee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its Board or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnatee has met the applicable standard of conduct, nor an actual determination by the Company (including by its Board or Independent Counsel) that Indemnatee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnatee has not met the applicable standard of conduct.

(e) Indemnatee shall be deemed to have acted in good faith if Indemnatee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnatee by the officers of the Enterprise (as hereinafter defined) in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnatee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(e) are satisfied, it shall in any event be presumed that Indemnatee has at all times acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(f) If the person, persons or entity empowered or selected under Section 6 to determine whether Indemnatee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnatee shall be entitled to such indemnification absent (i) a misstatement by Indemnatee of a material fact, or an omission of a material fact necessary to make Indemnatee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of

such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(f) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Board or the Disinterested Directors, if appropriate, resolve to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(g) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel, member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding the Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(h) The Company acknowledges that a settlement or other disposition short of final judgment may be successful if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any action, claim or proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such action, claim or proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such action, suit or proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(i) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his conduct was unlawful.

## 7. Remedies of Indemnatee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnatee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) of this Agreement within 90 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to this Agreement within ten (10) days after receipt by the Company of a written request therefor or (v) payment of indemnification is not made within ten (10) days after a determination has been made that Indemnatee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnatee shall be entitled to an adjudication in an appropriate court of the State of Delaware, or in any other court of competent jurisdiction, of Indemnatee's entitlement to such indemnification. Indemnatee shall commence such proceeding seeking an adjudication within 180 days following the date on which Indemnatee first has the right to commence such proceeding pursuant to this Section 7(a). The Company shall not oppose Indemnatee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) of this Agreement that Indemnatee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 7 shall be conducted in all respects as a de novo trial on the merits, and Indemnatee shall not be prejudiced by reason of the adverse determination under Section 6(b).

(c) If a determination shall have been made pursuant to Section 6(b) of this Agreement that Indemnatee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 7, absent (i) a misstatement by Indemnatee of a material fact, or an omission of a material fact necessary to make Indemnatee's misstatement not materially misleading in connection with the application for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnatee, pursuant to this Section 7, seeks a judicial adjudication of his rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall pay on his behalf, in advance, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by him in such judicial adjudication, regardless of whether Indemnatee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnatee against any and all Expenses and, if requested by Indemnatee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnatee, which are incurred by Indemnatee in connection with any action brought by Indemnatee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies

maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

(f) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

8. Non-Exclusivity; Survival of Rights; Insurance; Primacy of Indemnification; Subrogation.

(a) The rights of indemnification as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the By-laws, any agreement, a vote of stockholders, a resolution of Board or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the DGCL, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Certificate of Incorporation, By-laws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) The Company hereby acknowledges that Indemnitee has or may have in the future certain rights to indemnification, advancement of expenses and/or insurance provided by other entities and/or organizations (collectively, the “**Secondary Indemnitors**”). The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to Indemnitee are primary and any obligation of the Secondary Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by Indemnitee are secondary), (ii) that it shall be required to advance the full amount of expenses incurred by



Indemnatee and shall be liable for the full amount of all Expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement and the Certificate of Incorporation or Bylaws of the Company (or any other agreement between the Company and Indemnatee), without regard to any rights Indemnatee may have against the Secondary Indemnitors, and, (iii) that it irrevocably waives, relinquishes and releases the Secondary Indemnitors from any and all claims against the Secondary Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Secondary Indemnitors on behalf of Indemnatee with respect to any claim for which Indemnatee has sought indemnification from the Company shall affect the foregoing and the Secondary Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnatee against the Company. The Company and Indemnatee agree that the Secondary Indemnitors are express third party beneficiaries of the terms of this Section 8(c).

(d) Except as provided in paragraph (c) above, in the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnatee (other than against the Secondary Indemnitors), who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(e) Except as provided in paragraph (c) above, the Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnatee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(f) Except as provided in paragraph (c) above, the Company's obligation to indemnify or advance Expenses hereunder to Indemnatee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnatee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

9. Exception to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnatee:

(a) for which payment has actually been made to or on behalf of Indemnatee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision, provided, that the foregoing shall not affect the rights of Indemnatee or the Secondary Indemnitors set forth in Section 8(c) above;

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnatee of securities of the Company within the meaning of Section 16(b) of the Exchange Act, or similar provisions of state statutory law or common law;

(c) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law;

(d) with respect to remuneration paid to Indemnitee if it is determined by final judgment or other final adjudication that such remuneration was in violation of law (and, in this respect, both the Company and Indemnitee have been advised that the Securities and Exchange Commission believes that indemnification for liabilities arising under the federal securities laws is against public policy and is, therefore, unenforceable and that claims for indemnification should be submitted to appropriate courts for adjudication, as indicated in the last paragraph of this Section 9 below);

(e) a final judgment or other final adjudication is made that Indemnitee's conduct was in bad faith, knowingly fraudulent or deliberately dishonest or constituted willful misconduct (but only to the extent of such specific determination);

(f) in connection with any claim for reimbursement of the Company by Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002, as amended (the "**Sarbanes-Oxley Act**"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act), if Indemnitee is held liable therefor (including pursuant to any settlement); or

(g) on account of conduct that is established by a final judgment as constituting a breach of Indemnitee's duty of loyalty to the Company or resulting in any personal profit or advantage to which Indemnitee is not legally entitled.

For purposes of this Section 9, a final judgment or other adjudication may be reached in either the underlying proceeding or action in connection with which indemnification is sought or a separate proceeding or action to establish rights and liabilities under this Agreement.

Any provision herein to the contrary notwithstanding, the Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee or otherwise act in violation of any undertaking appearing in and required by the rules and regulations promulgated under the Securities Act, or in any registration statement filed with the SEC under the Securities Act. Indemnitee acknowledges that paragraph (h) of Item 512 of Regulation S-K currently generally requires the Company to undertake in connection with any registration statement filed under the Securities Act to submit the issue of the enforceability of Indemnitee's rights under this Agreement in connection with any liability under the Securities Act on public policy grounds to a court of appropriate jurisdiction and to be governed by any final adjudication of such issue. Indemnitee specifically agrees that any such undertaking shall supersede the provisions of this Agreement and to be bound by any such undertaking.

10. Duration of Agreement. All agreements and obligations of the Company contained herein shall continue during the period Indemnitee is an officer or director of the Company (or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) and shall continue thereafter so long as Indemnitee shall be subject to any Proceeding (or any proceeding commenced under Section 7 hereof) by reason of his Corporate Status, whether or not he is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives.

11. Security. To the extent requested by Indemnitee and approved by the Board, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of the Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it hereby in order to induce Indemnitee to serve as an officer or director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as an officer or director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

13. Definitions. For purposes of this Agreement:

(a) **"Beneficial Owner"** shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(b) **"Board"** means the Board of Directors of the Company.

(c) **"Change in Control"** means the earliest to occur after the date of this Agreement of any of the following events:

(i) Acquisition of Stock by Third Party. Any Person is or becomes the Beneficial Owner (as defined above), directly or indirectly, of securities of the Company representing twenty five percent (25%) or more of the combined voting

power of the Company's then outstanding securities (excluding any changes in the voting power solely resulting from any conversion of Class B Common Stock into Class A Common Stock);

(ii) Change in Board. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in clause (i), (ii) or (iv) of this definition of Change in control) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a least a majority of the members of the Board;

(iii) Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 51% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the Board or other governing body of such surviving entity;

(iv) Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

(v) Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act, whether or not the Company is then subject to such reporting requirement.

(d) "**Corporate Status**" describes the status of a person who is or was a director, officer, employee, agent or fiduciary of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving at the express written request of the Company.

(e) "**Disinterested Director**" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(f) "**Enterprise**" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, employee, agent or fiduciary.

(g) “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.

(h) “**Expenses**” shall include all reasonable attorneys’ fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in any Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding and any federal, state, local or foreign taxes imposed on the Indemnatee as a result of the actual or deemed receipt of any payments under this Agreement, including without limitation the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Expenses, however, shall not include amounts paid in settlement by Indemnatee or the amount of judgments or fines against Indemnatee.

(i) “**Independent Counsel**” means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnatee in any matter material to either such party (other than with respect to matters concerning Indemnatee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnatee in an action to determine Indemnatee’s rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(j) “**Person**” for purposes of the definition of Beneficial Owner and Change in Control set forth above, shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(k) “**Proceeding**” includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative or investigative, in which Indemnatee was, is or will be involved as a party or otherwise, by reason of the fact that Indemnatee is or was an officer or director of the Company, by reason of any action taken by him or of any inaction on his part while acting as an officer or director of the Company, or by reason of the fact that he is or was serving at the request of the Company as a director, officer, employee, agent or fiduciary of another corporation, partnership, joint venture,

trust or other Enterprise; in each case whether or not he is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnatee pursuant to Section 7 of this Agreement to enforce his rights under this Agreement.

(l) “**Securities Act**” shall mean the Securities Act of 1933, as amended.

14. **Severability.** The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnatee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. **Modification and Waiver.** No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. **Notice By Indemnatee.** Indemnatee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnatee under this Agreement or otherwise unless and only to the extent that such failure or delay materially prejudices the Company.

17. **Notices.** All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

(a) To Indemnatee at the address set forth below Indemnatee signature hereto.

(b) To the Company at:

Everbridge, Inc.  
25 Corporate Drive, Suite 400  
Burlington, Massachusetts 01803  
Attention: Chief Executive Officer

or to such other address as may have been furnished to Indemnatee by the Company or to the Company by Indemnatee, as the case may be.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. This Agreement may also be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. The Company and Indemnatee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Chancery Court of the State of Delaware (the “**Delaware Court**”), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (iv) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

***SIGNATURE PAGE TO FOLLOW***

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on and as of the day and year first above written.

**EVERBRIDGE, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**INDEMNITEE**

\_\_\_\_\_  
Name:

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



EVERBRIDGE, INC.

BRIDGE BANK, NATIONAL ASSOCIATION

LOAN AND SECURITY AGREEMENT

This **LOAN AND SECURITY AGREEMENT** is entered into as of June 30, 2015, by and between **BRIDGE BANK, NATIONAL ASSOCIATION** (“Bank”) and **EVERBRIDGE, INC.** (“Borrower”).

## **RECITALS**

Borrower wishes to obtain credit from time to time from Bank, and Bank desires to extend credit to Borrower. This Agreement sets forth the terms on which Bank will advance credit to Borrower, and Borrower will repay the amounts owing to Bank.

## **AGREEMENT**

The parties agree as follows:

### **1. DEFINITIONS AND CONSTRUCTION.**

**1.1 Definitions.** As used in this Agreement, the following terms shall have the following definitions:

“Accounts” means all presently existing and hereafter arising accounts, contract rights, payment intangibles, and all other forms of obligations owing to Borrower arising out of the sale or lease of goods (including, without limitation, the licensing of software and other technology) or the rendering of services by Borrower, whether or not earned by performance, and any and all credit insurance, guaranties, and other security therefor, as well as all merchandise returned to or reclaimed by Borrower and Borrower’s Books relating to any of the foregoing.

“Advance” or “Advances” means a cash advance or cash advances under the Revolving Facility.

“Affiliate” means, with respect to any Person, any Person that owns or controls directly or indirectly such Person, any Person that controls or is controlled by or is under common control with such Person, and each of such Person’s senior executive officers, directors, and partners.

“Bank Expenses” means all: reasonable costs or expenses (including reasonable attorneys’ fees and expenses) incurred in connection with the preparation, negotiation, administration, and enforcement of the Loan Documents; reasonable Collateral audit fees; and Bank’s reasonable attorneys’ fees and expenses incurred in amending, enforcing or defending the Loan Documents (including fees and expenses of appeal), incurred before, during and after an Insolvency Proceeding, whether or not suit is brought.

“Borrower’s Books” means all of Borrower’s books and records including: ledgers; records concerning Borrower’s assets or liabilities, the Collateral, business operations or financial condition; and all computer programs, or tape files, and the equipment, containing such information.

“Borrowing Base” means as of any date an amount equal to Borrower’s trailing four (4) months of Monthly Recurring Revenue from the Eligible Recurring Revenue Contracts as of the last day of the most recently completed month, multiplied by the MRR Renewal Rate, as determined by Bank with reference to the most recent Borrowing Base Certificate delivered by Borrower.

“Business Day” means any day that is not a Saturday, Sunday, or other day on which banks in the State of California are authorized or required to close.

“Cash Management Sublimit” means a sublimit for cash management transactions under the Revolving Line not to exceed Two Hundred Fifty Thousand Dollars (\$250,000).

“Change in Control” shall mean a transaction in which any “person” or “group” (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934) becomes the “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act of 1934), directly or indirectly, of a sufficient number of shares of all classes of stock then outstanding of Borrower ordinarily entitled to vote in the election of directors, empowering such “person” or “group” to elect a majority of the Board of Directors of Borrower, who did not have such power before such transaction.

“Closing Date” means the date of this Agreement.

“Code” means the California Uniform Commercial Code.

“Collateral” means the property described on **Exhibit A** attached hereto.

“Contingent Obligation” means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (i) any indebtedness, lease, dividend, letter of credit or other obligation of another; (ii) any obligations with respect to undrawn letters of credit, corporate credit cards, or merchant services issued or provided for the account of that Person; and (iii) all obligations arising under any agreement or arrangement designed to protect such Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term “Contingent Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by Bank in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

“Contracts” means subscription license contracts, maintenance contracts and support contracts of Borrower. “Copyrights” means any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof.

“Credit Extension” means each Advance, the Growth Capital Term Loan, use of the Cash Management Sublimit, the International Sublimit, or any other extension of credit by Bank for the benefit of Borrower hereunder.

“Daily Balance” means the principal amount of the Obligations owed at the end of a given day.

“Eligible Recurring Revenue Contracts” means Contracts yielding Monthly Recurring Revenue. Unless otherwise agreed to by Bank, Eligible Recurring Revenue Contracts shall not include the following:

(a) Contracts for which the customer thereunder has failed to pay to the Borrower any amounts due to Borrower under any of such Contracts within one hundred twenty (120) days from the invoice date;

(b) Contracts with respect to which the customer is subject to any Insolvency Proceeding, or becomes insolvent or goes out of business; and

(c) Contracts which the customer thereunder has elected to cancel or has failed to renew within the time period prescribed in such Contracts. Notwithstanding the foregoing, if Borrower has a reasonable expectation that a Contract will be renewed within one hundred twenty (120) days after the stated expiration date of the Contract and the customer remains an active user during such period of time, Contracts with such customer shall not be excluded from Eligible Recurring Revenue Contracts.

“Equipment” means all present and future machinery, equipment, tenant improvements, furniture, fixtures, vehicles, tools, parts and attachments in which Borrower has any interest.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

“Event of Default” has the meaning assigned in Article 8.

“GAAP” means generally accepted accounting principles as in effect from time to time.

“Indebtedness” means (a) all indebtedness for borrowed money or the deferred purchase price of property or services, including without limitation reimbursement and other obligations with respect to surety bonds and letters of credit, (b) all obligations evidenced by notes, bonds, debentures or similar instruments, (c) all capital lease obligations and (d) all Contingent Obligations.

“Insolvency Proceeding” means any proceeding commenced by or against any person or entity under any provision of the United States Bankruptcy Code, as amended, or under any other bankruptcy or insolvency law, including assignments for the benefit of creditors, formal or informal moratoria, compositions, extension generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“Intellectual Property” means all of Borrower’s right, title, and interest in and to the following: Copyrights, Trademarks and Patents, domain names, trade names; all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, and operating manuals, any and all source code, all design rights, claims for damages by way of past, present and future infringement of any of the rights included above, all licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights; all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents; and all proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

“International Sublimit” means a sublimit for foreign exchange services and export, import, and standby letters of credit under the Revolving Line not to exceed Two Hundred Fifty Thousand Dollars (\$250,000).

“Inventory” means all inventory in which Borrower has or acquires any interest, including work in process and finished products intended for sale or lease or to be furnished under a contract of service, of every kind and description now or at any time hereafter owned by or in the custody or possession, actual or constructive, of Borrower, including such inventory as is temporarily out of its custody or possession or in transit and including any returns upon any accounts or other proceeds, including insurance proceeds, resulting from the sale or disposition of any of the foregoing and any documents of title representing any of the above, and Borrower’s Books relating to any of the foregoing.

“Investment” means any beneficial ownership of (including stock, partnership interest or other securities) any Person, or any loan, advance or capital contribution or transfer of any assets (except as permitted under Section 7.1) to any Person.

“IRC” means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

“Lien” means any mortgage, lien, deed of trust, charge, pledge, security interest or other encumbrance.

“Loan Documents” means, collectively, this Agreement, the Microtech Guaranty, any note or notes, documents or instruments executed by Borrower or Microtech, and any other agreement entered into in connection with this Agreement, including the agreements listed in Section 3.1, all as amended or extended from time to time.

“Material Adverse Effect” means a material adverse effect on (i) the business operations, or condition (financial or otherwise) of Borrower and its Subsidiaries taken as a whole or (ii) the ability of Borrower to repay the Obligations or otherwise perform its obligations under the Loan Documents or (iii) the value or priority of Bank’s security interests in the Collateral.

“Microtech” means Microtech USA, LLC, a Delaware limited liability company.

“Monthly Recurring Revenue” means, with respect to any measurement period, monthly recurring revenue recognized in accordance with GAAP during such period from Contracts.

“MRR Renewal Rate” means as of the last day of a month, the ratio, expressed as a percentage, of (i) Monthly Recurring Revenue derived from Eligible Recurring Revenue Contracts for the twelve (12) months ending on such date (the “Measurement Period”) to (ii) Monthly Recurring Revenue for the Measurement Period for all the Contracts; provided however that at no time shall the MRR Renewal Rate be greater than ninety five percent (95%).

“Negotiable Collateral” means all letters of credit of which Borrower is a beneficiary, notes, drafts, instruments, securities, documents of title, and chattel paper, and Borrower’s Books relating to any of the foregoing.

“Obligations” means all debt, principal, interest, Bank Expenses and other amounts owed to Bank by Borrower pursuant to this Agreement or any other agreement, whether absolute or contingent, due or to become due, now existing or hereafter arising, including any interest that accrues after the commencement of an Insolvency Proceeding and including any debt, liability, or obligation owing from Borrower to others that Bank may have obtained by assignment or otherwise.

“Patents” means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

“Periodic Payments” means all installments or similar recurring payments that Borrower may now or hereafter become obligated to pay to Bank pursuant to the terms and provisions of any instrument, or agreement now or hereafter in existence between Borrower and Bank.

“Permitted Indebtedness” means:

(a) Indebtedness of Borrower or Microtech in favor of Bank arising under this Agreement or any other Loan Document;

(b) Indebtedness existing on the Closing Date and disclosed in the Schedule;

(c) Indebtedness secured by a lien described in clause (c) of the defined term “Permitted Liens,” provided (i) such Indebtedness does not exceed the lesser of the cost or fair market value of the equipment and software financed with such Indebtedness and (ii) such Indebtedness does not exceed \$1,000,000 in the aggregate at any given time;

(d) Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Subordinated Debt;

(f) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(g) Indebtedness that also constitutes a Permitted Investment;

(h) unsecured Indebtedness in connection with corporate credit cards;

(i) during the 60 day period following the Closing Date, reimbursement obligations in connection with letters of credit that are secured by cash or cash equivalents and issued on behalf of the Borrower or a Subsidiary thereof in an amount not to exceed \$79,000 at any time outstanding; and

(j) extensions, refinancings and renewals of any items of Permitted Indebtedness described in clauses (a) through (h) above, provided that the principal amount thereof is not increased and the terms thereof are not modified to impose more burdensome terms upon any Borrower or its Subsidiary, as the case may be.

“Permitted Investment” means:

(a) Investments existing on the Closing Date disclosed in the Schedule;

(b) (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one (1) year from the date of acquisition thereof, (ii) commercial paper maturing no more than one (1) year from the date of creation thereof and currently having rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service, (iii) certificates of deposit maturing no more than one (1) year from the date of investment therein issued by Bank and (iv) Bank's money market accounts;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;

(d) Investments consisting of accounts held at other financial institutions, to the extent permitted by Section 6.8;

(e) Investments accepted in connection with Transfers permitted by Section 7.1;

(f) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, limited to an aggregate total of Two Hundred Thousand Dollars (\$200,000), and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower pursuant to employee stock purchase plans or agreements approved by Borrower's board of directors, limited to an aggregate total of Two Hundred Thousand Dollars (\$200,000);

(g) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(h) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that (i) this clause (h) shall not apply to Investments of Borrower in any Subsidiary, (ii) all notes receivable are transferred and held by the Bank and (iii) such Investments are limited to an aggregate total of Two Hundred Thousand Dollars (\$200,000);

(i) deposits and securities accounts maintained with banks and other financial institutions to the extent expressly permitted under Section 6.8 and as to which Borrower has complied with the requirements of Section 6.8;

(j) Investments by Borrower or any domestic Subsidiary which is a guarantor of the Obligations or joined as a co-borrower hereunder in foreign Subsidiaries in an aggregate amount not to exceed Two Million Dollars (\$2,000,000) in any twelve month period, including the formation or acquisition of new foreign Subsidiaries subject to compliance with Section 6.11;

(k) (i) Investments by Borrower in Microtech or any other domestic Subsidiary which is a guarantor of the Obligations or joined as a co-borrower hereunder, (ii) Investments by Microtech or any other domestic Subsidiary in Borrower or in any domestic Subsidiary which is a guarantor of the Obligations or joined as a co-borrower hereunder, and (iii) Investments by a foreign Subsidiary in any other foreign Subsidiary;

(l) Repurchases of stock permitted by Section 7.6(i); and

(m) joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of the non-exclusive licensing of technology, the development of technology or the providing of technical support, provided that any cash investments by Borrower or any co-borrower or guarantor of the Obligations do not exceed Two Hundred Thousand Dollars (\$200,000) in the aggregate in any fiscal year.

“Permitted Liens” means the following:

**(a)** Any Liens existing on the Closing Date and disclosed in the Schedule or arising under this Agreement or the other Loan Documents;

**(b)** Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings, provided the same have no priority over any of Bank’s security interests;

**(c)** Liens (including capital leases) securing Indebtedness described in clause (c) of the defined term “Permitted Indebtedness,” (i) upon or in any equipment or software which was not financed by Bank acquired or held by Borrower or any of its Subsidiaries to secure the purchase price of such equipment or software or indebtedness incurred solely for the purpose of financing the acquisition of such equipment or software, or (ii) existing on such equipment or software at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment or software;

**(d)** Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens (i) secure liabilities in the aggregate amount not to exceed Two Hundred Thousand Dollars (\$200,000), (ii) have no priority over any of Bank’s security interests and (iii) are not delinquent or remain payable without penalty or are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

**(e)** Liens to secure payment of workers’ compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

**(f)** leases or subleases of real property granted in the ordinary course of Borrower’s business (or, if referring to another Person, in the ordinary course of such Person’s business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower’s business (or, if referring to another Person, in the ordinary course of such Person’s business), if the leases, subleases, licenses and sublicenses do not prohibit granting Bank a security interest therein;

**(g)** statutory or common law Liens of landlords, provided the same are subject to landlord lien waivers (or similar) except to the extent waived by Bank;

**(h)** deposits in the aggregate not to exceed \$250,000 securing the performance of real estate leases entered into in the ordinary course of business;

**(i)** licenses of Intellectual Property granted to third parties in the ordinary course of business;

**(j)** Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.4 and 8.7, limited to an aggregate total of Two Hundred Thousand Dollars (\$200,000);

**(k)** Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties that are promptly paid on or before the date they become due;

**(l)** Liens in favor of other financial institutions arising in connection with Borrower’s accounts held at such institutions, to the extent permitted by Section 6.8;

**(m)** Liens during the 60 day period following the Closing Date on cash or cash equivalents securing obligations permitted under clause (i) of the definition of Permitted Indebtedness; and

**(n)** Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (a) through (l) above, provided that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced does not increase.

“Person” means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or governmental agency.

“Prime Rate” means the greater of three and one quarter percent (3.25%) per year, or the variable rate of interest, per annum, most recently announced by Bank, as its “prime rate”, whether or not such announced rate is the lowest rate available from Bank.

“Responsible Officer” means each of the Chairman and Chief Executive Officer, the Senior Vice President and Chief Financial Officer, the Vice President and Controller, and the Vice President of Finance of Borrower.

“Revolving Facility” means the facility under which Borrower may request Bank to issue Advances, as specified in Section 2.1(a) hereof.

“Revolving Line” means a credit extension of up to Ten Million Dollars (\$10,000,000). “Revolving Maturity Date” means the third anniversary of the Closing Date.

“Schedule” means the schedule of exceptions attached hereto and approved by Bank, if any, as the same may be updated from time to time, subject to Bank’s approval.

“Shares” means (i) one hundred percent (100%) of the issued and outstanding capital stock, membership units or other securities owned or held of record by Borrower in any direct or indirect domestic Subsidiary; and (ii) sixty five percent (65%) of the issued and outstanding capital stock, membership units or other securities owned or held of record by Borrower in any direct or indirect Subsidiary which is not an entity organized under the laws of the United States or any territory thereof.

“Subordinated Debt” means any debt incurred by Borrower that is subordinated to the debt owing by Borrower to Bank on terms reasonably acceptable to Bank (and identified as being such by Borrower and Bank), pursuant to a subordination agreement in form and substance reasonably satisfactory to Bank.

“Subsidiary” means, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries (including any Affiliate), or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower.

“Trademarks” means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

**1.2 Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP and all calculations made hereunder shall be made in accordance with GAAP. When used herein, the terms “financial statements” shall include the notes and schedules thereto.



## **2. LOAN AND TERMS OF PAYMENT.**

### **2.1 Credit Extensions.**

Borrower promises to pay to the order of Bank, in lawful money of the United States of America, the aggregate unpaid principal amount of all Credit Extensions made by Bank to Borrower hereunder. Borrower shall also pay interest on the unpaid principal amount of such Credit Extensions at rates in accordance with the terms hereof.

#### **(a) Revolving Advances.**

(i) Subject to and upon the terms and conditions of this Agreement, Borrower may request Advances in an aggregate outstanding amount not to exceed the lesser of (i) the Revolving Line or (ii) the Borrowing Base, *minus*, in each case, the amount of services being provided under the Cash Management Sublimit and the aggregate amounts outstanding under the International Sublimit. Subject to the terms and conditions of this Agreement, amounts borrowed pursuant to this Section 2.1(a) may be repaid and reborrowed at any time prior to the Revolving Maturity Date, at which time all Advances under this Section 2.1(a) shall be immediately due and payable. Borrower may prepay any Advances without penalty or premium.

(ii) Whenever Borrower desires an Advance, Borrower will notify Bank no later than 3:00 p.m. Pacific time, on the Business Day that the Advance is to be made. Each such notification shall be made (i) by telephone or in-person followed by written confirmation from Borrower within 24 hours, (ii) by electronic mail or facsimile transmission, or (iii) by delivering to Bank a Revolving Advance Request Form in substantially the form of **Exhibit B** hereto. Bank is authorized to make Advances under this Agreement, based upon instructions received from a Responsible Officer or a designee of a Responsible Officer, or without instructions if in Bank's discretion such Advances are necessary to meet Obligations which have become due and remain unpaid. Bank shall be entitled to rely on any notice given by a person who Bank reasonably believes to be a Responsible Officer or a designee thereof, and Borrower shall indemnify and hold Bank harmless from any damages or loss suffered by Bank as a result of such reliance. Bank will credit the amount of Advances made under this Section 2.1(a) to Borrower's deposit account

#### **(b) Growth Capital Term Loan.**

(i) Subject to and upon the terms and conditions of this Agreement, on or around the Closing Date, Bank agrees to make a cash advance to Borrower in an aggregate principal amount of Five Million Dollars (\$5,000,000) (the "Growth Capital Term Loan").

(ii) Interest shall accrue from the date of the Growth Capital Term Loan at the rate specified in Section 2.3, and shall be payable monthly on the tenth day of each month so long as the Growth Capital Term Loan is outstanding. The Growth Capital Term Loan shall be payable in thirty six (36) equal monthly installments of principal, plus all accrued interest, beginning on the tenth day of the first month following the first anniversary of the Closing Date, and continuing on the same day of each month thereafter through the fourth anniversary of the Closing Date (the "Growth Capital Term Loan Maturity Date"), at which time all amounts owing under this Section 2.1(b) and any other amounts owing under this Agreement shall be immediately due and payable.

(iii) Borrower shall have the option to prepay any portion or all of the Growth Capital Term Loan, provided that Borrower provides written notice to Bank of its election to prepay such portion or all of the Growth Capital Term Loan at least ten (10) days prior to such prepayment, and pays, on the date of such prepayment, (1) the outstanding principal amount of such portion or all of the Growth Capital Term Loan being repaid, plus (2) all accrued interest thereon, plus (3) all other sums, if any, that shall have become due and payable under the Loan Documents and relate to such Growth Capital Term Loan, plus (4) a fee equal to 2% of the principal amount of such Growth Capital Term Loan being repaid if such prepayment occurs on or prior to the first anniversary of the Closing Date (the "Prepayment Fee").

**(c) Cash Management Sublimit.** Subject to the terms and conditions of this Agreement and availability under the Revolving Line and the Borrowing Base, Borrower may request cash

management services which may include merchant services, business credit card, automated clearing house transactions, controlled disbursement accounts and check cashing services identified in various cash management services agreements related to such services (the “Cash Management Services”) by delivering to Bank such applications on Bank’s standard forms as requested by Bank; provided, however, that the total amount of the Cash Management Services shall not exceed the Cash Management Sublimit, and that availability under the Revolving Line shall be reduced by the entire amount of services provided under the Cash Management Sublimit. In addition, Bank may, in its sole discretion, charge as Advances any amounts that become due or owing to Bank in connection with the Cash Management Services. If at any time the Revolving Facility is terminated or otherwise ceases to exist, Borrower shall immediately secure to Bank’s satisfaction its obligations with respect to any Cash Management Services, and, effective as of such date, the balance in any deposit accounts held by Bank and the certificates of deposit issued by Bank in Borrower’s name (and any interest paid thereon or proceeds thereof, including any amounts payable upon the maturity or liquidation of such certificates), shall automatically secure such obligations to the extent of the then outstanding Cash Management Services. Borrower authorizes Bank to hold such balances in pledge and to decline to honor any drafts thereon or any requests by Borrower or any other Person to pay or otherwise transfer any part of such balances for so long as the Cash Management Services continue.

