

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

FORM 10-Q

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

For the quarterly period ended September 30, 2013

OR

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

For the transition period from to

Commission File Number 001-33843

Synacor, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

**40 La Riviere Drive, Suite 300
Buffalo, New York**

(Address of principal executive offices)

16-1542712

(I.R.S. Employer
Identification No.)

14202

(Zip Code)

(716) 853-1362

(Registrant's telephone number, including area code)

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer 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. (Check one):

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

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

As of October 31, 2013, there were 27,339,636 shares of the registrant's common stock outstanding. All share and per share amounts in this Quarterly Report on Form 10-Q reflect the 1-for-2 reverse stock split of the registrant's common stock which took effect immediately prior to the effectiveness of the registration statement for the registrant's initial public offering.

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PART I — FINANCIAL INFORMATION

Item 1. Financial Statements

SYNACOR, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS—UNAUDITED
AS OF DECEMBER 31, 2012 AND SEPTEMBER 30, 2013
(In thousands except for share and per share data)

	December 31, 2012	September 30, 2013
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 41,944	\$ 34,778
Accounts receivable—net of allowance of \$25 and \$276	15,624	14,359
Deferred income taxes	1,999	1,013
Prepaid expenses and other current assets	1,831	2,239
Total current assets	61,398	52,389
PROPERTY AND EQUIPMENT—Net	11,043	13,244
DEFERRED INCOME TAXES, NON-CURRENT	2,527	3,981
OTHER LONG-TERM ASSETS	543	428
GOODWILL	819	819
CONVERTIBLE PROMISSORY NOTE	—	1,000
INVESTMENT IN EQUITY INTEREST	—	86
TOTAL ASSETS	\$ 76,330	\$ 71,947
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	\$ 14,204	\$ 11,696
Accrued expenses and other current liabilities	7,328	6,043
Current portion of capital lease obligations	2,127	1,914
Total current liabilities	23,659	19,653
LONG-TERM PORTION OF CAPITAL LEASE OBLIGATIONS	1,712	753
OTHER LONG-TERM LIABILITIES	148	212
Total liabilities	25,519	20,618
COMMITMENTS AND CONTINGENCIES (Note 6)		
STOCKHOLDERS' EQUITY:		
Preferred stock, \$0.01 par value—10,000,000 shares authorized, no shares issued and outstanding at December 31, 2012 and September 30, 2013	—	—
Common stock, \$0.01 par value—100,000,000 shares authorized, 27,517,665 issued and 27,198,165 outstanding at December 31, 2012, and 100,000,000 authorized, 27,659,136 issued and 27,339,636 shares outstanding at September 30, 2013	275	277
Treasury stock—at cost, 319,500 shares at December 31, 2012 and September 30, 2013	(569)	(569)
Additional paid-in capital	99,449	101,497
Accumulated deficit	(48,338)	(49,877)
Accumulated other comprehensive income (loss)	(6)	1
Total stockholders' equity	50,811	51,329
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 76,330	\$ 71,947

The accompanying notes are an integral part of these condensed consolidated financial statements.

SYNACOR, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS—UNAUDITED
FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2012 AND 2013
(In thousands except for share and per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
REVENUE	\$ 28,326	\$ 26,551	\$ 89,803	\$ 82,402
COSTS AND OPERATING EXPENSES:				
Cost of revenue (exclusive of depreciation shown separately below)	15,792	14,083	49,432	43,864
Research and development (exclusive of depreciation shown separately below)	6,218	7,404	18,629	21,548
Sales and marketing	2,000	2,058	6,776	6,332
General and administrative (exclusive of depreciation shown separately below)	2,676	2,805	8,384	8,772
Depreciation	981	1,119	2,696	3,387
Total costs and operating expenses	27,667	27,469	85,917	83,903
INCOME (LOSS) FROM OPERATIONS	659	(918)	3,886	(1,501)
OTHER INCOME (EXPENSE)	25	(15)	7	(30)
INTEREST EXPENSE	(72)	(39)	(208)	(140)
INCOME (LOSS) BEFORE INCOME TAXES AND EQUITY INTEREST	612	(972)	3,685	(1,671)
(BENEFIT) PROVISION FOR INCOME TAXES	(40)	(260)	660	(446)
LOSS IN EQUITY INTEREST	—	(120)	—	(314)
NET INCOME (LOSS)	\$ 652	\$ (832)	\$ 3,025	\$ (1,539)
NET INCOME (LOSS) PER SHARE:				
Basic	\$ 0.02	\$ (0.03)	\$ 0.13	\$ (0.06)
Diluted	\$ 0.02	\$ (0.03)	\$ 0.11	\$ (0.06)
WEIGHTED AVERAGE SHARES USED TO COMPUTE NET INCOME (LOSS) PER SHARE:				
Basic	27,329,106	27,333,693	23,728,120	27,293,898
Diluted	30,010,359	27,333,693	28,765,152	27,293,898

The accompanying notes are an integral part of these condensed consolidated financial statements.

SYNACOR, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)—UNAUDITED
FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2012 AND 2013
(In thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Net income (loss)	\$ 652	\$ (832)	\$ 3,025	\$ (1,539)
Other comprehensive income:				
Change in foreign currency translation adjustment	(17)	1	(8)	7
Comprehensive income (loss)	<u>\$ 635</u>	<u>\$ (831)</u>	<u>\$ 3,017</u>	<u>\$ (1,532)</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

SYNACOR, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS—UNAUDITED
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2012 AND 2013
(In thousands)

	Nine Months Ended September 30,	
	2012	2013
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	\$ 3,025	\$ (1,539)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation	2,696	3,387
Stock-based compensation expense	1,503	1,862
Loss on disposal of property and equipment	32	—
Deferred income taxes	563	(468)
Loss in equity interest	—	314
Change in assets and liabilities, net of effect of acquisition:		
Accounts receivable, net	(57)	1,265
Prepaid expenses and other current assets	(115)	(408)
Other long-term assets	223	115
Accounts payable	1,048	(2,586)
Accrued expenses and other current liabilities	812	(1,246)
Other long-term liabilities	101	64
Net cash provided by operating activities	<u>9,831</u>	<u>760</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property and equipment	(2,983)	(4,550)
Cash paid for business acquisition	(600)	(500)
Purchases of convertible promissory note	—	(1,000)
Investment in equity interest	—	(400)
Net cash used in investing activities	<u>(3,583)</u>	<u>(6,450)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Repayment on bank financing	(250)	—
Repayments on capital lease obligations	(1,739)	(1,662)
Proceeds from exercise of common stock options	922	179
Proceeds from initial public offering	25,364	—
Initial public offering costs	(2,753)	—
Net cash provided by (used in) financing activities	<u>21,544</u>	<u>(1,483)</u>
Effect of exchange rate changes on cash and cash equivalents	(8)	7
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	27,784	(7,166)
CASH AND CASH EQUIVALENTS—Beginning of period	10,925	41,944
CASH AND CASH EQUIVALENTS—End of period	<u>\$ 38,709</u>	<u>\$ 34,778</u>
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:		
Cash paid for interest	\$ 201	\$ 125
Cash paid for income taxes	109	138
SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING TRANSACTIONS:		
Property and equipment acquired under capital lease obligations	\$ 2,484	\$ 490
Accrued business acquisition consideration	500	—
Accrued property and equipment expenditures	616	808
Receivable for stock option exercises	60	—

The accompanying notes are an integral part of these condensed consolidated financial statements.

SYNACOR, INC.

NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS—UNAUDITED
AS OF DECEMBER 31, 2012 AND SEPTEMBER 30, 2013 , AND
FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2012 AND 2013
(In thousands except for share and per share data)

1. The Company and Summary of Significant Accounting Policies

Synacor, Inc., together with its consolidated subsidiary (collectively, the "Company"), is a leading provider of startpages, TV Everywhere solutions, Identity Management (IDM) and various cloud-based services across multiple devices for cable, satellite, telecom and consumer electronics companies. The Company is also a leading provider of authentication and aggregation solutions for delivery of personalized online content. The Company's technology allows its customers to package a wide array of personalized content and cloud-based services with their high-speed Internet, communications, television and other offerings. The Company's customers offer the Company's services under their own brands on Internet-enabled devices such as PCs, tablets, smartphones and connected TVs.

Initial Public Offering — In February 2012, the Company completed its initial public offering whereby 6,818,170 shares of common stock were sold to the public at a price of \$5.00 per share. The Company sold 5,454,545 common shares and selling stockholders sold 1,363,625 common shares. The Company received aggregate proceeds of \$25,364 from the initial public offering, net of underwriters' discounts and commissions but before deducting offering expenses of \$3,016 .

In connection with the initial public offering in February 2012, the Board of Directors of the Company approved a 1-for-2 reverse stock split of the Company's common stock. All common shares, stock options, and per share information presented in these condensed consolidated financial statements reflect the reverse stock split on a retroactive basis for all periods presented. There was no change in the par value of the Company's common stock. The ratio by which shares of preferred stock were convertible into shares of common stock was adjusted to reflect the effects of the reverse stock split. In addition, in accordance with their rights and consistent with the conversion rates discussed in Note 7, *Equity* , all shares of the Company's outstanding preferred stock were converted into common stock upon the closing of the initial public offering.

Basis of Presentation — The interim unaudited condensed consolidated financial statements and accompanying notes have been prepared in accordance with United States generally accepted accounting principles ("GAAP") and include the accounts of the Company and its wholly-owned subsidiary. Investments in entities in which the Company can exercise significant influence, but does not own a majority equity interest or otherwise have the power to control, are accounted for using the equity method and are included as investments in equity interest on the condensed consolidated balance sheets. All intercompany balances and transactions have been eliminated in consolidation. In the opinion of the Company's management, the interim unaudited condensed consolidated financial statements include all adjustments, which include only normal recurring adjustments, necessary for the fair presentation of the Company's financial position for the periods presented. These interim unaudited condensed consolidated financial statements are not necessarily indicative of the results expected for the full fiscal year or for any subsequent period and should be read in conjunction with the audited consolidated financial statements and related notes included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 .

Accounting Estimates — The preparation of financial statements in conformity with GAAP in the U.S. requires management to make estimates, judgments and assumptions that affect the amounts reported and disclosed in the financial statements and the accompanying notes. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities. Such estimates primarily relate to unsettled transactions and events as of the date of the financial statements. Accordingly, actual results may differ from estimated amounts.

Concentrations of Risk — As of December 31, 2012 and September 30, 2013 , and for the three and nine months ended September 30, 2012 and 2013 , the Company had concentrations equal to or exceeding 10% of the Company's accounts receivable and revenue as follows:

	Accounts Receivable	
	December 31, 2012	September 30, 2013
Google	40%	31%
Customer A	N/A	11

	Revenue			
	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Google	51%	50%	57%	52%

For the three and nine months ended September 30, 2012 and 2013, the following customers received revenue-share payments equal to or exceeding 10% of the Company's cost of revenue. The costs represent revenue share paid to them for their supply of Internet traffic on the Company's startpages.

	Cost of Revenue			
	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Customer A	19%	24%	20%	21%
Customer B	16	13	17	13
Customer C	13	10	13	11
Customer D	12	15	12	13

Acquisitions — In January 2012, the Company acquired the assets of Carbyn, Inc., or Carbyn, an Ontario, Canada-based company. The assets acquired are principally comprised of mobile device software and technology and other intellectual property, which the Company expects to enhance its efforts in the development of next generation web applications for mobile devices. The aggregate purchase price was up to \$1,100 for the acquired assets, of which \$600 was paid upon consummation of the acquisition and the remaining \$500 was paid in April 2013. In addition, the Company hired seven employees from Carbyn who accepted employment with Synacor Canada, Inc., a wholly-owned subsidiary of the Company. The acquisition and its impact on the consolidated financial statements are not material. The purchase price was allocated to the assets acquired based on their respective fair values as of the acquisition date, with the amount exceeding the fair value recorded as goodwill of \$819.

In November 2013, the Company acquired the assets of Teknision, Inc., or Teknision, an Ontario, Canada-based company. Teknision has created a development framework that accelerates the production of home screen and other Android applications. The Company expects to leverage the framework to enable a range of customer applications for Android devices. The Company also expects to enhance its presence in mobile and provide a platform for custom Android launchers and intelligent home screens for wireless carriers and consumer electronics companies. The aggregate purchase price is up to \$1,005 for the acquired assets, of which \$510 was paid upon consummation of the acquisition and the remaining \$495 is due in May 2015 unless such amount is offset in satisfaction of certain indemnification obligations of Teknision. In addition, the Company hired eleven employees from Teknision who accepted employment with Synacor Canada, Inc. The acquisition and its impact on the condensed consolidated financial statements are not material.

2. Investments and Fair Value Measurements

In July 2013 the Company made a \$1,000 investment (in the form of a convertible promissory note) in a privately held Delaware corporation called Blazer and Flip Flops, Inc., or B&FF (doing business as The Experience Engine). B&FF is a professional services company whose principals have experience integrating its customers' systems with their consumers' devices, including smartphones and tablets.

The investment in B&FF is considered an available-for-sale security and is reported on the Company's condensed consolidated balance sheets in long term assets as a convertible promissory note.

The provisions of the Financial Accounting Standards Board ("FASB") Accounting Standard Codification ("ASC") 820, *Fair Value Measurements and Disclosures*, establish a framework for measuring the fair value in accounting principles generally accepted in the U.S. and establish a hierarchy that categorizes and prioritizes the sources to be used to estimate fair value as follows:

Level 1 - Level 1 inputs are defined as observable inputs such as quoted prices in active markets.

Level 2 - Level 2 inputs include quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability (interest rates, yield curves, etc.), and inputs that are derived principally from or corroborated by observable market data by correlation or other means (market corroborated inputs).

Level 3 - Level 3 inputs are unobservable inputs that reflect the Company's determination of assumptions that market participants would use in pricing the asset or liability. These inputs are developed based on the best information available, including the Company's own data.

The Company classifies its investment in B&FF within Level 3 because it is valued using unobservable inputs and at September 30, 2013 the estimated fair value is equal to the purchase price of \$1,000 .

3. Property and Equipment—Net

Property and equipment, net consisted of the following (in thousands):

	December 31, 2012	September 30, 2013
Computer equipment (1)	\$ 17,630	\$ 18,829
Computer software	3,715	4,575
Furniture and fixtures	1,050	1,520
Leasehold improvements	732	968
Work in process (2)	226	2,931
Other	173	173
	<u>23,526</u>	<u>28,996</u>
Less accumulated depreciation (3)	(12,483)	(15,752)
Total property and equipment—net	<u>\$ 11,043</u>	<u>\$ 13,244</u>

Notes:

- (1) Includes equipment under capital lease obligations of approximately \$5,882 and \$4,988 as of December 31, 2012 and September 30, 2013 , respectively.
- (2) Includes internal-use software development costs of \$40 and \$2,800 as of December 31, 2012 and September 30, 2013 , respectively.
- (3) Includes \$1,834 and \$1,798 of accumulated depreciation of equipment under capital leases as of December 31, 2012 and September 30, 2013 , respectively.

4. Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consisted of the following (in thousands):

	December 31, 2012	September 30, 2013
Accrued compensation	\$ 4,265	\$ 3,160
Accrued content fees	555	881
Accrued property and equipment expenditures	132	593
Accrued business acquisition consideration	500	—
Unearned revenue on contracts	297	437
Other	1,579	972
Total	<u>\$ 7,328</u>	<u>\$ 6,043</u>

5. Information About Segment and Geographic Areas

The Company considers operating segments to be components of the Company in which separate financial information is available that is evaluated regularly by the Company's chief operating decision maker in deciding how to allocate resources and in assessing performance. The chief operating decision maker for the Company is the Chief Executive Officer. The Chief Executive Officer reviews financial information presented on a total Company basis, accompanied by information about revenue by major service line for purposes of allocating resources and evaluating financial performance. The Company has one business activity and there are no segment managers who are held accountable for operations, operating results or plans for levels or components below the Company level. Accordingly, the Company has determined that it has a single reporting segment and operating unit structure.

The following table sets forth revenue and long-lived tangible assets by geographic area (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Revenue				
United States	\$ 28,152	\$ 26,386	\$ 89,307	\$ 81,883
United Kingdom	174	165	496	519
Total revenue	\$ 28,326	\$ 26,551	\$ 89,803	\$ 82,402
			December 31, 2012	September 30, 2013
Long-lived tangible assets				
United States			\$ 10,638	\$ 12,984
Netherlands			405	260
Total long-lived tangible assets			\$ 11,043	\$ 13,244

6. Commitments and Contingencies

Litigation — From time to time, the Company is a party to legal actions. In the opinion of management, the outcome of these matters is not expected to have a material impact on the consolidated financial statements of the Company.

Contract Commitments —The Company is obligated to make payments under various contracts with vendors and other business partners, principally for revenue-share and content arrangements. Contract commitments as of September 30, 2013 are summarized as follows (in thousands):

Year ending December 31:		
2013 (remaining three months)	\$	1,220
2014		1,419
2015		1,080
2016		1,080
2017		360
Due after 5 years		—
Total contract commitments	\$	5,159

7. Equity

Common Stock — Effective on February 15, 2012, the Company's board of directors and stockholders approved the Fifth Amended and Restated Certificate of Incorporation. The total number of common shares that the Company is authorized to issue is 100 million with a par value of \$0.01 per share.

Preferred Stock — Effective on February 15, 2012, the Company's board of directors and stockholders approved the Fifth Amended and Restated Certificate of Incorporation. The total number of preferred shares that the Company is authorized to issue is 10 million with a par value of \$0.01 per share. None have been issued to date.

Conversion — Prior to the Company's initial public offering, each share of Series A, A-1, B, and C preferred stock was convertible at the option of the holder at any time into common stock. The conversion rate was the quotient obtained by dividing the original issue price of the Series A, A-1, B, or C by the conversion price. Subsequent to the Second Certificate of Amendment to the Fourth Amended and Restated Certificate of Incorporation, the conversion price was adjusted to effect a conversion of one preferred share into one and one-half common shares, as explained in Note 1, *The Company and Summary of Significant Accounting Policies*. The conversion price was subject to adjustment as set forth in the Restated Certificate of Incorporation for certain dilutive issuances, splits, and combinations, as therein defined. Conversion was automatic upon either the consent of the holders of 66% of the outstanding shares of preferred stock or the effective date of a firm commitment underwritten public offering of the Company's common stock in which the post-offering valuation on a fully diluted basis was at least \$150 million and the proceeds were not less than \$25 million. All shares of the Company's outstanding preferred stock were converted into common stock in February 2012 in connection with the Company's initial public offering.

8. Stock-based Compensation

The Company recorded \$520 and \$683 of stock-based compensation expense for the three months ended September 30, 2012 and 2013, respectively. Stock-based compensation expense for the nine months ended September 30, 2012 and 2013, was \$1,503 and \$1,862, respectively. No income tax deduction is allowed for incentive stock options, or ISOs. Accordingly, no deferred income tax asset is recorded for the expense related to these options. Stock option grants of non-qualified stock options, or NQSOs, result in the creation of a deferred tax asset, which is a temporary difference, until the time that the option is exercised.

Total stock-based compensation expense included in the accompanying condensed consolidated statements of operations for the periods presented, is as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Research and development	\$ 146	\$ 318	\$ 373	\$ 860
Sales and marketing	119	97	292	249
General and administrative	255	268	838	753
Total stock-based compensation expense	\$ 520	\$ 683	\$ 1,503	\$ 1,862

Stock Option Activity—A summary of the stock option activity for the nine months ended September 30, 2013 is presented below:

	Number of Stock Options	Weighted Average Exercise Price	Aggregate Intrinsic Value (in thousands)	Weighted Average Remaining Contractual Term (in years)
Outstanding—January 1, 2013	4,510,807	\$ 4.06		
Granted	1,240,750	3.57		
Exercised	(141,471)	1.26		
Forfeited	(138,198)	6.83		
Outstanding—September 30, 2013	5,471,888	3.91	\$ 1,115	7.43
Vested and expected to vest—September 30, 2013	5,029,234	3.85	\$ 1,115	7.31
Vested and exercisable—September 30, 2013	2,520,618	3.06	\$ 1,114	5.78

Aggregate intrinsic value represents the difference between the Company's closing stock price of its common stock and the exercise price of outstanding, in-the-money options. The Company's closing stock price as reported on the NASDAQ as of September 30, 2013 was \$2.58. The total intrinsic value of options exercised was approximately \$0 and \$186 for the three and nine months ended September 30, 2013, respectively.

The per-share fair value of each stock option was determined on the date of grant using the Black-Scholes option pricing model using the following assumptions:

Grant Date	Options Granted	Weighted- Average Exercise Price	Expected Life of Options (In years)	Risk-Free Interest Rate	Expected Volatility	Expected Dividend Yield
February 3, 2013	44,500	\$ 5.55	6.25	1.43%	61%	—%
March 11, 2013	50,500	\$ 3.12	6.25	1.43%	60%	—%
April 29, 2013	62,500	\$ 2.88	6.25	1.10%	60%	—%
May 16, 2013	889,250	\$ 3.68	6.25	1.25%	60%	—%
June 17, 2013	45,000	\$ 3.23	6.25	1.57%	60%	—%
July 26, 2013	47,500	\$ 3.25	6.25	1.67%	59%	—%
September 16, 2013	101,500	\$ 2.69	6.25	1.96%	59%	—%

As of September 30, 2013, the unrecognized compensation cost related to non-vested options granted, for which vesting is probable, under the plan was approximately \$6,389. This cost is expected to be recognized over a weighted-average

period of 2.8 years . The total fair value of shares vested was \$668 and \$2,066 for the three and nine months ended September 30, 2013 , respectively.

RSU Activity— A summary of RSU activity for the nine months ended September 30, 2013 , is as follows:

	Number of Shares	Weighted-Average Grant Date Fair Value
Unvested - January 1, 2013	50,000	\$ 5.82
Granted	7,500	3.86
Released	—	—
Forfeited	—	—
Unvested - September 30, 2013	57,500	\$ 5.54
Expected to vest—September 30, 2013	48,875	\$ 5.54

As of September 30, 2013 , total unrecognized compensation cost, adjusted for estimated forfeitures, related to RSUs was approximately \$236 , which is expected to be recognized over the next 3.22 years.

9. Investment in Equity Interest

In March 2013, the Company entered into a Joint Venture Agreement, pursuant to which it owns 50% of the outstanding common stock and 100% of the preferred shares of Synacor China, Ltd., or the JV Company. In July 2013 the Company provided \$400 in initial funding and has agreed to provide up to \$1,600 in additional funding to the JV Company over the following two years. Subject to the completion of customary regulatory requirements, the JV Company will, through its wholly foreign-owned subsidiary in the People's Republic of China (the "PRC"), supply authentication and aggregation solutions for the delivery of online content and services to customers in the PRC.

The investment in the JV Company is being accounted for using the equity method and is classified as an investment in equity interest on the Company's condensed consolidated balance sheets. The Company records its share of the results of the JV Company within earnings in equity interest in the condensed consolidated statements of operations. Since acquiring its interest in the JV Company, the company has recorded, in retained earnings, cumulative losses in equity interest of \$314 .

10. Net Income (Loss) Per Common Share Data

Basic net income (loss) per share is computed using the weighted-average number of common shares outstanding during the period. Diluted net income (loss) per share is computed using the weighted-average number of common shares and, if dilutive, potential common shares outstanding during the period. The Company's potential common shares consist of the incremental common shares issuable upon the exercise of stock options, and to a lesser extent, shares issuable upon the release of RSUs. In addition, for the nine months ended September 30, 2012, the potential common shares included the conversion of preferred stock on an as if converted basis prior to the Company's initial public offering in February 2012. The dilutive effect of these potential common shares is reflected in diluted earnings per share by application of the treasury stock method.

The following table presents the calculation of basic and diluted net income (loss) per share for the three and nine month periods ended September 30, 2012 and 2013 (in thousands, except share and per share amounts):

	Three Months Ended, September 30,		Nine Months Ended, September 30,	
	2012	2013	2012	2013
Basic net income (loss) per share:				
Numerator:				
Net income (loss)	\$ 652	\$ (832)	\$ 3,025	\$ (1,539)
Denominator:				
Weighted-average common shares outstanding	27,329,106	27,333,693	23,728,120	27,293,898
Basic net income (loss) per share	\$ 0.02	\$ (0.03)	\$ 0.13	\$ (0.06)
Diluted net income (loss) per share:				
Numerator:				
Net income (loss)	\$ 652	\$ (832)	\$ 3,025	\$ (1,539)
Denominator:				
Number of shares used in basic calculation	27,329,106	27,333,693	23,728,120	27,293,898
Add weighted-average effect of dilutive securities:				
Conversion of preferred stock (as if converted basis)	—	—	2,602,923	—
Employee stock options and RSUs	2,681,253	—	2,434,109	—
Number of shares used in diluted calculation	30,010,359	27,333,693	28,765,152	27,293,898
Diluted net income (loss) per share	\$ 0.02	\$ (0.03)	\$ 0.11	\$ (0.06)

The following equivalent shares were excluded from the calculation of diluted net income (loss) per share because their effect would have been anti-dilutive for the periods presented:

	Three Months Ended, September 30,		Nine Months Ended, September 30,	
	2012	2013	2012	2013
Antidilutive equity awards:				
Stock options and RSUs	132,850	5,529,388	132,850	5,529,388

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

This quarterly report on Form 10-Q contains "forward-looking statements" within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended. In addition, we may make other written and oral communications from time to time that contain such statements. Forward-looking statements include statements as to industry trends and future expectations of ours and other matters that do not relate strictly to historical facts. These statements are often identified by the use of words such as "may," "expect," "believe," "anticipate," "intend," "could," "estimate," or "continue," and similar expressions or variations. These statements are based on the beliefs and assumptions of our management based on information currently available to management. Such forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. These forward-looking statements include statements in this Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations." Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed in the section titled "Risk Factors" included elsewhere in this Form 10-Q and in our other Securities and Exchange Commission filings, including our Annual Report on Form 10-K for the fiscal year ended December 31, 2012. Furthermore, such forward-looking statements speak only as of the date of this report. We undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the condensed consolidated financial statements and related notes thereto appearing elsewhere in this Form 10-Q and with the consolidated financial statements and notes thereto and management's discussion and analysis of financial condition and results of operation appearing in our Annual Report on Form 10-K for the fiscal year ended December 31, 2012.

Overview

We are a leading provider of startpages, TV Everywhere solutions, Identity Management (IDM) and various cloud-based services across multiple devices for cable, satellite, telecom and consumer electronics companies. We are also a leading provider of authentication and aggregation solutions for delivery of personalized online content. Our technology allows our customers to package a wide array of personalized content and cloud-based services with their high-speed Internet, communications, television and other offerings. Our customers offer our services under their own brands on Internet-enabled devices such as PCs, tablets, smartphones and connected TVs.

We generate revenue from search and display advertising and by charging subscriber-based fees for services and products delivered through our startpages. Our results are driven primarily by our customer mix, the product and service mix preferences of those customers and the pricing of those products and services. We generate the majority of our revenue from search and display advertising on our startpages, which comprise consumer-facing components of our technology. Adding new customers with large consumer bases and expansion of our relationships with existing customers have historically resulted in an increasing shift in our revenue mix towards search and display advertising revenue. Growth in our business (through growth in search and display advertising revenue) is dependent on new customers adopting our solutions and their respective consumers' use of our startpages ramping up as described below. Increases in search and display advertising revenue are largely driven by our model of sharing a portion of this search and advertising revenue with our customers. As we expand our cloud-based and value added services offerings, we expect to generate increased subscriber-based revenue from our customers.

For the three and nine months ended September 30, 2013, search and display advertising revenue was \$20.9 million and \$66.4 million, a decrease of 10% and 11% compared to \$23.3 million and \$74.5 million for the three and nine months ended September 30, 2012. Over the same periods, our unique visitors decreased by 4% and 3%, our search queries decreased by 29% and 25% and our advertising impressions decreased by 18% and increased by 3%. Search revenue decreased by \$1.0 million and \$7.7 million for the three and nine months ended September 30, 2013 compared to the same periods ended September 30, 2012. We believe a material portion of the decrease was due to the placement of our startpages on the second tab of the default Windows 8 Internet browser by our consumer electronics customers. In addition, and to a lesser extent, we believe the decrease was due to lower search activity associated with the increased usage of other devices such as tablets and smartphones generally across the consumer base. We anticipate that search activity will increase on smartphones and tablets in the future and, although our search queries are down, we believe that our continuing investment in mobile products, such as our investments in Carbyn and Teknision, will allow us to compete more effectively for search activity on smartphones and tablets. Display advertising revenue decreased by \$1.3 million for the three months ended September 30, 2013 compared to the same period ended September 30, 2012 as a result of pricing changes in one of our customer contracts, another customer's implementation of more secure webmail, which affected our ability to insert display advertising on that customer's webmail site, and changes in practices and policies for display advertising. Display advertising revenue decreased slightly by \$0.4 million for the nine months ended September 30, 2013 compared to the same periods ended September 30, 2012. We anticipate

that the signing and launching of new customers and our mobile product initiatives will help add new search and display advertising revenue in future years.

Our subscriber-based revenue consists of fees charged for the use of our proprietary technology and for the use of, or access to, services, such as e-mail, security, TV Everywhere, online games, music and other value added services and paid content. During the three and nine months ended September 30, 2013, subscriber-based revenue was \$5.6 million and \$16.0 million, an increase of 11% and 4% compared to \$5.1 million and \$15.3 million for the three and nine months ended September 30, 2012. This increase is primarily driven by growth in our e-mail service to our customers. We believe there are opportunities to generate new sources of subscriber-based revenue, such as the introduction of new value added services, including those delivered on smartphones and tablets. We believe that the variety of value added services and the introduction of new value added services will also drive increased search and display advertising revenue.

As we obtain new customers and those new customers introduce our startpages to their consumers, we expect that usage of our solutions and our revenue from our startpages to increase over time. There are a variety of reasons for this ramp-up period. For example, a new customer may migrate its consumers from its existing technology to our technology over a period of time. Moreover, a new customer may initially launch a selection of our services and products, rather than our entire suite of offerings, and subsequently broaden their service and product offerings over time. When a customer launches a new service or product, marketing and promotional activities may be required to generate awareness and interest among consumers. Search and display advertising revenue typically grows significantly during the first one to three years after a customer launch, although there can be notable variances from customer to customer. Thereafter, changes in revenue tend to mirror changes in the consumer base of the applicable customer.

For the three and nine months ended September 30, 2013, we derived revenue from nearly 50 customers, with revenue attributable to four customers, CenturyLink, Inc. or CenturyLink (including revenue attributable to Qwest Communications International, Inc., or Qwest, which merged with CenturyLink in April 2011), Charter Communications Inc., or Charter, Verizon Corporate Services Group, Inc., or Verizon, and Toshiba America Information Systems, Inc., or Toshiba, together accounting for approximately 68% of our revenue for both the three and nine months ended September 30, 2013, or \$18.0 million and \$56.2 million. One of these customers accounted for 20% or more of revenue in such periods, and revenue attributable to each of the other three customers accounted for more than 10% in such periods.

Revenue attributable to our customers includes the subscriber-based revenue earned directly from them, as well as the search and display advertising revenue generated through our relationships with our search and display advertising partners (such as Google Inc., or Google, for search advertising and advertising networks, advertising agencies and advertisers for display advertising). This revenue is attributable to our customers because it is produced from the traffic on our startpages. These partners provide us with advertisements that we then deliver with search results and other content on our startpages. Since our search advertising partner, Google, and our advertising network partners generate their revenue by selling those advertisements, we create a revenue stream for these partners. In the three and nine months ended September 30, 2013, search advertising through our relationship with Google generated approximately 50% and 52% of our revenue, or \$13.4 million and \$42.8 million (all of which was attributable to our customers).

The initiatives described below under "Key Initiatives" are expected to contribute to our ability to maintain and grow revenue and return to profitability via increases in advertising revenue, increases in customers and our consumer reach, and increases in availability of products across more devices. We expect the period in which we experience a return on future investments in each of these initiatives to differ. For example, more direct advertising at higher cost per thousand impressions (referred to as cost per mille, or CPM) would be expected to have an immediate and direct impact on profitability while expansion into international markets may require an investment that involves a longer term return. We intend to utilize some of the proceeds of our initial public offering to improve our ability to achieve consistent profitability in the future by enhancing our technology and our systems capabilities to more efficiently support our customers, develop new products and features and report upon, analyze and manage the financial performance of the business.

Key Initiatives

We are focused on several key initiatives to drive our business:

- add new, and expand our existing offerings with current, cable, telecom, satellite and consumer electronics customers to increase our consumer reach;
- continue to expand our offerings of, and invest in, mobile technology and cloud-based services such as e-mail and TV Everywhere and increase the number of customers using our TV Everywhere technology;

- extend the availability of our existing and new products and services to additional devices including tablets and smartphones;
- enhance our direct advertising sales effort to increase the CPMS derived from advertising;
- expand our presence into international markets; and
- invest in and acquire new technologies and products.

Key Business Metrics

In addition to the line items in our financial statements, we regularly review a number of business metrics related to Internet traffic and search and display advertising to evaluate our business, determine the allocation of resources and make decisions regarding business strategies. We believe disclosing these metrics is useful for investors and analysts to understand the underlying trends in our business. The following table summarizes our key business metrics, which are unaudited, for the three and nine months ended September 30, 2012 and 2013 :

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Key Business Metrics:				
Unique Visitors (1)	20,241,871	19,373,165	20,487,594	19,773,438
Search Queries (2)	233,767,194	165,556,903	742,893,799	554,226,885
Advertising Impressions (3)	11,634,386,253	9,518,576,265	30,457,542,583	31,294,537,578

Notes:

- (1) Reflects the number of unique visitors to our startpages computed on an average monthly basis during the applicable period.
- (2) Reflects the total number of search queries during the applicable period.
- (3) Reflects the total number of advertising impressions during the applicable period.

Unique Visitors

We define unique visitors as consumers who have visited one of our startpages at least once during a particular time period. We rely on comScore to provide this data. comScore estimates this data based on the U.S. portion of the Internet activity of its worldwide panel of consumers and its proprietary data collection method.

Search Queries

We define search queries as the number of instances in which a consumer entered a query into a search bar on our startpages during a particular time period. We rely on reports from our search partner, Google, to measure the number of such instances.

Advertising Impressions

We define advertising impressions as graphical, textual or video paid advertisements displayed to consumers on our startpages during a particular time period. We rely on reports from technology and advertising partners, including DoubleClick (a division of Google), to measure the number of advertising impressions delivered on our platform.

Components of our Results of Operations

Revenue

We derive our revenue from two categories: revenue generated from search and display advertising activities and subscriber-based revenue, each of which is described below. We record our search and display advertising revenue on a gross basis, which includes the net amount received from Google under our agreement with them.

The following table shows the revenue in each category, both in amount and as a percentage of revenue, for the three and nine months ended September 30, 2012 and 2013 :

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
	(in thousands)			
Revenue:				
Search and display advertising	\$ 23,255	\$ 20,944	\$ 74,474	\$ 66,429
Subscriber-based	5,071	5,607	15,329	15,973
Total revenue	\$ 28,326	\$ 26,551	\$ 89,803	\$ 82,402
Percentage of revenue:				
Search and display advertising	82%	79%	83%	81%
Subscriber-based	18	21	17	19
Total revenue	100%	100%	100%	100%

Search and Display Advertising Revenue

We use Internet search and display advertising to generate revenue from the traffic on our startpages.

- In the case of search advertising, we have a revenue-sharing relationship with Google, pursuant to which we include a Google-branded search tool on our startpages. When a consumer makes a search query using this tool, we deliver the query to Google and they return search results to consumers that include advertiser-sponsored links. If the consumer clicks on a sponsored link, Google receives payment from the sponsor of that link and shares a portion of that payment with us, which we in turn share with the applicable customer. The net payment we receive from Google is recognized as revenue.
- We generate display advertising revenue when consumers view or click on a text, graphic or video advertisement that was delivered on a Synacor-operated startpage. We fill our advertising inventory with advertisements sourced by our direct salesforce, independent advertising sales representatives and advertising network partners. Revenue may be calculated differently depending on our agreements with our advertisers or the agreements between our advertising network partners and their advertisers. It may be calculated on a cost per impression basis, which means the advertiser pays based on the number of times its advertisements appear, or a cost per action basis, which means that an advertiser pays when a consumer performs an action after engaging one of its advertisements, or on a fixed fee basis. Historically only a small percentage of our display advertising revenue has been calculated on a cost per action basis or fixed fee basis.

Subscriber-Based Revenue

We define subscriber-based revenue as subscription fees and other fees that we receive from our customers for the use of our proprietary technology platform and the use of, or access to, e-mail, TV Everywhere, security, games and other services, including value added services and paid content. Monthly subscriber levels typically form the basis for calculating and generating subscriber-based revenue. They are generally determined by multiplying a per-subscriber per-month fee by the number of subscribers using the particular services being offered or consumed. In other cases, the fee is fixed. We recognize revenue from our customers as the service is delivered.

Costs and Expenses

Cost of Revenue

Cost of revenue consists of revenue sharing, content acquisition costs and co-location facility costs. Revenue sharing consists of amounts accrued and paid to our customers for the traffic on the startpages we operate for them that results in the generation of search and display advertising revenue. The revenue-sharing agreements with our customers are primarily variable payments based on a percentage of the search and display advertising revenue. Content acquisition agreements may be based on a fixed payment schedule, on the number of subscribers per month, or a combination of both. Fixed-payment agreements are expensed over the term defined in the agreement. Agreements based on the number of subscribers are expensed on a monthly basis. Co-location facility costs consist of rent and operating costs for our data center facilities.

Research and Development

Research and development expenses consist primarily of compensation-related expenses incurred for the development of, enhancements to, and maintenance and operation of our technology and related infrastructure.

Sales and Marketing

Sales and marketing expenses consist primarily of compensation-related expenses to our direct sales and marketing personnel, as well as costs related to advertising, industry conferences, promotional materials, and other sales and marketing programs. Advertising cost is expensed as incurred.

General and Administrative

General and administrative expenses consist primarily of compensation-related expenses for executive management, finance, accounting, human resources and other administrative functions.

Depreciation

Depreciation includes depreciation of our computer hardware and software, furniture and fixtures, leasehold improvements, and other property, and depreciation on capital leased assets.

Other (Income) Expense

Other (income) expense consists primarily of foreign exchange gains and losses.

Interest Expense

Interest expense primarily consists of expenses associated with our capital leases.

Provision (benefit) for Income Taxes

Income tax expense (benefit) consists of federal and state income taxes in the United States and taxes in certain foreign jurisdictions.

Loss in Equity Interest

Loss in equity interest represents our percentage share of losses in investments in entities in which we can exercise significant influence, but do not own a majority equity interest or otherwise control.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations is based upon our condensed consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of these condensed consolidated financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and the related disclosure of contingent assets and liabilities. We base our estimates on historical experience and on various other assumptions that we believe are reasonable under the circumstances. Our estimates form the basis for our judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimate that are reasonably likely to occur, could materially impact the condensed consolidated financial statements. We believe that our critical accounting policies reflect the more significant estimates and assumptions used in the preparation of the condensed consolidated financial statements.

For a discussion of our critical accounting policies and estimates, see "Critical Accounting Policies and Estimates" included in our Annual Report on Form 10-K for the year ended December 31, 2012 under the caption Management's Discussion and Analysis of Financial Condition and Results of Operations. We have made no significant changes to our critical accounting policies and estimates from those described in our Annual Report on Form 10-K for the year ended December 31, 2012.

Adjusted EBITDA

To provide investors with additional information regarding our financial results, we have disclosed within this Quarterly Report on Form 10-Q adjusted EBITDA, a non-GAAP financial measure. We have provided a reconciliation below of adjusted EBITDA to net income (loss), the most directly comparable GAAP financial measure.

We have included adjusted EBITDA in this Quarterly Report on Form 10-Q because it is a key measure used by our management and board of directors to understand and evaluate our core operating performance and trends, to prepare and approve our annual budget and to develop short- and long-term operational plans. In particular, the exclusion of certain expenses in calculating adjusted EBITDA can provide a useful measure for period-to-period comparisons of our core business. Additionally, adjusted EBITDA is a key financial measure used by the compensation committee of our board of directors in connection with the payment of bonuses to our executive officers. Accordingly, 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.

Our 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 results as reported under GAAP. Some of these limitations are:

- although depreciation is a non-cash charge, the assets being depreciated may have to be replaced in the future, and adjusted EBITDA does not reflect capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;
- adjusted EBITDA does not consider the potentially dilutive impact of equity-based compensation;
- adjusted EBITDA does not reflect tax payments that may represent a reduction in cash available to us; and
- other companies, including companies in our industry, may calculate adjusted EBITDA differently, which reduces its usefulness as a comparative measure.

Because of these limitations, you should consider adjusted EBITDA alongside other financial performance measures, including various cash flow metrics, net income (loss) and our other GAAP results. The following table presents a reconciliation of adjusted EBITDA to net income (loss) for each of the periods indicated:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
	(in thousands)		(in thousands)	
Reconciliation of Adjusted EBITDA:				
Net income (loss)	\$ 652	\$ (832)	\$ 3,025	\$ (1,539)
(Benefit) provision for income taxes	(40)	(260)	660	(446)
Interest expense	72	39	208	140
Other (income) expense	(25)	15	(7)	30
Depreciation	981	1,119	2,696	3,387
Loss in equity interest	—	120	—	314
Stock-based compensation	520	683	1,503	1,862
Adjusted EBITDA	<u>\$ 2,160</u>	<u>\$ 884</u>	<u>\$ 8,085</u>	<u>\$ 3,748</u>

Results of Operations

The following tables set forth our results of operations for the periods presented in amount and as a percentage of revenue for those periods. The period to period comparison of financial results is not necessarily indicative of future results.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
	(in thousands)		(in thousands)	
Revenue	\$ 28,326	\$ 26,551	\$ 89,803	\$ 82,402
Costs and operating expenses:				
Cost of revenue (1)	15,792	14,083	49,432	43,864
Research and development (1)(2)	6,218	7,404	18,629	21,548
Sales and marketing (2)	2,000	2,058	6,776	6,332
General and administrative (1)(2)	2,676	2,805	8,384	8,772
Depreciation	981	1,119	2,696	3,387
Total costs and operating expenses	27,667	27,469	85,917	83,903
Income (loss) from operations	659	(918)	3,886	(1,501)
Other (income) expense	25	(15)	7	(30)
Interest expense	(72)	(39)	(208)	(140)
Income (loss) before income taxes and equity interest	612	(972)	3,685	(1,671)
(Benefit) provision for income taxes	(40)	(260)	660	(446)
Loss in equity interest	—	(120)	—	(314)
Net income (loss)	\$ 652	\$ (832)	\$ 3,025	\$ (1,539)

Notes:

- (1) Exclusive of depreciation shown separately.
- (2) Includes stock-based compensation as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
	(in thousands)		(in thousands)	
Research and development	\$ 146	\$ 318	\$ 373	\$ 860
Sales and marketing	119	97	292	249
General and administrative	255	268	838	753
	\$ 520	\$ 683	\$ 1,503	\$ 1,862

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
Revenue	100%	100 %	100%	100 %
Costs and operating expenses:				
Cost of revenue (1)	56	53	55	53
Research and development (1)	22	28	21	26
Sales and marketing	7	8	8	8
General and administrative (1)	9	11	9	11
Depreciation	3	4	3	4
Total costs and operating expenses	98	103	96	102
Income (loss) from operations	2	(3)	4	(2)
Other (income) expense	—	—	—	—
Interest expense	—	—	—	—
Income (loss) before income taxes and equity interest	2	(4)	4	(2)
(Benefit) provision for income taxes	—	(1)	1	—
Loss in equity interest	—	—	—	—
Net income (loss)	2%	(3)%	3%	(2)%

Note:

(1) Exclusive of depreciation shown separately.

Comparison of the Three and Nine Months ended September 30, 2012 and 2013

Revenue

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
Revenue:						
Search and display advertising	\$ 23,255	\$ 20,944	(10)%	\$ 74,474	\$ 66,429	(11)%
Subscriber-based	5,071	5,607	11	15,329	15,973	4
Total revenue	\$ 28,326	\$ 26,551	(6)	\$ 89,803	\$ 82,402	(8)
Percentage of revenue:						
Search and display advertising	82%	79%		83%	81%	
Subscriber-based	18	21		17	19	
Total revenue	100%	100%		100%	100%	

Three months ended 2012 compared to 2013 . Revenue decreased by \$1.8 million, or 6%, compared to the same period in 2012. Search revenue decreased by \$1.0 million. We believe a material portion of the decrease was due to the placement of our startpages on the second tab of the default Windows 8 Internet browser by our consumer electronics customers. In addition, and to a lesser extent, we believe the decrease was due to lower search activity associated with the increased usage of other devices such as tablets and smartphones generally across the consumer base and due to a change in the way we monetize searches through our startpages. Display advertising revenue decreased by \$1.3 million as a result of pricing changes in one of our customer contracts, another customer's implementation of more secure webmail, which affected our ability to insert display advertising on that customer's webmail site, and changes in practices and policies for display advertising. Subscriber-based revenue increased \$0.5 million, or 11% compared to the same period in 2012 mainly due to growth in adoption of our e-mail service by our customers.