**(d) International Sublimit.**

**(i) Letters of Credit.** Subject to the terms and conditions of this Agreement, at any time prior to the Revolving Maturity Date, Bank agrees to issue letters of credit for the account of Borrower (each, a “Letter of Credit” and collectively, the “Letters of Credit”), provided, however, the aggregate outstanding face amount of all Letters of Credit shall not exceed the International Sublimit less any FX Amount (as defined below) outstanding, and for purposes of determining availability under the Revolving Line, the aggregate outstanding face amount of all Letters of Credit (whether drawn or undrawn) shall decrease, on a dollar-for-dollar basis, the amount available for other Advances. All Letters of Credit shall be, in form and substance, acceptable to Bank in its sole discretion and shall be subject to the terms and conditions of Bank’s form of standard application and letter of credit agreement (the “Application”), which Borrower hereby agrees to execute, including Bank’s standard fees. On any drawn but unreimbursed Letter of Credit, the unreimbursed amount shall be deemed an Advance under Section 2.1(a). The obligation of Borrower to reimburse Bank for drawings made under Letters of Credit shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement, the Application, and such Letters of Credit, under all circumstances whatsoever. Borrower shall indemnify, defend, protect, and hold Bank harmless from any loss, cost, expense or liability, including, without limitation, attorneys’ fees, arising out of or in connection with any Letters of Credit, except for expenses caused by Bank’s gross negligence or willful misconduct.

**(ii) Foreign Exchange.** Subject to and upon the terms and conditions of this Agreement and any other agreement that Borrower may enter into with Bank in connection with foreign exchange transactions (“FX Contracts”), Borrower may request Bank to enter into FX Contracts with Borrower due not later than the Revolving Maturity Date. Borrower shall pay any standard issuance and other fees that Bank notifies Borrower will be charged for issuing and processing FX Contracts for Borrower. The FX Amount shall at all times be equal to or less than the International Sublimit less the face amount of all outstanding Letters of Credit, and availability under the Revolving Line shall be reduced by the FX Amount. The “FX Amount” shall equal the amount determined by multiplying (A) the aggregate amount, in United States Dollars, of FX Contracts between Borrower and Bank remaining outstanding as of any date of determination by (B) the applicable Foreign Exchange Reserve Percentage as of such date. The “Foreign Exchange Reserve Percentage” shall be a percentage as determined by Bank, in its reasonable discretion from time to time.

**(iii)** If at any time the Revolving Facility is terminated or otherwise ceases to exist, Borrower shall immediately secure in cash all obligations under the International Sublimit on terms reasonably acceptable to Bank.

**2.2 Overadvances.** If the aggregate amount of the outstanding Advances plus the amount of services provided under the Cash Management Sublimit plus the aggregate amounts outstanding under the International Sublimit exceeds the lesser of the Revolving Line or the Borrowing Base at any time, Borrower shall immediately pay to Bank, in cash, the amount of such excess.

## 2.3 Interest Rates, Payments, and Calculations.

### (a) Interest Rates.

**(i) Advances.** Except as set forth in Section 2.3(b), the Advances shall bear interest, on the outstanding Daily Balance thereof, at a rate equal to three quarters of one percent (0.75%) above the Prime Rate.

**(ii) Growth Capital Term Loan.** Except as set forth in Section 2.3(b), the Growth Capital Term Loan shall bear interest, on the outstanding Daily Balance thereof, at a rate equal to one and three quarters of one percent (1.75%) above the Prime Rate.

**(b) Late Fee; Default Rate.** If any payment is not made within ten (10) days after the date such payment is due, Borrower shall pay Bank a late fee equal to the lesser of (i) five percent (5%) of the amount of such unpaid amount or (ii) the maximum amount permitted to be charged under applicable law, not in any case to be less than \$25.00. All Obligations shall bear interest, from and after the occurrence and during the continuance of an Event of Default, at a rate equal to five (5) percentage points above the interest rate applicable immediately prior to the occurrence of the Event of Default.

**(c) Payments.** Interest hereunder shall be due and payable on the tenth calendar day of each month during the term hereof. Bank shall, at its option, charge such interest, all Bank Expenses, and all Periodic Payments against any of Borrower's deposit accounts or against the Revolving Line, in which case those amounts shall thereafter accrue interest at the rate then applicable hereunder. Any interest not paid when due shall be compounded by becoming a part of the Obligations, and such interest shall thereafter accrue interest at the rate then applicable hereunder. All payments shall be free and clear of any taxes, withholdings, duties, impositions or other charges, to the end that Bank will receive the entire amount of any Obligations payable hereunder, regardless of source of payment.

**(d) Computation.** In the event the Prime Rate is changed from time to time hereafter, the applicable rate of interest hereunder shall be increased or decreased, effective as of the day the Prime Rate is changed, by an amount equal to such change in the Prime Rate. All interest chargeable under the Loan Documents shall be computed on the basis of a three hundred sixty (360) day year for the actual number of days elapsed.

**2.4 Crediting Payments.** Prior to the occurrence of an Event of Default, Bank shall credit a wire transfer of funds, check or other item of payment to such deposit account or Obligation as Borrower specifies. After the occurrence of an Event of Default, the receipt by Bank of any wire transfer of funds, check, or other item of payment shall be immediately applied to conditionally reduce Obligations, but shall not be considered a payment on account unless such payment is of immediately available federal funds or unless and until such check or other item of payment is honored when presented for payment. Notwithstanding anything to the contrary contained herein, any wire transfer or payment received by Bank after 12:00 noon Pacific time shall be deemed to have been received by Bank as of the opening of business on the immediately following Business Day. Whenever any payment to Bank under the Loan Documents would otherwise be due (except by reason of acceleration) on a date that is not a Business Day, such payment shall instead be due on the next Business Day, and additional fees or interest, as the case may be, shall accrue and be payable for the period of such extension.

**2.5 Fees.** Borrower shall pay to Bank the following:

**(a) Facility Fee.** (i) On the Closing Date and on each anniversary of the Closing Date for so long as the Revolving Facility is in place, a facility fee equal to \$12,500, and (ii) on the Closing Date, a facility fee with respect to the Growth Capital Term Loan equal to \$12,500, each of which is fully earned and nonrefundable; and

**(b) Bank Expenses.** On the Closing Date, all Bank Expenses incurred through the Closing Date, including reasonable attorneys' fees and expenses and, after the Closing Date, all Bank Expenses, including reasonable attorneys' fees and expenses, as and when they are incurred by Bank. Borrower has paid to Bank

a deposit of \$10,000 (the “**Good Faith Deposit**”) to initiate Bank’s due diligence review process. Any portion of the Good Faith Deposit not utilized to pay Bank Expenses incurred prior to the Closing Date will be applied to the facility fees due on the Closing Date.

**2.6 Term.** This Agreement shall become effective on the Closing Date and, subject to Section 13.7, shall continue in full force and effect for so long as any Obligations (other than inchoate indemnity obligations) remain outstanding or Bank has any obligation to make Credit Extensions under this Agreement. Notwithstanding the foregoing, (i) Borrower shall have the right to terminate its right to request any Credit Extensions under this Agreement at any time upon notice to Bank and (ii) Bank shall have the right to terminate its obligation to make Credit Extensions under this Agreement immediately and without notice upon the occurrence and during the continuance of an Event of Default. Notwithstanding termination, Bank’s Lien on the Collateral shall remain in effect for so long as any Obligations (other than inchoate indemnity obligations) are outstanding. Upon full and final payment and satisfaction, in cash, of all Obligations (other than inchoate indemnity obligations), and the full and final termination of all of Bank’s obligations and commitments to make Credit Extensions, Bank shall, at Borrower’s sole cost and expense, release the security interest in the Collateral granted under this Agreement and any other Loan Document.

**2.7 Extension of Maturity.** Notwithstanding anything contained herein to the contrary, Bank shall have the right, in its sole and absolute discretion, to extend the Revolving Maturity Date to the tenth day of the month next following the actual Revolving Maturity Date as stated in this Agreement.

**2.8 Payment Deferral.** Notwithstanding anything contained herein to the contrary, in the event the Growth Capital Term Loan is made under this Agreement within ten days prior to the date upon which the first regularly scheduled payment of interest on the Growth Capital Term Loan (“First Monthly Payment”) would otherwise have been due as specified in Section 2.1(b), then Borrower shall make the first regularly scheduled monthly payment of interest on the tenth day of the calendar month immediately following the month in which the Growth Capital Term Loan is made and shall make the first regularly scheduled monthly payment of principal and interest on the tenth day of the first month following the first anniversary of the Closing Date, and the Growth Capital Term Loan Maturity Date shall be extended to the tenth day of the month following the scheduled Growth Capital Term Loan Maturity Date.

### **3. CONDITIONS OF LOANS.**

**3.1 Conditions Precedent to Initial Credit Extension.** The obligation of Bank to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, the following:

(a) this Agreement;

(b) a certificate of the Secretary of Borrower with respect to incumbency and resolutions authorizing the execution and delivery of this Agreement;

(c) UCC National Form Financing Statement;

(d) intellectual property security agreement (proceeds of copyrights);

(e) a payoff letter issued by Silicon Valley Bank containing an undertaking to terminate all Liens in favor of Silicon Valley Bank (including releases with the USPTO and US Copyright Office) upon payoff in full of all indebtedness owing to Silicon Valley Bank (except as otherwise set forth therein);

(f) unconditional guarantee duly executed by Microtech;

(g) agreement to provide insurance;

(h) payment of the fees and Bank Expenses then due specified in Section 2.5 hereof;

- (i) current financial statements of Borrower;
- (j) an audit of the Collateral, the results of which shall be satisfactory to Bank; and
- (k) such other documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

**3.2 Conditions Precedent to all Credit Extensions.** The obligation of Bank to make each Credit Extension, including the initial Credit Extension, is further subject to the following conditions:

- (a) timely receipt by Bank of the Revolving Advance Request Form as provided in Section 2.1; and

(b) the representations and warranties contained in Section 5 shall be true and correct in all material respects on and as of the date of such Revolving Advance Request Form and on the effective date of each Credit Extension as though made at and as of each such date, and no Event of Default shall have occurred and be continuing, or would exist after giving effect to such Credit Extension. The making of each Credit Extension shall be deemed to be a representation and warranty by Borrower on the date of such Credit Extension as to the accuracy of the facts referred to in this Section 3.2.

#### **4. CREATION OF SECURITY INTEREST.**

**4.1 Grant of Security Interest.** Borrower grants and pledges to Bank a continuing security interest in all presently existing and hereafter acquired or arising Collateral in order to secure prompt repayment of any and all Obligations and in order to secure prompt performance by Borrower of each of its covenants and duties under the Loan Documents. Except for Permitted Liens that are permitted to have priority over Bank's Lien, such security interest constitutes a valid, first priority security interest in the presently existing Collateral, and will constitute a valid, first priority security interest in Collateral acquired after the date hereof.

**4.2 Delivery of Additional Documentation Required.** Borrower shall from time to time execute and deliver to Bank, at the request of Bank, all Negotiable Collateral, all financing statements and other documents that Bank may reasonably request, in form satisfactory to Bank, to perfect and continue the perfection of Bank's security interests in the Collateral and in order to fully consummate all of the transactions contemplated under the Loan Documents. Borrower from time to time may deposit with Bank specific time deposit accounts to secure specific Obligations. Borrower authorizes Bank to hold such balances in pledge and to decline to honor any drafts thereon or any request by Borrower or any other Person to pay or otherwise transfer any part of such balances for so long as such Obligations are outstanding.

**4.3 Right to Inspect.** Bank (through any of its officers, employees, or agents) shall have the right, upon reasonable prior notice, from time to time during Borrower's usual business hours but no more than once a year (unless an Event of Default has occurred and is continuing), to inspect Borrower's Books and to make copies thereof and to check, test, and appraise the Collateral in order to verify Borrower's financial condition or the amount, condition of, or any other matter relating to, the Collateral.

**4.4 Pledge of Shares.** Borrower hereby pledges, assigns and grants to Bank, a security interest in all the Shares, together with all proceeds and substitutions thereof, all cash, stock and other moneys and property paid thereon, all rights to subscribe for securities declared or granted in connection therewith, and all other cash and noncash proceeds of the foregoing, as security for the performance of the Obligations. Within fifteen (15) days of the certification of any Shares, the certificate or certificates for the Shares will be delivered to Bank, accompanied by an instrument of assignment duly executed in blank by Borrower. To the extent required by the terms and conditions governing the Shares, Borrower shall cause the books of each entity whose Shares are part of the Collateral and any transfer agent to reflect the pledge of the Shares. Upon the occurrence and during the continuance of an Event of Default hereunder, Bank may effect the transfer of any securities included in the Collateral (including but not limited to the Shares) into the name of Bank and cause new (as applicable) certificates representing such securities to be issued in the name of Bank or its transferee. Borrower will execute and deliver such documents, and take or cause to be taken

such actions, as Bank may reasonably request to perfect or continue the perfection of Bank's security interest in the Shares. Unless an Event of Default shall have occurred and be continuing, Borrower shall be entitled to exercise any voting rights with respect to the Shares and to give consents, waivers and ratifications in respect thereof, provided that no vote shall be cast or consent, waiver or ratification given or action taken which would be inconsistent with any of the terms of this Agreement or which would constitute or create any violation of any of such terms. All such rights to vote and give consents, waivers and ratifications shall terminate upon the occurrence and during the continuance of an Event of Default.

## **5. REPRESENTATIONS AND WARRANTIES.**

Borrower represents and warrants as follows:

**5.1 Due Organization and Qualification.** Borrower is a corporation duly existing under the laws of its state of incorporation and qualified and licensed to do business in any other state in which the conduct of its business or its ownership of property requires that it be so qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Effect. Each Subsidiary of Borrower is a corporation or other organization duly existing under the laws of its jurisdiction of formation and qualified and licensed to do business in any other jurisdiction in which the conduct of its business or its ownership of property requires that it be so qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Effect

**5.2 Due Authorization; No Conflict.** The execution, delivery, and performance of the Loan Documents are within Borrower's powers, have been duly authorized, and are not in conflict with nor constitute a breach of any provision contained in Borrower's Certificate of Incorporation or Bylaws, nor will they constitute an event of default under any material agreement to which Borrower is a party or by which Borrower is bound. Borrower is not in default under any material agreement to which it is a party or by which it is bound.

**5.3 No Prior Encumbrances.** Borrower has good and marketable title to its property, free and clear of Liens, except for Permitted Liens.

**5.4 Bona Fide Eligible Recurring Revenue Contracts.** The Eligible Recurring Revenue Contracts are bona fide existing contracts. Borrower has not received notice of an actual or imminent Insolvency Proceeding commenced by or against any customer of Borrower whose Contracts are included in any Borrowing Base Certificate as Eligible Recurring Revenue Contract.

**5.5 Merchantable Inventory.** All Inventory is in all material respects of good and marketable quality, free from all material defects, except for Inventory for which adequate reserves have been made.

**5.6 Intellectual Property.** Borrower is the sole owner of the Intellectual Property, except for non-exclusive licenses granted by Borrower to its customers in the ordinary course of business. To the best of Borrower's knowledge, each of the Patents is valid and enforceable. No part of the Intellectual Property material to Borrower's business has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property material to Borrower's business violates the rights of any third party. Except as set forth in the Schedule, Borrower's rights as a licensee of intellectual property do not give rise to more than five percent (5%) of its gross revenue in any given month, including without limitation revenue derived from the sale, licensing, rendering or disposition of any product or service. Except as set forth in the Schedule, Borrower is not a party to, or bound by, any material agreement that expressly restricts the grant by Borrower of a security interest in Borrower's rights under such agreement, except for Permitted Liens of the type described in clause (c) of the definition thereof.

**5.7 Name; Location of Chief Executive Office.** Except as disclosed in the Schedule, Borrower has not done business under any name other than that specified on the signature page hereof. The chief executive office of Borrower is located at the address indicated in Section 10 hereof or as notified to Bank in compliance with Section 7.2. Except as set forth in the Schedule and except for locations containing (i) less than One Hundred Thousand Dollars (\$100,000) in Borrower's assets or property in the aggregate or (ii) mobile equipment consisting of laptop computers and related hardware and software, all Borrower's Inventory and Equipment is located only at the location set forth in Section 10 hereof.

**5.8 Litigation.** Except as set forth in the Schedule or in a written notice to Bank in accordance with Section 6.3(f), there are no actions or proceedings pending by or against Borrower or any Subsidiary before any court or administrative agency in which an adverse decision could have a Material Adverse Effect, or a material adverse effect on Borrower's interest or Bank's security interest in the Collateral.

**5.9 No Material Adverse Change in Financial Statements.** All consolidated and consolidating financial statements related to Borrower and any Subsidiary that Bank has received from Borrower fairly present in all material respects Borrower's financial condition as of the date thereof and Borrower's consolidated and consolidating results of operations for the period then ended. There has not been a material adverse change in the consolidated or the consolidating financial condition of Borrower since the date of the most recent of such financial statements submitted to Bank.

**5.10 Solvency, Payment of Debts.** Borrower is solvent and able to pay its debts (including trade debts) as they mature.

**5.11 Regulatory Compliance.** Borrower and each Subsidiary have met the minimum funding requirements of ERISA with respect to any employee benefit plans subject to ERISA, and no event has occurred resulting from Borrower's failure to comply with ERISA that could result in Borrower's incurring any material liability. Borrower is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940. Borrower is not engaged principally, or as one of the important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T and U of the Board of Governors of the Federal Reserve System). Borrower has complied with all the provisions of the Federal Fair Labor Standards Act. Borrower has not violated any statutes, laws, ordinances or rules applicable to it, violation of which could reasonably be expected to have a Material Adverse Effect.

**5.12 Environmental Condition.** None of Borrower's or any Subsidiary's properties or assets has ever been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous owners or operators, in the disposal of, or to produce, store, handle, treat, release, or transport, any hazardous waste or hazardous substance other than in accordance with applicable law; to the best of Borrower's knowledge, none of Borrower's properties or assets has ever been designated or identified in any manner pursuant to any environmental protection statute as a hazardous waste or hazardous substance disposal site, or a candidate for closure pursuant to any environmental protection statute; no lien arising under any environmental protection statute has attached to any revenues or to any real or personal property owned by Borrower or any Subsidiary; and neither Borrower nor any Subsidiary has received a summons, citation, notice, or directive from the Environmental Protection Agency or any other federal, state or other governmental agency concerning any action or omission by Borrower or any Subsidiary resulting in the releasing, or otherwise disposing of hazardous waste or hazardous substances into the environment.

**5.13 Taxes.** Borrower and each Subsidiary have filed or caused to be filed all tax returns, or extensions to file such returns, required to be filed, and have paid, or have made adequate provision for the payment of, all taxes reflected therein, except for taxes that are currently being contested in good faith, by appropriate proceedings promptly instituted and diligently prosecuted by the Borrower or Subsidiary.

**5.14 Subsidiaries.** Except for Permitted Investments, Borrower does not own any stock, partnership interest or other equity securities of any Person.

**5.15 Government Consents.** Borrower and each Subsidiary have obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all governmental authorities that are necessary for the continued operation of Borrower's business as currently conducted.

**5.16 Operating, Depository and Investment Accounts.** Except as set forth in the Schedule and except in accordance with Section 6.8, none of Borrower's nor any Subsidiary's operating, depository or investment accounts are maintained or invested with a Person other than Bank or Bank's affiliates.

**5.17 Shares.** Borrower has full power and authority to create a first lien on the Shares and no disability or contractual obligation exists that would prohibit Borrower from pledging the Shares pursuant to this Agreement. To Borrower's knowledge, there are no subscriptions, warrants, rights of first refusal or other restrictions on transfer relative to, or options exercisable with respect to the Shares. The Shares have been and will be duly authorized and validly issued, and are fully paid and non-assessable. To Borrower's knowledge, the Shares are not the subject of any present or threatened suit, action, arbitration, administrative or other proceeding, and Borrower knows of no reasonable grounds for the institution of any such proceedings.

**5.18 Full Disclosure.** No representation, warranty or other statement made by Borrower in any certificate or written statement furnished to Bank contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such certificates or statements not misleading. The Bank acknowledges that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not to be viewed as facts and that actual results during the period or periods covered by any such projections and forecasts may differ from the projected or forecasted results.

## **6. AFFIRMATIVE COVENANTS.**

Borrower shall do all of the following:

**6.1 Good Standing.** Borrower shall maintain its corporate existence and good standing in its jurisdiction of incorporation and maintain qualification in each other jurisdiction in which it is required under applicable law except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Except for certain foreign Subsidiaries which Borrower is in the process of dissolving (and which are indicated on the Schedule), Borrower shall cause each of its Subsidiaries to maintain its organizational existence and good standing in its jurisdiction of formation and maintain qualification in each other jurisdiction in which it is required under applicable law except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect. Borrower shall maintain, and shall cause each of its Subsidiaries to maintain, in force all licenses, approvals and agreements, the loss of which could have a Material Adverse Effect.

**6.2 Government Compliance.** Borrower shall meet, and shall cause each Subsidiary to meet, the minimum funding requirements of ERISA with respect to any employee benefit plans subject to ERISA. Borrower shall comply, and shall cause each Subsidiary to comply, with all statutes, laws, ordinances and government rules and regulations to which it is subject, noncompliance with which could have a Material Adverse Effect.

**6.3 Financial Statements, Reports, Certificates.** Borrower shall deliver the following to Bank: (a) as soon as available, but in any event within thirty (30) days after the last day of each month, a Borrowing Base Certificate signed by a Responsible Officer in substantially the form of Exhibit C hereto, together with aged listings of accounts receivable and accounts payable by invoice date and a recurring revenue report; (b) as soon as available, but in any event within thirty (30) days after the end of each calendar month, a company prepared consolidated and consolidating balance sheet, income statement, and cash flow statement covering Borrower's consolidated and consolidating operations during such period, prepared in accordance with GAAP, consistently applied, in a form acceptable to Bank and certified by a Responsible Officer, together with a Compliance Certificate signed by a Responsible Officer in substantially the form of Exhibit D hereto; (c) as soon as available, but in any event within one hundred eighty (180) days after the end of Borrower's fiscal year, audited consolidated financial statements of Borrower prepared in accordance with GAAP, consistently applied, together with an unqualified opinion on such financial statements of an independent certified public accounting firm reasonably acceptable to Bank; (d) as soon as available, but in any event no later than the earlier to occur of thirty (30) days following the beginning of each fiscal year or the date of approval by Borrower's board of directors, an annual operating budget and financial projections (including income statements, balance sheets and cash flow statements) for such fiscal year, presented in a monthly format, approved by Borrower's board of directors, and in a form and substance reasonably acceptable to Bank; (e) copies of all statements, reports and notices sent or made available generally by Borrower to its security holders or to any holders of Subordinated Debt and, if applicable, all reports on Forms 10-K and 10-Q filed with the Securities and Exchange Commission; (f) promptly upon receipt of notice thereof, a report of any legal actions pending or threatened against Borrower or any Subsidiary that could result in damages or costs to Borrower or any Subsidiary of One Hundred Thousand Dollars (\$100,000) or more; and (g) such budgets, sales projections, operating plans or other financial information as Bank may reasonably request from time to time.



**6.4 Audits.** Bank shall have a right from time to time hereafter to audit Borrower's Accounts and appraise Collateral at Borrower's expense, provided that such audits will be conducted no more often than annually unless an Event of Default has occurred and is continuing.

**6.5 Inventory; Returns.** Borrower shall keep all Inventory in good and marketable condition, free from all material defects except for Inventory for which adequate reserves have been made. Returns and allowances, if any, as between Borrower and its account debtors shall be on the same basis and in accordance with the usual customary practices of Borrower, as they exist at the time of the execution and delivery of this Agreement. Borrower shall promptly notify Bank of all returns and recoveries and of all disputes and claims, where the return, recovery, dispute or claim involves more than One Hundred Thousand Dollars (\$100,000).

**6.6 Taxes.** Borrower shall make, and shall cause each Subsidiary to make, due and timely payment or deposit of all federal and state income taxes, and all material local taxes, assessments, or contributions required of it by law, and will execute and deliver to Bank, on demand, appropriate certificates attesting to the payment or deposit thereof; and Borrower will make, and will cause each Subsidiary to make, timely payment or deposit of all material tax payments and withholding taxes required of it by applicable laws, including, but not limited to, those laws concerning F.I.C.A., F.U.T.A., state disability, and local, state, and federal taxes, and will, upon request, furnish Bank with proof satisfactory to Bank indicating that Borrower or a Subsidiary has made such payments or deposits; provided that Borrower or a Subsidiary need not make any payment if the amount or validity of such payment is contested in good faith by appropriate proceedings and is reserved against (to the extent required by GAAP) by Borrower.

**6.7 Insurance.**

(a) Borrower, at its expense, shall keep the Collateral insured against loss or damage by fire, theft, explosion, sprinklers, and all other hazards and risks, and in such amounts, as ordinarily insured against by other owners in similar businesses conducted in the locations where Borrower's business is conducted on the date hereof. Borrower shall also maintain insurance relating to Borrower's business, ownership and use of the Collateral in amounts and of a type that are customary to businesses similar to Borrower's.

(b) All such policies of insurance shall be in such form, with such companies, and in such amounts as are reasonably satisfactory to Bank. All such policies of property insurance shall contain a lender's loss payable endorsement, in a form reasonably satisfactory to Bank, showing Bank as an additional loss payee thereof, and all liability insurance policies shall show the Bank as an additional insured and shall specify that the insurer must give at least twenty (20) days (ten (10) days for non-payment of premium) notice to Bank before canceling its policy for any reason. Upon Bank's request, Borrower shall deliver to Bank certified copies of such policies of insurance and evidence of the payments of all premiums therefor. All proceeds payable under any such policy shall, at the option of Bank, be payable to Bank to be applied on account of the Obligations.

**6.8 Accounts.** Borrower shall (i) maintain and shall cause each of its domestic Subsidiaries to maintain its primary U.S. depository, operating, and investment accounts with Bank or Bank's affiliates and (ii) using commercially reasonable efforts, endeavor to utilize and shall cause each of its Subsidiaries to endeavor to utilize Bank's International Banking Division for any international banking services required by Borrower, including, but not limited to, foreign currency wires, hedges, swaps, FX Contracts, and Letters of Credit. For each U.S. account that Borrower or any Subsidiary maintains outside of Bank, Borrower shall cause the applicable bank or financial institution at or with which any such account is maintained to execute and deliver an account control agreement or other appropriate instrument in form and substance reasonably satisfactory to Bank; provided that, no control agreements shall be required with respect to accounts holding cash or cash equivalents securing obligations permitted under clause (i) of the definition of Permitted Indebtedness (relating to letter of credit reimbursement obligations) for the sixty (60) day period following the Closing Date. Notwithstanding the foregoing, during the period commencing on the Closing Date and ending sixty (60) days thereafter, Borrower and its Subsidiaries may continue to maintain its existing depository, operating and investment accounts with Silicon Valley Bank, and no control agreements shall be required with respect to such accounts during such sixty-day period.

## 6.9 Financial Covenants

(a) **Minimum MRR Renewal Rate.** Borrower shall achieve an MRR Renewal Rate of at least ninety percent (90%), measured on a quarterly basis.

## 6.10 Intellectual Property Rights.

(a) Borrower shall promptly give Bank annual written notice of any applications or registrations of intellectual property rights filed with the United States Patent and Trademark Office, including the date of such filing and the registration or application numbers, if any.

(b) Borrower shall (i) give Bank not less than 30 days prior written notice of the filing of any applications or registrations with the United States Copyright Office, including the title of such intellectual property rights to be registered, as such title will appear on such applications or registrations, and the date such applications or registrations will be filed, and (ii) prior to the filing of any such applications or registrations, shall execute such documents as Bank may reasonably request for Bank to perfect or maintain its perfection in the proceeds of such intellectual property rights to be registered by Borrower, and upon the request of Bank, shall file such documents simultaneously with the filing of any such applications or registrations. Upon filing any such applications or registrations with the United States Copyright Office, Borrower shall promptly provide Bank with (i) a copy of such applications or registrations, without the exhibits, if any, thereto, (ii) evidence of the filing of any documents requested by Bank to be filed for Bank to maintain the perfection and priority of its security interest in the proceeds of such intellectual property rights, and (iii) the date of such filing.

(c) Bank may audit Borrower's Intellectual Property to confirm compliance with this Section, provided such audit may not occur more often than once per year, unless an Event of Default has occurred and is continuing. Bank shall have the right, but not the obligation, to take, at Borrower's sole expense, any actions that Borrower is required under this Section to take but which Borrower fails to take, after 15 days' notice to Borrower. Borrower shall reimburse and indemnify Bank for all costs and expenses incurred in the exercise of its rights under this Section.

**6.11 Formation or Acquisition of Subsidiaries.** Notwithstanding and without limiting the negative covenants contained in Sections 7.3 and 7.7 hereof, at the time that Borrower forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary, Borrower shall (a) cause such new Subsidiary to provide to Bank a joinder to this Agreement to cause such Subsidiary to become a co-borrower hereunder, together with such appropriate financing statements and/or control agreements, all in form and substance satisfactory to Bank (including being sufficient to grant Bank a first priority Lien (subject to Permitted Liens) in and to the assets of such newly formed or acquired Subsidiary), provided that the foregoing requirements shall not apply to a Subsidiary that is a controlled foreign corporation (as defined in the IRC), (b) provide to Bank appropriate certificates and powers and financing statements, pledging all of the direct or beneficial ownership interest in such new Subsidiary, in form and substance satisfactory to Bank, provided that if such Subsidiary is a controlled foreign corporation (as defined in the IRC), such pledge shall not exceed 65% of the voting power of all classes of capital stock of such controlled foreign corporation entitled to vote, and (c) provide to Bank all other documentation in form and substance satisfactory to Bank that in its opinion is appropriate with respect to the execution and delivery of the applicable documentation referred to above.

**6.12 Notices of Commercial Tort Claims; Event of Default.** Without limiting or contradicting any other more specific provision of this Agreement, promptly (and in any event within three (3) Business Days) upon Borrower becoming aware of the existence of any Event of Default or event described in Section 8 which, with the giving of notice or passage of time, or both, would constitute an Event of Default, Borrower shall give written notice to Bank of such occurrence, which such notice shall include a reasonably detailed description of such Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default. If Borrower shall acquire a commercial tort claim (as defined in the Code), Borrower shall promptly notify Bank in writing of the general details thereof and grant to the Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to the Bank.