Nine months ended 2012 compared to 2013 . Revenue decreased by \$7.4 million, or 8%, compared to the same period in 2012. Search revenue decreased by \$7.7 million. We believe a material portion of the decrease was due to the placement of our startpages on the second tab of the default Windows 8 Internet browser by our consumer electronics customers. In addition, and to a lesser extent, we believe the decrease was due to lower search activity associated with the increased usage of other devices such as tablets and smartphones generally across the consumer base and due to a change in the way we monetize searches through our startpages. Display advertising revenue decreased slightly by \$0.4 million. Subscriber-based revenue

increased \$0.6 million, or 4% compared to the same period in 2012 mainly due to growth in adoption of our e-mail service by our customers.

Cost of Revenue

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
Cost of revenue	\$ 15,792	\$ 14,083	(11)%	\$ 49,432	\$ 43,864	(11)%
Percentage of revenue	56%	53%		55%	53%	

Three months ended 2012 compared to 2013 . Our cost of revenue decreased by \$1.7 million, or 11%, compared to 2012. The decrease in our cost of revenue was driven by a decrease in revenue-sharing costs due to decreased search and display advertising. Cost of revenue as a percentage of revenue decreased to 53% of revenue from 56% of revenue because of changes in display advertising revenue attributable to the mix of customers with revenue-sharing arrangements.

Nine months ended 2012 compared to 2013 . Our cost of revenue decreased by \$5.6 million, or 11%, compared to 2012. The decrease in our cost of revenue was driven by a decrease in revenue-sharing costs due to decreased search and display advertising. Cost of revenue as a percentage of revenue decreased to 53% of revenue from 55% of revenue because of changes in display advertising revenue attributable to the mix of customers with revenue-sharing arrangements.

Research and Development Expenses

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
Research and development	\$ 6,218	\$ 7,404	19%	\$ 18,629	\$ 21,548	16%
Percentage of revenue	22%	28%		21%	26%	

Three months ended 2012 compared to 2013 . Research and development expenses increased by \$1.2 million, or 19%, compared to 2012. The increase was primarily due to increases in employee-related costs as a result of the increase in headcount to support new product initiatives.

Nine months ended 2012 compared to 2013 . Research and development expenses increased by \$2.9 million, or 16%, compared to 2012. The increase was primarily due to increases in employee-related costs as a result of the increase in headcount to support new product initiatives.

Sales and Marketing Expenses

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
Sales and marketing	\$ 2,000	\$ 2,058	3%	\$ 6,776	\$ 6,332	(7)%
Percentage of revenue	7%	8%		8%	8%	

Three months ended 2012 compared to 2013 . Sales and marketing expenses remained relatively consistent, increasing by only \$0.1 million, or 3%, compared to 2012.

Nine months ended 2012 compared to 2013 . Sales and marketing expenses decreased by \$0.4 million, or 7%, compared to 2012. The decrease was primarily due to a decrease in compensation-related expenses.

General and Administrative Expenses

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
General and administrative	\$ 2,676	\$ 2,805	5%	\$ 8,384	\$ 8,772	5%
Percentage of revenue	9%	11%		9%	11%	

Three months ended 2012 compared to 2013 . General and administrative expenses remained relatively consistent, increasing by only \$0.1 million, or 5%, compared to 2012.

Nine months ended 2012 compared to 2013 . General and administrative expenses increased by \$0.4 million, or 5%, compared to 2012. The increase was primarily due to an increase in legal fees in connection with the formation of the JV Company and other administrative fees associated with being a publicly traded company.

Depreciation

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
Depreciation	\$ 981	\$ 1,119	14%	\$ 2,696	\$ 3,387	26%
Percentage of revenue	3%	4%		3%	4%	

Three months ended 2012 compared to 2013 . Depreciation increased by \$0.1 million, or 14%, compared to 2012. This increase was driven primarily by the purchase of software and the capitalization of internal-use software development.

Nine months ended 2012 compared to 2013 . Depreciation increased by \$0.7 million, or 26%, compared to 2012. This increase was driven primarily by the purchase of software and the capitalization of internal-use software development.

Interest Expense

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
Interest expense	\$ (72)	\$ (39)		\$ (208)	\$ (140)	

Our interest expense consists mainly of interest due on our capital lease obligations.

(Benefit) Provision for Income Taxes

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2012	2013	% Change	2012	2013	% Change
	(in thousands)			(in thousands)		
(Benefit) provision for income taxes	\$ (40)	\$ (260)		\$ 660	\$ (446)	

Our income tax (benefit) expense for the three and nine months ended September 30, 2012 included \$0.3 and \$1.7 million of deferred income tax expense, partially offset by a tax benefit of \$0.3 and \$1.0 million relating to a research and development credit.

As a result of incurring a net loss, we recorded a tax benefit of \$0.3 and \$0.4 million for the three and nine months ended September 30, 2013.

Loss in Equity Interest

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2013	2012	2013
	(in thousands)		(in thousands)	
Loss in equity interest	\$ —	\$ (120)	\$ —	\$ (314)

In 2013 we entered into a Joint Venture Agreement, pursuant to which we own 50% of the outstanding common stock and 100% of the preferred shares of Synacor China, Ltd., or the JV Company. For the three and nine months ended September 30, 2013, we recorded our share of the losses of the JV Company of \$120 and \$314, respectively.

Liquidity and Capital Resources

Our primary liquidity and capital resource requirements are for financing working capital, investing in capital expenditures such as computer hardware and software, supporting research and development efforts, introducing new technology, enhancing existing technology, and marketing our services and products to new and existing customers. To the extent that existing cash and cash equivalents, cash from operations, cash from short-term borrowings and the net proceeds from our initial public offering are insufficient to fund our future activities, we may need to raise additional funds through public or private equity offerings or debt financings.

In connection with our initial public offering in February 2012, we received aggregate gross proceeds of \$27.3 million. The net proceeds to Synacor from the offering were approximately \$22.4 million after deducting underwriting discounts of \$1.9 million and offering costs of \$3.0 million.

In September 2013, we entered into a new Loan and Security Agreement, or Loan Agreement, with Silicon Valley Bank, or Lender. The Loan Agreement provides for a \$10.0 million secured revolving line of credit with a stated maturity of September 27, 2015. The credit facility is available for cash borrowings, subject to a formula based upon eligible accounts receivable. As of September 30, 2013, due to the operation of the borrowing formula, \$7.2 million was available under the revolving credit line, with no outstanding borrowings.

Borrowings under the Loan Agreement bear interest, at our election, at an annual rate of either 0.50% above the "prime rate" as published in The Wall Street Journal or LIBOR for the relevant period plus 3.00%. For LIBOR advances, interest is payable (i) on the last day of a LIBOR interest period or (ii) on the last day of each calendar quarter. For prime rate advances, interest is payable (a) on the first day of each month and (b) on each date a prime rate advance is converted into a LIBOR advance.

We paid a commitment fee of \$50,000 upon the closing of the facility, and must pay quarterly, in arrears, an unused facility fee of 0.50% per annum of the average unused portion of the facility (as determined by the Lender). Additionally, if we terminate the facility prior to the first anniversary of the closing date, we must pay the Lender a termination fee of \$100,000 unless the facility is replaced with a new facility from the Lender.

Our obligations to the Lender are secured by a first priority security interest in all our assets, including our intellectual property. The Loan Agreement contains customary events of default, including non-payment of principal or interest, violations of covenants, material adverse changes, cross-default, bankruptcy and material judgments. Upon the occurrence of an event of default, the Lender may accelerate repayment of any outstanding balance. The Loan Agreement also contains certain financial covenants and other agreements that are customary in loan agreements of this type, including restrictions on paying dividends and making distributions to our stockholders. As of September 30, 2013, we were in compliance with the covenants and anticipate continuing to be so.

Under the terms of our joint venture agreement with the JV Company, we have agreed, upon the satisfaction of certain conditions, to provide up to \$1.6 million in additional funding to the JV Company over two years through the purchase of non-voting, non-convertible Series A preferred shares of the JV Company.

As of September 30, 2013, we had approximately \$34.8 million of cash and cash equivalents. We believe that our existing cash and cash equivalents will be sufficient to meet our anticipated working capital, capital lease payment obligations, JV Company funding obligations and capital expenditure requirements for at least the next 12 months.

Cash Flows

	Nine Months Ended September 30,	
	2012	2013
	(in thousands)	
Statements of Cash Flows Data:		
Cash flows provided by operating activities	\$ 9,831	\$ 760
Cash flows used in investing activities	(3,583)	(6,450)
Cash flows provided by (used in) financing activities	21,544	(1,483)

Cash Provided by Operating Activities

In the nine months ended September 30, 2012, operating activities provided \$9.8 million of cash. The cash flow from operating activities primarily resulted from our net income, adjusted for non-cash items, and changes in our operating assets and liabilities. We had net income of \$3.0 million, which included a non-cash benefit from deferred income taxes of \$0.6 million, non-cash depreciation of \$2.7 million and non-cash stock-based compensation of \$1.5 million. Changes in our operating assets and liabilities provided \$2.0 million of cash, primarily due to an increase of our accounts payable of \$1.0 million and an increase of our accrued expenses and other current liabilities of \$0.8 million. The increase in our accounts payable was attributable to a \$1.6 million increase due to the timing of and a change in payment terms with a customer for their revenue share payment, partially offset by a \$0.5 million decrease due to the timing of invoice receipt from our vendors for operating expenses and components of our cost of revenue. Conversely, the increase in our accrued expenses and other liabilities of \$0.8 million was primarily driven by the timing of invoice receipt from our vendors for operating expenses and components of our cost of revenue.

In the nine months ended September 30, 2013 operating activities provided \$0.8 million of cash. The cash flow from operating activities primarily resulted from our net loss, adjusted for non-cash items, and changes in our operating assets and liabilities. Net loss was \$1.5 million, which included a non-cash benefit from deferred income taxes of \$0.5 million, non-cash depreciation of \$3.4 million, non-cash stock-based compensation of \$1.9 million and a non-cash loss in an equity interest of \$0.3 million. Changes in our operating assets and liabilities used \$2.8 million of cash, primarily due to a decrease of our accounts payable of \$2.6 million and a decrease of our accrued expenses and other current liabilities of \$1.2 million, partially offset by an increase in our accounts receivable of \$1.3 million. The decrease in our accounts payable was primarily driven by lower revenue-share payments associated with our decrease in revenue. The decrease in accrued expenses and other current liabilities was primarily due to the decrease of accrued compensation costs of \$1.1 million primarily relating to bonuses earned and accrued in 2012 and paid in 2013. The decrease in our accounts receivable was primarily due to the decrease of our revenue in the nine months ended September 30, 2013.

Cash Used in Investing Activities

Our primary investing activities have consisted of purchases of property and equipment, a payment for the acquisition of Carbyn and for investments made in the JV Company. Purchases of property and equipment may vary from period to period due to the timing of the expansion of our operations and internal-use software development. We expect to continue to invest in property and equipment and development of software for the remainder of 2013 and thereafter.

Cash used in investing activities in the nine months ended September 30, 2012 was \$3.6 million consisting of \$3.0 million of purchases of property, equipment and software to build out our data centers and \$0.6 million paid for the acquisition of Carbyn.

Cash used in investing activities in the nine months ended September 30, 2013 was \$6.5 million, consisting of \$4.6 million used for purchases of property and equipment specifically related to the build out of our data centers and internal-use software development, \$0.5 million used for the final payment for the acquisition of Carbyn, \$1.0 million used for an investment (in the form of a convertible promissory note) in a privately held Delaware corporation called Blazer and Flip Flops, Inc., or B&FF (doing business as The Experience Engine), a professional services company, and \$0.4 million used for an investment in an equity interest in the JV Company.

Cash Provided by (Used in) Financing Activities

For the nine months ended September 30, 2012, net cash provided by financing activities was \$21.5 million, consisting of \$25.4 million of proceeds from issuance of common stock in our IPO, partially offset by cash paid for issuance costs of \$2.8 million, and \$0.9 million of proceeds from the exercise of common stock options, partially offset by \$2.0 million for repayments on our capital lease obligations and bank financing.

For the nine months ended September 30, 2013, net cash used in financing activities was \$1.5 million primarily for repayment of \$1.7 million on our capital lease obligations partially offset by proceeds of \$0.2 million from the exercise of common stock options.

Off-Balance Sheet Arrangements

As of September 30, 2013, we did not have any off-balance sheet arrangements.

Item 3. Quantitative and Qualitative Disclosure About Market Risk

We have operations both within the United States and internationally, and we are exposed to market risks in the ordinary course of our business. These primarily include interest rate and inflation risk.

Interest Rate Risk

Our cash and cash equivalents primarily consist of cash and money market funds. Other than our \$1.0 million investment in B&FF and the \$0.1 million investment in the JV Company, we currently have no investments of any type. Our exposure to market risk for changes in interest rates is limited because nearly all of our cash and cash equivalents have a short-term maturity and are used primarily for working capital purposes.

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.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2013. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Based upon the evaluation as of September 30, 2013, our Chief Executive Officer and Chief Financial Officer have concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting identified in management's evaluation pursuant to Rules 13a-15(d) or 15d-15(d) of the Exchange Act during the quarter ended September 30, 2013 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not presently involved in any legal proceedings, the outcome of which, if determined adversely to us, would have a material adverse effect on our business, results of operations or financial condition.

Item 1A. Risk Factors

Our business and financial results are subject to numerous risks and uncertainties, including those described below, which could adversely and materially affect our business, financial condition or results of operations. You should carefully consider these risks and uncertainties, including the following risk factors and all other information contained in this Quarterly Report on Form 10-Q, together with any other documents we file with the SEC. Risks and uncertainties not currently known to us or that we currently deem to be immaterial may in the future materially and adversely affect our business, financial condition and results of operations.

Risks Related to Our Business

Our search advertising partner, Google, accounts for a significant portion of our revenue, and any loss of, or diminution in, our business relationship with Google would materially and adversely affect our financial performance.

We rely on traffic on our startpages to generate search and display advertising revenue, a substantial portion of which is derived from text-based links to advertisers' websites as a result of Internet searches. We have a revenue-sharing relationship with Google under which we include a Google-branded search tool on our startpages. When a consumer makes a search request using this tool, we deliver it to Google, and Google returns search results to us that include advertiser-sponsored links. If the consumer clicks on a sponsored link, Google receives payment from the sponsor of that link and shares a portion of that payment with us. We then typically share a portion of that payment with the applicable customer. Our Google-related search advertising revenue attributable to our customers, which consists of the portion of the payment from the sponsor that Google shares with us, accounted for approximately 49%, 57%, and 56% of our revenue in 2010, 2011, and 2012, or \$32.6 million, \$51.5 million, and \$68.5 million, respectively, and approximately 52% of our revenue in the nine months ended September 30, 2013, or \$42.8 million. Our agreement with Google expires in February 2014 unless we and Google mutually elect to renew it. Additionally, Google may terminate our agreement if we experience a change in control, if we enter into an agreement providing for a change in control, if we do not maintain certain search and display advertising revenue levels or if we fail to conform to Google's search policies and advertising policies. Google may from time to time change its existing, or establish new, methodologies and metrics for valuing the quality of Internet traffic. Any changes in these methodologies, metrics and advertising technology platforms could decrease the advertising rates that we receive and/or the amount of revenue that we generate from display advertisements. If advertisers were to discontinue their advertising via Internet searches, if Google's revenue from search-based advertising were to decrease, if Google's share of the search revenue were to be increased or if our agreement with Google were to be terminated for any reason or renewed on less favorable terms, our business, financial condition and results of operations would be materially and adversely affected. Moreover, consumers' increased use of search tools other than the Google-branded search tool we provide would have similar effects.

A loss of any significant customer could negatively affect our financial performance.

We derive a substantial portion of our revenue from a small number of customers. For example, revenue attributable to two customers, Charter and CenturyLink (including our revenue attributable to Qwest, which merged with CenturyLink in April 2011), together accounted for approximately 60% of our revenue for the year ended December 31, 2010, or \$39.8 million. Revenue attributable to each of these customers accounted for 20% or more of our revenue in 2010. Revenue attributable to Charter, CenturyLink (including our revenue attributable to Qwest) and Toshiba together accounted for approximately 62% of our revenue for the year ended December 31, 2011, or \$56.9 million, with revenue attributable to one of these customers accounting for 20% or more in such period and revenue attributable to each of the other two customers accounting for more than 10% in such period. Revenue attributable to Charter, CenturyLink (including revenue attributable to Qwest), Toshiba and Verizon together accounted for approximately 73% of our revenue for the year ended December 31, 2012, or \$88.4 million, with revenue attributable to one of these customers accounting for 20% or more in such period and revenue attributable to each of the other three customers accounting for more than 10% in such period. Revenue attributable to Charter, CenturyLink (including revenue attributable to Qwest), Toshiba and Verizon together accounted for approximately 68% of our revenue for the nine months ended September 30, 2013, or \$56.2 million, with revenue attributable to one of these customers accounting for 20% or more in such period and revenue attributable to each of the other three customers accounting for more than 10% in such period. Revenue attributable to these customers includes the subscriber-based revenue earned directly from them, as well

as the search and display advertising revenue earned through our relationships with our advertising partners, such as Google, based on traffic generated from our startpages.

Our contracts with our customers generally have an initial term of approximately two to three years from the launch of their startpages and frequently provide for one or more automatic renewal terms of one to two years each. If any one of these key contracts is not renewed or is otherwise terminated, or if revenue from these significant customers declines because of competitive or other reasons, our revenue would decline and our ability to achieve or sustain profitability would be impaired. In addition to the loss of subscriber-based revenue, including startpage and paid content sales, we would also lose significant revenue from the related search and display advertising services that we provide. In addition to the decline of revenue, we may have to impair our long-lived assets, to the extent that such assets are used exclusively to support these customers, which would adversely impact our results of operations and financial position.

We have a history of significant net losses and may not be profitable in future periods.

We have incurred significant losses in each year of operation other than 2009, 2011, and 2012, including a net loss of \$5.8 million in 2008 and a net loss of \$3.6 million in 2010. Our net loss was \$1.5 million in the nine months ended September 30, 2013 as compared to a net income of \$3.0 million for the nine months ended September 30, 2012. Our net income in 2009, 2011, and 2012 was \$0.3 million, \$9.9 million, and \$3.8 million, respectively. We expect that our expenses will increase in future periods as we implement initiatives designed to grow our business including, among other things, the development and marketing of new services and products, licensing of content, expansion of our infrastructure and international expansion. If our revenue does not sufficiently increase to offset these expected increases in operating expenses, we may incur significant losses and may not be profitable. Our revenue growth in recent periods may not be indicative of our future performance. In fact, our revenue for the nine months ended September 30, 2013 declined as compared to the same period in 2012. Accordingly, we may not be able to maintain profitability in the future. Any failure to maintain profitability may materially and adversely affect our business, financial condition and results of operations.

Many individuals are using devices other than personal computers and software applications other than Internet browsers to access the Internet. If users of these devices and software applications do not widely adopt the applications and other solutions we develop for them, our business could be adversely affected.

The number of people who access the Internet through devices other than PCs, including tablets, smartphones and connected TVs, has increased dramatically in the past few years and is projected to continue to increase. Similarly, individuals are increasingly accessing the Internet through apps other than Internet browsers, such as those available for download through Apple Inc.'s App Store and the Android Market. If consumers increasingly access the Internet on devices other than PCs, and if we are unable to successfully implement monetization strategies for such devices, our financial results could be negatively affected. While we are developing solutions to these alternative means of accessing the Internet, including through our acquisition of mobile device software and technology from Carbyn in January 2012 and Teknision in November 2013, we do not currently offer our customers and their subscribers a wide variety of apps and other non-browser solutions. Additionally, as new devices and new apps are continually being released, it is difficult to predict the problems we may encounter in developing new versions of our apps and other solutions for use on these alternative devices and apps, and we may need to devote significant resources to the creation, support and maintenance of such apps and solutions. If users of these devices and apps do not widely adopt the apps and other solutions we develop, our business, financial condition and results of operations could be adversely affected.

Consumer tastes continually change and are unpredictable, and our sales may decline if we fail to enhance our service and content offerings to achieve continued subscriber acceptance.

Our business depends on aggregating and providing services and content that our customers will place on our startpages, including television programming, news, entertainment, sports and other content that their subscribers find engaging, and value added services and paid content that their subscribers will buy. Accordingly, we must continue to invest significant resources in licensing efforts, research and development and marketing to enhance our service and content offerings, and we must make decisions about these matters well in advance of product releases to implement them in a timely manner. Our success depends, in part, on unpredictable and volatile factors beyond our control, including consumer preferences, competing content providers and websites and the availability of other news, entertainment, sports and other services and content. While we work with our customers to have their consumers' homepages set to our startpages upon the installation of our customer's services or the sale of our customer's product, a consumer may easily change that setting, which would likely decrease the use of our startpages. Similarly, consumers that change their device's operating system or Internet browser may no longer have our startpage set as their default homepage, and unless they change it back to our startpage, their usage of our startpages would likely decline and our results of operations could be negatively impacted. Consumers that acquire new consumer electronics devices will no longer have our startpage initially set as their default homepage, and unless they change

the default to our startpage, their usage of our startpages would likely decline and our results of operations could be negatively impacted.

If our services are not responsive to the requirements of our customers or the preferences of their consumers, or the services are not brought to market in a timely and effective manner, our business, financial condition and results of operations would be harmed. Even if our services and content are successfully introduced and initially adopted, a subsequent shift in the preferences of our customers or their consumers could cause a decline in the popularity of our services and content that could materially reduce our revenue and harm our business, financial condition and results of operations.

Our sales growth will be adversely affected if we are unable to expand the breadth of our services and products or to introduce new services and products on a timely basis.

To retain our existing customers, attract new customers and increase revenue, we must continue to develop and introduce new services and products on a timely basis and continue to develop additional features to our existing product base. If our existing and prospective customers do not perceive that we will deliver our services and products on schedule, and if they do not perceive our services and products to be of sufficient value and quality, we may lose the confidence of our existing customers and fail to increase sales to these existing customers, and we may not be able to attract new customers, each of which would adversely affect our operating results.