**6.13 Post Closing Covenants.** Within 30 days following the Closing Date, Borrower shall deliver to Bank, in form and substance satisfactory to Bank, (i) equipment holder's acknowledgement and consent executed by Savvis and (ii) a consent to removal of personal property executed by SPUSV5 500 Brand, LP.

**6.14 Further Assurances.** At any time and from time to time Borrower shall execute and deliver such further instruments and take such further action as may reasonably be requested by Bank to effect the purposes of this Agreement.

**7. NEGATIVE COVENANTS.**

Borrower will not do any of the following, without the Bank's prior written consent (not to be unreasonably withheld):

**7.1 Dispositions.** Convey, sell, lease, transfer or otherwise dispose of (collectively, a "Transfer"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, other than: (i) Transfers of Inventory in the ordinary course of business; (ii) Transfers of non-exclusive licenses and similar arrangements for the use of the property of Borrower or its Subsidiaries in the ordinary course of business; (iii) Transfers of worn-out or obsolete Equipment which was not financed by Bank; (iv) Transfers consisting of Permitted Liens and Permitted Investments; (v) Transfers between Borrower and one or more domestic Subsidiaries that are guarantors of the Obligations or co-borrowers hereunder; (vi) Transfers from any Subsidiary to Borrower; and (vii) Transfers from Borrower to one or more foreign Subsidiaries in the form of payment by Borrower for services provided by such Subsidiary(ies) pursuant to cost-plus transfer pricing arrangements entered into in the ordinary course of business.

**7.2 Change in Business or Executive Office.** Engage in any business, or permit any of its Subsidiaries to engage in any business, other than the businesses currently engaged in by Borrower and any business substantially similar or related thereto (or incidental thereto); or cease to conduct business in the manner conducted by Borrower as of the Closing Date; or without thirty (30) days prior written notification to Bank, relocate its chief executive office or state of incorporation or change its legal name; or without Bank's prior written consent, change the date on which its fiscal year ends.

**7.3 Change in Control; Mergers or Acquisitions.** Suffer or permit a Change in Control; or merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with or into any other business organization (other than mergers or consolidations of a Subsidiary into another Subsidiary or into Borrower, with Borrower being the surviving entity), or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or any material portion of property of another Person, provided however, only advance written notice to the Bank will be required for any action restricted by this Section 7.3 if all Obligations are paid in full in cash out of the proceeds of the initial closing of such action and such payment is listed as a condition to the consummation of such action.

**7.4 Indebtedness.** Create, incur, assume or be or remain liable with respect to any Indebtedness, or permit any Subsidiary so to do, other than Permitted Indebtedness.

**7.5 Encumbrances.** Create, incur, assume or suffer to exist any Lien with respect to any of its property (including without limitation, its Intellectual Property), or assign or otherwise convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or agree with any Person other than Bank not to grant a security interest in, or otherwise encumber, any of its property (including without limitation, its Intellectual Property), or permit any Subsidiary to do so, except for Permitted Liens.

**7.6 Distributions.** Pay any dividends or make any other distribution or payment on account of or in redemption, retirement or purchase of any capital stock, or permit any of its Subsidiaries to do so, except that (i) Borrower may repurchase the stock of former employees pursuant to stock repurchase agreements as long as an Event of Default does not exist prior to such repurchase or would not exist after giving effect to such repurchase, (ii) Borrower may convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, (iii) Borrower may pay dividends solely in common stock, and (iv) Subsidiaries of Borrower may pay dividends or make distributions to Borrower.

**7.7 Investments.** Directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments; or maintain or invest any of its property with a Person other than Bank or Bank's affiliates or permit any of its Subsidiaries to do so unless such Person has entered into an account control agreement with Bank in form and substance satisfactory to Bank, except as otherwise provided by Section 6.8; or suffer or permit any Subsidiary to be a party to, or be bound by, an agreement that restricts such Subsidiary from paying dividends or otherwise distributing property to Borrower.

**7.8 Transactions with Affiliates.** Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower except for (i) transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person, (ii) sales of equity securities and unsecured debt financings so long as all such Indebtedness is Subordinated Debt, (iii) Investments permitted under sub-clauses (a), (f), (j) or (k) of the definition of Permitted Investments, and (iv) transactions between or among Borrower and any of its Subsidiaries that are not otherwise prohibited hereunder.

**7.9 Subordinated Debt.** Make any payment in respect of any Subordinated Debt, or permit any of its Subsidiaries to make any such payment, except in compliance with the terms of the subordination agreement entered into with respect to such Subordinated Debt, or amend any provision contained in any documentation relating to the Subordinated Debt, except in compliance with the terms of the subordination agreement entered into with respect to such Subordinated Debt, without Bank's prior written consent.

**7.10 Inventory and Equipment.** Store the Inventory or the Equipment with a bailee, warehouseman, or other third party in an aggregate amount of more than One Hundred Thousand Dollars (\$100,000) unless the third party has been notified of Bank's security interest and Bank (a) has received an acknowledgment from the third party that it is holding or will hold the Inventory or Equipment for Bank's benefit or (b) is in pledge possession of the warehouse receipt, where negotiable, covering such Inventory or Equipment. Store or maintain any Equipment or Inventory in an aggregate amount of more than One Hundred Thousand Dollars (\$100,000) at a location other than the location set forth in Section 10 of this Agreement or set forth on the Schedule.

**7.11 Compliance.** Become an "investment company" or be controlled by an "investment company," within the meaning of the Investment Company Act of 1940, or become principally engaged in, or undertake as one of its important activities, the business of extending credit for the purpose of purchasing or carrying margin stock, or use the proceeds of any Credit Extension for such purpose. Fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur, fail to comply with the Federal Fair Labor Standards Act or violate any law or regulation, which violation could have a Material Adverse Effect, or a material adverse effect on the Collateral or the priority of Bank's Lien on the Collateral, or permit any of its Subsidiaries to do any of the foregoing.

**7.12 Capital Expenditures.** Make or contract to make, without Bank's prior written consent, capital expenditures, including leasehold improvements, in any fiscal year in excess of \$3,000,000 or incur liability for rentals of property (including both real and personal property) in an amount which, together with capital expenditures, shall in any fiscal year exceed such sum.

## **8. EVENTS OF DEFAULT.**

Any one or more of the following events shall constitute an Event of Default by Borrower under this Agreement:

**8.1 Payment Default.** If Borrower fails to pay, when due, any of the Obligations.

## 8.2 Covenant Default.

(a) If Borrower fails to perform any obligation under Section 6.8 or Section 6.9 or violates any of the covenants contained in Article 7 of this Agreement; or

(b) If Borrower fails or neglects to perform or observe any obligation under Article 6 (other than Section 6.8 or Section 6.9) or any other material term, provision, condition, covenant contained in this Agreement, in any of the Loan Documents, or in any other present or future agreement between Borrower and Bank and as to any default under such other term, provision, condition or covenant that can be cured, has failed to cure such default within ten days after Borrower receives notice thereof or any officer of Borrower becomes aware thereof.

**8.3 Investor Abandonment.** If Bank determines that Borrower's stockholders existing on the Closing Date are not able and willing to provide such financial support as is necessary for Borrower to satisfy its Obligations owing to Bank as they come due and Bank has determined, in its reasonable determination, that Borrower is likely to be unable to satisfy such obligations without such investor support.

**8.4 Attachment.** If any portion of Borrower's assets valued in excess of Two Hundred Thousand Dollars (\$200,000) is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any trustee, receiver or person acting in a similar capacity and such attachment, seizure, writ or distress warrant or levy has not been removed, discharged or rescinded within twenty (20) days, or if Borrower is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of Borrower's assets valued in excess of Two Hundred Thousand Dollars (\$200,000), or if a notice of lien, levy, or assessment is filed of record with respect to any of Borrower's assets valued in excess of Two Hundred Thousand Dollars (\$200,000) by the United States Government, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, and the same is not paid within twenty (20) days after Borrower receives notice thereof, provided that none of the foregoing shall constitute an Event of Default where such action or event is stayed or an adequate bond has been posted pending a good faith contest by Borrower (provided that no Credit Extensions will be required to be made during such cure period);

**8.5 Insolvency.** If Borrower becomes insolvent, or if an Insolvency Proceeding is commenced by Borrower, or if an Insolvency Proceeding is commenced against Borrower and is not dismissed or stayed within forty five (45) days (provided that no Credit Extensions will be made prior to the dismissal of such Insolvency Proceeding).

**8.6 Other Agreements.** If there is a default or other failure to perform in any agreement to which Borrower is a party or by which it is bound resulting in a right by a third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of Two Hundred Thousand Dollars (\$200,000) or which could have a Material Adverse Effect; provided, however, that the Event of Default under this Section caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon Bank receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) Bank has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith business judgment of Bank be materially less advantageous to Borrower.

**8.7 Judgments.** If a judgment or judgments for the payment of money in an amount, individually or in the aggregate, of at least Two Hundred Thousand Dollars (\$200,000) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower and shall remain unsatisfied and unstayed for a period of twenty (20) days (provided that no Credit Extensions will be made prior to the satisfaction or stay of such judgment).

**8.8 Misrepresentations.** If any material misrepresentation or material misstatement exists, when made or deemed made, now or hereafter in any warranty or representation set forth herein or in any certificate delivered to Bank by any Responsible Officer pursuant to this Agreement or to induce Bank to enter into this Agreement or any other Loan Document.

**8.9 Guaranty.** If any guaranty of all or a portion of the Obligations (a “Guaranty”) ceases for any reason to be in full force and effect, or any guarantor fails to perform any obligation under any Guaranty or a security agreement securing any Guaranty (collectively, the “Guaranty Documents”), or any event of default occurs under any Guaranty Document or any guarantor revokes or purports to revoke a Guaranty, or any material misrepresentation or material misstatement exists now or hereafter in any warranty or representation set forth in any Guaranty Document or in any certificate delivered to Bank in connection with any Guaranty Document, or if any of the circumstances described in Sections 8.3 through 8.8 occur with respect to any guarantor or any guarantor dies or becomes subject to any criminal prosecution, or any circumstances arise causing Bank, in good faith, to become insecure as to the satisfaction of any of any guarantor’s obligations under the Guaranty Documents.

**8.10 European Acquisition Guaranty.** If any demand for payment is made under the European Acquisition Guaranty (as defined on the Schedule).

## **9. BANK’S RIGHTS AND REMEDIES.**

**9.1 Rights and Remedies.** Upon the occurrence and during the continuance of an Event of Default, Bank may, at its election, without notice of its election and without demand, do any one or more of the following, all of which are authorized by Borrower:

(a) Declare all or any portion of the Obligations, whether evidenced by this Agreement, by any of the other Loan Documents, or otherwise, immediately due and payable (provided that upon the occurrence of an Event of Default described in Section 8.5, all Obligations shall become immediately due and payable without any action by Bank);

(b) Cease advancing money or extending credit to or for the benefit of Borrower under this Agreement or under any other agreement between Borrower and Bank;

(c) Settle or adjust disputes and claims directly with account debtors for amounts, upon terms and in whatever order that Bank reasonably considers advisable;

(d) Make such payments and do such acts as Bank considers necessary or reasonable to protect its security interest in the Collateral. Borrower agrees to assemble the Collateral if Bank so requires, and to make the Collateral available to Bank as Bank may designate. Borrower authorizes Bank to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in Bank’s determination appears to be prior or superior to its security interest and to pay all expenses incurred in connection therewith. With respect to any of Borrower’s owned premises, Borrower hereby grants Bank a license to enter into possession of such premises and to occupy the same, without charge, in order to exercise any of Bank’s rights or remedies provided herein, at law, in equity, or otherwise;

(e) Set off and apply to the Obligations any and all (i) balances and deposits of Borrower held by Bank, or (ii) indebtedness at any time owing to or for the credit or the account of Borrower held by Bank;

(f) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral. Bank is hereby granted a license or other right, solely pursuant to the provisions of this Section 9.1, to use, without charge, Borrower’s labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank’s exercise of its rights under this Section 9.1, Borrower’s rights under all licenses and all franchise agreements shall inure to Bank’s benefit;

(g) Dispose of the Collateral by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrower’s premises) as Bank determines is commercially reasonable, and apply any proceeds to the Obligations in whatever manner or order Bank deems appropriate;

(h) Bank may credit bid and purchase at any public sale; and

(i) Any deficiency that exists after disposition of the Collateral as provided above will be paid immediately by Borrower.

**9.2 Power of Attorney.** Effective only upon the occurrence and during the continuance of an Event of Default, Borrower hereby irrevocably appoints Bank (and any of Bank's designated officers, or employees) as Borrower's true and lawful attorney to: (a) send requests for verification of Accounts or notify account debtors of Bank's security interest in the Accounts; (b) endorse Borrower's name on any checks or other forms of payment or security that may come into Bank's possession; (c) sign Borrower's name on any invoice or bill of lading relating to any Account, drafts against account debtors, schedules and assignments of Accounts, verifications of Accounts, and notices to account debtors; (d) dispose of any Collateral; (e) make, settle, and adjust all claims under and decisions with respect to Borrower's policies of insurance; (f) settle and adjust disputes and claims respecting the accounts directly with account debtors, for amounts and upon terms which Bank determines to be reasonable; and (g) whether or not an Event of Default has occurred that is continuing, to file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral. The appointment of Bank as Borrower's attorney in fact, and each and every one of Bank's rights and powers, being coupled with an interest, is irrevocable until all of the Obligations (other than inchoate indemnity obligations) have been fully repaid and performed and Bank's obligation to provide Credit Extensions hereunder is terminated.

**9.3 Accounts Collection.** At any time after the occurrence and during the continuance of an Event of Default, (i) Bank may notify any Person owing funds to Borrower of Bank's security interest in such funds and verify the amount of such Account, and (ii) Borrower shall collect all amounts owing to Borrower for Bank, receive in trust all payments as Bank's trustee, and immediately deliver such payments to Bank in their original form as received from the account debtor, with proper endorsements for deposit.

**9.4 Bank Expenses.** If Borrower fails to pay any amounts or furnish any required proof of payment due to third persons or entities, as required under the terms of this Agreement, then Bank may do any or all of the following after reasonable notice to Borrower: (a) make payment of the same or any part thereof; (b) set up such reserves under a loan facility in Section 2.1 as Bank deems necessary to protect Bank from the exposure created by such failure; or (c) obtain and maintain insurance policies of the type discussed in Section 6.7 of this Agreement, and take any action with respect to such policies as Bank deems prudent. Any amounts so paid or deposited by Bank shall constitute Bank Expenses, shall be immediately due and payable, and shall bear interest at the then applicable rate hereinabove provided, and shall be secured by the Collateral. Any payments made by Bank shall not constitute an agreement by Bank to make similar payments in the future or a waiver by Bank of any Event of Default under this Agreement.

**9.5 Bank's Liability for Collateral.** So long as Bank complies with reasonable banking practices, Bank shall not in any way or manner be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrower.

**9.6 Shares.** Borrower recognizes that Bank may be unable to effect a public sale of any or all the Shares, by reason of certain prohibitions contained in federal securities laws and applicable state and provincial securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for their own account for investment and not with a view to the distribution or resale thereof. Borrower acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a commercially reasonable manner. Bank shall be under no obligation to delay a sale of any of the Shares for the period of time necessary to permit the issuer thereof to register such securities for public sale under federal securities laws or under applicable state and provincial securities laws, even if such issuer would agree to do so. Upon the occurrence of an Event of Default which continues, Bank shall have the right to exercise all such rights as a secured party under the Code as it, in its sole judgment, shall deem necessary or appropriate, including without limitation the right to liquidate the Shares and apply the proceeds thereof to reduce the Obligations. Effective only upon the occurrence and during the

continuance of an Event of Default, Borrower hereby irrevocably appoints Bank (and any of Bank's designated officers, or employees) as Borrower's true and lawful attorney to enforce such Borrower's rights against any Subsidiary, including the right to compel any Subsidiary to make payments or distributions owing to such Borrower.

**9.7 Remedies Cumulative.** Bank's rights and remedies under this Agreement, the Loan Documents, and all other agreements shall be cumulative. Bank shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by Bank of one right or remedy shall be deemed an election, and no waiver by Bank of any Event of Default on Borrower's part shall be deemed a continuing waiver. No delay by Bank shall constitute a waiver, election, or acquiescence by it. No waiver by Bank shall be effective unless made in a written document signed on behalf of Bank and then shall be effective only in the specific instance and for the specific purpose for which it was given.

**9.8 Demand; Protest.** Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by Bank on which Borrower may in any way be liable.

## 10. NOTICES.

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Bank or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

|                 |   |
|-----------------|---|
| If to Borrower: | EVERBRIDGE, INC.<br>25 Corporate Drive<br>Burlington, MA 01803<br>Attn: Kenneth S. Goldman, SVP & CFO<br>EMAIL: ken.goldman@everbridge.com  |
| If to Bank:     | Bridge Bank, National Association<br>55 Almaden Blvd.<br>San Jose, CA 95113<br>Attn: Note Department<br>FAX: (408) 282-1681<br>EMAIL: notedepartment@bridgebank.com<br><br>and<br><br>Bridge Bank, National Association<br>260 Franklin Street, Suite 1540<br>Boston, MA 02110<br>Attn: Charles Wehr<br>FAX: (617) 995-1320<br>EMAIL: charles.wehr@bridgebank.com |

The parties hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other.



## **11. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER.**

This Agreement and all other Loan Documents (except as otherwise expressly provided in any of the Loan Documents) shall be governed by, and construed in accordance with, the internal laws of the State of California, without regard to principles of conflicts of law. Each of Borrower and Bank hereby submits to the exclusive jurisdiction of the state and Federal courts located in the County of Santa Clara, State of California. BORROWER AND BANK EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

## **12. JUDICIAL REFERENCE PROVISION.**

**12.1** In the event the jury trial waiver set forth above is not enforceable, the parties elect to proceed under this judicial reference provision.

**12.2** With the exception of the items specified in Section 12.3, below, any controversy, dispute or claim (each, a “**Claim**”) between the parties arising out of or relating to this Agreement or any other Loan Document, will be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 et seq. of the California Code of Civil Procedure (“**CCP**”), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Except as otherwise provided in the Loan Documents, venue for the reference proceeding will be in the state or federal court in the county or district where the real property involved in the action, if any, is located or in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the “**Court**”).

**12.3** The matters that shall not be subject to a reference are the following: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver and (iv) temporary, provisional or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This reference provision does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this reference provision as provided herein.

**12.4** The referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and the parties agree that irreparable harm would result if ex parte relief is not granted. Pursuant to CCP § 170.6, each party shall have one peremptory challenge to the referee selected by the Presiding Judge of the Court (or his or her representative).

**12.5** The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (ii) if practicable, try all issues of law or fact within one hundred twenty (120) days after the date of the conference and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

**12.6** The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party’s failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be

entitled to “priority” in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

**12.7** Except as expressly set forth herein, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee’s power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

**12.8** The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding which disposes of all claims of the parties that are the subject of the reference. Pursuant to CCP § 644, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court and any such decision will be final, binding and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of laws, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

**12.9** If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or justice, in accordance with the California Arbitration Act §1280 through §1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

**12.10** THE PARTIES RECOGNIZE AND AGREE THAT ALL CONTROVERSIES, DISPUTES AND CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS OR HER OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CONTROVERSY, DISPUTE OR CLAIM BETWEEN OR AMONG THEM ARISING OUT OF OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.

### **13. GENERAL PROVISIONS.**

**13.1 Successors and Assigns.** This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; provided, however, that neither this Agreement nor any rights hereunder may be assigned by Borrower without Bank’s prior written consent, which consent may be granted or withheld in Bank’s sole discretion. Bank shall have the right without the consent of or notice to Borrower to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Bank’s obligations, rights and benefits hereunder.

**13.2 Indemnification.** Borrower shall defend, indemnify and hold harmless Bank and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement (collectively, “Claims”); and (b) all losses or Bank Expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of, following, or consequential to transactions between Bank and Borrower whether under this Agreement, or otherwise (including without limitation reasonable attorneys’ fees and expenses), except for Claims, losses or Bank Expenses caused by Bank’s gross negligence or willful misconduct.

**13.3 Time of Essence.** Time is of the essence for the performance of all obligations set forth in this Agreement.

**13.4 Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

**13.5 Amendments in Writing, Integration.** Neither this Agreement nor the Loan Documents can be amended or terminated orally. All prior agreements, understandings, representations, warranties, and negotiations between the parties hereto with respect to the subject matter of this Agreement and the Loan Documents, if any, are merged into this Agreement and the Loan Documents.

**13.6 Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement.

**13.7 Survival.** All covenants, representations and warranties made in this Agreement shall continue in full force and effect so long as any Obligations (other than inchoate indemnity obligations) remain outstanding or Bank has any obligation to make Credit Extensions to Borrower. The obligations of Borrower to indemnify Bank with respect to the expenses, damages, losses, costs and liabilities described in Section 13.2 shall survive until all applicable statute of limitations periods with respect to actions that may be brought against Bank have run.

**13.8 Confidentiality.** In handling any confidential information Bank and all employees and agents of Bank, including but not limited to accountants, shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this Agreement except that disclosure of such information may be made (i) to the subsidiaries or affiliates of Bank in connection with their present or prospective business relations with Borrower, provided that such subsidiaries or affiliates are bound by confidentiality obligations substantially the same as those of this Section, (ii) to prospective transferees or purchasers of any interest in the Credit Extensions, provided that they have entered into a comparable confidentiality agreement in favor of Borrower, (iii) as required by law, regulations, rule or order, subpoena, judicial order or similar order, (iv) as may be required in connection with the examination, audit or similar investigation of Bank and (v) as Bank may determine in connection with the enforcement of any remedies hereunder. Confidential information hereunder shall not include information that either: (a) is in the public domain or in the knowledge or possession of Bank when disclosed to Bank, or becomes part of the public domain after disclosure to Bank through no fault of Bank; or (b) is disclosed to Bank by a third party, provided Bank does not have actual knowledge that such third party is prohibited from disclosing such information.

**13.9 Patriot Act Notice.** Bank hereby notifies Borrower that, pursuant to the requirements of the USA Patriot Act, Title III of Pub. L. 107-56 (signed into law on October 26, 2001) (the “Patriot Act”), it is required to obtain, verify and record information that identifies the Borrower, which information includes names and addresses and other information that will allow Bank, as applicable, to identify the Borrower in accordance with the Patriot Act.

#### **14. NOTICE OF FINAL AGREEMENT.**

**BY SIGNING THIS AGREEMENT EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, (B) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES, AND (C) THIS WRITTEN AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.**

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

**EVERBRIDGE, INC.**

By: /s/ Kenneth S. Goldman  
Kenneth S. Goldman  
Title: SVP, CFO & Treasurer

**BRIDGE BANK, NATIONAL ASSOCIATION**

By: /s/ Charles Wehr  
Title: Vice President

**EXHIBIT A**

**DEBTOR:** **EVERBRIDGE, INC.**

**SECURED PARTY:** **BRIDGE BANK, NATIONAL ASSOCIATION**

**COLLATERAL DESCRIPTION ATTACHMENT  
TO LOAN AND SECURITY AGREEMENT**

All personal property of Borrower (herein referred to as “Borrower” or “Debtor”) whether presently existing or hereafter created or acquired, and wherever located, including, but not limited to:

(a) all accounts (including health-care-insurance receivables), chattel paper (including tangible and electronic chattel paper), commercial tort claims, deposit accounts, documents (including negotiable documents), equipment (including all accessions and additions thereto), general intangibles (including payment intangibles and software), goods (including fixtures), instruments (including promissory notes), inventory (including all goods held for sale or lease or to be furnished under a contract of service, and including returns and repossessions), investment property (including securities and securities entitlements), letter of credit rights, money, and all of Debtor’s books and records with respect to any of the foregoing, and the computers and equipment containing said books and records; and

(b) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment. All terms above have the meanings given to them in the California Uniform Commercial Code, as amended or supplemented from time to time.

Notwithstanding the foregoing, the Collateral shall not include any Intellectual Property, now owned or hereafter acquired, or any claims for damages by way of any past, present and future infringement of any of the foregoing (collectively, the “Intellectual Property”); provided, however, that the Collateral shall include all accounts and general intangibles that consist of rights to payment and proceeds from the sale, licensing or disposition of all or any part, or rights in, the foregoing (the “Rights to Payment”). Notwithstanding the foregoing, if a judicial authority (including a U.S. Bankruptcy Court) holds that a security interest in the underlying Intellectual Property is necessary to have a security interest in the Rights to Payment, then the Collateral shall automatically, and effective as of the Closing Date, include the Intellectual Property to the extent necessary to permit perfection of Bank’s security interest in the Rights to Payment.

In addition, notwithstanding the foregoing, the Collateral shall not include any of the following: (i) property that is nonassignable by its terms or restricts the granting of a security interest without the consent of the licensor thereof or another party (but only to the extent such prohibition on transfer or grant of security interest is enforceable under applicable law, including, without limitation, Sections 9406 and 9408 of the California Uniform Commercial Code, as amended or supplemented from time to time), provided that upon the consent of such licensor or other party, such property shall automatically become part of the Collateral, (ii) property as to which the granting of a security interest therein is contrary to applicable law, provided that upon the cessation of any such restriction or prohibition, such property shall automatically become part of the Collateral, (iii) property that constitutes the capital stock of a controlled foreign corporation (as defined in the IRC), in excess of 65% of the voting power of all classes of capital stock of such controlled foreign corporations entitled to vote, (iv) property financed by a third party permitted by clause (a) or (c) of the definition of Permitted Liens to the extent prohibited by the terms of such agreement, provided that upon the termination or lapse of any such prohibition, such property (and any accessions, attachments, replacements or improvements thereon) shall be deemed to be Collateral hereunder, or (v) cash or cash equivalents securing obligations permitted under clause (i) of the definition of Permitted Indebtedness (relating to letter of credit reimbursement obligations).

**EXHIBIT B**

**REVOLVING ADVANCE REQUEST**

*(To be submitted no later than 3:00 PM to be considered for same day processing)*

To: Bridge Bank, National Association

Fax: (408) 282-1681

Date: \_\_\_\_\_

From: EVERBRIDGE, INC.  
Borrower's Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signer's Name (please print)

\_\_\_\_\_  
Phone Number

To Account # \_\_\_\_\_

Borrower hereby requests funding of an Advance in the amount of \$ \_\_\_\_\_ in accordance with the Revolving Facility as defined in the Loan and Security Agreement dated June 30, 2015.

Borrower hereby authorizes Lender to rely on facsimile stamp signatures and treat them as authorized by Borrower for the purpose of requesting the above advance.

All representations and warranties of Borrower stated in the Loan and Security Agreement are true, correct and complete in all material respects as of the date of this Revolving Advance Request; provided that those representations and warranties expressly referring to another date shall be true, correct and complete in all material respects as of such date.

Capitalized terms used herein and not otherwise defined have the meanings set forth in the Loan and Security Agreement.

**EXHIBIT C**  
**BORROWING BASE CERTIFICATE**  
**BRIDGE BANK**  
**55 ALMADEN BOULEVARD, SAN JOSE, CA 95113**

**BORROWER: EVERBRIDGE, INC.**

| <u>Monthly Recurring Revenue Borrowing Base Calculation</u> |   | <u>As Of Date:</u> |            |
|---|---|--------------------|------------|
| 1.  | GAAP Revenue recognized during the prior 12 months from Contracts   | \$                 |            |
| 2.  | Less: GAAP Revenue from Contracts that are not Eligible Recurring Revenue Contracts (i.e. customer (i) has elected to cancel or not renew its license or maintenance contract, or (ii) goes out of business, becomes subject to an Insolvency Proceeding or is insolvent, or (iii) has failed to pay in full within 120 days of invoice date) for such measurement period | \$                 |            |
| 3.  | Eligible Monthly Recurring Revenue for 12 months (#1 minus #2)  | \$                 |            |
| 4.  | MRR Renewal Rate (lesser of #3 divided by #1, or 95%)   | \$                 | %          |
| 5.  | GAAP Revenue recognized during the prior 4 months from Contracts  | \$                 |            |
| 6.  | Less: GAAP Revenue from Contracts that are not Eligible Recurring Revenue Contracts for such 4 month measurement period   | \$                 |            |
| 7.  | Eligible Monthly Recurring Revenue for the four month period ending on the measurement month (#5 minus #6)  | \$                 |            |
| 8.  | Borrowing Base Amount (#4 x #7)   | \$                 |            |
| 9.  | Maximum Loan Amount   | \$                 | 10,000,000 |
| 10.   | Total Funds Available (Lesser of #8 or #9)  | \$                 |            |
| 11.   | Less: Outstanding Advances  | \$                 |            |
| 12.   | <b>AVAILABLE FOR DRAWDOWN/NEED TO PAY</b>   | \$                 |            |

**If line #12 is a negative number, this amount must be remitted to the Bank immediately to bring loan balance into compliance. By signing this form you authorize the bank to deduct any advance amounts directly from Borrower's account(s) at Bridge Bank in the event there is an overadvance.**

The undersigned represents and warrants that the foregoing is true, complete and correct, and that the information reflected in this Borrowing Base Certificate complies with the representations and warranties set forth in the Loan and Security Agreement between the undersigned and Bridge Bank, National Association.

\_\_\_\_\_  
Prepared By:

Date: \_\_\_\_\_

\_\_\_\_\_  
Bank Reviewed:

Date: \_\_\_\_\_

## EXHIBIT D

## COMPLIANCE CERTIFICATE

TO: BRIDGE BANK, NATIONAL ASSOCIATION

FROM: EVERBRIDGE, INC.

The undersigned authorized officer of EVERBRIDGE, INC. hereby certifies that in accordance with the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the “Agreement”), (i) Borrower is in complete compliance for the period ending \_\_\_\_\_ with all required covenants except as noted below and (ii) all representations and warranties of Borrower stated in the Agreement are true and correct in all material respects as of the date hereof except as noted below; provided, however, that those representations and warranties expressly referring to another date shall be true, correct and complete in all material respects as of such date. Attached herewith are the required documents supporting the above certification. The Officer further certifies that these are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes.

Please indicate compliance status by circling Yes/No under “Complies” column.

| <u>Reporting Covenant</u>   | <u>Required</u>  | <u>Complies</u> |                 |
|---|--|-----------------|-----------------|
| A/R & A/P Agings  | Monthly within 30 days   | Yes             | No              |
| Recurring Revenue Report  | Monthly within 30 days   | Yes             | No              |
| Borrowing Base Certificate  | Monthly within 30 days   | Yes             | No              |
| Monthly financial statements  | Monthly within 30 days   | Yes             | No              |
| Compliance Certificate  | Monthly within 30 days   | Yes             | No              |
| Annual financial statements (CPA Audited)   | FYE within 180 days  | Yes             | No              |
| Annual operating budget, sales projections and operating plans approved by board of directors | Annually no later than 30 days following the beginning of each fiscal year or board approval, whichever is earlier | Yes             | No              |
| A/R Audit   | Initial and Annual   | Yes             | No              |
| IP Report   | Annual   | Yes             | No              |
| Deposit balances with Bank  | \$   |                 |                 |
| Deposit balance outside Bank  | \$   |                 |                 |
| <u>Financial Covenant</u>   | <u>Required</u>  | <u>Actual</u>   | <u>Complies</u> |
| Minimum MRR Renewal Rate<br>(measured quarterly, on a rolling 4 quarters basis)               | 90%  | %               | Yes No          |

Comments Regarding Exceptions: See Attached.

## BANK USE ONLY

Received by: \_\_\_\_\_  
AUTHORIZED SIGNER

Date: \_\_\_\_\_

Verified: \_\_\_\_\_  
AUTHORIZED SIGNER

Date: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

Compliance Status Yes No



## LOAN AND SECURITY MODIFICATION AGREEMENT

This Loan and Security Modification Agreement is entered into as of February 22, 2016 by and between EVERBRIDGE, INC. ("Borrower") and WESTERN ALLIANCE BANK, a successor in interest to Bridge Bank, National Association ("Bank").

1. **DESCRIPTION OF EXISTING INDEBTEDNESS:** Among other indebtedness which may be owing by Borrower to Bank, Borrower is indebted to Bank pursuant to, among other documents, a Loan and Security Agreement, dated June 30, 2015 by and between Borrower and Bank, as may be amended from time to time (the "Loan and Security Agreement"). Capitalized terms used without definition herein shall have the meanings assigned to them in the Loan and Security Agreement.

### 2. DESCRIPTION OF CHANGE IN TERMS.

#### A. Modification(s) to Loan and Security Agreement:

(1) Any reference to Bridge Bank, NA or Bridge Bank, National Association is hereby modified to read as Western Alliance Bank, an Arizona corporation, as successor in interest to Bridge Bank, National Association.

(2) The following definitions in Section 1.1 are amended and restated in their entirety to read as follows:

"Prime Rate" means the greater of three and one quarter percent (3.25%) or the Prime Rate published in the Money Rates section of the Western Edition of The Wall Street Journal, or such other rate of interest publicly announced from time to time by Bank as its Prime Rate.

"Revolving Line" means a credit extension of up to Fifteen Million Dollars (\$15,000,000).

(3) Section 2.5(a)(i) is amended and restated in its entirety to read as follows:

(i) On the Closing Date, a facility fee equal to \$12,500, and on each anniversary of the Closing Date for so long as the Revolving Facility is in place, a facility fee equal to \$18,750;

(4) Exhibit C is replaced in its entirety with the Exhibit C attached hereto:

3. **CONSISTENT CHANGES.** The Loan Documents are each hereby amended wherever necessary to reflect the changes described above.

4. **NO DEFENSES OF BORROWER.** Borrower agrees that, as of this date, it has no defenses against the obligations to pay any amounts under Loan Documents. Each of Borrower and its affiliates (each, an "Affirming Party") acknowledges that Bank would not enter into this Loan and Security Modification Agreement without Affirming Party's assurance that it has no knowledge of any claims against Bank or any of Bank's officers, directors, employees or agents. The provisions set forth in this section are binding upon each Affirming Party and its shareholders, agents, employees, assigns and successors in interest. The provisions of this section shall inure to the benefit of Bank and its agents, employees, officers, directors, assigns and successors in interest. The provisions of this section shall survive payment in full of the Obligations, full performance of all the terms of this Loan and Security Modification Agreement and the other Loan Documents, and/or Bank's actions to exercise any remedy available under the Loan Documents or otherwise.

5. **CONTINUING VALIDITY.** Borrower understands and agrees that in modifying the existing Loan Documents, Bank is relying upon Borrower's representations, warranties, and agreements, as set forth in the Loan

Documents. Borrower represents and warrants that the representations and warranties contained in the Loan and Security Agreement are true and correct as of the date of this Loan and Security Modification Agreement, and that no Event of Default has occurred and is continuing. Except as expressly modified pursuant to this Loan and Security Modification Agreement, the terms of the Loan Documents remain unchanged and in full force and effect. Bank's agreement to modifications to the existing Loan Documents pursuant to this Loan and Security Modification Agreement in no way shall obligate Bank to make any future modifications to the Loan Documents. Nothing in this Loan and Security Modification Agreement shall constitute a satisfaction of the Obligations. It is the intention of Bank and Borrower to retain as liable parties all makers and endorser of Loan Documents, unless the party is expressly released by Bank in writing. No maker, endorser, or guarantor will be released by virtue of this Loan and Security Modification Agreement. The terms of this paragraph apply not only to this Loan and Security Modification Agreement, but also to any subsequent loan and security modification agreements.

6. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; REFERENCE PROVISION. This Loan and Security Modification Agreement constitutes a "Loan Document" as defined and set forth in the Loan and Security Agreement, and is subject to Sections 11 and 12 of the Loan and Security Agreement, which are incorporated by reference herein.

7. CONDITIONS PRECEDENT. As a condition to the effectiveness of this Loan and Security Modification Agreement, Bank shall have received, in form and substance satisfactory to Bank, the following:

(a) payment of a prorated facility fee in the amount of \$3,125, plus an amount equal to all Bank Expenses incurred through the date of this Loan and Security Modification Agreement;

(b) affirmation of guaranty;

(c) corporate resolutions and incumbency certificate; and

(d) such other documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

[SIGNATURE PAGE FOLLOWS]

8. COUNTERSIGNATURE. This Loan and Security Modification Agreement shall become effective only when executed by Bank and Borrower.

**BORROWER:**

EVERBRIDGE, INC.

By: /s/ Kenneth S. Goldman  
Name: Kenneth S. Goldman  
Title: SVP, CFO & Treasurer

**BANK:**

WESTERN ALLIANCE BANK

By: /s/ Richard Sweeney  
Name: Richard Sweeney  
Title: SVP

**EXHIBIT C**  
**BORROWING BASE CERTIFICATE**  
**WESTERN ALLIANCE BANK**  
**55 ALMADEN BOULEVARD, SAN JOSE, CA 95113**

**BORROWER: EVERBRIDGE, INC.**

| Monthly Recurring Revenue Borrowing Base Calculation |   | As Of Date:   |
|--|---|---------------|
| 1.   | GAAP Revenue recognized during the prior 12 months from Contracts   | \$            |
| 2.   | Less: GAAP Revenue from Contracts that are not Eligible Recurring Revenue Contracts (i.e. customer (i) has elected to cancel or not renew its license or maintenance contract, or (ii) goes out of business, becomes subject to an Insolvency Proceeding or is insolvent, or (iii) has failed to pay in full within 120 days of invoice date) for such measurement period | \$            |
| 3.   | Eligible Monthly Recurring Revenue for 12 months (#1 minus #2)  | \$            |
| 4.   | MRR Renewal Rate (lesser of #3 divided by #1, or 95%)   | \$ %          |
| 5.   | GAAP Revenue recognized during the prior 4 months from Contracts  | \$            |
| 6.   | Less: GAAP Revenue from Contracts that are not Eligible Recurring Revenue Contracts for such 4 month measurement period   | \$            |
| 7.   | Eligible Monthly Recurring Revenue for the four month period ending on the measurement month (#5 minus #6)  | \$            |
| 8.   | Borrowing Base Amount (#4 x #7)   | \$            |
| 9.   | Maximum Loan Amount   | \$ 15,000,000 |
| 10.  | Total Funds Available (Lesser of #8 or #9)  | \$            |
| 11.  | Less: Outstanding Advances  | \$            |
| 12.  | <b>AVAILABLE FOR DRAWDOWN/NEED TO PAY</b>   | <b>\$</b>     |

**If line #12 is a negative number, this amount must be remitted to the Bank immediately to bring loan balance into compliance. By signing this form you authorize the bank to deduct any advance amounts directly from Borrower's account(s) at Bridge Bank in the event there is an overadvance.**

The undersigned represents and warrants that the foregoing is true, complete and correct, and that the information reflected in this Borrowing Base Certificate complies with the representations and warranties set forth in the Loan and Security Agreement between the undersigned and Bridge Bank, National Association.

\_\_\_\_\_  
Prepared By:

Date: \_\_\_\_\_

\_\_\_\_\_  
Bank Reviewed:

Date: \_\_\_\_\_

\*\*\*\*\*

**LEASE**

**500 NORTH BRAND BOULEVARD**

\*\*\*\*\*

**Between**

**EVERBRIDGE, INC.,  
a Delaware corporation**

**(Tenant)**

**and**

**SPUSV5 500 BRAND, LP,  
a Delaware limited partnership**

**(Landlord)**

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## LEASE

THIS LEASE (the "Lease") is made as of September 24, 2012 between SPUSV5 500 BRAND, LP, a Delaware limited partnership (the "Landlord") and the Tenant as named in the Schedule below. The term "Building" means the building located at 500 North Brand Blvd., Glendale, California. The term "Project" means the Building, the building located at 520 North Brand Blvd. and the parking structure for the two aforementioned buildings. The term "Premises" means that part of the Project leased to Tenant described in the Schedule and outlined on Appendix A.

### BASIC LEASE PROVISIONS

The following schedule (the "Schedule") is an integral part of this Lease. Terms defined in this Schedule shall have the same meaning throughout the Lease.

1. **Tenant:** EVERBRIDGE, INC., a Delaware corporation.
2. **Premises:** Suite 1000 on the 10th floor of the Building, as depicted in Appendix A attached hereto.
3. **Rentable Square Feet of the Premises:** Approximately 12,326 rentable square feet ("Rentable Area"). Landlord and Tenant stipulate that for all purposes of this Lease, the Premises shall (a) be deemed to contain the above described Rentable Area and (b) not be subject to remeasurement.
4. **Tenant's Proportionate Share:** 2.94% (based upon a total of 419,760 rentable square feet in the Project).
5. **Security Deposit:** \$59,263.40 (subject to reduction in accordance with the terms of Section 20 of this Lease hereinbelow).
6. **Tenant's Real Estate Broker for this Lease:** CBRE, Inc.
7. **Landlord's Real Estate Broker for this Lease:** CBRE, Inc.
8. **Tenant Improvements:** See the Tenant Improvement Agreement attached hereto as Appendix C.
9. **Commencement Date:** The later of (i) the date the Tenant Improvements identified in Appendix C are Substantially Completed, or, (ii) January 1, 2013. Landlord and Tenant shall execute a Commencement Date Confirmation substantially in the form of Appendix E promptly following the Commencement Date.
10. **Termination Date/Term:** The date that is forty-one (41) months after the Commencement Date, or if the Commencement Date is not the first day of a month, then after the first day of the following month (the "Termination Date"). The "Term" shall mean the period between the Commencement Date and the Termination Date.



11. **Guarantor:** None.
12. **Base Year:** Calendar year 2013.
13. **Base Rent:**

| <u>Period</u>  | <u>Approximate<br/>Monthly Base Rent<br/>/RSF*</u> | <u>Monthly Base Rent<br/>(based upon 12,326<br/>RSF)*</u> |
|----------------|--|---|
| Months 1 — 12  | \$ 2.20  | \$ 27,117.20  |
| Months 13 — 24 | \$ 2.27  | \$ 27,930.72  |
| Months 25 — 36 | \$ 2.33  | \$ 28,768.64  |
| Months 37 — 41 | \$ 2.40  | \$ 29,631.70  |

\* Subject to conditional abatement during months 2, 3, 4, 13 and 14 of the initial Term, pursuant to the terms of Section 2A(1) below.

14. **Sole Permitted Use:** General office purposes (the “Permitted Use”); however, in no event in violation of any provision of the Rules and Regulations attached as Appendix B hereto or any governmental laws, ordinances and regulations that may be applicable from time to time (“Governmental Requirements”).

STANDARD LEASE PROVISIONS

**1. LEASE AGREEMENT.** On the terms stated in this Lease, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, for the Term beginning on the Commencement Date and ending on the Termination Date unless extended or sooner terminated pursuant to this Lease.

**2. RENT.**

A. Types of Rent. Tenant shall pay Rent in the form of a check to Landlord at the following address:

SPUSV5 500 Brand, L.P.  
Dept. 8311  
Los Angeles, CA 90084-8311

or in such other manner as Landlord may notify Tenant:

(1) Base Rent in monthly installments, without deduction or offset, in advance, the first (1st) full monthly installment payable within three (3) business days after the full execution and delivery of this Lease and thereafter on or before the first (1st) day of each month of the Term in the amount set forth on the Schedule.

Notwithstanding the foregoing, provided Tenant is not in default under this Lease beyond any applicable notice and cure period, Landlord hereby agrees to abate Tenant's obligation to pay Base Rent during months 2, 3, 4, 13 and 14 of the initial Term (the "Abatement Months") (such abated Base Rent and the Abated Parking Charges [defined below] are hereinafter collectively referred to as the "Abated Amount"). During such Abatement Months, Tenant will still be responsible for the payment of all other monetary obligations under this Lease. Tenant acknowledges that any default by Tenant under this Lease beyond any applicable notice and cure period will cause Landlord to incur costs not contemplated hereunder, the exact amount of such costs being extremely difficult and impracticable to ascertain, therefore, should Tenant at any time during the Term be in default after having been given notice and opportunity to cure, then the total unamortized sum of such Abated Amount (amortized on a straight line basis over the initial Term of this Lease) so conditionally excused shall become immediately due and payable by Tenant to Landlord; provided, however, Tenant acknowledges and agrees that nothing in this paragraph is intended to limit any other remedies available to Landlord at law or in equity under applicable law (including, without limitation, the remedies under Civil Code Section 1951.2 and/or 1951.4 and any successor statutes or similar laws), in the event Tenant defaults under this Lease beyond any applicable notice and cure period.

(2) Operating Cost Share Rent in an amount equal to the Tenant's Proportionate Share of the excess of Operating Costs for the applicable fiscal year of the Lease (the "Excess Operating Costs") over the Operating Costs for the Base Year (the "Base Operating Costs"), paid monthly in advance in an estimated amount. Definitions of Operating Costs and Tenant's Proportionate Share, and the method for billing and payment of Operating Cost Share Rent are set forth in Sections 2B, 2C and 2D.

(3) Tax Share Rent in an amount equal to the Tenant's Proportionate Share of the excess of Taxes for the applicable fiscal year of this Lease (the "Excess Taxes") over the Taxes for the Base Year (the "Base Taxes"), paid monthly in advance in an estimated amount. A definition of Taxes and the method for billing and payment of Tax Share Rent are set forth in Sections 2B, 2C and 2D.

(4) Parking Rent in monthly installments in advance for each of the parking spaces allocated to Tenant pursuant to Section 4G, the first monthly installment payable concurrently with the execution of this Lease and thereafter on or before the first day of each month of the Term in the amount set forth on the Schedule.

(5) Additional Rent in the amount of all costs, expenses, liabilities, and amounts which Tenant is required to pay under this Lease, excluding Base Rent, Operating Cost Share Rent, Parking Rent and Tax Share Rent, but including any interest for late payment of any item of Rent.

(6) Rent as used in this Lease means Base Rent, Operating Cost Share Rent, Tax Share Rent, Parking Rent and Additional Rent. Tenant's agreement to pay Rent is an independent covenant, with no right of setoff, deduction or counterclaim of any kind.

**B. Payment of Operating Cost Share Rent and Tax Share Rent.**

(1) Payment of Estimated Operating Cost Share Rent and Tax Share Rent. Landlord shall estimate the Operating Costs and Taxes of the Project by April 1 of each fiscal year, or as soon as reasonably possible thereafter. Landlord may revise these estimates whenever it obtains more accurate information, such as the final real estate tax assessment or tax rate for the Project.

Within twenty (20) days after receiving the original or revised estimate from Landlord setting forth (a) an estimate of Operating Costs for a particular fiscal year, (b) the Base Operating Costs, and (c) the resulting estimate of Excess Operating Costs for such fiscal year, Tenant shall pay Landlord one-twelfth (1/12th) of Tenant's Proportionate Share of the estimated Excess Operating Costs, multiplied by the number of months that have elapsed in the applicable fiscal year to the date of such payment including the current month, minus payments previously made by Tenant for the months elapsed. On the first day of each month thereafter, Tenant shall pay Landlord one-twelfth (1/12th) of Tenant's Proportionate Share of this estimate, until a new estimate becomes applicable.

Within ten (10) days after receiving the original or revised estimate from Landlord setting forth (a) an estimate of Taxes for a particular fiscal year, (b) the Base Taxes, and (c) the resulting estimate of Excess Taxes for such fiscal year, Tenant shall pay Landlord one-twelfth (1/12th) of Tenant's Proportionate Share of the estimated Excess Taxes, multiplied by the number of months that have elapsed in the applicable fiscal year to the date of such payment including the current month, minus payments previously made by Tenant for the months elapsed. On the first day of each month thereafter, Tenant shall pay Landlord one-twelfth (1/12th) of Tenant's Proportionate Share of this estimate, until a new estimate becomes applicable.

(2) Correction of Operating Cost Share Rent. Landlord shall deliver to Tenant a report for the previous fiscal year (the “Operating Cost Report”) by April 1 of each year, or as soon as reasonably possible thereafter, setting forth (a) the actual Operating Costs incurred, (b) the Base Operating Costs, (c) the amount of Operating Cost Share Rent due from Tenant, and (d) the amount of Operating Cost Share Rent paid by Tenant. Within twenty (20) days after such delivery, Tenant shall pay to Landlord the amount due minus the amount paid. If the amount paid exceeds the amount due, Landlord shall apply the excess to Tenant’s payments of Operating Cost Share Rent next coming due.

(3) Correction of Tax Share Rent. Landlord shall deliver to Tenant a report for the previous fiscal year (the “Tax Report”) by April 1 of each year, or as soon as reasonably possible thereafter, setting forth (a) the actual Taxes, (b) the Base Taxes, (c) the amount of Tax Share Rent due from Tenant, and (d) the amount of Tax Share Rent paid by Tenant. Within twenty (20) days after such delivery, Tenant shall pay to Landlord the amount due from Tenant minus the amount paid by Tenant. If the amount paid exceeds the amount due, Landlord shall apply any excess as a credit against Tenant’s payments of Tax Share Rent next coming due.

### C. Definitions.

(1) Included Operating Costs. “Operating Costs” means any expenses, costs and disbursements of any kind other than Taxes, paid or incurred by Landlord in connection with the management, maintenance, operation, insurance, repair and other related activities in connection with any part of the Project and of the personal property, fixtures, machinery, equipment, systems and apparatus used in connection therewith, including the cost of providing those services required to be furnished by Landlord under this Lease. Operating Costs shall also include the costs of any capital improvements which are intended to reduce Operating Costs or improve safety, and those made to keep the Project in compliance with Governmental Requirements (collectively, “Included Capital Items”); provided, that the costs of any Included Capital Item shall be amortized by Landlord, together with an amount equal to interest at eight percent (8%) per annum, over the estimated useful life of such item and such amortized costs are only included in Operating Costs for that portion of the useful life of the Included Capital Item which falls within the Term.

If the Project is not 95% occupied during any portion of any fiscal year, Landlord shall adjust (an “Equitable Adjustment”) Operating Costs to equal what would have been incurred by Landlord had the Project been 95% occupied. This Equitable Adjustment shall apply only to Operating Costs which are variable and therefore increase as occupancy of the Project increases. Landlord may incorporate the Equitable Adjustment in its estimates of Operating Costs.

If Landlord does not furnish a particular service to any other tenant of the Project in any fiscal year, the cost of which would have constituted Operating Costs if provided, then Operating Costs shall be increased for such fiscal year by the amount which Landlord would have incurred if it had furnished the service to such tenant.

(2) Excluded Operating Costs. Operating Costs shall not include:

(a) costs of alterations of tenant premises;

(b) costs of capital improvements other than Included Capital Items or the rental of any such items which, if purchased, would constitute capital improvements excluded hereby;

(c) interest and principal payments on mortgages or any other debt costs, or rental payments on any ground lease of the Project;

(d) real estate brokers' leasing commissions;

(e) legal fees, space planner fees and advertising expenses incurred with regard to leasing the Building or portions thereof;

(f) any cost or expenditure for which Landlord is reimbursed, by insurance proceeds or otherwise, except by Operating Cost Share Rent;

(g) the cost of any service furnished to any office tenant of the Project which Landlord does not make available to Tenant;

(h) depreciation (except on any Included Capital Items);

(i) franchise or income taxes imposed upon Landlord;

(j) costs of correcting defects in construction of the Building (as opposed to the cost of normal repair, maintenance and replacement expected with the construction materials and equipment installed in the Building in light of their specifications);

(k) legal and auditing fees which are for the benefit of Landlord such as collecting delinquent rents, preparing tax returns and other financial statements, and audits other than those incurred in connection with the preparation of reports required pursuant to Section 2B above;

(l) the wages of any employee for services not related directly to the management, maintenance, operation and repair of the Building;

(m) fines, penalties and interest;

(n) marketing costs;

(o) costs incurred by Landlord due to the violation of Landlord or any tenant of the terms and conditions of any lease of space in the Building;

(p) overhead and profit increment paid to Landlord or its subsidiaries or affiliates for goods and or services to the Building to the extent the same exceeds the costs of such goods and/or services rendered by unaffiliated third parties on a competitive basis;

(q) landlord's general corporate overhead and general administrative expenses, as distinguished from the costs of Project operations;

tenants' signs;

(r) advertising and promotional expenditures, and costs of signs in or on the Building identifying the owner of the Building or any other

the Building;

(s) services provided, taxes attributable to, and costs incurred in connection with the operation of any retail or restaurant operations in

(t) tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments and/or file any income tax or informational returns when due;

(u) costs arising from the presence of any hazardous materials, substances or wastes introduced by Landlord in or about the Building;

(v) costs arising from Landlord's charitable or political contributions;

(w) costs for sculpture, paintings or other objects of art;

proceeds;

(x) costs incurred by Landlord for the repair or damage to the Building, to the extent that Landlord is reimbursed by insurance

garage (on or off site);

(y) any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord or in the parking

(z) costs already included within another category of Operating Costs;

(aa) costs arising directly from the Landlord's gross negligence or willful misconduct; and

(bb) Costs attributable to any new type or category of Operating Costs (including, without limitation, earthquake and/or flood insurance) to the extent such new type or category of Operating Costs are not included in the Base Year Operating Costs. Any new type or category incurred in the introductory year shall be included in the Base Year Operating Costs for the purpose of calculating Excess Operating Costs in subsequent years.

(3) Tenant's Proportionate Share. "Tenant's Proportionate Share" means: (a) with respect to Operating Costs, Taxes and other items related to the Project, that percentage set forth in the Schedule as Tenant's Proportionate Share of the Project; and (b) with respect to Operating Costs, Taxes and other items related to the Building, that percentage set forth in the Schedule as Tenant's Proportionate Share of the Building.

(4) Taxes. "Taxes" means any and all taxes, assessments and charges of any kind, general or special, ordinary or extraordinary, levied against the Project, which

Landlord shall pay or become obligated to pay in connection with the ownership, leasing, renting, management, use, occupancy, control or operation of the Project or of the personal property, fixtures, machinery, equipment, systems and apparatus used in connection therewith. Taxes shall include real estate taxes, personal property taxes, sewer rents, water rents, special or general assessments, transit taxes, ad valorem taxes, and any tax levied on the rents hereunder or the interest of Landlord under this Lease (the "Rent Tax"). Taxes shall also include all fees and other costs and expenses paid by Landlord in reviewing any tax and in seeking a refund or reduction of any Taxes, whether or not the Landlord is ultimately successful.

For any year, the amount to be included in Taxes (a) from taxes or assessments payable in installments, shall be the amount of the installments (with any interest) due and payable during such year, and (b) from all other Taxes, shall at Landlord's election be the amount accrued, assessed, or otherwise imposed for such year or the amount due and payable in such year. Any refund or other adjustment to any Taxes by the taxing authority, shall apply during the year in which the adjustment is made.

Taxes shall not include any net income (except Rent Tax), capital, stock, succession, transfer, franchise, gift, estate or inheritance tax, except to the extent that such tax shall be imposed in lieu of any portion of Taxes.

(5) Lease Year. "Lease Year" means each consecutive twelve-month period beginning with the Commencement Date, except that if the Commencement Date is not the first day of a calendar month, then the first Lease Year shall be the period from the Commencement Date through the final day of the twelve (12) months after the first day of the following month, and each subsequent Lease Year shall be the twelve (12) months following the prior Lease Year.

(6) Fiscal Year. "Fiscal Year" or "fiscal year" means the calendar year, except that the first fiscal year and the last fiscal year of the Term may be a partial calendar year.

#### D. Computation of Base Rent and Rent Adjustments.

(1) Prorations. If this Lease begins on a day other than the first day of a month, the Base Rent, Operating Cost Share Rent, Parking Rent and Tax Share Rent shall be prorated for such partial month based on the actual number of days in such month. If this Lease begins on a day other than the first day, or ends on a day other than the last day, of the fiscal year, Operating Cost Share Rent and Tax Share Rent shall be prorated for the applicable fiscal year.

(2) Default Interest. Any sum due from Tenant to Landlord not paid when due shall bear interest from the date due until paid at the lesser of twelve percent (12%) per annum or the maximum rate permitted by law.

(3) Rent Adjustments. The square footage of the Premises and the Building set forth in the Schedule are conclusively deemed to be the actual square footage thereof, without regard to any subsequent remeasurement of the Premises or the Building. If any Operating Cost paid in one fiscal year relates to more than one fiscal year, Landlord may proportionately allocate such Operating Cost among the related fiscal years.

(4) Books and Records. Landlord shall maintain books and records reflecting the Operating Costs and Taxes in accordance with sound accounting and management practices. Tenant and its certified public accountant or other professional working pursuant to other than a contingent fee arrangement shall have the right to inspect Landlord's records at Landlord's office upon at least seventy-two (72) hours' prior notice during normal business hours during the two hundred seventy (270) days following the respective delivery of the Operating Cost Report or the Tax Report. The results of any such inspection shall be kept strictly confidential by Tenant and its agents, and Tenant and its certified public accountant must agree, in their contract for such services, to such confidentiality restrictions and shall specifically agree that the results shall not be made available to any other tenant of the Building. Unless Tenant sends to Landlord any written exception to either such report within said two hundred seventy (270) days period, such report shall be deemed final and accepted by Tenant. Tenant shall pay the amount shown on both reports in the manner prescribed in this Lease, whether or not Tenant takes any such written exception, without any prejudice to such exception. Tenant shall pay the cost of such certification unless Landlord's original determination of annual Operating Costs or Taxes overstated the amounts thereof by more than four percent (4%).

(5) Miscellaneous. So long as Tenant is in default of any obligation under this Lease, Tenant shall not be entitled to any refund of any amount from Landlord. If this Lease is terminated for any reason prior to the annual determination of Operating Cost Share Rent or Tax Share Rent, either party shall pay the full amount due to the other within fifteen (15) days after Landlord's notice to Tenant of the amount when it is determined. Landlord may commingle any payments made with respect to Operating Cost Share Rent or Tax Share Rent, without payment of interest.

### **3. PREPARATION AND CONDITION OF PREMISES; POSSESSION AND SURRENDER OF PREMISES.**

A. Condition of Premises. Except to the extent of the Tenant Improvements item on the Schedule, Landlord is leasing the Premises to Tenant absolutely "as is", without any obligation to alter, remodel, improve, repair or decorate any part of the Premises. Landlord shall cause the Premises to be completed in accordance with the Tenant Improvement Agreement attached as Appendix C. Landlord expressly disclaims any warranty or representation, express or implied, with respect to the Project or any portion thereof, including, without limitation, any warranty or representation as to fitness, condition, the existence of any defect, patent or latent, merchantability, quality or durability.

B. Tenant's Possession. Tenant's taking possession of any portion of the Premises shall be conclusive evidence that the Premises was in good order, repair and condition except to the extent Tenant notifies Landlord within thirty (30) days after completion of Tenant Improvements. If Landlord authorizes Tenant to take possession of any part of the Premises prior to the Commencement Date for purposes of doing business, all terms of this Lease shall apply to such pre-Term possession, including Base Rent at the rate set forth for the First Lease Year in the Schedule prorated for any partial month.



C. Maintenance. Throughout the Term, Tenant shall maintain the Premises in good order, repair and condition, loss or damage caused by the elements, ordinary wear, and fire and other casualty excepted, and at the termination of this Lease, or Tenant's right to possession, Tenant shall return the Premises to Landlord in broom-clean, safe, neat and sanitary condition. To the extent Tenant fails to perform either obligation, Landlord may, but need not, restore the Premises to such condition and Tenant shall pay the cost thereof. Tenant shall obtain Landlord's prior written consent for access to any closed riser in the Building, which consent may be conditioned upon Tenant's agreement to coordinate any activity in connection with any closed riser with Landlord's consultant and pay Landlord's consultant its usual fee. Tenant shall be exclusively responsible for maintaining any installation in the Premises which is installed by or for the benefit of Tenant, not standard for the Building and not generally made available to other tenants of the Project. Tenant shall be solely responsible for the installation (and removal at the end of the Term) of any data cabling or other telecommunications systems for Tenant's use. Tenant shall be solely responsible for obtaining a permit for low voltage cabling, and Landlord shall not be responsible for any delay in the completion of the Initial Improvements (as defined in Appendix C) as a result of Tenant's failure or delay in obtaining its permit. Any plumbing fixtures or appliances installed in the Premises by Tenant shall utilize copper tubing exclusively.

D. To the extent Tenant fails to perform either obligation, Landlord may, but need not, restore the Premises to such condition and Tenant shall pay the cost thereof.

#### **4. BUILDING SERVICES.**

Landlord shall furnish services as follows:

A. Heating and Air Conditioning. During the normal business hours of 8:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 1:00 p.m. on Saturday, excluding New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day following Thanksgiving Day and Christmas Day, Landlord shall furnish heating and air conditioning to provide a comfortable temperature, in Landlord's judgment, for normal business operations, except to the extent Tenant installs equipment which adversely affects the temperature maintained by the air conditioning system. If Tenant installs such equipment, Landlord may install supplementary air conditioning units in the Premises, and Tenant shall pay to Landlord upon demand as Additional Rent the cost of installation, operation and maintenance thereof.