Our sales cycles and the contracting process with new customers are long and unpredictable and may require us to incur expenses before executing a customer agreement, which makes it difficult to project when, if at all, we will obtain new customers and when we will generate additional revenue and cash flows from those customers.

We market our services and products directly to high-speed Internet service providers and consumer electronics manufacturers. New customer relationships typically take time to obtain and finalize because of the burdensome cost of migrating from an existing solution to our platform. Due to operating procedures in many organizations, a significant time period may pass between selection of our services and products by key decision-makers and the signing of a contract. The length of time between the initial customer sales call and the realization of significant sales is difficult to predict and can range from several months to several years. As a result, it is difficult to predict when we will obtain new customers and when we will begin to generate revenue and cash flows from these potential new customers.

As part of our sales cycle, we may incur significant expenses in the form of compensation and related expenses and equipment acquisition before executing a definitive agreement with a prospective customer so that we may be ready to launch shortly following execution of a definitive agreement. If conditions in the marketplace generally or with a specific prospective customer change negatively, it is possible that no definitive agreement will be executed, and we will be unable to recover any expenses incurred before a definitive agreement is executed, which would in turn have an adverse effect on our business, financial condition and results of operations.

Most of our customers are high-speed Internet service providers, and consolidation within the cable and telecommunications industries could adversely affect our business, financial condition and results of operations.

Our revenue from high-speed Internet service providers, including our search and display advertising revenue generated by online consumer traffic on our startpages, accounted for more than 95% of our revenue in 2010, 86% in 2011, 80% in 2012, and 81% in the nine months ended September 30, 2013. The cable and telecommunications industries have experienced consolidation over the past several years, and we expect that this trend will continue. As a result of consolidation, some of our customers may be acquired by companies with which we do not have existing relationships and which may have relationships with one of our competitors or may have the in-house capacity to perform the services we provide. As a result, such acquisitions could cause us to lose customers and the associated subscriber-based and search and display advertising revenue. Under our agreements with some of our customers, including Charter, Verizon and CenturyLink, they have the right to terminate the agreement if we are acquired by one of their competitors.

Consolidation may also require us to renegotiate our agreements with our customers as a result of enhanced customer leverage. We may not be able to offset the effects of any such renegotiations, and we may not be able to attract new customers to counter any revenue declines resulting from the loss of customers or their subscribers.

As technology continues to evolve, the use of our products by our current and prospective consumer electronics manufacturer customers may decrease and our business could be adversely affected.

The consumer electronics industry is subject to rapid change, and our contract with Toshiba is not exclusive. As consumer electronics manufacturers continue to develop new technologies and introduce new models and devices, there can be no assurance that we will be able to develop solutions that will persuade consumer electronics manufacturers that are our

customers at such time to utilize our technology for those new devices. If our current and prospective consumer electronics manufacturer customers elect not to integrate our solutions into their new products, our business, financial condition and results of operations could be adversely affected.

Moreover, updates to Internet browser technology may adversely affect our business. For example, for our consumer electronics manufacturer customers that have the Windows 8 operating system pre-installed on some of their devices, the Windows 8 operating system places our startpages on a second tab when the Internet browser is launched, leading to decreased search and display advertising revenue.

We invest in features and functionality designed to increase consumer engagement with our startpages; however, these investments may not lead to increased revenue.

Our future growth and profitability will depend in large part on the effectiveness and efficiency of our efforts to provide a compelling consumer experience that increases consumer engagement with our startpages. We have made and will continue to make substantial investments in features and functionality for our technology that are designed to drive consumer engagement. Not all of these activities directly generate revenue, and we cannot assure you that we will reap sufficient rewards from these investments to make them worthwhile. If the expenses that we incur in connection with these activities do not result in increased consumer engagement that in turn results in revenue increases that exceed these expenses, our business, financial condition and results of operations will be adversely affected.

Our services and products may become less competitive or even obsolete if we fail to respond to technological developments.

Our future success will depend, in part, on our ability to modify or enhance our services and products to meet customer and consumer needs, to add functionality and to address technological advancements that would improve their performance. For example, if our smartphone and tablet products fail to capture the increased search activity on such devices or if our services and products do not adapt to the increasing video usage on the Internet or to take into account evolving developments in social networking, then they could begin to appear obsolete. Similarly, if we fail to develop new ways to deliver content and services through apps other than traditional Internet browsers, consumers could seek alternative means of accessing content and services.

To remain competitive, we will need to develop new services and products and adapt our existing ones to address these and other evolving technologies and standards. However, we may be unsuccessful in identifying new opportunities or in developing or marketing new services and products in a timely or cost-effective manner. In addition, our product innovations may not achieve the market penetration or price levels necessary for profitability. If we are unable to develop enhancements to, and new features for, our existing services and products or if we are unable to develop new services and products that keep pace with rapid technological developments or changing industry standards, our services and products may become obsolete, less marketable and less competitive, and our business will be harmed.

We depend on third parties for content that is critical to our business, and our business could suffer if we do not continue to obtain high-quality content at a reasonable cost.

We license the content that we aggregate on our startpages from numerous third-party content providers, and our future success is highly dependent upon our ability to maintain and enter into new relationships with these and other content providers. In the future, some of our content providers may not give us access to high-quality content, may fail to adapt to changes in consumer tastes or may increase the royalties, fees or percentages that they charge us for their content, any of which could have a material negative effect on our operating results. Our rights to the content that we offer to our customers and their consumers are not exclusive, and the content providers could license their content to our competitors. Our content providers could even grant our competitors exclusive licenses. In addition, our customers are not prohibited from entering into content deals directly with our content providers. Any failure to enter into or maintain satisfactory arrangements with content providers would adversely affect our ability to provide a variety of attractive services and products to our customers. Our reputation and operating results could suffer as a result, and it may be more difficult for us to develop new relationships with potential customers. Our costs as a percentage of revenue may also increase due to price competition.

Our revenue and operating results may fluctuate, which makes our results difficult to predict and could cause our results to fall short of expectations.

As a result of the rapidly changing nature of the markets in which we compete, our quarterly and annual revenue and operating results are likely to fluctuate from period to period. These fluctuations may be caused by a number of factors, many of which are beyond our control, including but not limited to the various factors set forth in this "Risk Factors" section, as well as:

- any failure to maintain strong relationships and favorable revenue-sharing arrangements with our search and display advertising partners, in particular Google, including a reduction in the quantity or pricing of sponsored links that consumers click on or a reduction in the pricing of display advertisements by advertisers;
- any failure of significant customers to renew their agreements with us;
- our ability to attract new customers;
- our ability to increase sales of value added services and paid content to existing subscribers;
- the timing and success of new service and product introductions by us, our customers or our competitors;
- variations in the demand for our services and products and the implementation cycles of our services and products by our customers;
- changes to Internet browser technology that renders our startpages less competitive;
- changes in our pricing policies or those of our competitors;
- changes in the prices our customers charge for value added services and paid content;
- service outages, other technical difficulties or security breaches;
- limitations relating to the capacity of our networks, systems and processes;
- our failure to accurately estimate or control costs, including costs related to the initial launch of new customers;
- maintaining appropriate staffing levels and capabilities relative to projected growth;
- the timing of costs related to the development or acquisition of technologies, services or businesses to support our existing customers and potential growth opportunities; and
- general economic, industry and market conditions and those conditions specific to Internet usage and online businesses.

For these reasons and because the market for our services and products is relatively new and rapidly changing, it is difficult to predict our future financial results.

Expansion into international markets, which is an important part of our strategy, but where we have limited experience, will subject us to risks associated with international operations.

We plan to expand our product offerings internationally, particularly in Asia, Latin America and Europe. For example, in March 2013 we announced that we entered into a joint venture with Maxit Technology Incorporated, or Maxit, to supply authentication and aggregation solutions for the delivery of online content and services to customers in the People's Republic of China, or the PRC. We have limited experience in marketing and operating our services and products in international markets, and we may not be able to successfully develop our business in these markets. Our success in these markets will be directly linked to the success of relationships with potential customers, content partners and other third parties.

As the international markets in which we plan to operate continue to grow, we expect that competition in these markets will intensify. Local companies may have a substantial competitive advantage because of their greater understanding of, and focus on, the local markets. Some of our domestic competitors who have substantially greater resources than we do may be able to more quickly and comprehensively develop and grow in international markets. International expansion may also require significant financial investment including, among other things, the expense of developing localized products, the costs of acquiring foreign companies and the integration of such companies with our operations, expenditure of resources in developing customer and content relationships and the increased costs of supporting remote operations.

Other risks of doing business in international markets include the increased risks and burdens of complying with different legal and regulatory standards, difficulties in managing and staffing foreign operations, recruiting and retaining talented direct sales personnel, limitations on the repatriation of funds and fluctuations of foreign exchange rates, varying levels of Internet technology adoption and infrastructure, and our ability to enforce contracts and our intellectual property rights in

foreign jurisdictions. In addition, our success in international expansion could be limited by barriers to international expansion such as tariffs, adverse tax consequences and technology export controls. If we cannot manage these risks effectively, the costs of doing business in some international markets may be prohibitive or our costs may increase disproportionately to our revenue. Some of our business partners also have international operations and are subject to the risks described above. Even if we are able to successfully manage the risks of international operations, our business may be adversely affected if our business partners are not able to successfully manage these risks.

Our agreements with some of our customers and content providers require fixed payments, which could adversely affect our financial performance.

Certain of our agreements with customers and content providers require us to make fixed payments to them. The aggregate amount of such fixed payments for the years ending December 31, 2013, 2014, 2015, and the two years thereafter are approximately \$4.6 million, \$1.4 million, \$1.1 million, and \$1.4 million, respectively. We are required to make these fixed payments regardless of the achievement of any revenue objectives or subscriber or usage levels. If we do not achieve our financial objectives, these contractual commitments would constitute a greater percentage of our revenue than originally anticipated and would adversely affect our profitability.

Our agreements with some of our customers and content providers contain penalties for non-performance, which could adversely affect our financial performance.

We have entered into service level agreements with most of our customers. These agreements generally call for specific system “up times” and 24 hours per day, seven days per week support and include penalties for non-performance. We may be unable to fulfill these commitments due to circumstances beyond our control, which could subject us to substantial penalties under those agreements, harm our reputation and result in a reduction of revenue or the loss of customers, which would in turn have an adverse effect on our business, financial condition and results of operations. To date, we have never incurred any material penalties.

System failures or capacity constraints could harm our business and financial performance.

The provision of our services and products depends on the continuing operation of our information technology and communications systems. Any damage to or failure of our systems could result in interruptions in our service. Such interruptions could harm our business, financial condition and results of operations, and our reputation could be damaged if people believe our systems are unreliable. Our systems are vulnerable to damage or interruption from snow storms, terrorist attacks, floods, fires, power loss, telecommunications failures, security breaches, computer malware, computer hacking attacks, computer viruses, computer denial of service attacks or other attempts to, or events that, harm our systems. Our data center is also subject to break-ins, sabotage and intentional acts of vandalism and to potential disruptions if the operators of the facility have financial difficulties. Although we maintain insurance to cover a variety of risks, the scope and amount of our insurance coverage may not be sufficient to cover our losses resulting from system failures or other disruptions to our online operations. For example, the limit on our business interruption insurance is approximately \$26.1 million. Any system failure or disruption and any resulting losses that are not recoverable under our insurance policies may materially harm our business, financial condition and results of operations. To date, we have never experienced any material losses.

Although we regularly back-up our systems and store the system back-ups in Atlanta, Georgia, Lewis Center, Ohio, and Buffalo, New York, we do not have full second-site redundancy. If we were forced to relocate to an alternate site and to rely on our system back-ups to restore the systems, we would experience significant delays in restoring the functionality of our platform and could experience loss of data, which could materially harm our business and our operating results.

Security breaches, computer viruses and computer hacking attacks could harm our business, financial condition and results of operations.

Security breaches, computer malware and computer hacking attacks are prevalent in the technology industry. Any security breach caused by hacking, which involves efforts to gain unauthorized access to information or systems, or to cause intentional malfunctions or loss or corruption of data, software, hardware or other computer equipment, and the inadvertent transmission of computer viruses could harm our business, financial condition and results of operations. We have previously experienced hacking attacks on our systems, and may in the future experience hacking attacks. Though it is difficult to determine what harm may directly result from any specific interruption or breach, any failure to maintain performance, reliability, security and availability of our technology infrastructure to the satisfaction of our customers and their consumers may harm our reputation and our ability to retain existing customers and attract new customers.

We may not maintain acceptable website performance for our customers, which may negatively impact our relationships with our customers and harm our business, financial condition and results of operations.

A key element to our continued growth is the ability of our customers' consumers in all geographies to access our startpages within acceptable load times. We refer to this as website performance. We may in the future experience platform disruptions, outages and other performance problems due to a variety of factors, including infrastructure changes, human or software errors, capacity constraints due to an overwhelming number of users accessing our technology simultaneously, and denial of service or fraud or security attacks. In some instances, we may not be able to identify the cause or causes of these website performance problems within an acceptable period of time. It may become increasingly difficult to maintain and improve website performance, especially during peak usage times, and as our solutions become more complex and our user traffic increases. If our startpages are unavailable when consumers attempt to access them or do not load as quickly as they expect, consumers may seek other alternatives to obtain the information for which they are looking, and may not return to our startpages as often in the future, or at all. This would negatively impact our relationships with our customers. We expect to continue to make significant investments to maintain and improve website performance. To the extent that we do not effectively address capacity constraints, upgrade our systems as needed and continually develop our technology and network architecture to accommodate actual and anticipated changes in technology, our business and operating results may be harmed.

We rely on our management team and need additional personnel to expand our business, and the loss of key officers or an inability to attract and retain qualified personnel could harm our business, financial condition and results of operations.

We depend on the continued contributions of our senior management and other key personnel, especially Ronald N. Frankel, our Chief Executive Officer, George G. Chamoun, our Executive Vice President of Sales and Marketing, Scott A. Bailey, our Chief Operating Officer, and William J. Stuart, our Chief Financial Officer. The loss of the services of any of our executive officers or other key employees could harm our business and our prospects. All of our executive officers and key employees are at-will employees, which means they may terminate their employment relationship with us at any time.

Our future success also depends on our ability to identify, attract and retain highly skilled technical, managerial, finance, marketing and creative personnel. For example, we will need to hire personnel outside the United States to pursue an international expansion strategy, and we will need to hire additional advertising salespeople to sell more advertisements directly. We face intense competition for qualified individuals from numerous technology, marketing and media companies, and we may incur significant costs to attract them. We may be unable to attract and retain suitably qualified individuals, or we may be required to pay increased compensation in order to do so. If we were to be unable to attract and retain the qualified personnel we need to succeed, our business could suffer.

Volatility or lack of performance in the trading price of our common stock may also affect our ability to attract and retain qualified personnel. Many of our senior management personnel and other key employees have become, or will become, vested in a substantial amount of stock or stock options. Employees may be more likely to leave us if the shares they own or the shares underlying their options have significantly appreciated in value relative to the original purchase prices of the shares or the exercise prices of the options or if the exercise prices of the options that they hold are significantly above the trading price of our common stock. If we are unable to retain our employees, our business, financial condition and results of operations would be harmed.

If we fail to manage our growth effectively, our business, financial condition and results of operations may suffer.

Following the merger of our predecessor companies, Chek, Inc., or Chek, and MyPersonal.com, Inc., or MyPersonal, to form Synacor, we have expanded our business primarily through organic growth. We expect to continue to grow organically, and we may choose to grow through strategic acquisitions in the future. This growth has placed, and may continue to place, significant demands on our management and our operational and financial infrastructure. Our ability to manage our growth effectively and to integrate new technologies and acquisitions into our existing business will require us to continue to expand our operational, financial and management information systems and to continue to retain, attract, train, motivate and manage key employees. Continued growth could strain our ability to:

- develop and improve our operational, financial and management controls;
- enhance our reporting systems and procedures;
- recruit, train and retain highly skilled personnel;
- maintain our quality standards; and
- maintain customer and content owner satisfaction.

Managing our growth will require significant expenditures and allocation of valuable management resources. If we fail to achieve the necessary level of efficiency in our organization as it grows, our business, financial condition and results of operations would be harmed.

We may expand our business through acquisitions of, or investments in, other companies or new technologies, or joint ventures or other strategic alliances with other companies, which may divert our management's attention or prove not to be successful.

In January 2012, we completed an acquisition of certain mobile device software and technology from Carbyn, in November 2013, we completed an acquisition of certain mobile device software and technology from Teknision, and in March 2013, we entered into a Joint Venture Agreement with Maxit to form the JV Company. We may decide to pursue other acquisitions of, investments in, or joint ventures involving other technologies and businesses in the future. Such transactions could divert our management's time and focus from operating our business.

Our ability as an organization to integrate acquisitions is unproven. Integrating an acquired company, business or technology is risky and may result in unforeseen operating difficulties and expenditures, including, among other things, with respect to:

- incorporating new technologies into our existing business infrastructure;
- consolidating corporate and administrative functions;
- coordinating our sales and marketing functions to incorporate the new business or technology;
- maintaining morale, retaining and integrating key employees to support the new business or technology and managing our expansion in capacity; and
- maintaining standards, controls, procedures and policies (including effective internal controls over financial reporting and disclosure controls and procedures).

In addition, a significant portion of the purchase price of companies we may acquire may be allocated to acquired goodwill and other intangible assets, which must be assessed for impairment at least annually. In the future, if our acquisitions do not yield expected returns, we may be required to take charges to our earnings based on this impairment assessment process, which could harm our operating results.

Future acquisitions could result in potentially dilutive issuances of our equity securities, including our common stock, or the incurrence of debt, contingent liabilities, amortization expenses or acquired in-process research and development expenses, any of which could harm our business, financial condition and results of operations. Future acquisitions may also require us to obtain additional financing, which may not be available on favorable terms or at all.

We face many risks in connection with our joint venture, including, among other things, with respect to:

- Increasing competition in the industry and the JV Company's ability to compete in the Chinese market through its wholly foreign-owned subsidiary, or WFOE;
- The impact of regulatory changes in the industry;
- Potential difficulties associated with operating the joint venture and the WFOE;
- The joint venture's ability to obtain additional financing;
- The WFOE's ability to offer competitive services in the Chinese market at a favorable margin;
- General business and economic conditions, including seasonality of the industry and growth trends in the industry;
- Our ability to successfully enter the Chinese market and operate internationally;
- Potential delays, including obtaining permits, licenses and other governmental approvals;
- Trade barriers and potential duties; and

- Our and the joint venture's ability to protect intellectual property.

If we and the JV Company are not able to successfully manage these and other risks related to the joint venture, it could harm our business, financial condition and results of operations.

Finally, our skill at investing our funds in illiquid securities issued by other companies, such as our investment in B&FF, is untested. Although we review the results and prospects of such investments carefully, it is possible that our investments could result in a total loss. Additionally, we will typically have little or no control in the companies in which we invest, and we will be forced to rely on the management of companies in which we invest to make reasonable and sound business decisions. If the companies in which we invest are not successfully able to manage the risks facing them, such companies could suffer, and our own business, financial condition and results of operations could be harmed.

We may require additional capital to grow our business, and this capital may not be available on acceptable terms or at all.

The operation of our business and our growth strategy may require significant additional capital, especially if we were to accelerate our expansion and acquisition plans. If the cash generated from operations and otherwise available to us are not sufficient to meet our capital requirements, we will need to seek additional capital, potentially through debt or equity financings, to fund our growth. We may not be able to raise needed capital on terms acceptable to us or at all. Financings, if available, may be on terms that are dilutive or potentially dilutive to our stockholders, and the prices at which new investors would be willing to purchase our securities may cause our existing stockholders to suffer substantial dilution. The holders of new securities may also receive rights, preferences or privileges that are senior to those of existing holders of our common stock. Any debt financing obtained by us in the future could contain restrictive covenants that may potentially restrict our operations, and if we do not effectively manage our business to comply with those covenants, our business, financial condition and results of operations could be adversely affected. If new sources of financing are required but are insufficient or unavailable, we could be required to delay, abandon or otherwise modify our growth and operating plans to the extent of available funding, which would harm our ability to grow our business.

Our business depends, in part, on our ability to protect and enforce our intellectual property rights.

The protection of our intellectual property is critical to our success. We rely on copyright and service mark enforcement, contractual restrictions and trade secret laws to protect our proprietary rights. We have entered into confidentiality and invention assignment agreements with our employees and contractors, and nondisclosure agreements with certain parties with whom we conduct business to limit access to and disclosure of our proprietary information. However, if we are unable to adequately protect our intellectual property, our business may suffer from the piracy of our technology and the associated loss in revenue.

Protecting against the unauthorized use of our intellectual property and other proprietary rights is expensive, difficult and, in some cases, impossible. Litigation may be necessary in the future to enforce or defend our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others. Such litigation could be costly and divert management resources, either of which could harm our business. Furthermore, many of our current and potential competitors have the ability to dedicate substantially greater resources to enforce their intellectual property rights than we do. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property.

We are not currently involved in any legal proceedings with respect to protecting our intellectual property; however, we may from time to time become a party to various legal proceedings with respect to protecting our intellectual property arising in the ordinary course of our business.

Any claims from a third party that we are infringing upon its intellectual property, whether valid or not, could subject us to costly and time-consuming litigation or expensive licenses or force us to curtail some services or products.

Companies in the Internet and technology industries tend to own large numbers of patents, copyrights, trademarks and trade secrets, and frequently enter into litigation based on allegations of infringement or other violations of intellectual property rights. We have been subject to claims that the presentation of certain licensed content on our startpages infringes certain patents of a third party, none of which have resulted in direct settlement or payments by us or any determination of infringement by us, and as we face increasing competition, the possibility of further intellectual property rights claims against us grows. Our technologies may not be able to withstand any third party claims or rights against their use. Any intellectual property claims, with or without merit, could be time-consuming, expensive to litigate or settle and could divert management

resources and attention. An adverse determination also could prevent us from offering our services and products to others and may require that we procure substitute products or services for our customers.

In the case of any intellectual property rights claim, we may have to pay damages or stop using technology found to be in violation of a third party's rights. We may have to seek a license for the technology, which may not be available to us on reasonable terms and may significantly increase our operating expenses. The technology also may not be available for license to us at all. As a result, we may also be required to develop alternative non-infringing technology, which could require significant effort and expense. If we cannot license or develop technology for the infringing aspects of our business, we may be forced to limit our service and product offerings and may be unable to compete effectively. Any of these consequences could harm our operating results.

In addition, we typically have contractual obligations to our customers to indemnify and defend them with respect to third-party intellectual property infringement claims that arise from our customers' use of our products or services. Such claims, whether valid or not, could harm our relationships with our customers, have resulted and could result in the future in us or our customers having to enter into licenses with the claimants and have caused and could cause us in the future to incur additional costs or suffer reduced revenues. To date, neither the increase in our costs nor any reductions in our revenue resulting from such claims have been material. Such claims could also subject us to costly and time-consuming litigation as well as diverting management attention and resources. Satisfying our contractual indemnification obligations could also give rise to significant liability, and thus harm our business and our operating results.

We are not currently subject to any material legal proceedings with respect to third party claims that we or our customers' use of our products and services are infringing upon their intellectual property; however, we may from time to time become a party to various legal proceedings with respect to such claims arising in the ordinary course of our business.

Any unauthorized disclosure or theft of personal information we gather could harm our reputation and subject us to claims or litigation.

We collect, and have access to, personal information of subscribers, including names, addresses, account numbers, credit card numbers and e-mail addresses. Unauthorized disclosure of personal information regarding website visitors, whether through breach of our systems by an unauthorized party, employee theft or misuse, or otherwise, could harm our business. If there were an inadvertent disclosure of personal information, or if a third party were to gain unauthorized access to the personal information we possess, our operations could be seriously disrupted and we could be subject to claims or litigation arising from damages suffered by subscribers or our customers. In addition, we could incur significant costs in complying with the multitude of state, federal and foreign laws regarding the unauthorized disclosure of personal information. Finally, any perceived or actual unauthorized disclosure of the information we collect could harm our reputation, substantially impair our ability to attract and retain customers and have an adverse impact on our business.

We collect and may access personal information and other data, which subjects us to governmental regulation and other legal obligations related to privacy, and our actual or perceived failure to comply with such obligations could harm our business.

We collect, and have access to, personal information of subscribers, including names, addresses, account numbers, credit card numbers and e-mail addresses. There are numerous federal, state and local laws around the world regarding privacy and the storing, sharing, use, processing, disclosure and protection of personal information and other subscriber data, the scope of which are changing, subject to differing interpretations, and may be inconsistent between countries or conflict with other rules. We generally comply with industry standards and are subject to the terms of our privacy policies and privacy-related obligations to third parties (including voluntary third-party certification bodies such as TRUSTe). We strive to comply with all applicable laws, policies, legal obligations and industry codes of conduct relating to privacy and data protection to the extent possible. However, it is possible that these obligations may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and may conflict with other rules or our practices. Any failure or perceived failure by us to comply with our privacy policies, our privacy-related obligations to users or other third parties, or our privacy-related legal obligations, or any compromise of security that results in the unauthorized release or transfer of personal information or other subscriber data, may result in governmental enforcement actions, litigation or public statements against us by consumer advocacy groups or others and could cause our customers to lose trust in us, which could have an adverse effect on our business. Additionally, if third parties we work with, such as customers, vendors or developers, violate applicable laws or our policies, such violations may also put subscriber information at risk and could in turn have an adverse effect on our business.

Any failure to convince advertisers of the benefits of advertising with us would harm our business, financial condition and results of operations.

We have derived and expect to continue to derive a substantial portion of our revenue from display advertising on our startpages. Such advertising accounted for approximately 20%, 23%, and 27% of our revenue for the years ended December 31, 2010, 2011, and 2012, respectively, and 29% of our revenue in the nine months ended September 30, 2013. Our ability to attract and retain advertisers and, ultimately, to generate advertising revenue depends on a number of factors, including:

- increasing the numbers of consumers using our startpages;
- maintaining consumer engagement on those startpages;
- competing effectively for advertising spending with other online and offline advertising providers; and
- continuing to grow our direct advertising sales force and develop and diversify our advertising capabilities.

If we are unable to provide high-quality advertising opportunities and convince advertisers and agencies of our value proposition, we may not be able to retain existing advertisers or attract new ones, which would harm our business, financial condition and results of operations.

Migration of high-speed Internet service providers' subscribers from one high-speed Internet service provider to another could adversely affect our business, financial condition and results of operations.

Our high-speed Internet service provider customers' subscribers may become dissatisfied with their current high-speed Internet service provider and may switch to another provider. In the event that there is substantial subscriber migration from our existing customers to service providers with which we do not have relationships, the fees that we receive on a per-subscriber basis, and the related search and display advertising revenue, could decline.

Our business and the trading price of our common stock may be adversely affected if our internal controls over financial reporting are found by management or by our independent registered public accounting firm not to be adequate.

Effective internal controls are necessary for us to provide reliable financial reports and prevent fraud. In addition, Section 404 of the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, requires our management to evaluate and report on our internal control over financial reporting. This report contains, among other matters, an assessment of the effectiveness of our internal control over financial reporting as of the end of our fiscal year, including a statement as to whether or not our internal control over financial reporting is effective. This assessment must include disclosure of any material weaknesses in our internal control over financial reporting identified by management. In addition, our independent registered public accounting firm will be required to formally attest to the effectiveness of our internal control over financial reporting beginning with the Annual Report on Form 10-K for the year in which we are no longer an "emerging growth company." At such time, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our controls are documented, designed or operating.

While we have determined that our internal control over financial reporting was effective as of December 31, 2012, as indicated in our Management Report on Internal Control over Financial Reporting included in our Annual Report on Form 10-K for the year ended December 31, 2012, we must continue to monitor and assess our internal control over financial reporting. If our management identifies one or more material weaknesses in our internal control over financial reporting and such weakness remains uncorrected at fiscal year-end, we will be unable to assert such internal control is effective at fiscal year-end. If we are unable to assert that our internal control over financial reporting is effective at fiscal year-end, or if our independent registered public accounting firm, when required, is unable to express an opinion on the effectiveness of our internal controls or concludes that we have a material weakness in our internal controls, we could lose investor confidence in the accuracy and completeness of our financial reports, which would likely have an adverse effect on our business and stock price.

Even if we conclude our internal control over financial reporting provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with Generally Accepted Accounting Principles, or GAAP, because of its inherent limitations, internal control over financial reporting may not prevent or detect fraud or misstatements. Failure to implement required new or improved controls, or difficulties encountered in their implementation, could harm our operating results or cause us to fail to meet our reporting obligations.

In addition, a delay in compliance with the auditor attestation provisions of Section 404, when applicable to us, could subject us to a variety of administrative sanctions, including ineligibility for short-form resale registration, action by the SEC,

the suspension or delisting of our common stock and the inability of registered broker-dealers to make a market in our common stock, which would further reduce the trading price of our common stock and could harm our business.

We are an “emerging growth company” and we cannot be certain if the reduced disclosure 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 JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies” including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We cannot predict if investors will find our common stock less attractive because we will 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.

Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.

As of December 31, 2012, we had substantial federal and state net operating loss carryforwards. Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an “ownership change,” the corporation’s ability to use its pre-change net operating loss carryforwards to offset its post-change income and taxes may be limited. In general, an “ownership change” generally occurs if there is a cumulative change in our ownership by “five-percent stockholders” that exceeds 50 percentage points over a rolling three-year period. For these purposes, a five-percent stockholder is generally any person or group of persons that at any time during the applicable testing period has owned 5% or more of our outstanding stock. In addition, persons who own less than 5% of the outstanding stock are grouped together as one or more “public groups,” which are also treated as five-percent stockholders. Similar rules may apply under state tax laws. We may experience ownership changes in the future as a result of future transactions in our stock, some of which may be outside our control. As a result, our ability to use our pre-change net operating loss carryforwards to offset United States federal and state taxable income and taxes may be subject to limitations.

Our joint venture's business prospects in China are dependent on government telecommunications infrastructure and budgetary policies, particularly the allocation of funds to sustain the growth of the telecommunications industry in China.

Our joint venture's business prospects in China include telecommunication service operators, and telecommunication service operators in China are directly or indirectly owned or controlled by the government of China. Accordingly, our joint venture's business prospects in China will also be heavily dependent on these government policies. Insufficient future funding allocated to China's telecommunications industry by the government could directly reduce the market for our joint venture's software and services in China. Chinese government initiatives directed at the market could also significantly affect the market conditions for our joint venture's Chinese customers and influence their level of spending on the services we offer. While some of these initiatives may increase market competition and generate more demand for our services, the anticipated increase in demand may not materialize. Our joint venture's prospective customers may not adapt well to the market conditions under the evolving regulatory environment and their demand for our joint venture's software and services may decrease as a result. The telecommunications industry in China may also become less competitive over time, either as a result of market driven consolidations or as a result of government efforts to curtail competition. A less competitive market may create fewer incentives for spending on technology innovations and upgrades, which may directly affect our joint venture's business prospects in China.

Our proprietary rights may be inadequately protected and there is a risk of poor enforcement of intellectual property rights in China.

Our success and ability to compete depend substantially upon our intellectual property, which we protect through a combination of confidentiality arrangements and trademark registrations. We have registered several marks and filed many other trademark applications in the U.S. We have not applied for copyright protection in any jurisdiction, including in the U.S. We enter into confidentiality agreements with most of our employees and consultants, and control access to, and distribution of, our documentation and other licensed information, including information licensed to the JV Company. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use our technology without authorization, or to develop similar technology independently. Since the Chinese legal system in general and the intellectual property regime in particular, are relatively weak, it is often difficult to enforce intellectual property rights in China.

Policing unauthorized use of our licensed technology is difficult and the steps we take may not prevent misappropriation or infringement of our proprietary rights. In addition, litigation may be necessary to enforce our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others, which could result in substantial costs and diversion of our resources.

Failure to comply with the United States Foreign Corrupt Practices Act could subject us to penalties and other adverse consequences.

We are subject to the United States Foreign Corrupt Practices Act, which generally prohibits U.S. companies from engaging in bribery or other prohibited payments to foreign officials for the purpose of obtaining or retaining business. Corruption, extortion, bribery, pay-offs, theft and other fraudulent practices may occur with respect to our expansion into international markets. Our employees or other agents may engage in such conduct for which we might be held responsible. If our employees or other agents are found to have engaged in such practices, we could suffer severe penalties and other consequences, including adverse publicity and damage to our reputation that may have a material adverse effect on our business, financial condition and results of operations.

Risks Related to Our Industry

The growth of the market for our services and products depends on the continued growth of the Internet as a medium for content, advertising, commerce and communications.

Expansion in the sales of our services and products depends on the continued acceptance of the Internet as a platform for content, advertising, commerce and communications. The acceptance of the Internet as a medium for such uses could be adversely impacted by delays in the development or adoption of new standards and protocols to handle increased demands of Internet activity, security, privacy protection, reliability, cost, ease of use, accessibility and quality of service. The performance of the Internet and its acceptance as such a medium has been harmed by viruses, worms, and similar malicious programs, and the Internet has experienced a variety of outages and other delays as a result of damage to portions of its infrastructure. If for any reason the Internet does not remain a medium for widespread content, advertising, commerce and communications, the demand for our services and products would be significantly reduced, which would harm our business.

The growth of the market for our services and products depends on the development and maintenance of the Internet infrastructure.

Our business strategy depends on continued Internet and high-speed Internet access growth. Any downturn in the use or growth rate of the Internet or high-speed Internet access would be detrimental to our business. If the Internet continues to experience significant growth in number of users, frequency of use and amount of data transmitted, the Internet infrastructure might not be able to support the demands placed on it and the performance or reliability of the Internet may be adversely affected. The success of our business therefore depends on the development and maintenance of a sound Internet infrastructure. This includes maintenance of a reliable network backbone with the necessary speed, data capacity and security, as well as timely development of complementary products, such as routers, for providing reliable Internet access and services. Consequently, as Internet usage increases, the growth of the market for our products depends upon improvements made to the Internet as well as to individual customers' networking infrastructures to alleviate overloading and congestion. In addition, any delays in the adoption of new standards and protocols required to govern increased levels of Internet activity or increased governmental regulation may have a detrimental effect on the Internet infrastructure.

A substantial majority of our revenue is derived from search and display advertising; our revenue would decline if advertisers do not continue their usage of the Internet as an advertising medium.

We have derived and expect to continue to derive a substantial majority of our revenue from search and display advertising on our startpages. Such search and display advertising revenue accounted for approximately 69%, 79%, and 83% of our revenue for the years ended December 31, 2010, 2011, and 2012, or \$45.9 million, \$72.1 million, and \$101.6 million, respectively, and 81% of our revenue for the nine months ended September 30, 2013, or \$66.4 million. However, the prospects for continued demand and market acceptance for Internet advertising are uncertain. If advertisers do not continue to increase their usage of the Internet as an advertising medium, our revenue would decline. Advertisers that have traditionally relied on other advertising media may not advertise on the Internet. Most advertising agencies and potential advertisers, particularly local advertisers, have only limited experience advertising on the Internet and devote only a small portion of their advertising expenditures to online advertising. As the Internet evolves, advertisers may find online advertising to be a less attractive or less effective means of promoting their services and products than traditional methods of advertising and may not continue to allocate funds for Internet advertising. Many historical predictions by industry analysts and others concerning the growth of the Internet as a commercial medium have overstated the growth of the Internet and you should not rely upon them. This growth may not occur or may occur more slowly than estimated.

Most of our search revenue is based on the number of paid “clicks” on sponsored links that are included in search results generated from our startpages. Generally, each time a consumer clicks on a sponsored link, the search provider that provided the commercial search result receives a fee from the advertiser who paid for such commercial click and the search provider pays us a portion of that fee. We, in turn, typically share a portion of the fee we receive with our customer. If an advertiser receives what it perceives to be a large number of clicks for which it needs to pay, but that do not result in a desired activity or an increase in sales, the advertiser may reduce or eliminate its advertisements through the search provider that provided the commercial search result to us. This reaction would lead to a loss of revenue to our search providers and consequently to lesser fees paid to us, which would have a material negative effect on our financial results.

Market prices for online advertising may decrease due to competitive or other factors. In addition, if a large number of Internet users use filtering software programs that limit or remove advertising from the users' view, advertisers may perceive that Internet advertising is not effective and may choose not to advertise on the Internet.

The market for Internet-based services and products in which we operate is highly competitive, and if we cannot compete effectively, our sales may decline and our business may be harmed.

Competition in the market for Internet-based services and products in which we operate is intense and involves rapidly changing technologies and customer and subscriber requirements, as well as evolving industry standards and frequent product introductions. Our competitors may develop solutions that are similar or superior to our technology. Our primary competitors include high-speed Internet service providers with internal information technology staff capable of developing solutions similar to our technology. Other competitors include Yahoo!, Google, AOL and MSN, a division of Microsoft. Advantages some of our existing and potential competitors hold over us include the following:

- significantly greater revenue and financial resources;
- stronger brand and consumer recognition;
- the capacity to leverage their marketing expenditures across a broader portfolio of services and products;
- more extensive proprietary intellectual property from which they can develop or aggregate content without having to pay fees or paying significantly lower fees than we do;
- pre-existing relationships with content providers that afford them access to content while blocking the access of competitors to that same content;
- pre-existing relationships with high-speed Internet service providers that afford them the opportunity to convert such providers to competing services and products;
- lower labor and development costs; and
- broader global distribution and presence.

If we are unable to compete effectively or we are not as successful as our competitors in our target markets, our sales could decline, our margins could decline and we could lose market share, any of which would materially harm our business, financial condition and results of operations.

Government regulation of the Internet continues to evolve, and new laws and regulations could significantly harm our financial performance.

Today, there are relatively few laws specifically directed towards conducting business over the Internet. We expect more stringent laws and regulations relating to the Internet to be enacted. The adoption or modification of laws related to the Internet could harm our business, financial condition and results of operations by, among other things, increasing our costs and administrative burdens. Due to the increasing popularity and use of the Internet, many laws and regulations relating to the Internet are being debated at the international, federal and state levels, which are likely to address a variety of issues such as:

- user privacy and expression;
- ability to collect and/or share necessary information that allows us to conduct business on the Internet;
- export compliance;

- pricing and taxation;
- fraud;
- advertising;
- intellectual property rights;
- consumer protection;
- protection of minors;
- content regulation;
- information security; and
- quality of services and products.

Several federal laws that could have an impact on our business have been adopted. The Digital Millennium Copyright Act of 1998 reduces the liability of online service providers of third-party content, including content that may infringe copyrights or rights of others. The Children's Online Privacy Protection Act imposes additional restrictions on the ability of online services to collect user information from minors. In addition, the Protection of Children from Sexual Predators Act requires online service providers to report evidence of violations of federal child pornography laws under certain circumstances.

It could be costly for us to comply with existing and potential laws and regulations, and they could harm our marketing efforts and our attractiveness to advertisers by, among other things, restricting our ability to collect demographic and personal information from consumers or to use or disclose that information in certain ways. If we were to violate these laws or regulations, or if it were alleged that we had, we could face private lawsuits, fines, penalties and injunctions and our business could be harmed.

Finally, the applicability to the Internet and other online services of existing laws in various jurisdictions governing issues such as property ownership, sales and other taxes, libel and personal privacy is uncertain. Any new legislation or regulation, the application of laws and regulations from jurisdictions whose laws do not currently apply to our business, or the application of existing laws and regulations to the Internet and other online services could also increase our costs of doing business, discourage Internet communications, reduce demand for our services and expose us to substantial liability.

Public scrutiny of Internet privacy issues may result in increased regulation and different industry standards, which could deter or prevent us from providing our current products and solutions to our customers, thereby harming our business.

The regulatory framework for privacy issues worldwide is currently in flux and is likely to remain so for the foreseeable future. Practices regarding the collection, use, storage, transmission and security of personal information by companies operating over the Internet have recently come under increased public scrutiny. The United States government, including the Federal Trade Commission and the Department of Commerce, has announced that it is reviewing the need for greater regulation for the collection of information concerning consumer behavior on the Internet, including regulation aimed at restricting certain targeted advertising practices. In addition, the European Union is in the process of proposing reforms to its existing data protection legal framework, which may result in a greater compliance burden for companies with users in Europe. Various government and consumer agencies have also called for new regulation and changes in industry practices.

Our business, including our ability to operate and expand internationally, could be adversely affected if legislation or regulations are adopted, interpreted or implemented in a manner that is inconsistent with our current business practices and that require changes to these practices, our services or our privacy policies.

Risks Related to Ownership of Our Common Stock

Concentration of ownership among our directors, officers, large stockholders and their respective affiliates could limit our other stockholders' ability to influence the outcome of key corporate decisions, such as an acquisition of our company.

Our directors, executive officers and holders of more than 5% of our common stock, together with their affiliates, beneficially own or control, directly or indirectly, as of March 26, 2013 over 30% of our outstanding common stock. As a result, these stockholders, if they act together, would have the ability to influence significantly the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, if they act together, would have the ability to influence significantly the management and affairs of our company. Accordingly, this concentration of ownership might harm the trading price of our common stock by:

- delaying, deferring or preventing a change in our control;
- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

Future sales of our common stock may cause the trading price of our common stock to decline.

As of February 15, 2012, the closing date of our initial public offering, stockholders holding some 17,666,204 shares of our common stock had demand and piggyback rights to require us to register such shares with the SEC. If we register any of these shares of common stock, the stockholders would be able to sell those shares freely in the public market.

In addition, the shares that are either subject to outstanding options or that may be granted in the future under our 2012 Equity Incentive Plan will become eligible for sale in the public market to the extent permitted by the provisions of various vesting agreements and Rules 144 and 701 under the Securities Act.

As of February 22, 2012, we registered the shares of our common stock that we may issue under our equity plans. These shares can be freely sold in the public market upon issuance, subject to any vesting.

If a substantial number of any of these additional shares described are sold, or if it is perceived that a substantial number of such shares will be sold, in the public market, the trading price of our common stock could decline.

Some provisions of our certificate of incorporation, bylaws and Delaware law may discourage, delay or prevent a merger or acquisition or prevent the removal of our current board of directors and management.

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may discourage, delay or prevent a merger or acquisition or prevent the removal of our current board of directors and management. We have a number of anti-takeover devices in place that will hinder takeover attempts, including:

- our board of directors is classified into three classes of directors with staggered three-year terms;
- our directors may only be removed for cause, and only with the affirmative vote of a majority of the voting interest of stockholders entitled to vote;
- only our board of directors and not our stockholders will be able to fill vacancies on our board of directors;
- only our chairman of the board, our chief executive officer or a majority of our board of directors, and not our stockholders, are authorized to call a special meeting of stockholders;
- our stockholders will be able to take action only at a meeting of stockholders and not by written consent;
- our amended and restated certificate of incorporation authorizes undesignated preferred stock, the terms of which may be established and shares of which may be issued without stockholder approval; and
- advance notice procedures apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders.

These provisions and other provisions in our charter documents could discourage, delay or prevent a transaction involving a change in our control. Any delay or prevention of a change in control transaction could cause stockholders to lose a substantial premium over the then-current trading price of their shares. These provisions could also discourage proxy contests and could make it more difficult for our stockholders to elect directors of their choosing or to cause us to take other corporate actions such stockholders desire.

In addition, we are subject to Section 203 of the Delaware General Corporation Law, which, subject to some exceptions, prohibits "business combinations" between a Delaware corporation and an "interested stockholder," which is generally defined as a stockholder who becomes a beneficial owner of 15% or more of a Delaware corporation's voting stock, for a three-year period following the date that the stockholder became an interested stockholder. Section 203 could have the effect of delaying, deferring or preventing a change in control that our stockholders might consider to be in their best interests.

We have not paid cash dividends on our capital stock, and we do not expect to do so in the foreseeable future.

We have not historically paid cash dividends on our capital stock, and we have agreed not to pay any dividends or make any other distributions in our agreement with Silicon Valley Bank. We anticipate that we will retain all future earnings and cash resources for the future operation and development of our business, and as a result, we do not anticipate paying any cash dividends to holders of our capital stock for the foreseeable future. Any future determination regarding the payment of any dividends will be made at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, general business conditions, bank covenants and other factors that our board may deem relevant. Consequently, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment.

The trading price and volume of our common stock has been and will likely continue to be volatile, and the value of an investment in our common stock may decline.

The trading price of our common stock has been, and is likely to continue to be, volatile and could decline substantially within a short period of time. For example, since shares of our common stock were sold in our initial public offering in February 2012 at a price of \$5.00 per share through the close of business on October 31, 2013, our trading price has ranged from \$2.31 to \$18.00. The trading price of our common stock may be subject to wide fluctuations in response to various factors, some of which are beyond our control, including but not limited to the various factors set forth in this "Risk Factors" section, as well as:

- variations in our financial performance;
- announcements of technological innovations, new services and products, strategic alliances or significant agreements by us or by our competitors;
- recruitment or departure of key personnel;
- changes in the estimates of our operating results or changes in recommendations or withdrawal of research coverage by securities analysts;
- market conditions in our industry, the industries of our customers and the economy as a whole; and
- adoption or modification of laws, regulations, policies, procedures or programs applicable to our business or announcements relating to these matters.