Landlord shall furnish heating and air conditioning after business hours if Tenant provides Landlord reasonable prior notice, and pays Landlord all then current charges for such additional heating or air conditioning, currently at the rate of \$65.00 per hour per floor (the "Initial After Hours HVAC Rate"), subject change from time to time; provided, however, Landlord agrees not to increase the Initial After Hours HVAC Rate unless and until other institutional landlords owning class A office buildings similar to the Building and located in the general vicinity of the Building charge a higher rate.

B. Elevators. Landlord shall provide passenger elevator service during normal business hours to Tenant in common with Landlord and all other tenants. Landlord shall provide limited passenger service at other times, except in case of an emergency.

C. Electricity. Landlord shall provide sufficient electricity for the Permitted Use. Tenant shall not install or operate in the Premises any electrically operated equipment or other machinery, other than business machines and equipment normally employed for general office use which do not require high electricity consumption for operation, without obtaining the prior written consent of Landlord. If any or all of Tenant's equipment requires electricity consumption in excess of that which is necessary to operate normal office equipment, such consumption (including consumption for computer or telephone rooms and special HVAC equipment) shall be submetered by Landlord at Tenant's expense, and Tenant shall reimburse Landlord as Additional Rent for the cost of its submetered consumption based upon Landlord's average cost of electricity. Such Additional Rent shall be in addition to Tenant's Proportionate Share.

D. Water. Landlord shall furnish water for drinking and toilet purposes. Tenant shall pay Landlord for water furnished for any other purpose as Additional Rent at rates fixed by Landlord. Tenant shall not permit water to be wasted.

E. Janitorial Service. Landlord shall furnish janitorial service as generally provided to other tenants in the Building on all business days.

F. Interruption of Services. If any of the Building equipment or machinery ceases to function properly for any cause Landlord shall use reasonable diligence to repair the same promptly. Landlord's inability to furnish, to any extent, the Project services set forth in this Section 4, or any cessation thereof resulting from any causes, including any entry for repairs pursuant to this Lease, and any renovation, redecoration or rehabilitation of any area of the Building shall not render Landlord liable for damages to either person or property or for interruption or loss to Tenant's business, nor be construed as an eviction of Tenant, nor work an abatement of any portion of rent, nor relieve Tenant from fulfillment of any covenant or agreement hereof. However, in the event that an interruption of the Project services set forth in this Section 4 causes the Premises to be untenable for a period of at least five (5) consecutive business days, monthly Rent shall be abated proportionately.

G. Parking. During the Term, Tenant and its employees shall be entitled to use within the Project's parking area (excluding, however, those areas thereof designated by Landlord from time to time for the exclusive use of certain occupants of the Project or for no parking) three and one-half (3.5) unreserved parking stalls per 1,000 Rentable Square Feet of the Premises (i.e., 43 unreserved parking stalls based upon 12,326 square feet of Rentable Area in the Premises) and Tenant shall pay Landlord the Parking Rent for the use of such parking stalls, currently at the rate of \$85.00 per unreserved parking stall per month, subject to change from time to time; provided, however, three (3) of such unreserved parking stalls shall be converted to reserved parking spaces. The current charge for such reserved stalls is \$125.00 per reserved stall per month, subject to change from time to time. Landlord reserves the right to designate reserved parking stalls for other occupants of the Project over any part of the Project's parking area. Notwithstanding the foregoing, provided Tenant is not in default under this Lease beyond

any applicable notice and cure period, Landlord hereby agrees to abate Tenant's obligation to pay the above parking charges during the first nine (9) full months of the initial Term (such abated amount is hereinafter referred to as the "Abated Parking Charges"). Landlord shall not be liable to Tenant for Landlord's failure to enforce Tenant's parking rights against other tenants of the Project. Tenant shall use the parking area at its own risk, and Landlord shall have no liability to Tenant or Tenant's employees or invitees for any damage to vehicles, theft or injury occurring in or about the parking area of the Project.

## **5. ALTERATIONS AND REPAIRS.**

### **A. Landlord's Consent and Conditions.**

Tenant shall not make any improvements or alterations to the Premises (the "Work") without in each instance submitting plans and specifications for the Work to Landlord and obtaining Landlord's prior written consent unless (a) the cost thereof is less than Ten Thousand Dollars (\$10,000), (b) such Work does not impact the base structural components or systems of the Building, (c) such Work will not impact any other tenant's premises, and (d) such Work is not visible from outside the Premises. Tenant shall pay Landlord's standard charge for review of the plans and all other items submitted by Tenant. Landlord will be deemed to be acting reasonably in withholding its consent for any Work which (a) impacts the base structural components or systems of the Building, (b) impacts any other tenant's premises, or (c) is visible from outside the Premises.

Tenant shall reimburse Landlord for actual costs incurred for review of the plans and all other items submitted by Tenant. Tenant shall pay for the cost of all Work. All Work shall become the property of Landlord upon its installation, except for Tenant's trade fixtures and for items which Landlord requires Tenant to remove at Tenant's cost at the termination of the Lease pursuant to Section 3E.

The following requirements shall apply to all Work:

(1) Prior to commencement, Tenant shall furnish to Landlord building permits, certificates of insurance satisfactory to Landlord (including, without limitation, certificates evidencing the insurance Tenant, its contractors and subcontractors are required to maintain under Section 8(C)), and, at Landlord's request, security for payment of all costs.

(2) Tenant shall perform all Work so as to maintain peace and harmony among other contractors serving the Project and shall avoid interference with other work to be performed or services to be rendered in the Project.

(3) The Work shall be performed in a good and workmanlike manner, meeting the standard for construction and quality of materials in the Building, and shall comply with all insurance requirements and all Governmental Requirements.

(4) Tenant shall perform all Work so as to minimize or prevent disruption to other tenants, and Tenant shall comply with all reasonable requests of Landlord in response to complaints from other tenants.

(5) Tenant shall perform all Work in compliance with Landlord's reasonable requirements.

(6) Tenant shall permit Landlord to supervise all Work. Landlord may charge a supervisory fee not to exceed four percent (4%) of labor, material, and all other costs of the Work, if Landlord's employees or contractors perform the Work.

(7) Upon completion, Tenant shall furnish Landlord with contractor's affidavits and full and final statutory waivers of liens, as-built plans and specifications, and receipted bills covering all labor and materials, and all other close-out documentation reasonably required by Landlord.

B. Damage to Systems. If any part of the mechanical, electrical or other systems in the Premises shall be damaged, Tenant shall promptly notify Landlord, and Landlord shall repair such damage. Landlord may also at any reasonable time make any repairs or alterations which Landlord deems necessary for the safety or protection of the Project, or which Landlord is required to make by any court or pursuant to any Governmental Requirement. Tenant shall at its expense make all other repairs necessary to keep the Premises, and Tenant's fixtures and personal property, in good order, condition and repair; to the extent Tenant fails to do so, Landlord may make such repairs itself. The cost of any repairs made by Landlord on account of Tenant's default, or on account of the misuse or neglect by Tenant or its invitees, contractors or agents anywhere in the Project, shall become Additional Rent payable by Tenant on demand.

C. No Liens. Tenant has no authority to cause or permit any lien or encumbrance of any kind to affect Landlord's interest in the Project; any such lien or encumbrance shall attach to Tenant's interest only. If any mechanic's lien shall be filed or claim of lien made for work or materials furnished to Tenant, then Tenant shall at its expense within ten (10) days thereafter either discharge or contest the lien or claim. If Tenant contests the lien or claim, then Tenant shall (i) within such ten (10) day period, provide Landlord adequate security for the lien or claim, (ii) contest the lien or claim in good faith by appropriate proceedings that operate to stay its enforcement, and (iii) pay promptly any final adverse judgment entered in any such proceeding. If Tenant does not comply with these requirements, Landlord may discharge the lien or claim, and the amount paid, as well as attorney's fees and other expenses incurred by Landlord, shall become Additional Rent payable by Tenant on demand. Nothing contained in this Lease shall constitute any consent by Landlord to subject Landlord's estate to liability under any mechanics' or other lien law. Tenant shall give Landlord adequate opportunity, and Landlord shall have the right at all times, to post such notices of nonresponsibility as may be allowed under California law.

D. Ownership of Improvements. All Work as defined in this Section 5, partitions, hardware, equipment, machinery and all other improvements and all fixtures except trade fixtures, constructed in the Premises by either Landlord or Tenant, (i) shall become Landlord's property upon installation without compensation to Tenant, unless Landlord consents otherwise in writing, and (ii) shall at Landlord's option either (a) be surrendered to Landlord with the Premises at the termination of the Lease or of Tenant's right to possession, or (b) be removed in accordance with Subsection 5E below (unless Landlord at the time it gives its consent to the performance of such construction expressly waives in writing the right to require such removal).

E. Removal at Termination. Upon the termination of this Lease or upon termination of Tenant's right of possession, Tenant shall remove from the Premises its trade fixtures, furniture, moveable equipment and other personal property. Further, any improvements which Landlord elects pursuant to Section 5D, along with any improvements to any portion of the Project other than the Premises, shall be removed by Tenant (unless otherwise agreed by Landlord in writing). If Tenant does not timely remove such property, then Tenant shall be conclusively presumed to have, at Landlord's election, (i) conveyed such property to Landlord without compensation or (ii) abandoned such property, and Landlord may dispose of or store any part thereof in any manner at Tenant's sole cost, without waiving Landlord's right to claim from Tenant all expenses arising out of Tenant's failure to remove the property, and without liability to Tenant or any other person. Landlord shall have no duty to be a bailee of any such personal property. If Landlord elects to deem such property abandoned by Tenant, Tenant shall pay to Landlord, upon demand, any expenses incurred for disposition. Tenant expressly releases Landlord of and from any and all claims and liability for damage to or destruction or loss of property left by Tenant upon the Premises at the expiration or other termination of this Lease, and to the extent permitted by then applicable law, Tenant shall protect, indemnify, defend and hold Landlord harmless from and against any and all claims and liability with respect thereto. Upon expiration or earlier termination of this Lease, Tenant shall remove all wires, cables or similar equipment which Tenant has installed in the Premises or in the risers or plenums of the Building, and shall restore any damage caused by the removal of such equipment. During any restoration period, Tenant shall pay Rent to Landlord as provided herein as if said space were otherwise occupied by Tenant.

F. Landlord's Work. Landlord shall have the right at any time to change the arrangement and location of all entrances, passageways, doors, doorways, corridors, stairs, toilets and other public parts of the Project and, upon giving Tenant reasonable notice thereof, to change any name, number or designation by which the Premises or the Project is commonly known.

**6. USE OF PREMISES.** Tenant shall use the Premises only for the Permitted Use, as defined in the Schedule. Tenant shall not allow any use of the Premises which will increase the cost of Landlord's insurance coverage on the Project. Tenant shall not allow any inflammable or explosive liquids or materials to be kept on the Premises. Tenant shall not allow any use of the Premises which would cause the value or utility of any part of the Premises to diminish or would interfere with any other Tenant or with the operation of the Project by Landlord. Tenant shall not cause or permit any nuisance or waste upon the Premises, or allow any offensive noise or odor in or around the Premises or in any way obstruct or interfere with the rights of other tenants or occupants of the Project.

Tenant acknowledges that the Americans With Disabilities Act of 1990 (as amended and as supplemented by further laws from time to time, the "ADA") imposes certain requirements upon the owners, lessees and operators of commercial facilities and places of public accommodation, including, without limitation, prohibitions on discrimination against any individual on the basis of disability. Landlord shall be responsible as of the Commencement

Date for the compliance of the Premises with the ADA in effect as of the Commencement Date, assuming the use of the Premises is as set forth in this Lease, and that the Premises are not a place of public accommodation. Tenant agrees, at Tenant's expense, to take all proper and necessary action throughout the Term to cause the Premises, any repairs, replacements, alterations and improvements thereto to be maintained, used and occupied in compliance with the ADA requirements, whether or not those requirements are based upon the Tenant's use of the Premises and, further, to otherwise assume all responsibility to ensure the Premises' continued compliance with all provisions of the ADA throughout the Term. Tenant shall, at its expense, make any alterations or modifications, within or without the Premises, to bring Tenant's use and occupancy of the Premises into compliance with the ADA. Tenant shall pay, as additional rent, its proportional share of expenses incurred by Landlord in bringing common areas of the Project into compliance with provisions of the ADA. The Premises shall not be used as a "place of public accommodation" under the ADA or similar laws, regulations, statutes and/or ordinances; provided, that if any governmental authority shall deem the Premises to be a "place of public accommodation" as a result of Tenant's use, Tenant shall either modify its use to cause such authority to rescind its designation or be responsible for any alterations, structural or otherwise, required to be made to the Project or the Premises under such laws.

**7. GOVERNMENTAL REQUIREMENTS AND PROJECT RULES.** Tenant shall comply with all Governmental Requirements applying to the Project, the Building and the Premises. Tenant shall also comply with all reasonable and non-discriminatory rules established for the Project, including, without limitation, the parking area, from time to time by Landlord. The present rules and regulations are contained in Appendix B. Failure by another tenant to comply with the rules or failure by Landlord to enforce them shall not relieve Tenant of its obligation to comply with the rules or make Landlord responsible to Tenant in any way. Landlord shall use reasonable efforts to apply the rules and regulations uniformly with respect to Tenant and tenants in the Building under leases containing rules and regulations similar to this Lease. In the event of alterations and repairs performed by Tenant, Tenant shall comply with the provisions of Section 5 of this Lease, and with Landlord's reasonable requirements.

**8. WAIVER OF CLAIMS; INDEMNIFICATION; INSURANCE.**

A. Waiver of Claims. To the extent permitted by law, Tenant waives any claims it may have against Landlord or its officers, directors, employees or agents for business interruption or damage to property sustained by Tenant as the result of any act or omission of Landlord.

To the extent permitted by law, Landlord waives any claims it may have against Tenant or its officers, directors, employees or agents for loss of rents or damage to property sustained by Landlord as the result of any act or omission of Tenant.

B. Indemnification. Tenant shall indemnify, defend and hold harmless Landlord and its officers, directors, employees and agents against any claim by any third party for injury to any person or damage to or loss of any property occurring in the Premises, or occurring in the Project and arising from any act or omission or negligence of Tenant or any of Tenant's employees or agents. Tenant's obligations under this section shall survive the termination of this Lease.

Landlord shall indemnify, defend and hold harmless Tenant and its officers, directors, employees and agents against any claim by any third party for injury to any person or damage to or loss of any property occurring in the Project outside of the Premises and arising from any act or omission or negligence of Landlord or any of Landlord’s employees or agents. Landlord’s obligations under this section shall survive the termination of this Lease.

C. Tenant’s Insurance. Tenant shall maintain insurance as follows, with such other terms, coverages and insurers, as Landlord shall reasonably require from time to time:

(1) Commercial General Liability Insurance, with (a) Contractual Liability including the indemnification provisions contained in this Lease, (b) a severability of interest endorsement and cross liability clause, (c) limits of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and not less than Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, sickness or death, and property damage, and umbrella coverage of not less than Five Million Dollars (\$5,000,000).

(2) Property Insurance against “All Risks” of physical loss with business interruption and extra expense coverage covering the replacement cost of all improvements, fixtures and personal property of Tenant, including without limitation (i) sprinkler leakage, ordinance and law, sewer back-up, windstorm and collapse coverage, and (ii) flood and earthquake coverage. Tenant waives all rights of subrogation, and Tenant’s property insurance shall include a waiver of subrogation in favor of Landlord. Notwithstanding the foregoing, so long as the Tenant under this Lease is Everbridge, Inc., Tenant may elect to “self-insure” against the risks described in clause (ii) of this Section 8(C)(2) above (the “Self-Insured Risks”); i.e., Tenant may elect to absorb all liability for which Tenant would otherwise have insurance coverage under policies of insurance for the Self-Insured Risks; provided, however, Tenant shall not be released from liability hereunder by reason of such self-insurance. To the extent Tenant elects to self-insure such risks (which election shall automatically be deemed to have been made by Tenant to the extent of any failure to carry insurance on the Self-Insured Risks), then, as between Landlord and Tenant, Tenant shall be treated as if Tenant maintained such insurance (as primary insurance and any insurance carried by Landlord and its agents, mortgagees, and ground lessors, if any, will be excess over and non-contributing with such insurance) and Tenant hereby waives any rights of recovery and subrogation against Landlord and/or Landlord’s insurer for any loss which would have been covered had Tenant maintained insurance covering the Self-Insured Risks.

(3) Workers’ compensation or similar insurance in form and amounts required by law, and Employer’s Liability with not less than the following limits:

|                       |           |
|-----------------------|-----------|
| Each Accident         | \$500,000 |
| Disease—Policy Limit  | \$500,000 |
| Disease—Each Employee | \$500,000 |

Such insurance shall contain a waiver of subrogation provision in favor of Landlord and its agents.

Tenant’s insurance shall be primary and not contributory to that carried by Landlord, its agents, or mortgagee. Landlord, and if any, Landlord’s building manager or agent, mortgagee and ground lessor shall be named as additional insureds as respects to insurance required of the Tenant in Section 8C(1). The company or companies writing any insurance which Tenant is required to maintain under this Lease, as well as the form of such insurance, shall at all times be subject to Landlord’s approval, and any such company shall be licensed to do business in the state in which the Project is located. Such insurance companies shall have a A.M. Best rating of A VI or better.

Tenant shall cause any contractor of Tenant performing work on the Premises to maintain insurance as follows, with such other terms, coverages and insurers, as Landlord shall reasonably require from time to time:

(1) Commercial General Liability Insurance, including contractor’s liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement, and contractor’s protective liability coverage, to afford protection with limits, for each occurrence, of not less than One Million Dollars (\$1,000,000) with respect to personal injury, death or property damage.

(2) Workers’ compensation or similar insurance in form and amounts required by law, and Employer’s Liability with not less than the following limits:

|                       |           |
|-----------------------|-----------|
| Each Accident         | \$500,000 |
| Disease—Policy Limit  | \$500,000 |
| Disease—Each Employee | \$500,000 |

Such insurance shall contain a waiver of subrogation provision in favor of Landlord and its agents.

Tenant’s contractor’s insurance shall be primary and not contributory to that carried by Tenant, Landlord, their agents or mortgagees. Tenant and Landlord, and if any, Landlord’s building manager or agent, mortgagee or ground lessor shall be named as additional insureds on Tenant’s contractor’s insurance policies.

D. Insurance Certificates. Tenant shall deliver to Landlord certificates evidencing all required insurance no later than five (5) days prior to the Commencement Date and each renewal date. Each certificate will provide for thirty (30) days prior written notice of cancellation to Landlord and Tenant.

E. Landlord’s Insurance. Landlord shall maintain “All-Risk” property insurance at replacement cost, including loss of rents, on the Building, and Commercial General Liability insurance policies covering the common areas of the Project, each with such terms, coverages and conditions as are normally carried by reasonably prudent owners of properties similar to the Project.

Landlord and Tenant mutually waive all rights of subrogation with respect to property insurance, and the property insurance obtained by Landlord and Tenant shall include a waiver of subrogation by the insurers and all of all rights based upon an assignment from the insured,



against Landlord or Tenant, and their respective affiliates, in connection with any loss or damage insured against. Neither Landlord nor Tenant (including their respective affiliates) shall be liable to the other for loss or damage caused by any risk insured against under property insurance required to be maintained hereunder, and each party waives any claims against the other party, and its respective affiliates, for such loss or damage. The failure of a party to obtain the insurance required hereunder shall not affect this waiver. The respective “All-Risk” coverage insurance policies carried by Landlord and Tenant shall contain enforceable waiver of subrogation endorsements.

#### **9. FIRE AND OTHER CASUALTY.**

A. Termination. If a fire or other casualty causes substantial damage to the Building or the Premises, within one (1) month of the casualty, Landlord shall engage a registered architect to certify to both Landlord and Tenant the amount of time needed to restore the Building and the Premises to tenantability, using standard working methods. If the time needed exceeds nine (9) months from the beginning of the restoration, or two (2) months from the beginning of the restoration if such restoration would begin during the last twelve (12) months of the Lease, then Landlord may terminate this Lease by notice to Tenant within ten (10) days after Landlord’s receipt of the architect’s certificate. The termination shall be effective thirty (30) days from the date of the notice and Rent shall be paid by Tenant to that date, with an abatement for any portion of the space which has been untenable after the casualty.

B. Restoration. If a casualty causes damage to the Building or the Premises but this Lease is not terminated for any reason, then subject to the rights of any mortgagees or ground lessors, Landlord shall restore the Building and the Premises in accordance with current Governmental Requirements. Landlord’s obligation to restore shall be conditioned upon actual receipt of insurance proceeds sufficient to restore. Tenant shall replace its damaged improvements, personal property and fixtures. Rent shall be abated on a per diem basis during the restoration for any portion of the Premises which is untenable, except to the extent that Tenant’s negligence caused the casualty.

C. Waiver. The provisions of California Civil Code Section 1932, Subsection 2, and Section 1933, Subsection 4, and any other similarly enacted statute or court decision relating to the abatement or termination of a lease upon destruction of the leased premises, are hereby waived by Tenant; and the provisions of this Section 9 shall govern in case of such destruction.

**10. EMINENT DOMAIN**. If a part of the Project is taken by eminent domain or deed in lieu thereof, and such taking is so substantial that the Premises cannot reasonably be used by Tenant for the operation of its business, then either party may terminate this Lease effective as of the date of the taking. If any substantial portion of the Project is taken without affecting the Premises, then Landlord may terminate this Lease as of the date of such taking. Rent shall abate from the date of the taking in proportion to any part of the Premises taken. The entire award for a taking of any kind shall be paid to Landlord, and Tenant shall have no right to share in the award. Tenant may pursue a separate award for its trade fixtures and moving expenses in connection with the taking, but only if such recovery does not reduce the award payable to Landlord. All obligations accrued to the date of the taking shall be performed by each party.

## **11. RIGHTS RESERVED TO LANDLORD.**

Landlord may exercise at any time any of the following rights respecting the operation of the Project without liability to the Tenant of any kind:

A. Name. To change the name or street address of the Building or the suite number(s) of the Premises.

B. Signs. To install, remove and maintain any signs on the exterior and in the interior of the Building, and to approve at its sole discretion, prior to installation, any of Tenant's signs in the Premises visible from the common areas or the exterior of the Building at Tenant's sole cost and expense, subject to the terms of this Section 11B. Notwithstanding the foregoing, Landlord shall provide Tenant, at Landlord's sole cost and expense, with Building standard suite signage and lobby directory signage, if any (including in any electronic directory); provided, however, any changes to such signage shall be at Tenant's sole cost and expense.

C. Window Treatments. To approve, at its discretion, prior to installation, any shades, blinds, ventilators or window treatments of any kind, as well as any lighting within the Premises that may be visible from the exterior of the Building or any interior common area.

D. Keys. To retain and use at any time passkeys to enter the Premises or any door within the Premises. Tenant shall not alter or add any lock or bolt.

E. Access. To have access to inspect the Premises, and to perform its obligations, or make repairs, alterations, additions or improvements, as permitted by this Lease. Landlord shall give Tenant reasonable prior notice of entry to the Premises, unless, in Landlord's reasonable judgment, exigent circumstances require immediate entry.

F. Preparation for Reoccupancy. To decorate, remodel, repair, alter or otherwise prepare the Premises for reoccupancy at any time after Tenant abandons the Premises, without relieving Tenant of any obligation to pay Rent.

G. Heavy Articles. To approve the weight, size, placement and time and manner of movement within the Building of any safe, central filing system or other heavy article of Tenant's property. Tenant shall move its property entirely at its own risk.

H. Show Premises. To show the Premises to prospective purchasers, tenants, brokers, lenders, investors, rating agencies or others at any reasonable time during the last nine (9) months of the Term, provided that Landlord gives prior notice to Tenant and does not materially interfere with Tenant's use of the Premises.

I. Relocation of Tenant. To relocate the Tenant, upon sixty (60) days' prior written notice, from all or part of the Premises (the "Old Premises") to another area in the Project (the "new premises"), provided that:

(1) the size of the new premises is at least equal to the size of the Old Premises and comparable in configuration, accessibility, and dimensions to the Old Premises;

(2) the new premises shall not be located below the eighth (8th) floor in the Building or in the 520 North Brand Boulevard building.

(3) in no event shall Base Rent and/or Tenant's Proportionate Share of any other expenses exceed those applicable to the Old Premises;

(4) Landlord shall improve the new premises, at Landlord's sole cost and expense, pursuant to plans and specifications reasonably approved by Tenant, so that the new premises are improved to a level at least equivalent to that of the Old Premises and are functional for Tenant's use thereof.

(5) Landlord shall move Tenant to the new premises over a weekend; provided, however, Tenant shall cooperate with Landlord in all reasonable ways to facilitate the move, including supervising the movement of files or fragile equipment and designating new locations for furniture and equipment.

(6) Landlord shall, within thirty (30) days after invoice, reimburse Tenant for all actual and reasonable costs incurred by Tenant in relocating to the new premises, including, without limitation, installing new cabling in the new premises and replacing then on-hand stationery and business card (such stationary and business card replacement cost not to exceed \$1,000 in the aggregate) (collectively, the "Moving Costs"). If requested by Landlord, Tenant shall be required to agree upon in writing the Moving Costs budget in advance, and once agreed upon in writing, Landlord shall not be liable hereunder for Moving Costs in excess of such budget.

J. Use of Lockbox. To designate a lockbox collection agent for collections of amounts due Landlord. In that case, the date of payment of Rent or other sums shall be the date of the agent's receipt of such payment or the date of actual collection if payment is made in the form of a negotiable instrument thereafter dishonored upon presentment.

K. Repairs and Alterations. To make repairs or alterations to the Project and in doing so transport any required material through the Premises, to close entrances, doors, corridors, elevators and other facilities in the Project, to open any ceiling in the Premises, or to temporarily suspend services or use of common areas in the Project so long as Landlord uses its commercially reasonable efforts to not materially and adversely interfere with Tenant's beneficial use and enjoyment of the Premises. Landlord may perform any such repairs or alterations during ordinary business hours, except that Tenant may require any Work in the Premises to be done after business hours if Tenant pays Landlord for overtime and any other expenses incurred. Landlord may do or permit any work on any nearby building, land, street, alley or way.

L. Landlord's Agents. If Tenant is in default under this Lease, possession of Tenant's funds or negotiation of Tenant's negotiable instrument by any of Landlord's agents shall not waive any breach by Tenant or any remedies of Landlord under this Lease.

M. Building Services. To install, use and maintain through the Premises, pipes, conduits, wires and ducts serving the Building, provided that such installation, use and maintenance does not unreasonably interfere with Tenant's use of the Premises.

N. Closed Risers. To restrict access to any closed riser in the Building, and to permit access to any closed riser only upon Tenant agreeing to pay Landlord's consultant to supervise any activity of Tenant in connection with access to any closed riser.

O. Other Actions. To take any other action which Landlord deems reasonable in connection with the operation, maintenance or preservation of the Project.

## **12. TENANT'S DEFAULT.**

Any of the following shall constitute a default by Tenant:

A. Rent Default. Tenant fails to pay any Rent within three (3) business days of notice that such amount is due;

B. Intentionally Omitted.

C. Other Performance Default. Tenant fails to perform any other obligation to Landlord under this Lease, and, in the case of only the first two (2) such failures during the Term of this Lease, this failure continues for ten (10) business days after written notice from Landlord (provided, however, that any such notice shall be in lieu of, and not in addition to, any notice required under Section 1161 et seq. of the California Code of Civil Procedure), except that if Tenant begins to cure its failure within the ten (10) business day period but cannot reasonably complete its cure within such period, then, so long as Tenant continues to diligently attempt to cure its failure, the ten (10) business day period shall be extended to sixty (60) days, or such lesser period as is reasonably necessary to complete the cure;

D. Credit Default. One of the following credit defaults occurs:

(1) Tenant commences any proceeding under any law relating to bankruptcy, insolvency, reorganization or relief of debts, or seeks appointment of a receiver, trustee, custodian or other similar official for the Tenant or for any substantial part of its property, or any such proceeding is commenced against Tenant and either remains undismissed for a period of thirty days or results in the entry of an order for relief against Tenant which is not fully stayed within seven days after entry;

(2) Tenant becomes insolvent or bankrupt, does not generally pay its debts as they become due, or admits in writing its inability to pay its debts, or makes a general assignment for the benefit of creditors;

(3) Any third party obtains a levy or attachment under process of law against Tenant's leasehold interest.

E. Abandonment Default. Tenant abandons the Premises.

Any notice sent by Landlord to Tenant pursuant to this Section 12 shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure, Section 1161.

### **13. LANDLORD REMEDIES FOR TENANT'S DEFAULT; LANDLORD'S DEFAULT.**

A. Termination of Lease or Possession. If Tenant defaults, Landlord may elect by notice to Tenant either to terminate this Lease or to terminate Tenant's possession of the Premises without terminating this Lease. In either case, Tenant shall immediately vacate the Premises and deliver possession to Landlord, and Landlord may repossess the Premises and may, at Tenant's sole cost, remove any of Tenant's signs and any of its other property, without relinquishing its right to receive Rent or any other right against Tenant. Without limiting the generality of the foregoing, upon the termination of this Lease or the termination of Tenant's right of possession, it shall be lawful for the Landlord, without formal demand or notice of any kind, to re-enter the Premises by summary dispossession proceedings or any other action or proceeding authorized by law and to remove Tenant and all persons and property therefrom.

B. Lease Termination Damages. Except as otherwise provided in Section 13C, if Tenant abandons the Premises prior to the end of the term hereof, or if Tenant's right to possession is terminated by Landlord because of a default by Tenant under this Lease, this Lease shall terminate. Upon such termination, Landlord may recover from Tenant the following, as provided in Section 1951.2 of the California Civil Code: (i) the worth at the time of award of the unpaid Rent and other charges under this Lease that had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid Rent and other charges under this Lease which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid Rent and other charges under this Lease for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom. As used herein, the following terms are defined: (a) The "worth at the time of award" of the amounts referred to in Sections (i) and (ii) is computed by allowing interest at the lesser of 12% per annum or the maximum lawful rate. The "worth at the time of award" of the amount referred to in Section (iii) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1%.