In addition, if the market for technology stocks or the stock market in general experiences loss of investor confidence, the trading price of our common stock could decline for reasons unrelated to our business, financial condition or results of operations. The trading price of our common stock might also decline in reaction to events that affect other companies in our industry even if these events do not directly affect us. Some companies that have had volatile market prices for their securities have had securities class actions filed against them. Such a suit filed against us, regardless of its merits or outcome, could cause us to incur substantial costs and could divert management's attention.

If securities or industry analysts do not publish research or reports about our company, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that securities or industry analysts publish about us or our business. If one or more of the analysts who cover us downgrade our stock or publish inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, demand for our stock could decrease, which might cause our stock price and trading volume to decline.

The requirements of being a public company, including increased costs and demands upon management as a result of complying with federal securities laws and regulations applicable to public companies, may adversely affect our financial performance and our ability to attract and retain directors.

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, and the rules and regulations of The NASDAQ Global Market. The Sarbanes-Oxley Act, as well as rules subsequently implemented by the SEC and NASDAQ, impose additional requirements on public companies, including enhanced corporate governance practices. For example, the NASDAQ listing requirements require that listed companies satisfy certain corporate governance requirements relating to independent directors, audit committees, distribution of annual and interim reports, stockholder meetings, stockholder approvals, solicitation of proxies, conflicts of interest, stockholder voting rights and codes of business conduct. Our management team has limited experience managing a publicly-traded company or complying with the increasingly complex laws pertaining to public companies. In addition, most of our current directors have limited experience serving on the boards of public companies.

The requirements of these rules and regulations have increased and will continue to increase our legal, accounting and financial compliance costs, make some activities more difficult, time-consuming and costly and may also place undue strain on our personnel, systems and resources. Our management and other personnel must devote a substantial amount of time to these requirements. These rules and regulations will also make it more difficult and more expensive for us to maintain directors' and officers' liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to maintain coverage. If we are unable to maintain adequate directors' and officers' insurance, our ability to recruit and retain qualified directors, especially those directors who may be considered independent for purposes of NASDAQ rules, and officers may be significantly curtailed.

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

Use of Proceeds

In February 2012, we completed the initial public offering of shares of our common stock, in which we issued and sold 5,454,545 shares of common stock at a price to the public of \$5.00 per share, for aggregate gross proceeds to the Company of \$27.3 million, in each case excluding shares of common stock sold by selling stockholders in the offering. The offer and sale of all of the shares in the IPO were registered under the Securities Act pursuant to a registration statement on Form S-1 (File No. 333-178049), which was declared effective by the SEC on February 9, 2012. The syndicate of underwriters was led by Merrill Lynch, Pierce, Fenner & Smith Incorporated and Citigroup Global Markets Inc. as joint book-running managers for the offering. Stifel Nicolaus & Company, Incorporated, BMO Capital Markets Corp., Needham & Company, LLC and Oppenheimer & Co. Inc. served as co-managers for the offering.

The net proceeds to the Company from the initial public offering were approximately \$22.4 million after deducting underwriting discounts of \$1.9 million and offering costs of \$3.0 million. No payments for such offering costs were made directly or indirectly to (i) any of our officers or directors or their associates, (ii) any persons owning 10% or more of any class of our equity securities or (iii) any of our affiliates other than the payment of certain legal expenses on behalf of our selling stockholders.

There has been no material change in the planned use of proceeds from our initial public offering as described in our final prospectus filed with the SEC on February 10, 2012 pursuant to Rule 424(b).

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

Not applicable.

Item 6. Exhibits

The exhibits listed in the Index to Exhibits (following the signatures page of this Quarterly Report on Form 10-Q) are filed with, or incorporated by reference in, this Quarterly Report on Form 10-Q.

SIGNATURES

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

Date: November 14, 2013

SYNACOR, INC.

By: /s/ RONALD N. FRANKEL
Ronald N. Frankel
President and Chief Executive Officer
(Principal Executive Officer)

Date: November 14, 2013

By: /s/ WILLIAM J. STUART
William J. Stuart
Chief Financial Officer and Secretary
(Principal Financial and Accounting Officer)

EXHIBIT INDEX

Exhibit No.	Exhibit
10.1	Loan and Security Agreement between Silicon Valley Bank and Synacor, Inc. dated September 27, 2013.
10.2.1*	Amendment #1 to Master Services and Linking Agreement between Toshiba America Information Systems, Inc. and Synacor, Inc. dated December 1, 2011.
10.2.2*	Amendment #2 to Master Services and Linking Agreement between Toshiba America Information Systems, Inc. and Synacor, Inc. dated September 4, 2013.
10.2.3*	Amendment #3 to Master Services and Linking Agreement between Toshiba America Information Systems, Inc. and Synacor, Inc. dated September 4, 2013.
10.2.4	Amendment #4 to Master Services and Linking Agreement between Toshiba America Information Systems, Inc. and Synacor, Inc. dated September 4, 2013.
10.2.5*	Statement of Work #1 governed by Master Services and Linking Agreement between Toshiba America Information Systems, Inc. and Synacor, Inc. dated September 24, 2013.
31.1	Certifications of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certifications of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certifications of the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS†	XBRL Instance Document
101.SCH†	XBRL Taxonomy Schema Linkbase Document
101.CAL†	XBRL Taxonomy Calculation Linkbase Document
101.DEF†	XBRL Taxonomy Definition Linkbase Document
101.LAB†	XBRL Taxonomy Labels Linkbase Document
101.PRE†	XBRL Taxonomy Presentation Linkbase Document

* Confidential treatment requested for portions of this document. The omitted portions have been filed with the Securities and Exchange Commission.

† Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (this “ **Agreement** ”) dated as of September 27, 2013 (the “ **Effective Date** ”) between **SILICON VALLEY BANK** , a California corporation with a loan production office located at 275 Grove Street, Suite 2-200, Newton, Massachusetts 02466 (“ **Bank** ”), and **SYNACOR, INC.** , a Delaware corporation (“ **Borrower** ”), provides the terms on which Bank shall lend to Borrower and Borrower shall repay Bank. The parties agree as follows:

1. ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

2. LOAN AND TERMS OF PAYMENT

2.1 Promise to Pay . Borrower hereby unconditionally promises to pay Bank the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

2.1.1 **Revolving Advances.**

(a) Availability . Subject to the terms and conditions of this Agreement, Bank shall make Advances not exceeding the Availability Amount. Amounts borrowed under the Revolving Line may be repaid and, prior to the Revolving Line Maturity Date, reborrowed, subject to the applicable terms and conditions precedent herein.

(b) Termination; Repayment . The Revolving Line terminates on the Revolving Line Maturity Date, when the principal amount of all Advances, the unpaid interest thereon, and all other Obligations relating to the Revolving Line shall be immediately due and payable.

2.2 Overadvances . If, at any time, the outstanding principal amount of any Advances exceeds the lesser of either the Revolving Line or the Borrowing Base, Borrower shall immediately pay to Bank, on demand, in cash the amount of such excess (such excess, the “ **Overadvance** ”). Without limiting Borrower’s obligation to repay Bank any Overadvance, at Bank’s option, in its sole discretion, Borrower agrees to pay Bank interest on the outstanding amount of any Overadvance, on demand, at the Default Rate.

2.3 **Payment of Interest on the Credit Extensions.**

(a) Interest; Payment . Each Advance shall bear interest on the outstanding principal amount thereof from the date when made, continued or converted until paid in full at a rate per annum equal to (i) for Prime Rate Advances, the Prime Rate plus the Prime Rate Margin, and (ii) for LIBOR Advances, the LIBOR Rate plus the LIBOR Rate Margin. On and after the expiration of any Interest Period applicable to any LIBOR Advance outstanding on the date of occurrence of an Event of Default or acceleration of the Obligations, the amount of such LIBOR Advance shall, during the continuance of such Event of Default or after acceleration, bear interest at a rate per annum equal to the Prime Rate plus five percent (5.00%). Pursuant to the terms hereof, interest on each Advance shall be paid in arrears on each Interest Payment Date. Interest shall also be paid on the date of any prepayment of any Advance pursuant to this Agreement for the portion of any Advance so prepaid and upon payment (including prepayment) in full thereof. All accrued but unpaid interest on the Advances shall be due and payable on the Revolving Line Maturity Date.

(b) Prime Rate Advances. Each change in the interest rate of the Prime Rate Advances based on changes in the Prime Rate shall be effective on the effective date of such change and to the extent of such change.

(c) LIBOR Advances. The interest rate applicable to each LIBOR Advance shall be determined in accordance with Section 3.4(a) hereunder. Subject to Sections 3.5 and 3.6, such rate shall apply during the entire Interest Period applicable to such LIBOR Advance, and interest calculated thereon shall be payable on the Interest Payment Date applicable to such LIBOR Advance.

(d) Computation of Interest. Any interest hereunder will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days in the case of any Credit Extension outstanding in any Currency other than Pounds Sterling, and a year of 365 days in respect of any Credit Extension outstanding in Pounds Sterling. In computing interest on any Credit Extension, the date of the making of such Credit Extension shall be included and the date of payment shall be excluded; provided, however, that if any Credit Extension is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension.

(e) Default Rate. Upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is five percentage points (5.0%) above the rate that would otherwise be applicable thereto (the "**Default Rate**"). Payment or acceptance of the increased interest provided in this Section 2.3(e) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Bank.

2.4 Fees. Borrower shall pay to Bank:

(a) Commitment Fee. A fully earned, non-refundable commitment fee of Fifty Thousand Dollars (\$50,000.00), on the Effective Date;

(b) Termination Fee. Upon termination of this Agreement for any reason prior to the first anniversary of the Effective Date, in addition to the payment of any other amounts then-owing, a termination fee in an amount equal to One Hundred Thousand Dollars (\$100,000.00) shall be due and payable, provided that no termination fee shall be charged if the credit facility hereunder is replaced with a new facility from Bank;

(c) Unused Revolving Line Facility Fee. Payable quarterly in arrears on the last day of each calendar quarter occurring thereafter prior to the Revolving Line Maturity Date, and on the Revolving Line Maturity Date, a fee (the "**Unused Revolving Line Facility Fee**") in an amount equal to one half of one percent (0.50%) per annum of the average unused portion of the Revolving Line, as determined by Bank. The unused portion of the Revolving Line, for purposes of this calculation, shall be calculated on a calendar year basis and shall equal the difference between (i) the Revolving Line, and (ii) the average for the period of the daily closing balance of the Revolving Line outstanding; and

(d) Bank Expenses. All Bank Expenses (including reasonable attorneys' fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due (or, if no stated due date, upon demand by Bank).

(e) Fees Fully Earned. Unless otherwise provided in this Agreement or in a separate writing by Bank, Borrower shall not be entitled to any credit, rebate, or repayment of any fees earned by Bank pursuant to this Agreement notwithstanding any termination of this Agreement or the suspension or termination of Bank's obligation to make loans and advances hereunder. Bank may deduct amounts owing by Borrower under the clauses of this Section 2.4 pursuant to the terms of Section 2.5(c). Bank shall provide Borrower written notice of deductions made from the Designated Deposit Account pursuant to the terms of the clauses of this Section 2.4.

2.5 Payments; Application of Payments; Debit of Accounts.

(a) All payments to be made by Borrower under any Loan Document shall be made in immediately available funds in Dollars, without setoff or counterclaim, before 12:00 p.m. Eastern time on the date

when due. Payments of principal and/or interest received after 12:00 p.m. Eastern time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.

(b) Bank has the exclusive right to determine the order and manner in which all payments with respect to the Obligations may be applied. Borrower shall have no right to specify the order or the accounts to which Bank shall allocate or apply any payments required to be made by Borrower to Bank or otherwise received by Bank under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

(c) Bank may debit any of Borrower's deposit accounts, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes Bank when due. These debits shall not constitute a set-off.

3. CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Advance. Bank's obligation to make the initial Advance is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, such documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate, including, without limitation:

- (a) duly executed original signatures to the Loan Documents;
- (b) duly executed original signatures to the Control Agreements;
- (c) the Operating Documents and long-form good standing certificates of Borrower and its Subsidiaries certified by the Secretary of State (or equivalent agency) of Borrower's and such Subsidiaries' jurisdiction of organization or formation and each jurisdiction in which Borrower and each Subsidiary is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date;
- (d) duly executed original signatures to the completed Borrowing Resolutions for Borrower;
- (e) certified copies, dated as of a recent date, of financing statement searches, as Bank may request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Advance, will be terminated or released;
- (f) the Perfection Certificate(s) of Borrower together with the duly executed original signature(s) thereto;
- (g) evidence that the existing Liens against Borrower in favor of Bridge Bank, N.A. have been terminated;
- (h) a landlord's consent in favor of Bank for 40 La Riviere Dr., Suite 300, Buffalo, New York by the landlord thereof, together with the duly executed original signatures thereto;
- (i) a legal opinion of Borrower's counsel dated as of the Effective Date together with the duly executed original signature thereto;
- (j) evidence satisfactory to Bank that the insurance policies and endorsements required by Section 6.5 hereof are in full force and effect, together with appropriate evidence showing loss payable and/or additional insured clauses or endorsements in favor of Bank;
- (k) the completion of the Initial Audit with results satisfactory to Bank in its sole and absolute discretion; and

(l) payment of the fees and Bank Expenses then due as specified in Section 2.4 hereof.

3.2 Conditions Precedent to all Credit Extensions . Bank's obligations to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

(a) except as otherwise provided in Section 3.5(a), timely receipt of an executed Notice of Borrowing;

(b) the representations and warranties in this Agreement shall be true, accurate, and complete in all material respects on the date of the Notice of Borrowing and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in this Agreement remain true, accurate, and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(c) Bank determines to its satisfaction that there has not been any material impairment in the general affairs, management, results of operation, financial condition or the prospect of repayment of the Obligations, or any material adverse deviation by Borrower from the most recent business plan of Borrower presented to and accepted by Bank.

3.3 Covenant to Deliver . Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and the making of any Credit Extension in the absence of a required item shall be in Bank's sole discretion.

3.4 Procedures for Borrowing.

(a) Subject to the prior satisfaction of all other applicable conditions to the making of an Advance set forth in this Agreement, an Advance shall be made upon Borrower's irrevocable written notice delivered to Bank by electronic mail in the form of a Notice of Borrowing executed by an Authorized Signer or without instructions if any Advance is necessary to meet Obligations which have become due. Such Notice of Borrowing must be received by Bank prior to 12:00 p.m. Eastern time, (i) at least three (3) Business Days prior to the requested Funding Date, in the case of any LIBOR Advance, and (ii) on the requested Funding Date, in the case of a Prime Rate Advance, specifying: (1) the amount of the Advance; (2) the Currency in which such Advance shall be denominated; (3) the requested Funding Date; (4) whether the Advance is to be comprised of LIBOR Advances or Prime Rate Advances; and (5) the duration of the Interest Period applicable to any such LIBOR Advances included in such notice; provided that if the Notice of Borrowing shall fail to specify the duration of the Interest Period for any Advance comprised of LIBOR Advances, such Interest Period shall be one (1) month.

(b) On the Funding Date, Bank shall credit proceeds of an Advance to the Designated Deposit Account denominated in the same Currency as the Currency requested with respect to the Advance and, subsequently, shall transfer such proceeds by wire transfer to such other account as Borrower may instruct in the Notice of Borrowing. No Advances shall be deemed made to Borrower, and no interest shall accrue on any such Advance, until the related funds have been deposited in the applicable Designated Deposit Account.

3.5 Conversion and Continuation Elections.

(a) So long as (i) no Event of Default exists; (ii) Borrower shall not have sent any notice of termination of this Agreement; and (iii) Borrower shall have complied with such customary procedures as Bank has

established from time to time for Borrower's requests for LIBOR Advances, Borrower may, upon irrevocable written notice to Bank:

- (1) elect to convert on any Business Day, Prime Rate Advances into LIBOR Advances;
- (2) elect to continue on any Interest Payment Date any LIBOR Advances maturing on such Interest Payment Date; or
- (3) elect to convert on any Interest Payment Date any LIBOR Advances maturing on such Interest Payment Date into Prime Rate Advances.

(b) Borrower shall deliver a Notice of Conversion/Continuation by electronic mail to be received by Bank prior to 12:00 p.m. Eastern time (i) at least three (3) Business Days in advance of the Conversion Date or Continuation Date, if any Advances are to be converted into or continued as LIBOR Advances; and (ii) on the Conversion Date, if any Advances are to be converted into Prime Rate Advances, in each case specifying the:

- (1) proposed Conversion Date or Continuation Date;
- (2) aggregate amount of the Advances to be converted or continued;
- (3) nature of the proposed conversion or continuation; and
- (4) if the resulting Advance is to be a LIBOR Advance, the duration of the requested Interest Period.

(c) If upon the expiration of any Interest Period applicable to any LIBOR Advances, Borrower shall have timely failed to select a new Interest Period to be applicable to such LIBOR Advances or request to convert a LIBOR Advance into a Prime Rate Advance, Borrower shall be deemed to have elected to convert such LIBOR Advances into Prime Rate Advances.

(d) Any LIBOR Advances shall, at Bank's option, convert into Prime Rate Advances in the event that (i) an Event of Default exists, or (ii) the aggregate principal amount of the Prime Rate Advances which have been previously converted to LIBOR Advances, or the aggregate principal amount of existing LIBOR Advances continued, as the case may be, at the beginning of an Interest Period shall at any time during such Interest Period exceeds the lesser of the Revolving Line or the Borrowing Base. Borrower agrees to pay Bank, upon demand by Bank (or Bank may, at its option, debit the Designated Deposit Account or any other account Borrower maintains with Bank) any amounts required to compensate Bank for any loss (including loss of anticipated profits), cost, or expense incurred by Bank, as a result of the conversion of LIBOR Advances to Prime Rate Advances pursuant to this Section 3.5(d).

(e) Notwithstanding anything to the contrary contained herein, Bank shall not be required to purchase Dollar deposits in the London interbank market or other applicable LIBOR market to fund any LIBOR Advances, but the provisions hereof shall be deemed to apply as if Bank had purchased such deposits to fund the LIBOR Advances.

3.6 Special Provisions Governing LIBOR Advances . Notwithstanding any other provision of this Agreement to the contrary, the following provisions shall govern with respect to LIBOR Advances as to the matters covered:

(a) Determination of Applicable Interest Rate . As soon as practicable on each Interest Rate Determination Date, Bank shall determine (which determination shall, absent manifest error in calculation, be final, conclusive and binding upon all parties) the interest rate that shall apply to the LIBOR Advances for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Borrower.

(b) Inability to Determine Applicable Interest Rate. In the event that Bank shall have determined (which determination shall be final and conclusive and binding upon all parties hereto), on any Interest Rate Determination Date with respect to any LIBOR Advance, that by reason of circumstances affecting the London interbank market adequate and fair means do not exist for ascertaining the interest rate applicable to such LIBOR Advance on the basis provided for in the definition of LIBOR, Bank shall on such date give notice (by facsimile or by telephone confirmed in writing) to Borrower of such determination, whereupon (i) no Advances may be made as, or converted to, LIBOR Advances until such time as Bank notifies Borrower that the circumstances giving rise to such notice no longer exist, and (ii) any Notice of Borrowing or Notice of Conversion/Continuation given by Borrower with respect to LIBOR Advances in respect of which such determination was made shall be deemed to be rescinded by Borrower.

(c) Compensation for Breakage or Non-Commencement of Interest Periods. If (i) for any reason, other than a default by Bank or any failure of Bank to fund LIBOR Advances due to impracticability or illegality under Sections 3.7(c) and 3.7(d) of this Agreement, a borrowing or a conversion to or continuation of any LIBOR Advance does not occur on a date specified in a Notice of Borrowing or a Notice of Conversion/Continuation, as the case may be, or (ii) any complete or partial principal payment or reduction of a LIBOR Advance, or any conversion of any LIBOR Advance, occurs on a date prior to the last day of an Interest Period applicable to that LIBOR Advance, including due to voluntary or mandatory prepayment or acceleration, then, in each case, Borrower shall compensate Bank, upon written request by Bank, for all losses and expenses incurred by Bank in an amount equal to the excess, if any, of:

(A) the amount of interest that would have accrued on the amount (1) not borrowed, converted or continued as provided in clause (i) above, or (2) paid, reduced or converted as provided in clause (ii) above, for the period from (y) the date of such failure to borrow, convert or continue as provided in clause (i) above, or the date of such payment, reduction or conversion as provided in clause (ii) above, as the case may be, to (z) in the case of a failure to borrow, convert or continue as provided in clause (i) above, the last day of the Interest Period that would have commenced on the date of such borrowing, conversion or continuing but for such failure, and in the case of a payment, reduction or conversion prior to the last day of an Interest Period applicable to a LIBOR Advance as provided in clause (ii) above, the last day of such Interest Period, in each case at the applicable rate of interest or other return for such LIBOR Advance(s) provided for herein (excluding, however, the LIBOR Rate Margin included therein, if any), over

(B) the interest which would have accrued to Bank on the applicable amount provided in clause (A) above through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to the definition of LIBOR Rate on the date of such failure to borrow, convert or continue as provided in clause (i) above, or the date of such payment, reduction or conversion as provided in clause (ii) above, as the case may be, for a period equal to the remaining period of such applicable Interest Period provided in clause (ii) above.

Bank's request shall set forth the manner and method of computing such compensation and such determination as to such compensation shall be conclusive absent manifest error.

(d) Assumptions Concerning Funding of LIBOR Advances. Calculation of all amounts payable to Bank under this Section 3.6 and under Section 3.7 shall be made as though Bank had actually funded each relevant LIBOR Advance through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to the definition of LIBOR Rate in an amount equal to the amount of such LIBOR Advance and having a maturity comparable to the relevant Interest Period; provided, however, that Bank may fund each of its LIBOR Advances in any manner it sees fit and the foregoing assumptions shall be utilized only for the purposes of calculating amounts payable under this Section 3.6 and under Section 3.7.