C. Continuation of Lease. Even if Tenant has abandoned the Premises, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession, and Landlord may enforce all its rights and remedies under this Lease, including the right to recover Rent as it becomes due. This remedy is intended to be the remedy described in California Civil Code Section 1951.4, and the following provision from such California Civil Code Section is hereby repeated: "The Lessor has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations)." Any such payments due Landlord shall be made upon demand therefor from time to time and Tenant agrees that Landlord may file suit to recover any sums falling due from time to time. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect in writing to terminate this Lease for such previous breach.

D. Possession Termination Damages. If Landlord terminates Tenant's right to possession without terminating the Lease and Landlord takes possession of the Premises itself, Landlord may relet any part of the Premises for such Rent, for such time, and upon such terms as Landlord in its sole discretion shall determine, without any obligation to do so prior to renting other vacant areas in the Building. Any proceeds from reletting the Premises shall first be applied to the expenses of reletting, including redecoration, repair, alteration, advertising, brokerage, legal, and other reasonably necessary expenses. If the reletting proceeds after payment of expenses are insufficient to pay the full amount of Rent under this Lease, Tenant shall pay such deficiency to Landlord monthly upon demand as it becomes due. Any excess proceeds shall be retained by Landlord.

E. Landlord's Remedies Cumulative. All of Landlord's remedies under this Lease shall be in addition to all other remedies Landlord may have at law or in equity. Waiver by Landlord of any breach of any obligation by Tenant shall be effective only if it is in writing, and shall not be deemed a waiver of any other breach, or any subsequent breach of the same obligation. Landlord's acceptance of payment by Tenant shall not constitute a waiver of any breach by Tenant, and if the acceptance occurs after Landlord's notice to Tenant, or termination of the Lease or of Tenant's right to possession, the acceptance shall not affect such notice or termination. Acceptance of payment by Landlord after commencement of a legal proceeding or final judgment shall not affect such proceeding or judgment. Landlord may advance such monies and take such other actions for Tenant's account as reasonably may be required to cure or mitigate any default by Tenant. Tenant shall immediately reimburse Landlord for any such advance, and such sums shall bear interest at the default interest rate until paid.

**F. WAIVER OF TRIAL BY JURY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY WAIVES TRIAL BY JURY IN THE EVENT OF ANY LEGAL PROCEEDING BROUGHT BY THE OTHER IN CONNECTION WITH THIS LEASE. EACH PARTY SHALL BRING ANY ACTION AGAINST THE OTHER IN CONNECTION WITH THIS LEASE IN A FEDERAL OR STATE COURT LOCATED IN THE COUNTY WHERE THE PROJECT IS LOCATED, CONSENTS TO THE JURISDICTION OF SUCH COURTS, AND WAIVES ANY RIGHT TO HAVE ANY PROCEEDING TRANSFERRED FROM SUCH COURTS ON THE GROUND OF IMPROPER VENUE OR INCONVENIENT FORUM.**

G. Litigation Costs. In any legal action between the parties arising out of this Lease, the prevailing party shall be entitled to have its reasonable attorneys' fees and other costs in enforcing this Lease paid by the other party, whether or not suit is filed.

H. Landlord's Default. Landlord shall not be in default in the performance of any obligation required to be performed by Landlord under this Lease unless Landlord has failed to perform such obligation within thirty (30) days after the receipt of written notice from Tenant specifying in detail Landlord's failure to perform; provided however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be deemed in default if it commences such performance within such thirty (30) day period and thereafter diligently pursues the same to completion. Upon any such uncured default by Landlord, Tenant may exercise any of its rights provided at law or in equity; provided, however: (a) Tenant shall have no right to offset or abate rent in the event of any

default by Landlord under this Lease; (b) Tenant shall have no right to terminate this Lease; and (c) Tenant's rights and remedies hereunder shall be limited to the extent (i) Tenant has expressly waived in this Lease any of such rights or remedies and/or (ii) this Lease otherwise expressly limits Tenant's rights or remedies, including the limitation on Landlord's liability contained in Section 29 hereof.

**14. SURRENDER.** Upon termination of this Lease or Tenant's right to possession, Tenant shall return the Premises to Landlord in good order and condition, ordinary wear and casualty damage excepted. If Landlord requires Tenant to remove any alterations, then Tenant shall remove the alterations in a good and workmanlike manner and restore the Premises to its condition prior to their installation.

**15. HOLDOVER.** If Tenant retains possession of any part of the Premises after the Term, Tenant shall become a month-to-month tenant for the entire Premises upon all of the terms of this Lease as might be applicable to such month-to-month tenancy, except that Tenant shall pay all of Base Rent, Operating Cost Share Rent and Tax Share Rent at one hundred fifty percent (150%) of the rate in effect immediately prior to such holdover, computed on a monthly basis for each full or partial month Tenant remains in possession. Tenant shall also pay Landlord all of Landlord's direct and consequential damages. No acceptance of Rent or other payments by Landlord under these holdover provisions shall operate as a waiver of Landlord's right to regain possession or any other of Landlord's remedies. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord and the Landlord Parties harmless from all loss, costs (including reasonable attorneys' and experts' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender and any lost profits to Landlord resulting therefrom.

**16. SUBORDINATION TO GROUND LEASES AND MORTGAGES.**

A. Subordination. This Lease shall be subordinate to any present or future ground lease or mortgage respecting the Project, and any amendments to such ground lease or mortgage, at the election of the ground lessor or mortgagee as the case may be, effected by notice to Tenant in the manner provided in this Lease. The subordination shall be effective upon such notice, but at the request of Landlord or ground lessor or mortgagee, Tenant shall within ten (10) days of the request, execute and deliver to the requesting party any reasonable documents provided to evidence the subordination.

B. Termination of Ground Lease or Foreclosure of Mortgage. If any ground lease is terminated or mortgage foreclosed or deed in lieu of foreclosure given and the ground lessor, mortgagee, or purchaser at a foreclosure sale shall thereby become the owner of the Project, Tenant shall attorn to such ground lessor or mortgagee or purchaser without any deduction or setoff by Tenant, and this Lease shall continue in effect as a direct lease between Tenant and such ground lessor, mortgagee or purchaser. The ground lessor or mortgagee or purchaser shall be liable as Landlord only during the time such ground lessor or mortgagee or purchaser is the owner of the Project. At the request of Landlord, ground lessor or mortgagee, Tenant shall execute and deliver within ten (10) days of the request any document furnished by the requesting party to evidence Tenant's agreement to attorn.

C. Security Deposit. Any ground lessor or mortgagee shall be responsible for the return of any security deposit by Tenant only to the extent the security deposit is received by such ground lessor or mortgagee.

D. Notice and Right to Cure. The Project is subject to any ground lease and mortgage identified with name and address of ground lessor or mortgagee in Appendix D to this Lease (as the same may be amended from time to time by written notice to Tenant). Tenant agrees to send by registered or certified mail to any ground lessor or mortgagee identified either in such Appendix or in any later notice from Landlord to Tenant a copy of any notice of default sent by Tenant to Landlord. If Landlord fails to cure such default within the required time period under this Lease, but ground lessor or mortgagee begins to cure within ten (10) days after such period and proceeds diligently to complete such cure, then ground lessor or mortgagee shall have such additional time as is necessary to complete such cure, including any time necessary to obtain possession if possession is necessary to cure, and Tenant shall not begin to enforce its remedies so long as the cure is being diligently pursued.

E. Definitions. As used in this Section 16, “mortgage” shall include “trust deed”. “Mortgagee” shall include “trustee”. “Mortgagee” shall include the mortgagee of any ground lessee. “Ground lessor”, “mortgagee”, and “purchaser at a foreclosure sale” shall include, in each case, all of its successors and assigns, however remote.

## **17. ASSIGNMENT AND SUBLEASE.**

A. In General. Tenant shall not, without the prior consent of Landlord in each case, (i) make or allow any assignment or transfer, by operation of law or otherwise, of any part of Tenant’s interest in this Lease, (ii) grant or allow any lien or encumbrance, by operation of law or otherwise, upon any part of Tenant’s interest in this Lease, (iii) sublet any part of the Premises, or (iv) permit anyone other than Tenant and its employees to occupy any part of the Premises. Tenant shall remain primarily liable for all of its obligations under this Lease, notwithstanding any assignment or transfer. No consent granted by Landlord shall be deemed to be a consent to any subsequent assignment or transfer, lien or encumbrance, sublease or occupancy. Tenant shall pay all of Landlord’s reasonable attorneys’ fees and other expenses incurred in connection with any consent requested by Tenant or in reviewing any proposed assignment or subletting. Any assignment or transfer, grant of lien or encumbrance, or sublease or occupancy without Landlord’s prior written consent shall be void. If Tenant shall assign this Lease or sublet the Premises in its entirety, then any rights of Tenant to renew this Lease, to extend the Term or to lease additional space in the Project shall be extinguished thereby and will not be transferred to the assignee or subtenant, all such rights being personal to the Tenant.

B. Landlord’s Consent. Landlord will not unreasonably withhold, condition or delay its consent to any proposed assignment or subletting. It shall be reasonable for Landlord to withhold its consent to any assignment or sublease if (i) Tenant is in default under this Lease, (ii) the proposed assignee or sublessee is a tenant in the Project or an affiliate of such a tenant or a party that Landlord has identified to Tenant as a prospective tenant in the Project, (iii) the



financial responsibility, nature of business, and character of the proposed assignee or subtenant are not all reasonably satisfactory to Landlord, (iv) in the reasonable judgment of Landlord the purpose for which the assignee or subtenant intends to use the Premises (or a portion thereof) is not in keeping with Landlord's standards for the Building or are in violation of the terms of this Lease or any other leases in the Project, (v) the proposed assignee or subtenant is a government entity, or (vi) the proposed assignment (but not sublease) is for less than the entire Premises or for less than the remaining Term of the Lease. The foregoing shall not exclude any other reasonable basis for Landlord to withhold its consent.

C. Procedure. Tenant shall notify Landlord of any proposed assignment or sublease at least thirty (30) days prior to its proposed effective date. The notice shall include the name and address of the proposed assignee or subtenant, its corporate affiliates in the case of a corporation and its partners in a case of a partnership, an execution copy of the proposed assignment or sublease, and sufficient information to permit Landlord to determine the financial responsibility and character of the proposed assignee or subtenant. If Landlord fails to approve or disapprove any proposed assignment or sublease within fifteen (15) days after Landlord's receipt of a proper notice from Tenant, Landlord shall be deemed to have disapproved such assignment or sublease, as applicable; provided, however, if Landlord shall be deemed to have disapproved such assignment or sublease as stated in this sentence above, Tenant may deliver to Landlord an additional request for Landlord's consent to such assignment or sublease ("Tenant's Additional Assignment/Subletting Notice"). In the event Landlord fails to either approve or disapprove such assignment or sublease in accordance with the terms of this Lease within three (3) business days following Landlord's receipt of Tenant's Additional Assignment/Subletting Notice, Landlord shall be deemed to have granted its consent to such assignment or sublease. Tenant acknowledges that the Tenant's Additional Assignment/Subletting Notice will not be deemed given to Landlord unless the same contains the following language (in at least 12 point, bold face and all capital letters): **"LANDLORD'S FAILURE TO EITHER APPROVE OR DISAPPROVE SUCH ASSIGNMENT OR SUBLEASE IN ACCORDANCE WITH THE TERMS OF THIS LEASE WITHIN THREE (3) BUSINESS DAYS FOLLOWING RECEIPT OF THIS NOTICE MAY RESULT IN LANDLORD BEING DEEMED TO HAVE CONSENTED TO SUCH ASSIGNMENT OR SUBLEASE PURSUANT TO SECTION 17(C) OF THE LEASE"**. As a condition to any effective assignment of this Lease, the assignee shall execute and deliver in form satisfactory to Landlord at least fifteen (15) days prior to the effective date of the assignment, an assumption of all of the obligations of Tenant under this Lease. As a condition to any effective sublease, subtenant shall execute and deliver in form satisfactory to Landlord at least fifteen (15) days prior to the effective date of the sublease, an agreement to comply with all of Tenant's obligations under this Lease, and at Landlord's option, an agreement (except for the economic obligations which subtenant will undertake directly to Tenant) to attorn to Landlord under the terms of the sublease in the event this Lease terminates before the sublease expires.

D. Change of Management or Ownership. Any transfer of the direct or indirect power to affect the management or policies of Tenant or direct or indirect change in 25% or more in the aggregate of the ownership interest in Tenant shall constitute an assignment of this Lease.

E. Excess Payments. If Tenant shall assign this Lease or sublet any part of the Premises for consideration in excess of the pro-rata portion of Rent applicable to the space subject to the assignment or sublet, then Tenant shall pay to Landlord as Additional Rent, fifty percent (50%) of any such excess immediately upon receipt.

F. Recapture. Landlord may, by giving written notice (a "Recapture Notice") to Tenant within thirty (30) days after receipt of Tenant's notice of assignment or subletting, terminate this Lease with respect to the space described in Tenant's notice, as of the effective date of the proposed assignment or sublease and all obligations under this Lease as to such space shall expire except as to any obligations that expressly survive any termination of this Lease. Notwithstanding the foregoing, if Landlord delivers a Recapture Notice to Tenant, Tenant shall have the right, within five (5) business days following its receipt of such Recapture Notice, to revoke its earlier notice of assignment or subletting. If Tenant revokes its earlier notice of assignment or subletting, Landlord's previously delivered Recapture Notice shall be deemed void and of no further force or effect and Tenant shall remain in possession of (and not assign or sublet) the applicable space.

**18. CONVEYANCE BY LANDLORD.** If Landlord shall at any time transfer its interest in the Project or this Lease, Landlord shall be released of any obligations occurring after such transfer, except the obligation to return to Tenant any security deposit not delivered to its transferee, and Tenant shall look solely to Landlord's successors for performance of such obligations. Subject to the provisions of Section 16, this Lease shall not be affected by any such transfer.

**19. ESTOPPEL CERTIFICATE.** Each party shall, within ten (10) days of receiving a request from the other party, execute, and deliver to the other party or its designee a certificate stating, subject to a specific statement of any applicable exceptions, that the Lease as amended to date is in full force and effect, that the Tenant is paying Rent and other charges on a current basis, and that to the best of the knowledge of the certifying party, the other party has committed no uncured defaults and has no offsets or claims. The certifying party may also be required to state the date of commencement of payment of Rent, the Commencement Date, the Termination Date, the Base Rent, the current Operating Cost Share Rent and Tax Share Rent estimates, the status of any improvements required to be completed by Landlord, the amount of any security deposit, and such other matters as may be reasonably requested. Failure to deliver such statement within the time required shall be conclusive evidence against the non-certifying party that this Lease, with any amendments identified by the requesting party, is in full force and effect, that there are no uncured defaults by the requesting party, that not more than one month's Rent has been paid in advance, that the non-certifying party has not paid any security deposit, and that the non-certifying party has no claims or offsets against the requesting party.

**20. SECURITY DEPOSIT.** Tenant shall deposit with Landlord on the date of this Lease, security for the performance of all of its obligations in the amount set forth on the Schedule; provided, however, so long as Tenant is not in default under this Lease beyond any applicable notice and cure period during the first seventeen (17) months of the initial Term, one-half (1/2) of the Security Deposit (i.e., \$29,631.70) shall be returned to Tenant in the form of a check from Landlord. If Tenant defaults under this Lease, Landlord may use any part of the Security Deposit to make any defaulted payment, to pay for Landlord's cure of any defaulted

obligation, or to compensate Landlord for any loss or damage resulting from any default. To the extent any portion of the deposit is used, Tenant shall within five (5) business days after demand from Landlord restore the deposit to its full amount. Landlord may keep the Security Deposit in its general funds and shall not be required to pay interest to Tenant on the deposit amount. If Tenant shall perform all of its obligations under this Lease and return the Premises to Landlord at the end of the Term, Landlord shall return all of the remaining Security Deposit to Tenant not later than thirty (30) days after the delivery of possession of the Premises to Landlord. The Security Deposit shall not serve as an advance payment of Rent or a measure of Landlord's damages for any default under this Lease. If the Basic Rent shall, from time to time, increase during the term of this Lease (as extended from time to time), Tenant shall, upon Landlord's election, deposit with Landlord additional money as a Security Deposit so that the total amount of Security Deposit held by Landlord shall at all times bear the same proportion to the then current Basic Rent as the initial Security Deposit bears to the initial Basic Rent set forth in the Schedule.

If Landlord transfers its interest in the Project or this Lease, Landlord shall either (a) transfer the portion of the Security Deposit then held by Landlord to its transferee or (b) return to Tenant the portion of the Security Deposit then held by Landlord and remaining after the deductions permitted herein. Upon such transfer to such transferee or the return of the Security Deposit to Tenant, Landlord shall have no further obligation with respect to the Security Deposit, and Tenant's right to the return of the Security Deposit shall apply solely against Landlord's transferee.

Tenant waives the provision of California Civil Code Section 1950.7, and all other provisions of law now in force or that become in force after the date of execution of this Lease, that provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy any defaults in the payment of Rent, to repair damage caused by Tenant, or to clean the Premises. Landlord and Tenant agree that Landlord, in addition, may claim those sums reasonably necessary to compensate Landlord for any other foreseeable or unforeseeable loss or damage caused by the acts or omission of Tenant or Tenant's officers, agents, employees, independent contractors, or invitees.

**21. FORCE MAJEURE.** Neither Landlord nor Tenant shall be in default under this Lease to the extent such party is unable to perform any of its obligations on account of any strike or labor problem, energy shortage, governmental pre-emption or prescription, flood, earthquake, national emergency, or any other cause of any kind beyond the reasonable control of such party (but financial inability to meet obligations hereunder shall not be deemed to be a cause beyond such party's control) ("Force Majeure").

**22. TENANT'S PERSONAL PROPERTY AND FIXTURES.** Tenant hereby grants to Landlord all of its personal property and fixtures now or hereafter located within the Premises as security for performance of all of Tenant's obligations under this Lease. Tenant may replace such personal property and fixtures with items of equal or better quality, but shall not otherwise remove them from the Premises without the consent of Landlord until all of the obligations of Tenant under this Lease have been performed. This Lease constitutes a security agreement creating a security interest in such property in favor of Landlord, subject only to the liens of existing creditors, and Landlord may at any time file this Lease as a financing statement under the Uniform Commercial Code of the state in which the Project is located.

**23. NOTICES.** All notices, consents, approvals and similar communications to be given by one party to the other under this Lease (including, without limitation, any notice required by law to be given by Landlord to Tenant as a condition to the filing of an action alleging an unlawful detainer of the Premises and any three (3) day notice under Section 1161(2) or (3) of the California Code of Civil Procedure), shall be given in writing, mailed or personally delivered as follows:

- A. Landlord. To Landlord as follows:  
c/o CB Richard Ellis Investors, L.L.C.  
515 South Flower Street, Suite 3100  
Los Angeles, CA 90071  
Attn: President

or to such other person at such other address as Landlord may designate by notice to Tenant.

- B. Tenant. To Tenant as follows:  
To the Premises  
Attn: Cinta Putra  
  
With a copy to:  
Thomas W. Turner, Jr., Esq.  
Procopio, Cory, Hargreaves & Savitch LLP  
525 B Street, Suite 2200  
San Diego, CA 92101

or to such other person at such other address as Tenant may designate by notice to Landlord.

Mailed notices shall be sent by United States certified or registered mail, or by a reputable national overnight courier service, postage prepaid. Mailed notices shall be deemed to have been given on the earlier of actual delivery or three (3) business days after posting in the United States mail in the case of registered or certified mail, and one business day in the case of overnight courier.

**24. QUIET POSSESSION.** Subject to the provisions of Section 16, so long as Tenant shall perform all of its obligations under this Lease, Tenant shall enjoy peaceful and quiet possession of the Premises against any party claiming through the Landlord.

**25. REAL ESTATE BROKER.** Tenant represents to Landlord that Tenant has not dealt with any real estate broker with respect to this Lease except for any broker(s) listed in the Schedule, and no other broker is in any way entitled to any broker's fee or other payment in connection with this Lease. Tenant shall indemnify and defend Landlord against any claims by any other broker or third party claiming through Tenant for any payment of any kind in connection with this Lease.

## 26. MISCELLANEOUS.

A. Successors and Assigns. Subject to the limits on Tenant's assignment contained in Section 17, the provisions of this Lease shall be binding upon and inure to the benefit of all successors and assigns of Landlord and Tenant.

B. Date Payments Are Due. Except for Rent, and except for payments to be made by Tenant under this Lease which are due upon demand, Tenant shall pay to Landlord any amount for which Landlord renders a statement of account within ten (10) days of Tenant's receipt of Landlord's statement.

C. Meaning of "Landlord", "Re-Entry", "Including", "Affiliate" and "Control". The term "Landlord" means only the owner of the Project and the lessor's interest in this Lease from time to time. The words "re-entry" and "re-enter" are not restricted to their technical legal meaning. The words "including" and similar words shall mean "without limitation." The word "affiliate" shall mean a person or entity controlling, controlled by or under common control with the applicable entity. The word "control" shall mean the power directly or indirectly, by contract or otherwise, to direct the management and policies of the applicable entity.

D. Time of the Essence. Time is of the essence of each provision of this Lease.

E. No Option. This document shall not be effective for any purpose until it has been executed and delivered by both parties; execution and delivery by one party shall not create any option or other right in the other party.

F. Severability. The unenforceability of any provision of this Lease shall not affect any other provision.

G. Governing Law. This Lease shall be governed in all respects by the laws of the state in which the Project is located, without regard to the principles of conflicts of laws.

H. Lease Modification. Tenant agrees to modify this Lease in any way requested by a mortgagee which does not cause increased expense to Tenant or otherwise materially adversely affect Tenant's interests under this Lease.

I. No Oral Modification. No modification of this Lease shall be effective unless it is a written modification signed by both parties.

J. Landlord's Right to Cure. If Landlord breaches any of its obligations under this Lease, Tenant shall notify Landlord in writing and shall take no action respecting such breach so long as Landlord immediately begins to cure the breach and diligently pursues such cure to its completion. Landlord may cure any default by Tenant; any expenses incurred shall become Additional Rent due from Tenant on demand by Landlord.

K. Captions. The captions used in this Lease shall have no effect on the construction of this Lease.

L. Authority. Landlord and Tenant each represents to the other that it has full power and authority to execute and perform this Lease.

M. Landlord's Enforcement of Remedies. Landlord may enforce any of its remedies under this Lease either in its own name or through an agent.

N. Entire Agreement. This Lease, together with all Appendices, constitutes the entire agreement between the parties. No representations or agreements of any kind have been made by either party which are not contained in this Lease.

O. Landlord's Title. Landlord's title shall always be paramount to the interest of the Tenant, and nothing in this Lease shall empower Tenant to do anything which might in any way impair Landlord's title.

P. Light and Air Rights. Landlord does not grant in this Lease any rights to light and air in connection with Project. Landlord reserves to itself, the Land, the Building below the improved floor of each floor of the Premises, the Building above the ceiling of each floor of the Premises, the exterior of the Premises and the areas on the same floor outside the Premises, along with the areas within the Premises required for the installation and repair of utility lines and other items required to serve other tenants of the Building.

Q. Singular and Plural. Wherever appropriate in this Lease, a singular term shall be construed to mean the plural where necessary, and a plural term the singular. For example, if at any time two parties shall constitute Landlord or Tenant, then the relevant term shall refer to both parties together.

R. No Recording by Tenant. Tenant shall not record in any public records any memorandum or any portion of this Lease.

S. Exclusivity. Landlord does not grant to Tenant in this Lease any exclusive right except the right to occupy its Premises.

T. No Construction Against Drafting Party. The rule of construction that ambiguities are resolved against the drafting party shall not apply to this Lease.

U. Survival. All obligations of Landlord and Tenant under this Lease shall survive the termination of this Lease.

V. Rent Not Based on Income. No rent or other payment in respect of the Premises shall be based in any way upon net income or profits from the Premises. Tenant may not enter into or permit any sublease or license or other agreement in connection with the Premises which provides for a rental or other payment based on net income or profit.

W. Building Manager and Service Providers. Landlord may perform any of its obligations under this Lease through its employees or third parties hired by the Landlord.

X. Late Charge and Interest on Late Payments. Without limiting the provisions of Section 12A, if Tenant fails to pay any installment of Rent or other charge to be paid by Tenant pursuant to this Lease when due and payable, then Tenant shall pay a late charge equal to the greater of five percent (5%) of the amount of such payment or \$250. In addition, interest shall be paid by Tenant to Landlord on any late payments of Rent from the date due until paid at the rate provided in Section 2D(2). Such late charge and interest shall constitute additional Rent due and payable by Tenant to Landlord upon the date of payment of the delinquent payment referenced above.

Y. Financial Statements. Upon ten (10) days prior written request from Landlord (which Landlord may make at any time during the Term but no more often than two (2) times in any calendar year), Tenant shall deliver to Landlord (i) a current financial statement of Tenant and any guarantor of this Lease, and (ii) financial statements of Tenant and such guarantor for the two (2) years prior to the current financial statement year. Such statements shall be prepared in accordance with generally acceptable accounting principles and certified as true in all material respects by Tenant (if Tenant is an individual) or by an authorized officer, member/manager or general partner of Tenant (if Tenant is a corporation, limited liability company or partnership, respectively).

Z. Counterparts. This Lease may be executed in one or more counterparts, each of which shall constitute an original and all of which shall be one and the same agreement.

**27. UNRELATED BUSINESS INCOME**. If Landlord is advised by its counsel at any time that any part of the payments by Tenant to Landlord under this Lease may be characterized as unrelated business income under the United States Internal Revenue Code and its regulations, then Tenant shall enter into any amendment proposed by Landlord to avoid such income, so long as the amendment does not require Tenant to make more payments or accept fewer services from Landlord, than this Lease provides.

**28. HAZARDOUS SUBSTANCES**

A. Tenant shall not cause or permit any Hazardous Substances to be brought upon, produced, stored, used, discharged or disposed of in or near the Project unless Landlord has consented to such storage or use in its sole discretion. If any lender or governmental agency shall require testing for Hazardous Substances in the Premises, Tenant shall pay for such testing.

B. "Hazardous Substances" means (a) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any Environmental Laws as a "hazardous substance", "hazardous material", "hazardous waste", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "infectious waste", "biohazardous waste", "toxic substance", "pollutant", "toxic pollutant", "contaminant" as well as any formulation not mentioned herein intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "EP toxicity", or "TCLP toxicity"; (b) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated

with the exploration, development or production of crude oil, natural gas, or geothermal resources; (c) “hazardous substance” as defined in Section 25281(f) of the California Health and Safety Code; (d) “waste” as defined in Section 13050(d) of the California Water Code; (e) asbestos in any form; (f) urea formaldehyde foam insulation; (g) polychlorinated biphenyls (PCBs); (h) radon; and (i) any other chemical, material, or substance exposure to which is limited or regulated by any Governmental Agency because of its quantity, concentration, or physical or chemical characteristics, or which poses a significant present or potential hazard to human health or safety or to the environment if released into the workplace or the environment. “Hazardous Substances” shall not include ordinary office supplies and repair, maintenance and cleaning supplies maintained in reasonable and necessary quantities and used in accordance with all Environmental Laws.

“Environmental Laws” means any and all present and future federal, state and local laws, ordinances, regulations, policies and any other requirements of any Governmental Agency relating to health, safety, the environment or to any Hazardous Substances, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), the Resource Conservation Recovery Act (RCRA), the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Endangered Species Act, the Clean Water Act, the Occupational Safety and Health Act, the California Environmental Quality Act and the applicable provisions of the California Health and Safety Code, California Labor Code and the California Water Code, each as hereafter amended from time to time, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing.

C. Without limiting Tenant’s liability and obligations under Sections 28(D), (E), (F) and (G), the foregoing covenant set forth in Section 28(A) shall not extend to insignificant amounts of substances typically found or used in general office applications so long as (i) such substances are maintained only in such quantities as are reasonably necessary for Tenant’s operations in the Premises, (ii) such substances are used strictly in accordance with the manufacturers’ instructions therefor and all applicable Environmental Laws, (iii) such substances are not disposed of in or about the Project in a manner which would constitute a release or discharge thereof, and (iv) all such substances are removed from the Project by Tenant upon the expiration or earlier termination of this Lease. Tenant shall, within thirty (30) days after demand therefor, provide to Landlord a written list identifying any Hazardous Materials then maintained by Tenant in the Project, the use of each such Hazardous Material so maintained by Tenant together with written certification by Tenant stating, in substance, that neither Tenant nor any person for whom Tenant is responsible has released or discharged any Hazardous Materials in or about the Project.

D. In order to obtain Landlord’s consent under this Section 28 with respect to any Hazardous Material other than as specified in Section 28(C) above, Tenant shall first submit a detailed hazardous material management plan describing all relevant aspects of the same to Landlord for approval, which approval may be withheld by Landlord in its sole and absolute discretion. No approval by Landlord shall relieve Tenant of any obligation of Tenant pursuant to this Section 28, including all removal, clean-up and indemnification obligations. Tenant shall, within five (5) days after receipt thereof, furnish to Landlord copies of all notices or other communications received by Tenant with respect to any actual or alleged release or discharge of any Hazardous Material in or about the Premises or the Project and shall, whether or not Tenant receives any such notice or communication, notify Landlord in writing of any discharge or



release of Hazardous Material by Tenant or anyone for whom Tenant is responsible in or about the Premises or the Project. In the event Tenant is required to maintain any hazardous materials license or permit in connection with any use conducted by Tenant or any equipment operated by Tenant in the Premises, copies of each such license or permit, each renewal thereof, and any communication relating to suspension, renewal or revocation thereof shall be furnished to Landlord within five (5) days after receipt thereof by Tenant. Compliance by Tenant with this Section 28(C) shall not relieve Tenant of any other obligation of Tenant pursuant to this Section 28.

E. Upon any violation of the foregoing covenants and in all events upon any expiration of the Term, Tenant shall be obligated, at Tenant's sole cost, to clean up and remove from the Project all Hazardous Materials introduced into the Project by Tenant or any third party for whom Tenant is responsible. Such clean-up and removal shall include all testing and investigation required by any governmental authorities having jurisdiction and preparation and implementation of any remedial action plan required by any governmental authorities having jurisdiction. All such clean-up and removal activities of Tenant shall, in each instance, be conducted to the satisfaction of Landlord and all governmental authorities having jurisdiction. Landlord's right of entry pursuant to Section 11 of this Lease shall include the right (but not the obligation) to enter and inspect the Premises for violations of Tenant's covenant herein and to supervise any of Tenant's clean-up and removal activities.