(c) LIBOR Advances After Default. After the occurrence and during the continuance of an Event of Default, (i) Borrower may not elect to have an Advance be made or continued as, or converted to, a LIBOR Advance after the expiration of any Interest Period then in effect for such Advance and (ii) subject to the provisions of Section 3.6(c), any Notice of Conversion/Continuation given by Borrower with respect to a requested conversion/continuation that has not yet occurred shall, at Bank's option, be deemed to be rescinded by Borrower and be deemed a request to convert or continue Advances referred to therein as Prime Rate Advances.

3.7 Additional Requirements/Provisions Regarding LIBOR Advances.

(a) Borrower shall pay Bank, upon demand by Bank, from time to time such actual amounts as Bank may reasonably determine to be necessary to compensate Bank for any costs incurred by Bank that Bank reasonably determines are attributable to its making or maintaining of any amount receivable by Bank hereunder in respect of any LIBOR Advances relating thereto (such increases in costs and reductions in amounts receivable being herein called "**Additional Costs**"), in each case resulting from any Regulatory Change which:

- (i) changes the basis of taxation of any amounts payable to Bank under this Agreement in respect of any LIBOR Advances (other than changes which affect taxes measured by or imposed on the overall net income of Bank by the jurisdiction in which Bank has its principal office);
- (ii) imposes or modifies any reserve, special deposit or similar requirements relating to any extensions of credit or other assets of, or any deposits with, or other liabilities of Bank (including any LIBOR Advances or any deposits referred to in the definition of LIBOR); or
- (iii) imposes any other condition affecting this Agreement (or any of such extensions of credit or liabilities).

Bank will notify Borrower of any event occurring after the Effective Date which will entitle Bank to compensation pursuant to this Section 3.7(a) as promptly as practicable after it obtains knowledge thereof and determines to request such compensation. Bank will furnish Borrower with a statement setting forth the basis and amount of each request by Bank for compensation under this Section 3.7(a). Determinations and allocations by Bank for purposes of this Section 3.7(a) of the effect of any Regulatory Change on its costs of maintaining its obligations to make LIBOR Advances, of making or maintaining LIBOR Advances, or on amounts receivable by it in respect of LIBOR Advances, and of the additional amounts required to compensate Bank in respect of any Additional Costs, shall be conclusive absent manifest error.

(b) If Bank shall determine that the adoption or implementation of any applicable law, rule, regulation, or treaty regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank, or comparable agency charged with the interpretation or administration thereof, or compliance by Bank (or its applicable lending office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank, or comparable agency, has or would have the effect of reducing the rate of return on capital of Bank or any person or entity controlling Bank (a "**Parent**") as a consequence of its obligations hereunder to a level below that which Bank (or its Parent) could have achieved but for such adoption, change, or compliance (taking into consideration policies with respect to capital adequacy) by an amount deemed by Bank to be material, then from time to time, within five (5) days after demand by Bank, Borrower shall pay to Bank such additional amount or amounts as will compensate Bank for such reduction. A statement of Bank claiming compensation under this Section 3.7(b) and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive absent manifest error.

Notwithstanding anything to the contrary in this Section 3.7, Borrower shall not be required to compensate Bank pursuant to this Section 3.7(b) for any amounts incurred more than six (6) months prior to the date that Bank notifies Borrower of Bank's intention to claim compensation therefor; provided that if the circumstances giving rise to such claim have a retroactive effect, then such six-month period shall be extended to include the period of such retroactive effect. The obligations of the Borrower arising pursuant to this Section 3.7(b) shall survive the Revolving Line Maturity Date, the termination of this Agreement and the repayment of all Obligations.

(c) If, at any time, Bank, in its sole and absolute discretion, determines that (i) the amount of LIBOR Advances for periods equal to the corresponding Interest Periods are not available to Bank in the offshore currency interbank markets, or (ii) LIBOR does not accurately reflect the cost to Bank of lending the LIBOR Advances, then Bank shall promptly give notice thereof to Borrower. Upon the giving of such notice, Bank's obligation to make the LIBOR Advances shall terminate; provided, however, LIBOR Advances shall not terminate if Bank and Borrower agree in writing to a different interest rate applicable to LIBOR Advances.

(d) If it shall become unlawful for Bank to continue to fund or maintain any LIBOR Advances, or to perform its obligations hereunder, upon demand by Bank, Borrower shall prepay the LIBOR Advances in full with accrued interest thereon and all other amounts payable by Borrower hereunder (including, without limitation, any amount payable in connection with such prepayment pursuant to Section 3.6(c)(ii)). Notwithstanding the foregoing, to the extent a determination by Bank as described above relates to a LIBOR Advance then being requested by Borrower pursuant to a Notice of Borrowing or a Notice of Conversion/Continuation, Borrower shall have the option, subject to the provisions of Section 3.6(c)(ii), to (i) rescind such Notice of Borrowing or Notice of Conversion/Continuation by giving notice (by facsimile or by telephone confirmed in writing) to Bank of such rescission on the date on which Bank gives notice of its determination as described above, or (ii) modify such Notice of Borrowing or Notice of Conversion/Continuation to obtain a Prime Rate Advance or to have outstanding Advances converted into or continued as Prime Rate Advances by giving notice (by facsimile or by telephone confirmed in writing) to Bank of such modification on the date on which Bank gives notice of its determination as described above.

4. CREATION OF SECURITY INTEREST

4.1 Grant of Security Interest. Borrower hereby grants Bank, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Bank, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

Borrower acknowledges that it previously has entered, and/or may in the future enter, into Bank Services Agreements with Bank. Regardless of the terms of any Bank Services Agreement, Borrower agrees that any amounts Borrower owes Bank thereunder shall be deemed to be Obligations hereunder and that it is the intent of Borrower and Bank to have all such Obligations secured by the first priority perfected security interest in the Collateral granted herein (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien in this Agreement).

If this Agreement is terminated, Bank's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as Bank's obligation to make Credit Extensions has terminated, Bank shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower. In the event (x) all Obligations (other than inchoate indemnity obligations), except for Bank Services, are satisfied in full, and (y) this Agreement is terminated, Bank shall terminate the security interest granted herein upon Borrower providing cash collateral acceptable to Bank in its good faith business judgment for Bank Services, if any. In the event such Bank Services consist of outstanding Letters of Credit, Borrower shall provide to Bank cash collateral in an amount equal to (x) if such Letters of Credit are denominated in Dollars, then at least one hundred five percent (105.0%); and (y) if such Letters of Credit are denominated in a Foreign Currency, then at least one hundred ten percent (110.0%), of the Dollar Equivalent of the face amount of all such Letters of Credit plus all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its business judgment), to secure all of the Obligations relating to such Letters of Credit.

4.2 Priority of Security Interest . Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien under this Agreement). If Borrower shall acquire a commercial tort claim, Borrower shall promptly notify Bank in a writing signed by Borrower of the general details thereof and grant to 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 Bank.

4.3 Authorization to File Financing Statements . Borrower hereby authorizes Bank to file financing statements, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Bank under the Code.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as follows:

5.1 Due Organization, Authorization; Power and Authority . Borrower is duly existing and in good standing in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business. In connection with this Agreement, Borrower has delivered to Bank a completed certificate signed by Borrower, entitled "Perfection Certificate". Borrower represents and warrants to Bank that (a) Borrower's exact legal name is that indicated on the Perfection Certificate and on the signature page hereof; (b) Borrower is an organization of the type and is organized in the jurisdiction set forth in the Perfection Certificate; (c) the Perfection Certificate accurately sets forth Borrower's organizational identification number or accurately states that Borrower has none; (d) the Perfection Certificate accurately sets forth Borrower's place of business, or, if more than one, its chief executive office as well as Borrower's mailing address (if different than its chief executive office); (e) Borrower (and each of its predecessors) has not, in the past five (5) years, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Perfection Certificate pertaining to Borrower and each of its Subsidiaries is accurate and complete (it being understood and agreed that Borrower may from time to time update certain information in the Perfection Certificate after the Effective Date to the extent permitted by one or more specific provisions in this Agreement).

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect) or (v) conflict with, contravene, constitute a default or breach under, or result in or permit the termination or acceleration of, any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's business.

5.2 Collateral . Borrower has good title to, rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien hereunder, free and clear of any and all Liens except Permitted Liens. Borrower has no Collateral Accounts at or with any bank or financial institution other than Bank or Bank's Affiliates except for the Collateral Accounts described in the Perfection Certificate delivered to Bank in connection herewith and which Borrower has taken such actions as are necessary to give Bank a perfected security interest therein, pursuant to the term of Section 6.6(b). The Accounts are bona fide, existing obligations of the Account Debtors.

The Collateral is not in the possession of any third party bailee (such as a warehouse) except as otherwise provided in the Perfection Certificate. None of the components of the Collateral shall be maintained at locations other than as provided in the Perfection Certificate or as permitted pursuant to Section 7.2.

Borrower is the sole owner of the Intellectual Property which it owns or purports to own except for (a) non-exclusive licenses granted to its customers in the ordinary course of business, (b) over-the-counter software that is commercially available to the public, and (c) material Intellectual Property licensed to Borrower and noted on the Perfection Certificate. To Borrower's knowledge, each Patent which it owns or purports to own and which is material to Borrower's business is valid and enforceable, and no part of the Intellectual Property which Borrower

owns or purports to own and which is material to Borrower's business has been judged invalid or unenforceable, in whole or in part. To the best of Borrower's knowledge, no claim has been made that any part of the Intellectual Property violates the rights of any third party except to the extent such claim would not reasonably be expected to have a material adverse effect on Borrower's business.

5.3 Accounts Receivable.

(a) For any Eligible Account in any Borrowing Base Certificate, all statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing such Eligible Accounts are and shall be true and correct and all such invoices, instruments and other documents, and all of Borrower's Books are genuine and in all respects what they purport to be.

(b) All sales and other transactions underlying or giving rise to each Eligible Account shall comply in all material respects with all applicable laws and governmental rules and regulations. Borrower has no knowledge of any actual or imminent Insolvency Proceeding of any Account Debtor whose accounts are Eligible Accounts in any Borrowing Base Certificate. To the best of Borrower's knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Eligible Accounts are genuine, and all such documents, instruments and agreements are legally enforceable in accordance with their terms.

5.4 Litigation . Except as set forth in the Perfection Certificate, there are no actions or proceedings pending or, to the knowledge of any Responsible Officer, threatened in writing by or against Borrower or any of its Subsidiaries involving more than, individually or in the aggregate, Fifty Thousand Dollars (\$50,000.00).

5.5 Financial Statements; Financial Condition . All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Bank fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations. There has not been any material deterioration in Borrower's consolidated financial condition since the date of the most recent financial statements submitted to Bank.

5.6 Solvency . The fair salable value of Borrower's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of Borrower's liabilities; Borrower is not left with unreasonably small capital after the transactions in this Agreement; and Borrower is able to pay its debts (including trade debts) as they mature.

5.7 Regulatory Compliance . Borrower is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Borrower is not engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower (a) has complied in all material respects with all Requirements of Law, and (b) has not violated any Requirements of Law the violation of which could reasonably be expected to have a material adverse effect on its business. None of Borrower's or any of its Subsidiaries' properties or assets has been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries have obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Government Authorities that are necessary to continue their respective businesses as currently conducted.

5.8 Subsidiaries; Investments . Borrower does not own any stock, partnership, or other ownership interest or other equity securities except for Permitted Investments.

5.9 Tax Returns and Payments; Pension Contributions . Borrower has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except (a) to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor, or (b) if such taxes,

assessments, deposits and contributions do not, individually or in the aggregate, exceed Twenty-Five Thousand Dollars (\$25,000.00).

To the extent Borrower defers payment of any contested taxes, Borrower shall (i) notify Bank in writing of the commencement of, and any material development in, the proceedings, and (ii) post bonds or take any other steps required to prevent the governmental authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "Permitted Lien." Borrower is unaware of any claims or adjustments proposed for any of Borrower's prior tax years which could result in additional taxes becoming due and payable by Borrower. Borrower has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and Borrower has not withdrawn from participation in, and has not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

5.10 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions solely to fund its general business requirements and not for personal, family, household or agricultural purposes.

5.11 Full Disclosure. No written representation, warranty or other statement of Borrower in any certificate or written statement given to Bank, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to Bank, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized by Bank that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

5.12 Definition of "Knowledge." For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of any Responsible Officer.

6. AFFIRMATIVE COVENANTS

Borrower shall do all of the following:

6.1 Government Compliance.

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on Borrower's business or operations. Borrower shall comply, and have each Subsidiary comply, in all material respects, with all laws, ordinances and regulations to which it is subject.

(b) Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Bank in all of its property. Borrower shall promptly provide copies of any such obtained Governmental Approvals to Bank.

6.2 Financial Statements, Reports, Certificates. Provide Bank with the following:

(a) Borrowing Base Reports. Within thirty (30) days after the last day of each month, (i) aged listings of accounts receivable and accounts payable (by invoice date) and (ii) Deferred Revenue report (the "**Borrowing Base Reports**");

(b) Borrowing Base Certificate. Within thirty (30) days after the last day of each month and together with the Borrowing Base Reports, a duly completed Borrowing Base Certificate signed by a Responsible Officer;

(c) Monthly Financial Statements. As soon as available, but no later than thirty (30) days after the last day of each month, a company prepared consolidated balance sheet, cash flow and income statement covering Borrower's consolidated operations for such month certified by a Responsible Officer and in a form acceptable to Bank (the "**Monthly Financial Statements**");

(d) Monthly Compliance Certificate. Within thirty (30) days after the last day of each month and together with the Monthly Financial Statements, a duly completed Compliance Certificate signed by a Responsible Officer, certifying that as of the end of such month, Borrower was in full compliance with all of the terms and conditions of this Agreement, and setting forth calculations showing compliance with the financial covenants set forth in this Agreement and such other information as Bank may reasonably request;

(e) Annual Operating Budget and Financial Projections. Within forty five (45) days after the end of each fiscal year of Borrower or as otherwise updated, (i) annual operating budgets (including income statements, balance sheets and cash flow statements, by month) for the upcoming fiscal year of Borrower, and (ii) annual financial projections for the current fiscal year (on a quarterly basis) as approved by Borrower's board of directors, together with any related business forecasts used in the preparation of such annual financial projections;

(f) Annual Audited Financial Statements. As soon as available, but no later than one hundred twenty (120) days after the last day of Borrower's fiscal year, if not otherwise publicly available, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Bank;

(g) Other Statements. Within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Subordinated Debt;

(h) Legal Action Notice. A prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, Two Hundred Fifty Thousand Dollars (\$250,000) or more; and

(i) Other Financial Information. Other financial information reasonably requested by Bank.

6.3 Inventory; Returns. Keep all Inventory in good and marketable condition, free from material defects. Returns and allowances between Borrower and its Account Debtors shall follow Borrower's customary practices as they exist at the Effective Date. Borrower must promptly notify Bank of all returns, recoveries, disputes and claims regarding inventory that involve more than One Hundred Thousand Dollars (\$100,000).

6.4 Taxes; Pensions. Timely file, and require each of its Subsidiaries to timely file, all required tax returns and reports and timely pay, and require each of its Subsidiaries to timely pay, all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower and each of its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.9 hereof, and shall deliver to Bank, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

6.5 Insurance.

(a) Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Bank may reasonably request. Insurance policies shall be in a form, with financially sound and reputable insurance companies that are not Affiliates of Borrower, and in amounts that are satisfactory to Bank. All property policies shall have a lender's loss payable endorsement showing Bank as lender loss payee. All liability policies shall show, or have endorsements showing, Bank as an additional insured. Bank shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral.

(b) Ensure that proceeds payable under any property policy are, at Bank's option, payable to Bank on account of the Obligations.

(c) At Bank's request, Borrower shall deliver certified copies of insurance policies and evidence of all premium payments. Each provider of any such insurance required under this Section 6.5 shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Bank, that it will give Bank thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled. If Borrower fails to obtain insurance as required under this Section 6.5 or to pay any amount or furnish any required proof of payment to third persons and Bank, Bank may make all or part of such payment or obtain such insurance policies required in this Section 6.5, and take any action under the policies Bank deems prudent.

6.6 Operating Accounts.

(a) Maintain its primary and its United States Subsidiaries' primary operating, other deposit accounts and, securities accounts with Bank and Bank's Affiliates all of which accounts shall represent at least fifty percent (50%) of the dollar value of Borrower's and such Subsidiaries accounts at all financial institutions.

(b) For each Collateral Account that Borrower at any time maintains, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Bank's Lien in such Collateral Account in accordance with the terms hereunder which Control Agreement may not be terminated without the prior written consent of Bank. The provisions of the previous sentence shall not apply to: (i) deposit accounts exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of Borrower's employees and identified to Bank by Borrower as such, and (ii) Excluded Accounts.

6.7 Financial Covenants . Maintain at all times, subject to periodic reporting as of the last day of each quarter, unless otherwise noted, on a consolidated basis with respect to Borrower:

(a) Adjusted Quick Ratio. A ratio of Quick Assets to outstanding Obligations of at least 2.50 to 1.0.

(b) EBITDA. Maintain, measured as of the end of each fiscal quarter on a trailing twelve month basis, EBITDA of at least One Million Five Hundred Thousand Dollars (\$1,500,000.00).

6.8 Protection and Registration of Intellectual Property Rights.

(a) (i) Protect, defend and maintain the validity and enforceability of its Intellectual Property; (ii) promptly advise Bank in writing of material infringements or any other event that could reasonably be expected to materially and adversely affect the value of its Intellectual Property that is material to Borrower's business; and (iii) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Bank's written consent.

(b) To the extent not already disclosed in writing to Bank, if Borrower (i) obtains any Patent, registered Trademark, registered Copyright, registered mask work, or any pending application for any of the foregoing, whether as owner, licensee or otherwise, or (ii) applies for any Patent or the registration of any Trademark, then Borrower shall immediately provide written notice thereof to Bank and shall execute such intellectual property security agreements and other documents and take such other actions as Bank may request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Bank in such property. If Borrower decides to register any Copyrights or mask works in the United States Copyright Office, Borrower shall: (x) provide Bank with at least fifteen (15) days prior written notice of Borrower's intent to register such Copyrights or mask works together with a copy of the application it intends to file with the United States Copyright Office (excluding exhibits thereto); (y) execute an intellectual property security agreement and such other documents and take such other actions as Bank may request in its good faith business judgment to perfect and maintain a first priority perfected security interest in favor of Bank in the Copyrights or mask works intended to be registered with the United States Copyright Office; and (z) record such intellectual property security agreement with the United States Copyright Office contemporaneously with filing the Copyright or mask work application(s) with the United States Copyright Office. Borrower shall promptly provide to Bank copies of all applications that it files

for Patents or for the registration of Trademarks, Copyrights or mask works, together with evidence of the recording of the intellectual property security agreement required for Bank to perfect and maintain a first priority perfected security interest in such property.

(c) Provide written notice to Bank within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public). Borrower shall take such steps as Bank requests to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (i) any Restricted License to be deemed "Collateral" and for Bank to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such Restricted License, whether now existing or entered into in the future, and (ii) Bank to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Bank's rights and remedies under this Agreement and the other Loan Documents.

6.9 Litigation Cooperation . From the date hereof and continuing through the termination of this Agreement, make available to Bank, without expense to Bank, Borrower and its officers, employees and agents and Borrower's books and records, to the extent that Bank may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Bank with respect to any Collateral or relating to Borrower.

6.10 Access to Collateral; Books and Records . Allow Bank, or its agents, to inspect the Collateral and audit and copy Borrower's Books. Such inspections or audits shall be conducted no more often than once every twelve (12) months unless an Event of Default has occurred and is continuing in which case such inspections and audits shall occur as often as Bank shall determine is necessary. The foregoing inspections and audits shall be at Borrower's expense, and the charge therefor shall be \$850 per person per day (or such higher amount as shall represent Bank's then-current standard charge for the same), plus reasonable out-of-pocket expenses. In the event Borrower and Bank schedule an audit more than ten (10) days in advance, and Borrower cancels or seeks to reschedule the audit with less than ten (10) days written notice to Bank, then (without limiting any of Bank's rights or remedies), Borrower shall pay Bank a fee of \$1,000 plus any out-of-pocket expenses incurred by Bank to compensate Bank for the anticipated costs and expenses of the cancellation or rescheduling.

6.11 Lockbox; Account Collection Services . On the Effective Date and at all times thereafter, Borrower shall direct: (a) each Account Debtor, other than Account Debtors who remit payments electronically, (and each depository institution where proceeds of Accounts are on deposit) to remit payments with respect to the Accounts to a lockbox account established with Bank and (b) each Account Debtor who remit payments electronically, to wire transfer payments to the Designated Deposit Account ((a) and (b), collectively the " **Lockbox** "). It will be considered an immediate Event of Default if the Lockbox is not established and operational on the Effective Date and at all times thereafter.

6.12 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 after the Effective Date, 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 that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien under this Agreement) in and to the assets of such newly formed or acquired Subsidiary), (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, and (c) provide to Bank all other documentation in form and substance satisfactory to Bank which in its opinion is appropriate with respect to the execution and delivery of the applicable documentation referred to above. Any document, agreement, or instrument executed or issued pursuant to this Section 6.12 shall be a Loan Document.

6.13 Further Assurances . Execute any further instruments and take further action as Bank reasonably requests to perfect or continue Bank's Lien in the Collateral or to effect the purposes of this Agreement.

7. NEGATIVE COVENANTS

Borrower shall not do any of the following without Bank's prior written consent:

7.1 Dispositions. Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, "Transfer"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn-out or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower; (c) consisting of Permitted Liens and Permitted Investments; (d) consisting of the sale or issuance of any stock of Borrower permitted under Section 7.2 of this Agreement; (e) consisting of Borrower's use or transfer of money or Cash Equivalents in the ordinary course of its business for the payment of ordinary course business expenses in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents.

7.2 Changes in Business, Management, Ownership, Control, or Business Locations. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses currently engaged in by Borrower and such Subsidiary, as applicable, or reasonably related thereto; (b) liquidate or dissolve; or (c) (i) fail to provide notice to Bank of any change in senior management; or (ii) permit or suffer any Change in Control.

Borrower shall not, without at least fifteen (15) days prior written notice to Bank: (1) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than One Hundred Thousand Dollars (\$100,000) in Borrower's assets or property) or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars (\$100,000) to a bailee at a location other than to a bailee and at a location already disclosed in the Perfection Certificate, (2) change its jurisdiction of organization, (3) change its organizational structure or type, (4) change its legal name, or (5) change any organizational number (if any) assigned by its jurisdiction of organization. If Borrower intends to deliver any portion of the Collateral valued, individually or in the aggregate, in excess of One Hundred Thousand Dollars (\$100,000) to a bailee, and Bank and such bailee are not already parties to a bailee agreement governing both the Collateral and the location to which Borrower intends to deliver the Collateral, then Borrower will first receive the written consent of Bank, and such bailee shall execute and deliver a bailee agreement in form and substance satisfactory to Bank.