F. To the extent permitted by then applicable law, Tenant shall protect, indemnify, defend and hold harmless Landlord, the partners of any entity constituting Landlord and Landlord's partners, officers, employees, agents, lenders and attorneys from and against any and all claims, liabilities, losses, actions, costs and expenses (including attorneys' fees and costs of defense) incurred by such indemnified persons, or any of them, as the result of (i) the introduction into the Project by Tenant, its employees, agents, licensees, invitees, contractors or any other person or entity for whom Tenant is responsible of any Hazardous Material, (ii) the usage by Tenant or anyone for whom Tenant is responsible of Hazardous Materials in or about the Project, (iii) the discharge or release in or about the Project by Tenant or anyone for whom Tenant is responsible of any Hazardous Material, (iv) any injury to or death of persons or damage to or destruction of property resulting from the use by Tenant or anyone for whom Tenant is responsible of Hazardous Materials in or about the Project, and (v) any failure of Tenant or anyone for whom Tenant is responsible to observe the foregoing covenants. Payment shall not be a condition precedent to enforcement of the foregoing indemnification provision.

G. Upon any violation of any of the foregoing covenants, Landlord shall be entitled to exercise all remedies available to a landlord against the defaulting tenant, including but not limited to those set forth in Section 13 of this Lease. Without limiting the generality of the foregoing, Tenant expressly agrees that upon any such violation Landlord may, at its option (i) immediately terminate this Lease, or (ii) continue this Lease in effect until compliance by Tenant with its clean-up and removal covenant (notwithstanding the expiration of the term of this Lease). No action by Landlord hereunder shall impair the obligations of Tenant pursuant to this Section 28.

**29. EXCULPATION.** Landlord shall have no personal liability under this Lease; its liability shall be limited to its interest in the Project, and shall not extend to any other property or

assets of the Landlord. In no event shall any officer, director, employee, agent, shareholder, partner, member or beneficiary of Landlord or any of the Landlord Parties be personally liable for any of Landlord's obligations hereunder. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for punitive, special and/or consequential damages, nor for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

**30. CONFERENCE CENTER.** Subject to availability, Tenant's advance reservation, Tenant's compliance with the rules and regulations for the use therefor (including, without limitation, the then applicable reasonable cancellation policy and cancellation fees [the current reasonable cancellation policy and cancellations fees are described below]), and so long as Tenant is not in default hereunder, during the initial Term, Tenant shall be allowed to use the existing conference room serving the Building (i.e., the 5-Star Conference Center) free of charge for up to thirty (30) meetings per calendar year for reasonable periods of time on each day of use, on a non-cumulative basis (such that Tenant shall not accrue more than thirty (30) days of free conference center use in any calendar year); provided, however, during the last calendar year occurring during the Term, the above reference to thirty (30) shall be reduced on a pro rata basis (for example, if the Termination Date occurs on June 30th of a calendar year, Tenant shall only be entitled to use the existing conference room for up to fifteen (15) meetings during such portion of the calendar year occurring during the Term). Tenant's rights under this Section 30 shall terminate and be of no further force or effect in the event of any assignment of this Lease, subletting of the Premises or a change in use of the Premises or any material portion thereof

Tenant acknowledges and agrees that the currently applicable and reasonable conference room cancellation policy and cancellation fees are as follows: (a) Cancellation occurs more than seven (7) days prior to event — no charge to Tenant; (b) Cancellation occurs seven (7) to three (3) days prior to event — 50% of the total room rental fee will be due and payable by Tenant; and (c) Cancellation occurs less than three (3) days prior to event — 100% of total room rental fee will be due and payable by Tenant.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURES ON FOLLOWING PAGE]

LANDLORD:

SPUSV5 500 BRAND, LP,  
a Delaware limited partnership

By: /s/ Ming J. Lee  
Print Name: Ming J. Lee  
Print Title: Vice President

By: /s/ Robert Jue  
Print Name: Robert Jue  
Print Title: Assistant Vice President

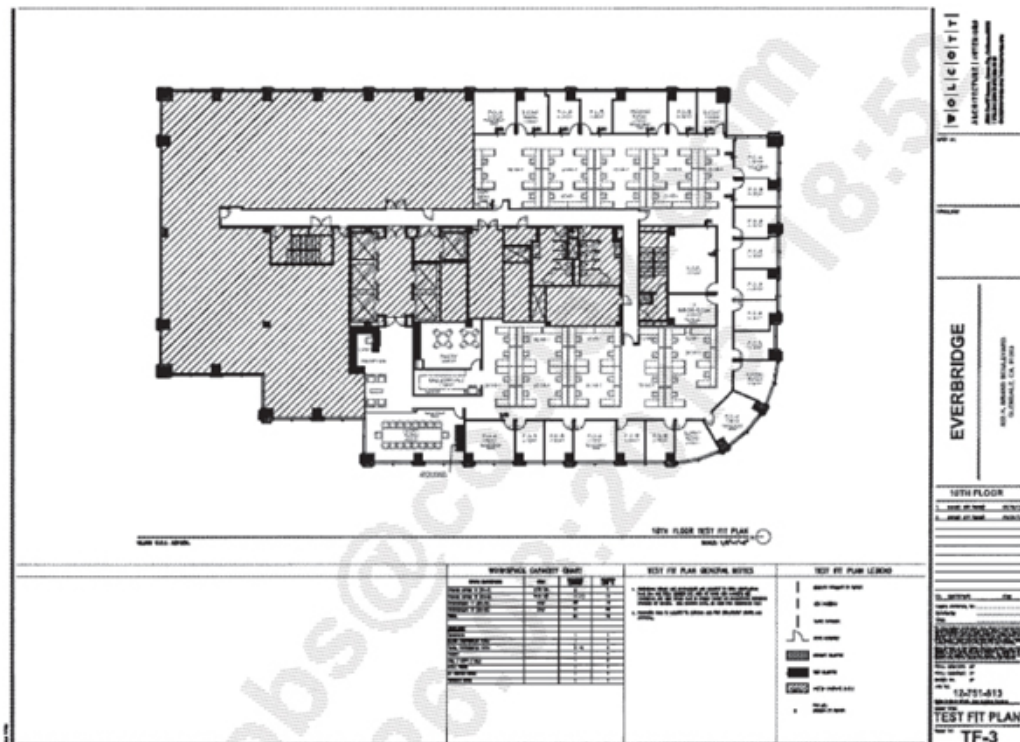
TENANT:

EVERBRIDGE, INC.  
a Delaware corporation

By: /s/ Cinta Putra  
Print Name: Cinta Putra  
Print Title: CFO & SVP

By: /s/ Marie-Laure Leglise  
Print Name: Marie-Laure Leglise  
Print Title: VP Finance

**PLAN OF THE PREMISES**



APPENDIX A

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**APPENDIX B**

**RULES AND REGULATIONS**

1. Tenant shall not place anything, or allow anything to be placed near the glass of any window, door, partition or wall which may, in Landlord's judgment, appear unsightly from outside of the Project.

2. The Project directory shall be available to Tenant solely to display names of persons and their location in the Project, which display shall be as directed by Landlord.

3. The sidewalks, halls, passages, exits, entrances, elevators and stairways shall not be obstructed by Tenant or used by Tenant for any purposes other than for ingress to and egress from the Premises. Tenant shall lend its full cooperation to keep such areas free from all obstruction and in a clean and sightly condition and shall move all supplies, furniture and equipment as soon as received directly to the Premises and move all such items and waste being taken from the Premises (other than waste customarily removed by employees of the Building) directly to the shipping platform at or about the time arranged for removal therefrom. The halls, passages, exits, entrances, elevators, stairways, balconies and roof are not for the use of the general public and Landlord shall, in all cases, retain the right to control and prevent access thereto by all persons whose presence in the judgment of Landlord, reasonably exercised, shall be prejudicial to the safety, character, reputation and interests of the Project. Neither Tenant nor any employee or invitee of Tenant shall go upon the roof of the Project.

4. The toilet rooms, urinals, wash bowls and other apparatuses shall not be used for any purposes other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein, and to the extent caused by Tenant or its employees or invitees, the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by Tenant.

5. Tenant shall not cause any unnecessary janitorial labor or services by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness.

6. Tenant shall not install or operate any refrigerating, heating or air conditioning apparatus, or carry on any mechanical business without the prior written consent of Landlord; use the Premises for housing, lodging or sleeping purposes; or permit preparation or warming of food in the Premises (warming of coffee and individual meals with employees and guests excepted). Tenant shall not occupy or use the Premises or permit the Premises to be occupied or used for any purpose, act or thing which is in violation of any Governmental Requirement or which may be dangerous to persons or property.

7. Tenant shall not bring upon, use or keep in the Premises or the Project any kerosene, gasoline or inflammable or combustible fluid or material, or any other articles deemed hazardous to persons or property, or use any method of heating or air conditioning other than that supplied by Landlord.

APPENDIX B

8. Landlord shall have sole power to direct electricians as to where and how telephone and other wires are to be introduced. No boring or cutting for wires is to be allowed without the consent of Landlord. The location of telephones, telecommunications equipment, call boxes and other office equipment affixed to the Premises shall be strictly subject to the approval of Landlord.

9. No additional locks shall be placed upon any doors, windows or transoms in or to the Premises. Tenant shall not change existing locks or the mechanism thereof. Upon termination of the lease, Tenant shall deliver to Landlord all keys and passes for offices, rooms, parking lot and toilet rooms which shall have been furnished Tenant.

In the event of the loss of keys so furnished, Tenant shall pay Landlord therefor. Tenant shall not make, or cause to be made, any such keys and shall order all such keys solely from Landlord and shall pay Landlord for any keys in addition to the two sets of keys originally furnished by Landlord for each lock.

10. Tenant shall not install linoleum, tile, carpet or other floor covering so that the same shall be affixed to the floor of the Premises in any manner except as approved by Landlord.

11. No furniture, packages, supplies, equipment or merchandise will be received in the Project or carried up or down in the freight elevator, except between such hours and in such freight elevator as shall be designated by Landlord. Tenant shall not take or permit to be taken in or out of other entrances of the Building, or take or permit on other elevators, any item normally taken in or out through the trucking concourse or service doors or in or on freight elevators.

12. Tenant shall cause all doors to the Premises to be closed and securely locked and shall turn off all utilities, lights and machines before leaving the Project at the end of the day.

13. Without the prior written consent of Landlord, Tenant shall not use the name of the Project or any picture of the Project in connection with, or in promoting or advertising the business of, Tenant, except Tenant may use the address of the Project as the address of its business.

14. Tenant shall cooperate fully with Landlord to assure the most effective operation of the Premises' or the Project's heating and air conditioning, and shall refrain from attempting to adjust any controls, other than room thermostats installed for Tenant's use. Tenant shall keep corridor doors closed.

15. Tenant assumes full responsibility for protecting the Premises from theft, robbery and pilferage, which may arise from a cause other than Landlord's negligence, which includes keeping doors locked and other means of entry to the Premises closed and secured.

16. Peddlers, solicitors and beggars shall be reported to the office of the Project or as Landlord otherwise requests.

17. Tenant shall not advertise the business, profession or activities of Tenant conducted in the Project in any manner which violates the letter or spirit of any code of ethics adopted by any recognized association or organization pertaining to such business, profession or activities.

#### APPENDIX B

18. No bicycle or other vehicle and no animals or pets shall be allowed in the Premises, halls, freight docks, or any other parts of the Building except that disabled persons may be accompanied by guide dogs. Tenant shall not make or permit any noise, vibration or odor to emanate from the Premises, or do anything therein tending to create, or maintain, a nuisance, or do any act tending to injure the reputation of the Building.

19. Tenant acknowledges that Building security problems may occur which may require the employment of extreme security measures in the day-to-day operation of the Project.

Accordingly:

(a) Landlord may, at any time, or from time to time, or for regularly scheduled time periods, as deemed advisable by Landlord and/or its agents, in their sole discretion, require that persons entering or leaving the Project or the Property identify themselves to watchmen or other employees designated by Landlord, by registration, identification or otherwise.

(b) Tenant agrees that it and its employees will cooperate fully with Project employees in the implementation of any and all security procedures.

(c) Such security measures shall be the sole responsibility of Landlord, and Tenant shall have no liability for any action taken by Landlord in connection therewith, it being understood that Landlord is not required to provide any security procedures and shall have no liability for such security procedures or the lack thereof

20. Tenant shall not do or permit the manufacture, sale, purchase, use or gift of any fermented, intoxicating or alcoholic beverages without obtaining written consent of Landlord.

21. Tenant shall not disturb the quiet enjoyment of any other tenant.

22. Tenant shall not provide any janitorial services or cleaning without Landlord's written consent and then only subject to supervision of Landlord and at Tenant's sole responsibility and by janitor or cleaning contractor or employees at all times satisfactory to Landlord.

23. Landlord may retain a pass key to the Premises and be allowed admittance hereto at all times to enable its representatives to examine the Premises from time to time and to exhibit the same and Landlord may place and keep on the windows and doors of the Premises at any time signs advertising the Premises for Rent.

24. No equipment, mechanical ventilators, awnings, special shades or other forms of window covering shall be permitted either inside or outside the windows of the Premises without the prior written consent of Landlord, and then only at the expense and risk of Tenant, and they shall be of such shape, color, material, quality, design and make as may be approved by Landlord.

#### APPENDIX B

25. Tenant shall not during the term of this Lease canvas or solicit other tenants of the Building for any purpose.

26. Tenant shall not install or operate any phonograph, musical or sound-producing instrument or device, radio receiver or transmitter, TV receiver or transmitter, or similar device in the Building, nor install or operate any antenna, aerial, wires or other equipment inside or outside the Building, nor operate any electrical device from which may emanate electrical waves which may interfere with or impair radio or television broadcasting or reception from or in the Building or elsewhere, without in each instance the prior written approval of Landlord. The use thereof, if permitted, shall be subject to control by Landlord to the end that others shall not be disturbed.

27. Subject to Landlord's janitorial obligations, Tenant shall promptly remove all rubbish and waste from the Premises.

28. Tenant shall not exhibit, sell or offer for sale, Rent or exchange in the Premises or at the Project any article, thing or service, except those ordinarily embraced within the use of the Premises specified in Section 6 of this Lease, without the prior written consent of Landlord.

29. Tenant shall not overload any floors in the Premises or any public corridors or elevators in the Building.

30. Tenant shall not do any painting in the Premises, or mark, paint, cut or drill into, drive nails or screws into, or in any way deface any part of the Premises or the Building, outside or inside, without the prior written consent of Landlord.

31. Whenever Landlord's consent, approval or satisfaction is required under these Rules, then unless otherwise stated, any such consent, approval or satisfaction must be obtained in advance, such consent or approval may be granted or withheld in Landlord's sole discretion, and Landlord's satisfaction shall be determined in its sole judgment.

32. Tenant and its employees shall cooperate in all fire drills conducted by Landlord in the Building.

#### APPENDIX B



## APPENDIX C

### TENANT IMPROVEMENT AGREEMENT

THIS APPENDIX C is an appendix to that certain lease (the "Lease"), dated as of September , 2012, by and between SPUSV5 500 BRAND, LP, a Delaware limited partnership ("Landlord"), and EVERBRIDGE, INC., a Delaware corporation ("Tenant"), covering the Premises. All capitalized terms herein shall have the same meanings as in the Lease, unless another meaning is clearly indicated.

#### 1. GENERAL PROVISIONS RELATING TO CONSTRUCTION OF TENANT IMPROVEMENTS.

(a) Tenant caused its architect, i.e., Wolcott Architecture and Interiors ("Wolcott") to prepare preliminary plans for the Tenant Improvements dated September 18, 2012. Such preliminary plans are attached as Schedule "1" to this Appendix C. The preparation of such preliminary plans shall be paid for by Tenant, subject to reimbursement by Landlord in the amount of \$0.15 per square foot of Rentable Area of the Premises (i.e., \$1,848.90 based upon the Premises containing 12,326 square feet of Rentable Area) ("Preliminary Plan Allowance"); provided, however, any costs in excess of said Preliminary Plan Allowance attributable to the preparation of the preliminary plans shall be at Tenant's sole cost and expense. Landlord agrees to furnish or perform the items of construction and improvements (the "Tenant Improvements") pursuant to final plans and specifications (the "Plans") which will be prepared at Landlord's expense by Wolcott. Tenant acknowledges and agrees that if the Plans (previously approved by Tenant) are not submitted to Landlord for Landlord's approval by October 2, 2012, that such failure shall be deemed a Tenant Delay (as defined below) for purposes of this Appendix C. If Landlord reasonably disapproves any aspect of the Plans, Landlord will advise Tenant in writing of such disapproval and the reasons therefor. Tenant will then, within two (2) business days following Landlord's written request, cause Wolcott to submit to Landlord for Landlord's approval, a redesign of the Plans incorporating the revisions reasonably required by Landlord.

(b) The Tenant Improvements shall be constructed in accordance with the Plans. The Tenant Improvements shall be performed at Landlord's cost, subject to the terms of this Appendix C, including Sections 2 and 3 below.

(c) Landlord shall select a contractor to perform the construction of the Tenant Improvements. Landlord shall use commercially reasonable efforts to cause the Tenant Improvements to be substantially completed prior to January 1, 2013, except for the Punch List items (defined below), subject to Tenant Delay (as defined in Section 4 hereof) and Force Majeure.

(d) Landlord, or an agent of Landlord, shall provide project management services in connection with the construction of the Tenant Improvements and Change Orders (hereinafter defined). Such project management services shall be performed by Landlord, (i) at Landlord's cost, with respect to the construction of the Tenant Improvements, and (ii) at Tenant's cost, with respect to the construction of any Change Orders, for a fee of four percent (4%) of all costs related to the modification of the Plans and the construction of any Change Orders, as applicable.

APPENDIX C

2. CHANGE ORDERS. Subject to Landlord's prior written approval, Tenant may request minor changes to the Plans at no cost to Tenant, consisting of electrical and other finish standards as long as said changes do not materially increase the overall construction costs by more than a de minimis amount. Except as to the foregoing minor changes, if, prior to the Commencement Date, Tenant shall require any non-Building standard materials, finishes or specifications and/or any additional improvements or changes other than as set forth in the Plans (individually or collectively, "Change Orders") to the Premises in addition to, revision of or substitution for the Tenant Improvements, Tenant shall deliver to Landlord for its approval plans and specifications for such Change Orders prior to Landlord's construction of the Tenant Improvements and/or the Change Orders. If Landlord does not approve of the plans for Change Orders, Landlord shall advise Tenant of the revisions required within five (5) business days after receipt of request. Tenant shall revise and redeliver the plans and specifications to Landlord within five (5) business days of Landlord's advice or Tenant shall be deemed to have abandoned its request for such Change Orders. Tenant shall pay for all costs and expenses, including costs for preparations and revisions of plans and specifications, Landlord's management fee, and construction costs, relating to all Change Orders.

3. COMPETITIVE BIDDING; WORK COST STATEMENT. Prior to the commencement of construction of any of the Tenant Improvements shown on the Plans, Landlord will competitively bid the Plans to a minimum of three (3) general contractors and thereafter submit to Tenant a copy of the bids, and shall identify the bid Landlord desires to accept and including a written estimate of the hard and soft costs to complete the Tenant Improvements, which written estimate will be based on the Plans taking into account any modifications which may be required to reflect changes in the Plans required by the City or County in which the Premises is located (the "Work Cost Statement"). If the Work Cost Statement reflects that the hard and soft costs to construct the Tenant Improvements is less than Thirty-Four and 82/100 Dollars (\$34.82) per square foot of Rentable Area within the Premises, i.e., \$429,191.32 based upon the Premises containing 12,326 square feet of Rentable Area, then Tenant shall be entitled to use any such excess to pay for any alternates specified on the Plans. If Tenant elects to use any such excess to pay for any alternates specified on the Plans, such alternates shall be deemed Change Orders for all purposes of this Appendix C, if and to the extent Tenant fails to select such alternates within five (5) days following its receipt of the Work Cost Statement. Tenant acknowledges that any delay in the Commencement Date caused by adding any such alternate(s) to the scope of work to be completed hereunder shall be deemed a Tenant Delay (as defined below). For example purposes only, if the Work Cost Statement reflects that the hard and soft costs to construct the Tenant Improvements is \$400,000.00, then Tenant shall have the right to apply \$29,191.32 to pay for any alternates specified on the Plans. Notwithstanding anything in this Appendix C or in the Lease to the contrary, under no circumstances shall Landlord be required to incur greater than Thirty-Four and 82/100 Dollars (\$34.82) per square foot of Rentable Area within the Premises, i.e., \$429,191.32 based upon the Premises containing 12,326 square feet of Rentable Area, to construct the Tenant Improvements.

#### APPENDIX C

4. COMMENCEMENT DATE AND TENANT DELAY. Commencement Date shall be the date that the Tenant Improvements have been Substantially Completed (as defined below) except to the extent delay in the completion of such Tenant Improvements was caused by any Tenant Delay (defined below), in which case Landlord shall cause its construction manager to state the date that such Tenant Improvements would have been completed but for Tenant Delay, and that date shall be the Commencement Date.

“Substantially Completed” or “Substantial Completion” means the date that, in the opinion of Landlord’s construction manager, the Tenant Improvements are complete except for Punch List items.

“Punch List Items” mean minor items related to the Tenant Improvements.

“Tenant Delay” means any delay caused by:

- (a) Tenant’s request for Change Orders whether or not any such Change Orders are actually performed; or
- (b) Contractor’s performance of any Change Orders; or
- (c) Tenant’s request for materials, finishes or installations requiring unusually long lead times; or
- (d) Tenant’s delay in reviewing, revising or approving plans and specifications beyond the periods set forth herein; or
- (e) Tenant’s delay in providing information reasonably necessary. Tenant shall provide such information as soon as reasonably possible, but in no event longer than one week after receipt of such request for information from the Landlord; or
- (f) Tenant’s delay in making payments to Landlord for Change Orders; or
- (g) Any other act or omission by Tenant, its agents, contractors or persons employed by any of such persons.

If the Commencement Date is delayed by reason of a Tenant Delay, then Landlord shall cause Landlord’s architect to certify the date on which the Tenant Improvements would have been completed but for such Tenant Delay, or were in fact completed without any Tenant Delay. Tenant agrees that if Landlord is unable to deliver possession of the Premises to Tenant on or prior to January 1, 2013 (the “Estimated Commencement Date”), the Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom.

Notwithstanding the foregoing, if Landlord fails to turn over possession of the Premises to Tenant on or before the Estimated Commencement Date, as such date shall be extended to the extent of any Force Majeure delay(s) or Tenant Delay(s) (the “Outside Date”), Tenant shall receive a Base Rent credit equal to the incremental amount of holdover rent Tenant is contractually held responsible to pay pursuant to its existing lease dated June 1, 2007, as amended prior to the date hereof (whereby Tenant leases office space at 505 North Brand,

#### APPENDIX C

Glendale, California) (“Tenant’s Existing Lease”), as a result of Landlord’s failure to turn over possession of the Premises to Tenant; provided, however, under no circumstances shall Landlord be responsible for any amounts paid or payable by Tenant pursuant to (A) Tenant’s Existing Lease in excess of (i) \$890.52 per day during the first 60-days following the Outside Date that Landlord fails to turn over possession of the Premises to Tenant, and (ii) \$1,781.04 per day following the first 60-days following the Outside Date that Landlord fails to turn over possession of the Premises to Tenant (provided if the above per day cap amounts are required to be paid by Tenant under Tenant’s Existing Lease on a “per month basis” rather than a “per day basis”, then Landlord agrees to be responsible for such full monthly amount payable by Tenant thereunder), and (B) any holdover indemnification obligation in Tenant’s Existing Lease or otherwise. For example purposes only, if Landlord fails to turn over possession of the Premises to Tenant until January 4, 2013, Landlord may be responsible to provide Tenant with a Base Rent credit in the amount of \$26,715.60, i.e., \$890.52 x 30 days (rather than \$3,562.08, i.e., \$890.52 x 4 days).

5. ACCESS BY TENANT PRIOR TO COMMENCEMENT OF TERM. Landlord shall permit Tenant and its agents to enter the Premises two (2) weeks prior to the Commencement Date to prepare the Premises for Tenant’s use and occupancy, including, without limitation, installing Tenant’s IT/data center equipment. Any such permission shall constitute a license only, conditioned upon Tenant’s:

(a) working in harmony with Landlord and Landlord’s agents, contractors, workmen, mechanics and suppliers and with other tenants and occupants of the Building;

(b) obtaining in advance Landlord’s approval of the contractors proposed to be used by Tenant and depositing with Landlord in advance of any work (i) security satisfactory to Landlord for the completion thereof, and (ii) the contractor’s affidavit for the proposed work and the waivers of lien from the contractor and all subcontractors and suppliers of material; and

(c) furnishing Landlord with such insurance as Landlord may require against liabilities which may arise out of such entry.

Landlord shall have the right to withdraw such license for any reason upon one (1) business day’s written notice to Tenant. Landlord shall not be liable in any way for any injury, loss or damage which may occur to any of Tenant’s property or installations in the Premises prior to the Commencement Date. Tenant shall protect, defend, indemnify and save harmless Landlord from all liabilities, costs, damages, fees and expenses arising out of the activities of Tenant or its agents, contractors, suppliers or workmen in the Premises or the Building. Any entry and occupation permitted under this Section shall be governed by Section 5 and all other terms of the Lease.

#### 6. MISCELLANEOUS.

(a) Tenant designates Cinta Putra (“Tenant’s Representative”) as the only person authorized to act for Tenant with respect to this Tenant Improvement Agreement. Landlord shall not be obligated to respond to or act upon any request, approval, inquiry or other communication (“Communication”) from or on behalf of Tenant in connection with this Work Letter unless such Communication is in writing from Tenant’s Representative. Tenant may

#### APPENDIX C

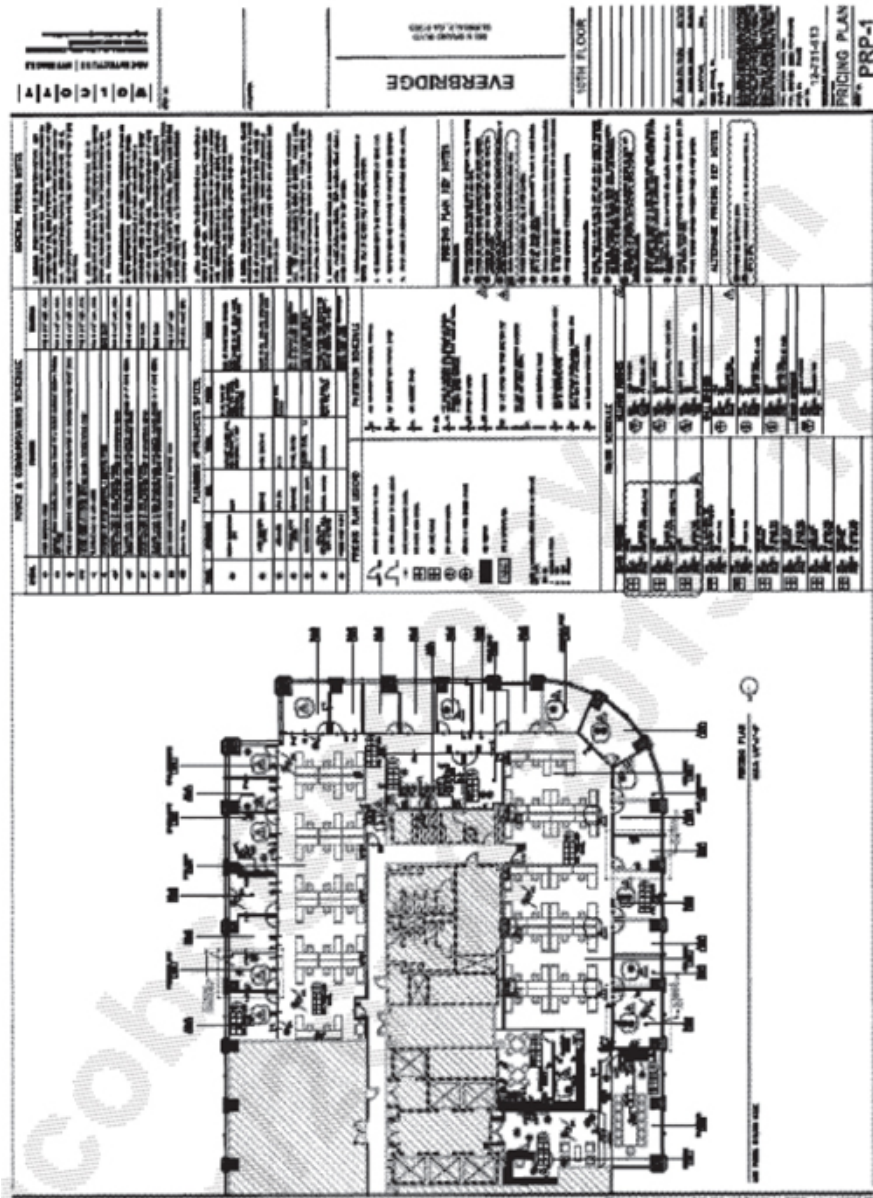
change either Tenant's Representative at any time upon not less than 5 business days advance written notice to Landlord. No period set forth herein for any approval of any matter by Tenant shall be extended by reason of any change in Tenant's Representative. Neither Tenant nor Tenant's Representative shall be authorized to direct Landlord's contractors in the performance of the Tenant Improvements, unless otherwise provided herein.

(b) Terms used in this Appendix C shall have the meanings assigned to them in the Lease. The terms of this Appendix C are subject to the terms of the Lease.

APPENDIX C

SCHEDULE "1" TO

APPENDIX C



SCHEDULE "1" TO  
APPENDIX C

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**APPENDIX D**

**MORTGAGES CURRENTLY AFFECTING THE PROJECT**

Lender:

Mesa West Real Estate Income Fund II (CORE INV), LLC  
a Delaware corporation  
11755 Wilshire Blvd., Suite 1675  
Los Angeles, CA 90025

APPENDIX D

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**APPENDIX E**

**COMMENCEMENT DATE CONFIRMATION**

Landlord: \_\_\_\_\_, a

Tenant: \_\_\_\_\_, a

This Commencement Date Confirmation is made by Landlord and Tenant pursuant to that certain Lease dated as of \_\_\_\_\_, 20\_\_ (the "Lease") for certain premises known as Suite \_\_\_\_\_ in the building commonly known as [**Property Name**] (the "Premises"). This Confirmation is made pursuant to Item 10 of the Schedule to the Lease.

1. Lease Commencement Date, Termination Date. Landlord and Tenant hereby agree that the Commencement Date of the Lease is \_\_\_\_\_, 20\_\_, and the Termination Date of the Lease is \_\_\_\_\_,

2. Acceptance of Premises. Tenant has inspected the Premises and affirms that the Premises is in the condition required as of the Commencement Date pursuant to the terms of the Lease (including all work required to be completed by Landlord, if any), and has been accepted by Tenant in its current condition.

3. Incorporation. This Confirmation is incorporated into the Lease, and forms an integral part thereof This Confirmation shall be construed and interpreted in accordance with the terms of the Lease for all purposes.

TENANT:

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LANDLORD:

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPENDIX E



**EXTENSION OPTION RIDER**

**RIDER NO. 1 TO LEASE**

This Rider No. 1 is made and entered into by and between SPUSV5 500 BRAND, LP, a Delaware limited partnership ("Landlord"), and EVERBRIDGE, INC., a Delaware corporation ("Tenant"), as of the day and year of the Lease between Landlord and Tenant to which this Rider is attached. Landlord and Tenant hereby agree that, notwithstanding anything contained in the Lease to the contrary, the provisions set forth below shall be deemed to be part of the Lease and shall supersede any inconsistent provisions of the Lease. All references in the Lease and in this Rider to the "Lease" shall be construed to mean the Lease (and all exhibits and Riders attached thereto), as amended and supplemented by this Rider. All capitalized terms not defined in this Rider shall have the same meaning as set forth in the Lease.

1. Subject to Rider No. 3 entitled, "Options In General", Landlord hereby grants to Tenant one (1) option (the "Extension Option") to extend the Term of the Lease for an additional period of three (3) years (the "Option Term"), on the same terms, covenants and conditions as provided for in the Lease during the initial Term, except for the Base Rent, which shall initially be equal to the "fair market rental rate" for the Premises for the Option Term as defined and determined in accordance with the provisions of the Fair Market Rental Rate Rider attached to the Lease as Rider No. 2, subject to fair market annual rent adjustments during the Option Term.

2. The Extension Option must be exercised, if at all, by written notice ("Extension Notice") delivered by Tenant to Landlord no sooner than that date which is fifteen (15) months and no later than that date which is twelve (12) months prior to the expiration of the initial Term of the Lease. The Extension Option shall, at Landlord's sole option, not be deemed to be properly exercised if, at the time the Extension Option is exercised or on the scheduled commencement date for the Option Term, Tenant has (a) committed an uncured event of default whose cure period has expired, or (b) assigned the Lease, or (c) sublet all or a majority (i.e., greater than 50%) of the Premises. Provided Tenant has properly and timely exercised the Extension Option, the then current Term of the Lease shall be extended by the Option Term, and all terms, covenants and conditions of the Lease shall remain unmodified and in full force and effect, except that the monthly Base Rent shall be as set forth above, and except that there shall be no remaining Extension Options.

RIDER NO. 1

**FAIR MARKET RENTAL RATE RIDER**

**RIDER NO. 2 TO LEASE**

This Rider No. 2 is made and entered into by and between SPUSV5 500 BRAND, LP, a Delaware limited partnership ("Landlord"), and EVERBRIDGE, INC., a Delaware corporation ("Tenant"), as of the day and year of the Lease between Landlord and Tenant to which this Rider is attached. Landlord and Tenant hereby agree that, notwithstanding anything contained in the Lease to the contrary, the provisions set forth below shall be deemed to be part of the Lease and shall supersede any inconsistent provisions of the Lease. All references in the Lease and in this Rider to the "Lease" shall be construed to mean the Lease (and all exhibits and Riders attached thereto), as amended and supplemented by this Rider. All capitalized terms not defined in this Rider shall have the same meaning as set forth in the Lease.

1. The term "fair market rental rate" as used in the Lease and any Rider attached to the Lease shall mean the annual amount per square foot, projected during the Option Term (including annual adjustments), that a willing, non-equity renewal tenant (excluding sublease and assignment transactions) would pay, and a willing, institutional landlord of a comparable first-class high-rise office building located in the Tri-City Corridor would accept, in an arm's length transaction (what Landlord is accepting in then current transactions for the Building may be used for purposes of projecting rent for the Option Term), for space of comparable size, quality and floor height as the Premises, taking into account the age, quality and layout of the existing improvements in the Premises, and taking into account items that professional real estate brokers or professional real estate appraisers customarily consider, including, but not limited to, rental rates, space availability, tenant size, tenant improvement allowances, parking charges and any other lease considerations, if any, then being charged or granted by Landlord or the lessors of such similar office buildings. All economic terms other than monthly Base Rent, such as tenant improvement allowance amounts, if any, operating expense allowances, parking charges, etc., will be established by Landlord and will be factored into the determination of the fair market rental rate for the Option Term. Accordingly, the fair market rental rate will be an effective rate, not specifically including, but accounting for, the appropriate economic considerations described above.

2. In the event where a determination of fair market rental rate is required under the Lease, Landlord shall provide written notice of Landlord's determination of the fair market rental rate not later than sixty (60) days after the last day upon which Tenant may timely exercise the right giving rise to the necessity for such fair market rental rate determination. Tenant shall have thirty (30) days ("Tenant's Review Period") after receipt of Landlord's notice of the fair market rental rate within which to accept such fair market rental rate or to reasonably object thereto in writing. Failure of Tenant to so object to the fair market rental rate submitted by Landlord in writing within Tenant's Review Period shall conclusively be deemed Tenant's approval and acceptance thereof. If within Tenant's Review Period Tenant objects to or is deemed to have disapproved the fair market rental rate submitted by Landlord, Landlord and Tenant will meet together with their respective legal counsel to present and discuss their individual determinations of the fair market rental rate for the Premises under the parameters set forth in Paragraph 1 above and shall diligently and in good faith attempt to negotiate a rental rate on the basis of such

RIDER NO. 2

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individual determinations. Such meeting shall occur no later than ten (10) days after the expiration of Tenant's Review Period. The parties shall each provide the other with such supporting information and documentation as they deem appropriate. At such meeting if Landlord and Tenant are unable to agree upon the fair market rental rate, they shall each, within five (5) business days thereafter, submit to the other their respective best and final offer as to the fair market rental rate. If Landlord and Tenant fail to reach agreement on such fair market rental rate within five (5) business days following the receipt of the last of the two submittals (the "Outside Agreement Date"), Tenant's Extension Option will be deemed null and void unless Tenant demands appraisal within five (5) days after the Outside Agreement Date, in which event each party's determination shall be submitted to appraisal in accordance with the provisions of Section 3 below.

3. (a) Landlord and Tenant shall each appoint one (1) independent appraiser who shall by profession be an M.A.I. certified real estate appraiser who shall have been active over the five (5) year period ending on the date of such appointment in the leasing of commercial (including office) properties in the Tri-City Corridor. The determination of the appraisers shall be limited solely to the issue of whether Landlord's or Tenant's last proposed (as of the Outside Agreement Date) best and final fair market rental rate for the Premises is the closest to the actual fair market rental rate for the Premises as determined by the appraisers, taking into account the requirements specified in Section 1 above. Each such appraiser shall be appointed within fifteen (15) days after the Outside Agreement Date.

(b) The two (2) appraisers so appointed shall within fifteen (15) days of the date of the appointment of the last appointed appraiser agree upon and appoint a third appraiser who shall be qualified under the same criteria set forth hereinabove for qualification of the initial two (2) appraisers.

(c) The three (3) appraisers shall within thirty (30) days of the appointment of the third appraiser reach a decision as to whether the parties shall use Landlord's or Tenant's submitted best and final fair market rental rate, and shall notify Landlord and Tenant thereof. During such thirty (30) day period, Landlord and Tenant may submit to the appraisers such information and documentation to support their respective positions as they shall deem reasonably relevant and Landlord and Tenant may each appear before the appraisers jointly to question and respond to questions from the appraisers.

(d) The decision of the majority of the three (3) appraisers shall be binding upon Landlord and Tenant and neither party shall have the right to reject the decision or to undo the exercise of the applicable Option. If either Landlord or Tenant fails to appoint an appraiser within the time period specified in Section 3(a) hereinabove, the appraiser appointed by one of them shall within thirty (30) days following the date on which the party failing to appoint an appraiser could have last appointed such appraiser reach a decision based upon the same procedures as set forth above (i.e., by selecting either Landlord's or Tenant's submitted best and final fair market rental rate), and shall notify Landlord and Tenant thereof, and such appraiser's decision shall be binding upon Landlord and Tenant and neither party shall have the right to reject the decision or to undo the exercise of the applicable Option.

(e) If the two (2) appraisers fail to agree upon and appoint a third appraiser, either party, upon ten (10) days written notice to the other party, can apply to the Presiding Judge of the

RIDER NO. 2

Superior Court of Los Angeles County to appoint a third appraiser meeting the qualifications set forth herein. The third appraiser, however, selected shall be a person who has not previously acted in any capacity for either party.

(f) The cost of each party's appraiser shall be the responsibility of the party selecting such appraiser, and the cost of the third appraiser (or arbitration, if necessary) shall be shared equally by Landlord and Tenant.

(g) If the process described hereinabove has not resulted in a selection of either Landlord's or Tenant's submitted best and final fair market rental rate by the commencement of the applicable lease term, then the fair market rental rate estimated by Landlord will be used until the appraiser(s) reach a decision, with an appropriate rental credit and other adjustments for any overpayments of monthly Base Rent or other amounts if the appraisers select Tenant's submitted best and final estimate of the fair market rental rate. The parties shall enter into an amendment to this Lease confirming the terms of the decision.

RIDER NO. 2

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**OPTIONS IN GENERAL**

**RIDER NO. 3 TO LEASE**

This Rider No. 3 is made and entered into by and between SPUSV5 500 BRAND, LP, a Delaware limited partnership ("Landlord"), and EVERBRIDGE, INC., a Delaware corporation ("Tenant"), as of the day and year of the Lease between Landlord and Tenant to which this Rider is attached. Landlord and Tenant hereby agree that, notwithstanding anything contained in the Lease to the contrary, the provisions set forth below shall be deemed to be part of the Lease and shall supersede any inconsistent provisions of the Lease. All references in the Lease and in this Rider to the "Lease" shall be construed to mean the Lease (and all exhibits and Riders attached thereto), as amended and supplemented by this Rider. All capitalized terms not defined in this Rider shall have the same meaning as set forth in the Lease.

1. Definition. As used in this Lease and any Rider or Exhibit attached hereto, the word "Option" has the following meaning:

(i) The Extension Option pursuant to Rider No. 1 herein; and

(ii) The Right of First Offer pursuant to Rider No. 4 herein.

2. Options Personal. Each Option granted to Tenant is personal to the original Tenant executing this Lease and may be exercised only by the original Tenant executing this Lease and without having assigned this Lease or sublet a majority (i.e., greater than 50%) of the Premises, and may not be exercised or be assigned, voluntarily or involuntarily, by any person or entity other than the original Tenant executing this Lease. Each Option granted to Tenant under this Lease are not assignable separate and apart from this Lease, nor may any Option be separated from this Lease in any manner, either by reservation or otherwise.

3. Intentionally Omitted.

4. Effect of Default on Options. Tenant will have no right to exercise any Option, notwithstanding any provision of the grant of option to the contrary, and Tenant's exercise of any Option may be nullified by Landlord and deemed of no further force or effect, if (i) Tenant is in default of any monetary obligation or material non-monetary obligation under the terms of this Lease after notice and any applicable cure period as of Tenant's exercise of the Option in question or at any time after the exercise of any such Option and prior to the commencement of the Option event, or (ii) Landlord has given Tenant three (3) or more factually accurate notices of default, whether or not such defaults are subsequently cured, during any twelve (12) consecutive month period of this Lease.

5. Options as Economic Terms. Each Option is hereby deemed an economic term which Landlord, in its sole and absolute discretion, may or may not offer in conjunction with any future extensions of the Term.

RIDER NO. 3

-1-

**RIGHT OF FIRST OFFER RIDER**

**RIDER NO. 4 TO LEASE**

This Rider No. 4 is made and entered into by and between SPUSV5 500 BRAND, LP, a Delaware limited partnership ("Landlord"), and EVERBRIDGE, INC., a Delaware corporation ("Tenant"), as of the day and year of the Lease between Landlord and Tenant to which this Rider is attached. Landlord and Tenant hereby agree that, notwithstanding anything contained in the Lease to the contrary, the provisions set forth below shall be deemed to be part of the Lease and shall supersede any inconsistent provisions of the Lease. All references in the Lease and in this Rider to the "Lease" shall be construed to mean the Lease (and all exhibits and Riders attached thereto), as amended and supplemented by this Rider. All capitalized terms not defined in this Rider shall have the same meaning as set forth in the Lease.

1. Grant of Option; Conditions. Commencing upon the execution of this Lease and continuing until the first (1st) anniversary of the Commencement Date (the "ROFO Period"), subject to the terms of this Rider No. 4 and Rider No. 3 entitled "Options in General", Tenant shall have the one-time right of first offer (the "Right of First Offer") with respect to any space contiguous to the Premises and located on the tenth (10th) floor of the Building (the "ROFO Space"); provided, however, ROFO Space shall not include any premises which is vacant as of the date of this Lease. Tenant's Right of First Offer shall be exercised as follows: at any time during the ROFO Period, but after Landlord has determined that the existing tenant in any ROFO Space will not extend or renew the term of its lease for such ROFO Space (but prior to leasing such ROFO Space to a party other than the existing tenant), Landlord shall deliver written notice to Tenant (the "ROFO Notice") of the terms under which Landlord is prepared to lease the ROFO Space to Tenant for the remainder of the Term, which terms shall reflect the Prevailing Market (hereinafter defined) rate for such ROFO Space as reasonably determined by Landlord. Tenant may lease such ROFO Space in its entirety only, under such terms, by delivering written notice of exercise to Landlord (the "Notice of Exercise") within five (5) business days after the date of the ROFO Notice, except that Tenant shall have no such Right of First Offer and Landlord need not provide Tenant with a ROFO Notice, if:

- a. Tenant is not entitled to exercise the Right of First Offer pursuant to Rider No. 3; or
- b. Tenant does not intend to use the ROFO Space for Tenant's exclusive use during the Term; or
- c. the existing tenant in the ROFO Space is interested in extending or renewing its lease for the ROFO Space or entering into a new lease for such ROFO Space.

2. Terms for ROFO Space.

a. The term for the ROFO Space shall commence upon the commencement date stated in the ROFO Notice and thereupon such ROFO Space shall be considered a part of the Premises, provided that all of the terms stated in the ROFO Notice shall govern Tenant's leasing of the ROFO Space and only to the extent that they do not conflict with the ROFO Notice, the terms and conditions of this Lease shall apply to the ROFO Space.

RIDER NO. 4

b. Tenant shall pay Base Rent and Additional Rent for the ROFO Space in accordance with the terms and conditions of the ROFO Notice, which terms and conditions shall reflect the Prevailing Market rate for the ROFO Space as determined in Landlord's reasonable judgment.

c. The ROFO Space (including improvements and personalty, if any) shall be accepted by Tenant in its condition and as-built configuration existing on the earlier of the date Tenant takes possession of the ROFO Space or as of the date the term for such ROFO Space commences, unless the ROFO Notice specifies any work to be performed by Landlord in the ROFO Space, in which case Landlord shall perform such work in the ROFO Space. If Landlord is delayed delivering possession of the ROFO Space due to the holdover or unlawful possession of such space by any party, Landlord shall use reasonable efforts to obtain possession of the space, and the commencement of the term for the ROFO Space shall be postponed until the date Landlord delivers possession of the ROFO Space to Tenant free from occupancy by any party.

3. Termination of Right of First Offer. The rights of Tenant hereunder with respect to the ROFO Space shall terminate on the earlier to occur of: (i) the expiration of the ROFO Period; (ii) Tenant's failure to exercise its Right of First Offer within the 5-business day period provided in Section 1 above; and (iii) the date Landlord would have provided Tenant a ROFO Notice if Tenant had not been in violation of one or more of the conditions set forth in Section 1 above.

4. Offering Amendment. If Tenant exercises its Right of First Offer, Landlord shall prepare an amendment (the "Offering Amendment") adding the ROFO Space to the Premises on the terms set forth in the ROFO Notice and reflecting the changes in the Base Rent, the Rentable Area of the Premises, Tenant's Proportionate Share and other appropriate terms. A copy of the Offering Amendment shall be sent to Tenant within a reasonable time after Landlord's receipt of the Notice of Exercise executed by Tenant, and Tenant shall execute and return the Offering Amendment to Landlord within fifteen (15) days thereafter, but an otherwise valid exercise of the Right of First Offer shall be fully effective whether or not the Offering Amendment is executed.

5. Definition of Prevailing Market. For purposes of this Right of First Offer provision, "Prevailing Market" shall mean the annual rental rate per square foot for space comparable to the ROFO Space in the Building and first-class high-rise office buildings comparable to the Building in the Tri-City Corridor under leases and renewal and expansion amendments being entered into at or about the time that Prevailing Market is being determined, giving appropriate consideration to tenant concessions, brokerage commissions, tenant improvement allowances, existing improvements in the space in question, and the method of allocating operating expenses and taxes. Notwithstanding the foregoing, space leased under any of the following circumstances shall not be considered to be comparable for purposes hereof: (i) the lease term is for less than the lease term of the ROFO Space, (ii) the space is encumbered by the option rights of another tenant, or (iii) the space has a lack of windows and/or an awkward or unusual shape or configuration. The foregoing is not intended to be an exclusive list of space that will not be considered to be comparable.

RIDER NO. 4

**FIRST AMENDMENT TO LEASE**

THIS FIRST AMENDMENT TO LEASE ("Amendment"), dated for reference purposes only as of October 9, 2014, is entered into by and between GPI 500 BRAND, LTD., a Texas limited partnership ("Landlord"), as successor-in-interest to SPUSV5 500 Brand, LP ("Prior Landlord"), and EVERBRIDGE, INC., a Delaware corporation ("Tenant").

**R E C I T A L S:**

A. Landlord and Tenant are parties to that certain Lease dated September 24, 2012 (the "Lease"), by and between Prior Landlord, as landlord, and Tenant, as tenant, whereby Tenant currently leases from Landlord that certain space containing approximately 12,326 square feet of Rentable Area (the "Existing Premises") on the 10th floor of that certain building located at 500 North Brand Blvd., Glendale, California (the "Building"), as more particularly described in the Lease. Landlord has succeeded to all of the rights and interests of Prior Landlord as "landlord" under the Lease.

B. Capitalized terms, which are used in this Amendment without definition, have the meanings given to them in the Lease.

C. Tenant has requested that additional space containing approximately 1,695 square feet of Rentable Area comprising Suite 1015 on the 10th floor of the Building as depicted in Exhibit "A" attached hereto (the "Expansion Space") be added to the Existing Premises, and Landlord is willing to do the same on the terms and conditions set forth in this Amendment.

**A G R E E M E N T:**

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Expansion. Effective as of November 1, 2014 (the "Expansion Effective Date"), the "Premises", as defined in the Lease, is increased from 12,326 square feet of Rentable Area to 14,021 square feet of Rentable Area by the addition of the Expansion Space, and from and after the Expansion Effective Date, the combined Existing Premises and the Expansion Space (hereinafter, the "New Premises"), shall be deemed the "Premises", as defined in the Lease. Tenant's leasing of the Expansion Space shall commence on the Expansion Effective Date and shall be coterminous with the Term for Tenant's leasing of the Existing Premises. The Expansion Space is subject to all the terms and conditions of the Lease except as expressly modified herein and except that Tenant shall not be entitled to receive any allowances, abatements or other financial concessions granted with respect to the Existing Premises unless such concessions are expressly provided for herein with respect to the Expansion Space. Except as otherwise expressly provided herein to the contrary, nothing herein shall affect the terms of Tenant's leasing of the Existing Premises.

2. Early Access. So long as this Amendment is executed by October 13, 2014, and so long as Landlord has received from Tenant certificates satisfactory to Landlord evidencing the insurance required to be carried by Tenant under the Lease with respect to the Expansion Space, Landlord shall use its commercially reasonable efforts to give Tenant access to the Expansion Space by October 15, 2014



(the “Early Access Period”) for purposes of installing Tenant’s furniture, fixtures, and equipment (“Tenant’s Work”) and commencing business operations. Tenant’s Work shall be performed by Tenant at Tenant’s sole cost and expense. Tenant’s access to the Expansion Space during the Early Access Period shall be subject to all terms and conditions of the Lease as amended by this Amendment (the “Amended Lease”); provided, however, Tenant shall not be obligated to pay Base Rent during the Early Access Period until the Expansion Effective Date.

3. Base Rent. The schedule of Base Rent payable with respect to the Expansion Space shall be consistent with the Base Rent payable with respect to the Existing Premises on a per square foot basis, as more particularly set forth below:

| Period             | Approximate Monthly Base Rent<br>(per square foot of Rentable<br>Area) | Monthly Base Rent |
|--------------------|--|-------------------|
| 11/1/14 - 12/31/14 | \$ 2.27  | \$ 3,840.87       |
| 1/1/15 - 12/31/15  | \$ 2.33  | \$ 3,956.10       |
| 1/1/16 - 5/31/16   | \$ 2.40  | \$ 4,074.78       |

All such Base Rent shall be payable by Tenant in accordance with the terms of the Amended Lease.

4. Condition of Expansion Space. Landlord shall deliver the Expansion Space with the existing interior carpets steam-cleaned and with all existing Building standard lighting, electrical, plumbing and heating, ventilation and air-conditioning systems (the “Operating Systems”) serving the Expansion Space, in good working condition; provided, however, Landlord shall not be required to connect such Operating Systems to Tenant’s existing systems within the Existing Premises, and Landlord shall have no liability hereunder for repairs or replacements necessitated by the negligent acts or omissions of Tenant and/or of Tenant’s representatives, agents, contractors and/or employees. Except for the foregoing, Tenant hereby agrees that Tenant shall accept the Expansion Space in its current AS IS and WHERE IS condition, without any representation or warranty as to its condition or the suitability thereof for the conduct of Tenant’s business, and acknowledges that Landlord shall not be obligated to refurbish or improve the Expansion Space or to otherwise fund improvements for the Expansion Space in any manner. For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that neither the New Premises (i.e., the combined Existing Premises and Expansion Space) nor the Building have undergone inspection by a Certified Access Specialist (CAsp).

5. Base Year; Tenant’s Proportionate Share for the Expansion Space.

a. Base Year. The Base Year for the Expansion Space shall be the calendar year 2015.

b. Tenant’s Proportionate Share. Tenant’s Proportionate Share for the Expansion Space shall be 0.4035%, based on the Project containing 420,032 square feet of Rentable Area and the Expansion Space containing 1,695 square feet of Rentable Area.

6. Parking. Commencing as of the Expansion Effective Date and continuing for the duration of the Term, Tenant shall be entitled to six (6) additional unreserved parking spaces in connection with Tenant’s leasing of the Expansion Space, for which Tenant shall pay Parking Rent at the rate charged by Landlord for unreserved parking spaces, as such rates may change from time to time.

7. Extension Option. Tenant's Extension Option, as provided in Rider No. 1 to the Lease, is hereby amended to include the entire New Premises.

8. Addresses. Landlord's addresses for notices and payment of Rent are hereby amended as follows:

For Notices:

5601 Granite Parkway, Suite 800  
Plano, Texas 75024  
Attention: Director of Leasing  
Phone: 972-731-2300  
Fax: 972-731-2360

For Payment of Rent:

GPI 500 Brand, Ltd.  
PO Box 844381  
Los Angeles, CA 90084-4381

9. Brokers. Tenant represents and warrants to Landlord that, with the exception of CBRE, Inc., representing Landlord and Tenant (the "Broker"), and it is not aware of any other brokers, agents or finders who may claim a fee or commission in connection with the consummation of the transactions contemplated by this Amendment. Landlord and Tenant each consents to such dual representation by Broker. If any claims for brokers' or finders' fees in connection with the transactions contemplated by this Amendment arise other than by Broker, then Tenant agrees to indemnify, protect, hold harmless and defend Landlord (with counsel reasonably satisfactory to Landlord) from and against any such claims if they shall be based upon any statement, representation or agreement made by Tenant.

10. No Other Modifications; Counterparts. Landlord and Tenant agree that except as otherwise specifically modified in this Amendment, the Lease has not been modified, supplemented, amended, or otherwise changed in any way and the Lease remains in full force and effect between the parties hereto as modified by this Amendment. To the extent of any inconsistency between the terms and conditions of the Lease and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall apply and govern the parties. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same Amendment.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Amendment to be executed the date first above written.

TENANT:

EVERBRIDGE, INC.,  
a Delaware corporation

By: /s/ Cinta Putra  
Name: CINTA PUTRA  
Its: CFO

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

LANDLORD:

GPI 500 BRAND, LTD.,  
a Texas limited partnership

By: Granite Properties, Inc.,  
a Delaware corporation  
Its: General Partner

By: /s/ Thomas G. Miller  
Name: THOMAS G. MILLER  
Title: MANAGING DIRECTOR

**EXHIBIT "A"**

**OUTLINE AND LOCATION OF EXPANSION SPACE**

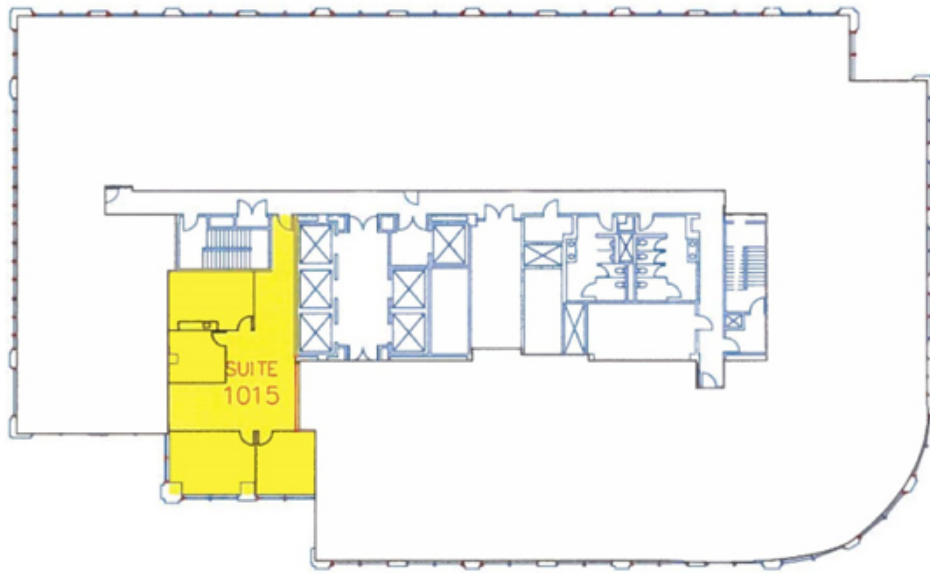


EXHIBIT "A"

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**EXHIBIT B**

**(Lease)**

19.

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**EXHIBIT C**

**(Alterations)**

20.





List of Subsidiaries of Everbridge, Inc.

| Company Name   | Jurisdiction   |
|--|----------------|
| Beijing Wan Qiao Da Guan Information & Technology Ltd. | China          |
| Microtech USA LLC                                      | Delaware       |
| Microtech Limited                                      | Guernsey       |
| Everbridge Holdings Limited                            | United Kingdom |
| Everbridge Europe Limited                              | United Kingdom |

[Frost & Sullivan Letterhead]

APRIL 13th, 2016

Everbridge, Inc.  
25 Corporate Drive, Suite 400  
Burlington, Massachusetts 01803

Dear Sirs:

We, Frost & Sullivan of 331 East Evelyn Avenue, Suite 100, Mountain View, California, 94041, hereby consent to the filing with the Securities and Exchange Commission of a Registration Statement on Form S-1, and any amendments thereto (the “*Registration Statement*”) of Everbridge, Inc. and any related prospectuses of (i) our name and all references thereto, and (ii) the statements set out in the Schedule hereto. We also hereby consent to the filing of this letter as an exhibit to the Registration Statement.

We further consent to the reference to our firm, under the caption “Industry and Market Data” in the Registration Statement, as acting in the capacity of an author of independent industry publications.

Yours faithfully,

/s/ Ron Gherman

Name: Ron Gherman  
Designation: Consultant  
For and on behalf of Frost & Sullivan

#### SCHEDULE

1) Further, Frost & Sullivan estimates that: (1) the market for IT service alerting was \$183 million in 2015 and is projected to grow at a compound annual growth rate of 32.7% to \$753 million in 2020; (2) the market for telemedicine was \$374 million in 2015 and is projected to grow at a compound annual growth rate of 15.0% to \$752 million in 2020; (3) the market for secure mobile messaging was \$325 million in 2015 and is projected to grow at a compound annual growth rate of 16.4% to \$694 million in 2020; (4) the market for community engagement was \$122 million in 2015 and is projected to grow at a compound annual growth rate of 33.4% to \$516 million in 2020; (5) the market for physical security and information management was \$247 million in 2015 and is projected to grow at a compound annual growth rate of 19.5% to \$601 million in 2020; and (6) the market for internet of things was \$3.3 billion in 2015 and is projected to grow at a compound annual growth rate of 24.6% to \$9.9 billion in 2020.

[Markets and Markets Letterhead]

APRIL 13th, 2016

Everbridge, Inc.  
25 Corporate Drive, Suite 400  
Burlington, Massachusetts 01803

Dear Sirs:

We, Markets and Markets of Magarpatta city, Hadapsar – Pune, Maharashtra India, hereby consent to the filing with the Securities and Exchange Commission of a Registration Statement on Form S-1, and any amendments thereto (the “*Registration Statement*”) of Everbridge, Inc. and any related prospectuses of (i) our name and all references thereto, and (ii) the statements set out in the Schedule hereto. We also hereby consent to the filing of this letter as an exhibit to the Registration Statement.

We further consent to the reference to our firm, under the caption “Industry and Market Data” in the Registration Statement, as acting in the capacity of an author of independent industry publications.

Yours faithfully,

Name: Sanjay Singh  
Designation: Manager – Global Accounts  
For Markets and Markets

/s/ Sanjay Singh

#### SCHEDULE

1) Markets and Markets estimates that the market for mass notification software and services was \$1.7 billion in 2015 and is projected to grow at a compound annual growth rate of 20.9% to \$4.4 billion in 2020.