7.3 Mergers or Acquisitions. Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (including, without limitation, by the formation of any Subsidiary) except for Permitted Acquisitions. A Subsidiary may merge or consolidate into another Subsidiary or into Borrower.

7.4 Indebtedness. Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

7.5 Encumbrance. Create, incur, allow, or suffer any Lien on any of its property, or assign or 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, permit any Collateral not to be subject to the first priority security interest granted herein, or enter into any agreement, document, instrument or other arrangement (except with or in favor of Bank) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of "Permitted Liens" herein.

7.6 Maintenance of Collateral Accounts. Maintain any Collateral Account except pursuant to the terms of Section 6.6(b) hereof.

7.7 Distributions; Investments. (a) Pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock provided that Borrower may repurchase stock pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase, provided that (i) the aggregate amount of all such repurchases does not exceed Ten Million Dollars (\$10,000,000.00) and (ii) immediately after giving effect to such repurchases, Borrower shall have Liquidity of no less than Fifteen Million Dollars (\$15,000,000.00); or (b) directly or indirectly make any

Investment (including, without limitation, by the formation of any Subsidiary) other than Permitted Investments, or permit any of its Subsidiaries to do so.

7.8 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower, except for 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.

7.9 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof, provide for earlier or greater principal, interest, or other payments thereon, or adversely affect the subordination thereof to Obligations owed to Bank.

7.10 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to (a) meet the minimum funding requirements of ERISA, (b) prevent a Reportable Event or Prohibited Transaction, as defined in ERISA, from occurring, or (c) comply with the Federal Fair Labor Standards Act, the failure of any of the conditions described in clauses (a) through (c) which could reasonably be expected to have a material adverse effect on Borrower's business; or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

8. EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Credit Extension when due, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which cure period shall not apply to payments due on the Revolving Line Maturity Date). During the cure period, the failure to make or pay any payment specified under clause (b) hereunder is not an Event of Default (but no Credit Extension will be made during the cure period);

8.2 Covenant Default.

(a) Borrower fails or neglects to perform any obligation in Sections 6.2, 6.4, 6.5, 6.6, 6.7, 6.8(c), 6.10, 6.11 or 6.12 or violates any covenant in Section 7; or

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to financial covenants or any other covenants set forth in clause (a) above;

8.3 Material Adverse Change . A Material Adverse Change occurs;

8.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary), or (ii) a notice of lien or levy is filed against any of Borrower's assets by any Governmental Authority, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; or

(b) (i) any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower from conducting all or any material part of its business;

8.5 Insolvency . (a) Borrower or any of its Subsidiaries fails to be solvent as described under Section 5.6 hereof; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and is not dismissed or stayed within thirty (30) days (but no Credit Extensions shall be made while any of the conditions described in clause (a) exist and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements . There is, under any agreement to which Borrower or any Guarantor is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of Fifty Thousand Dollars (\$50,000); or (b) any breach or default by Borrower or Guarantor, the result of which could have a material adverse effect on Borrower's or any Guarantor's business;

8.7 Judgments; Penalties . One or more fines, penalties or final judgments, orders or decrees for the payment of money in an amount, individually or in the aggregate, of at least Two Hundred Fifty Thousand Dollars (\$250,000) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower by any Governmental Authority, and the same are not, within twenty (20) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Credit Extensions will be made prior to the satisfaction, payment, discharge, stay, or bonding of such fine, penalty, judgment, order or decree);

8.8 Misrepresentations . Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Bank or to induce Bank to enter into this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

8.9 Subordinated Debt . Any document, instrument, or agreement evidencing any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement; or

8.10 Post-Closing . Within thirty (30) days after the Effective Date, Bank shall have received in form and substance satisfactory to Bank, (a) a Control Agreement executed by M&T Bank with respect to Borrower's account no. 985887192 at M&T Bank, (b) a Control Agreement executed by City National Bank with respect to Borrower's account no. 123576063 at City National Bank, and (c) a landlord's consent in favor of Bank for each of (i) 1033 Jefferson Street, NW, Atlanta, Georgia, and (ii) 8180 Green Meadows Drive, Lewis Center, OH, in each case, by the landlord thereof, together with the duly executed original signatures thereto.

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, without notice or demand, do any or all of the following:

- (a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations are immediately due and payable without any action by Bank);
- (b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Bank;
- (c) demand that Borrower (i) deposit cash with Bank in an amount equal to at least 105% of the Dollar Equivalent of the aggregate face amount of all Letters of Credit remaining undrawn (plus all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment)), to secure all of the Obligations relating to such Letters of Credit, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrower shall forthwith deposit and pay such amounts, and (ii) pay in advance all letter of credit fees scheduled to be paid or payable over the remaining term of any Letters of Credit;
- (d) verify the amount of, demand payment of and performance under, and collect any Accounts and General Intangibles, settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Bank considers advisable, and notify any Person owing Borrower money of Bank's security interest in such funds;
- (e) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Bank requests and make it available as Bank designates. Bank may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Bank a license to enter and occupy any of its premises, without charge, to exercise any of Bank's rights or remedies;
- (f) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) any amount held by Bank owing to or for the credit or the account of Borrower;
- (g) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Bank is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, Patents, Copyrights, mask works, rights of use of any name, trade secrets, trade names, Trademarks, and advertising matter, or any similar property 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, Borrower's rights under all licenses and all franchise agreements inure to Bank's benefit;
- (h) place a "hold" on any account maintained with Bank and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;
- (i) demand and receive possession of Borrower's Books; and
- (j) exercise all rights and remedies available to Bank under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

9.2 Power of Attorney . Borrower hereby irrevocably appoints Bank as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's name on any checks or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account Debtors, for amounts and on terms Bank determines reasonable; (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security

interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Bank or a third party as the Code permits. Borrower hereby appoints Bank as its lawful attorney-in-fact to sign Borrower's name on any documents necessary to perfect or continue the perfection of Bank's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and Bank is under no further obligation to make Credit Extensions hereunder. Bank's foregoing appointment as Borrower's attorney-in-fact, and all of Bank's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and Bank's obligation to provide Credit Extensions terminates.

9.3 Protective Payments . If Borrower fails to obtain the insurance called for by Section 6.5 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document or which may be required to preserve the Collateral, Bank may obtain such insurance or make such payment, and all amounts so paid by Bank are Bank Expenses and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Bank will make reasonable efforts to provide Borrower with notice of Bank obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Bank are deemed an agreement to make similar payments in the future or Bank's waiver of any Event of Default.

9.4 Application of Payments and Proceeds Upon Default . If an Event of Default has occurred and is continuing, Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations. Borrower shall remain liable to Bank for any deficiency, but in the event of a surplus, Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

9.5 Bank's Liability for Collateral . So long as Bank exercises reasonable care in compliance with the Code, regarding the safekeeping of the Collateral in the possession or under the control of Bank, Bank shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

9.6 No Waiver; Remedies Cumulative . Bank's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Bank thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Bank's rights and remedies under this Agreement and the other Loan Documents are cumulative. Bank has all rights and remedies provided under the Code, by law, or in equity. Bank's exercise of one right or remedy is not an election and shall not preclude Bank from exercising any other remedy under this Agreement or other remedy available at law or in equity, and Bank's waiver of any Event of Default is not a continuing waiver. Bank's delay in exercising any remedy is not a waiver, election, or acquiescence.

9.7 Demand Waiver . Borrower waives demand, 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 held by Bank on which Borrower is 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: Synacor, Inc
Buffalo, NY 14202

40 La Riviere Dr., Suite 300
Attn: Chief Financial Officer
Fax: 716-332-0081
Email: wstuart@synacor.com

with a copy to: Synacor, Inc.

40 La Riviere Drive, Suite 300
Buffalo, NY 14202
Attn: Legal Department
Email: legaldept@synacor.com

If to Bank: Silicon Valley Bank
Newton, Massachusetts 02466

275 Grove Street, Suite 2-200
Attn: Russell Follansbee
Fax: (617) 969-5973
Email: rfollansbee@svb.com

with a copy to: Riemer & Braunstein LLP

Three Center Plaza
Boston, Massachusetts 02108
Attn: David A. Ephraim, Esquire
Fax: (617) 880-3456
Email: DEphraim@riemerlaw.com

11. CHOICE OF LAW, VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE

Except as otherwise expressly provided in any of the Loan Documents, New York law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Bank each submit to the exclusive jurisdiction of the State and Federal courts in New York, New York; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Bank from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Bank. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

BORROWER AND BANK EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL .

This Section 11 shall survive the termination of this Agreement.

12. GENERAL PROVISIONS

12.1 Termination Prior to Revolving Line Maturity Date; Survival . All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to its terms and all Obligations have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations, any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement), this Agreement may be terminated prior to the Revolving Line Maturity Date by Borrower, effective three (3) Business Days after written notice of termination is given to Bank. Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination.

12.2 Successors and Assigns . This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Bank's prior written consent (which may be granted or withheld in Bank's discretion). Bank has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents.

12.3 Indemnification . Borrower agrees to indemnify, defend and hold Bank and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Bank (each, an " **Indemnified Person** ") harmless against: (i) all obligations, demands, claims, and liabilities (collectively, " **Claims** ") claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (ii) all losses or expenses (including Bank Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Bank and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct.

This Section 12.3 shall survive until all statutes of limitation with respect to the Claims, losses, and expenses for which indemnity is given shall have run.

12.4 Time of Essence . Time is of the essence for the performance of all Obligations in this Agreement.

12.5 Severability of Provisions . Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.6 Correction of Loan Documents . Bank may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties.

12.7 Amendments in Writing; Waiver; Integration . No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the party against which enforcement or admission is sought. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver. The Loan Documents represent the entire agreement about their subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

12.8 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, is an original, and all taken together, constitute one Agreement.

12.9 Confidentiality . In handling any confidential information, Bank shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (a) to Bank's Subsidiaries or Affiliates (such Subsidiaries and Affiliates, together with Bank, collectively, "**Bank Entities**"); (b) to prospective transferees or purchasers of any interest in the Credit Extensions (provided, however, Bank shall use its best efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Bank's regulators or as otherwise required in connection with Bank's examination or audit; (e) as Bank considers appropriate in exercising remedies under the Loan Documents; and (f) to third-party service providers of Bank so long as such service providers have executed a confidentiality agreement with Bank with terms no less restrictive than those contained herein. Confidential information does not include information that is either: (i) in the public domain or in Bank's possession when disclosed to Bank, or becomes part of the public domain (other than as a result of its disclosure by Bank in violation of this Agreement) after disclosure to Bank; or (ii) disclosed to Bank by a third party, if Bank does not know that the third party is prohibited from disclosing the information.

Bank Entities may use anonymous forms of confidential information for aggregate datasets, for analyses or reporting, and for any other uses not expressly prohibited in writing by Borrower. The provisions of the immediately preceding sentence shall survive termination of this Agreement.

12.10 Right of Set Off. Borrower hereby grants to Bank, a lien, security interest and right of set off as security for all Obligations to Bank, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Bank or any entity under the control of Bank (including a Bank subsidiary) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Bank may set off the same or any part thereof and apply the same to any liability or obligation of Borrower then due and payable (and regardless of the adequacy of any other collateral securing the Obligations). ANY AND ALL RIGHTS TO REQUIRE BANK TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.11 Electronic Execution of Documents . The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

12.12 Captions . The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

12.13 Construction of Agreement . The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

12.14 Relationship . The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

12.15 Third Parties . Nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

13. DEFINITIONS

13.1 Definitions. As used in the Loan Documents, the word “shall” is mandatory, the word “may” is permissive, the word “or” is not exclusive, the words “includes” and “including” are not limiting, the singular includes the plural, and numbers denoting amounts that are set off in brackets are negative. As used in this Agreement, the following capitalized terms have the following meanings:

“**Account**” is any “account” as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

“**Account Debtor**” is any “account debtor” as defined in the Code with such additions to such term as may hereafter be made.

“**Advance**” or “**Advances**” means a revolving credit loan (or revolving credit loans) under the Revolving Line.

“**Affiliate**” is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person’s senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person’s managers and members.

“**Agreement**” is defined in the preamble hereof.

“**Authorized Signer**” is any individual listed in Borrower’s Borrowing Resolution who is authorized to execute the Loan Documents, including any Notice of Borrowing or other Advance request, on behalf of Borrower.

“**Availability Amount**” is (a) the lesser of (i) the Revolving Line or (ii) the amount available under the Borrowing Base minus (b) the outstanding principal balance of any Advances.

“**Bank**” is defined in the preamble hereof.

“**Bank Entities**” is defined in Section 12.9.

“**Bank Expenses**” are all audit fees and expenses, costs, and expenses (including reasonable attorneys’ fees and expenses) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower.

“**Bank Services**” are any products, credit services, and/or financial accommodations previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services as any such products or services may be identified in Bank’s various agreements related thereto (each, a “**Bank Services Agreement**”).

“**Borrower**” is defined in the preamble hereof.

“**Borrower’s Books**” are all Borrower’s books and records including ledgers, federal and state tax returns, records regarding Borrower’s assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

“**Borrowing Base**” is eighty percent (80%) of Eligible Accounts, as determined by Bank from Borrower’s most recent Borrowing Base Certificate; provided, however, that Bank has the right to decrease the foregoing percentage in its good faith business judgment to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value.

“ **Borrowing Base Certificate** ” is that certain certificate in the form attached hereto as Exhibit D.

“ **Borrowing Base Report** ” is defined in Section 6.2(a)

“ **Borrowing Resolutions** ” are, with respect to any Person, those resolutions adopted by such Person’s board of directors (and, if required under the terms of such Person’s Operating Documents, stockholders) and delivered by such Person to Bank approving the Loan Documents to which such Person is a party and the transactions contemplated thereby, together with a certificate executed by its secretary on behalf of such Person certifying (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that set forth as a part of or attached as an exhibit to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) of the Person(s) authorized to execute the Loan Documents, including any Notice of Borrowing or other Advance request, on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Bank may conclusively rely on such certificate unless and until such Person shall have delivered to Bank a further certificate canceling or amending such prior certificate.

“ **Business Day** ” is any day that is not a Saturday, Sunday or a day on which Bank is closed.

“ **Cash Equivalents** ” means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc.; (c) Bank’s certificates of deposit issued maturing no more than one (1) year after issue.

“ **Change in Control** ” means any event, transaction, or occurrence as a result of which (a) any “person” (as such term is defined in Sections 3(a)(9) and 13(d)(3) of the Exchange Act), other than a trustee or other fiduciary holding securities under an employee benefit plan of Borrower, is or becomes a beneficial owner (within the meaning Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Borrower, representing twenty-five percent (25%) or more of the combined voting power of Borrower’s then outstanding securities; (b) during any period of twelve consecutive calendar months, individuals who at the beginning of such period constituted the Board of Directors of Borrower (together with any new directors whose election by the Board of Directors of Borrower was approved by a vote of not less than two-thirds of the directors then still in office who either were directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason other than death or disability to constitute a majority of the directors then in office; or (c) entity ceases to own at least twenty-five percent (25%) of the voting securities of Borrower.

“ **Claims** ” is defined in Section 12.3.

“ **Code** ” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of New York provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Bank’s Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term “ **Code** ” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“ **Collateral** ” is any and all properties, rights and assets of Borrower described on Exhibit A.

“ **Collateral Account** ” is any Deposit Account, Securities Account, or Commodity Account.

“ **Commodity Account** ” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made.

“ **Compliance Certificate** ” is that certain certificate in the form attached hereto as Exhibit E.

“ **Contingent Obligation** ” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each case, directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum amount of the obligations under any guarantee or other support arrangement.

“ **Continuation Date** ” means any date on which Borrower continues a LIBOR Advance into another Interest Period.

“ **Control Agreement** ” is any control agreement entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Bank pursuant to which Bank obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

“ **Conversion Date** ” means any date on which Borrower converts a Prime Rate Advance to a LIBOR Advance or a LIBOR Advance to a Prime Rate Advance.

“ **Copyrights** ” are any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

“ **Credit Extension** ” is any Advance, Overadvance, or any other extension of credit by Bank for Borrower’s benefit.

“ **Currency** ” is coined money and such other banknotes or other paper money as are authorized by law and circulate as a medium of exchange.

“ **Default Rate** ” is defined in Section 2.3(e).

“ **Deferred Revenue** ” is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

“ **Deposit Account** ” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made.

“ **Designated Deposit Account** ” is the multicurrency account denominated in Dollars, account number 3300892816, maintained by Borrower with Bank.

“ **Dollars** , ” “ **dollars** ” or use of the sign “ **\$** ” means only lawful money of the United States and not any other currency, regardless of whether that currency uses the “\$” sign to denote its currency or may be readily converted into lawful money of the United States.

“ **Dollar Equivalent** ” is, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in a Foreign Currency, the equivalent amount therefor in Dollars as determined by Bank at such time on the basis of the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

“ **EBITDA** ” shall mean (a) Net Income, plus (b) Interest Expense, plus (c) to the extent deducted in the calculation of Net Income, depreciation expense and amortization expense, plus (d) income tax expense, plus (e) stock compensation, plus (f) non-cash items and one-time expenses approved by Bank in its sole discretion.

“ **Effective Date** ” is defined in the preamble hereof.

“ **Eligible Accounts** ” means Accounts which arise in the ordinary course of Borrower’s business that meet all Borrower’s representations and warranties in Section 5.3. Bank reserves the right at any time after the Effective Date to adjust any of the criteria set forth below and to establish new criteria in its good faith business judgment. Unless Bank otherwise agrees in writing, Eligible Accounts shall not include:

- (a) Accounts for which the Account Debtor is Borrower’s Affiliate, officer, employee, or agent;
- (b) Accounts that the Account Debtor has not paid within ninety (90) days of invoice date regardless of invoice payment period terms;
- (c) Accounts with credit balances over ninety (90) days from invoice date;
- (d) Accounts owing from an Account Debtor if fifty percent (50%) or more of the Accounts owing from such Account Debtor have not been paid within ninety (90) days of invoice date;
- (e) Accounts owing from an Account Debtor which does not have its principal place of business in the United States or Canada;
- (f) Accounts billed from and/or payable to Borrower outside of the United States unless Bank has a first priority, perfected security interest or other enforceable Lien in such Accounts under all applicable laws, including foreign laws (sometimes called foreign invoiced accounts);
- (g) Accounts owing from an Account Debtor to the extent that Borrower is indebted or obligated in any manner to the Account Debtor (as creditor, lessor, supplier or otherwise - sometimes called “contra” accounts, accounts payable, customer deposits or credit accounts);
- (h) Accounts owing from an Account Debtor which is a United States government entity or any department, agency, or instrumentality thereof unless Borrower has assigned its payment rights to Bank and the assignment has been acknowledged under the Federal Assignment of Claims Act of 1940, as amended;
- (i) Accounts for demonstration or promotional equipment, or in which goods are consigned, or sold on a “sale guaranteed”, “sale or return”, “sale on approval”, or other terms if Account Debtor’s payment may be conditional;
- (j) Accounts owing from an Account Debtor where goods or services have not yet been rendered to the Account Debtor (sometimes called memo billings or pre-billings);
- (k) Accounts subject to contractual arrangements between Borrower and an Account Debtor where payments shall be scheduled or due according to completion or fulfillment requirements where the Account Debtor has a right of offset for damages suffered as a result of Borrower’s failure to perform in accordance with the contract (sometimes called contracts accounts receivable, progress billings, milestone billings, or fulfillment contracts);
- (l) Accounts owing from an Account Debtor the amount of which may be subject to withholding based on the Account Debtor’s satisfaction of Borrower’s complete performance (but only to the extent of the amount withheld; sometimes called retainage billings);

(m) Accounts subject to trust provisions, subrogation rights of a bonding company, or a statutory trust;

(n) Accounts owing from an Account Debtor that has been invoiced for goods that have not been shipped to the Account Debtor unless Bank, Borrower, and the Account Debtor have entered into an agreement acceptable to Bank wherein the Account Debtor acknowledges that (i) it has title to and has ownership of the goods wherever located, (ii) a bona fide sale of the goods has occurred, and (iii) it owes payment for such goods in accordance with invoices from Borrower (sometimes called "bill and hold" accounts);

(o) Accounts for which the Account Debtor has not been invoiced;

(p) Accounts that represent non-trade receivables or that are derived by means other than in the ordinary course of Borrower's business;

(q) Accounts for which Borrower has permitted Account Debtor's payment to extend beyond 90 days;

(r) Accounts arising from chargebacks, debit memos or other payment deductions taken by an Account Debtor;

(s) Accounts arising from product returns and/or exchanges (sometimes called "warranty" or "RMA" accounts);

(t) Accounts in which the Account Debtor disputes liability or makes any claim (but only up to the disputed or claimed amount), or if the Account Debtor is subject to an Insolvency Proceeding, or becomes insolvent, or goes out of business;

(u) Accounts owing from an Account Debtor with respect to which Borrower has received Deferred Revenue (but only to the extent of such Deferred Revenue);

(v) Accounts owing from an Account Debtor, whose total obligations to Borrower exceed twenty-five percent (25%) of all Accounts, except for Google Inc., for which such percentage is forty percent (40%) for the amounts that exceed that percentage, unless Bank approves in writing; and

(w) Accounts for which Bank in its good faith business judgment determines collection to be doubtful, including, without limitation, accounts represented by "refreshed" or "recycled" invoices.

"**Equipment**" is all "equipment" as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"**ERISA**" is the Employee Retirement Income Security Act of 1974, and its regulations.

"**Event of Default**" is defined in Section 8.

"**Exchange Act**" is the Securities Exchange Act of 1934, as amended.

"**Excluded Account**" means any account maintained at a bank or financial institution (other than Bank) in which Borrower maintains less than Three Hundred Fifty Thousand Dollars (\$350,000.00); provided that the aggregate amount maintained in all such accounts at all such banks and financial institutions shall not exceed, at any time, One Million Dollars (\$1,000,000.00).

"**Foreign Currency**" means lawful money of a country other than the United States.

“ **Funding Date** ” is any date on which a Credit Extension is made to or for the account of Borrower which shall be a Business Day.

“ **FX Contract** ” is any foreign exchange contract by and between Borrower and Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency on a specified date.

“ **GAAP** ” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“ **General Intangibles** ” is all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all Intellectual Property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“ **Governmental Approval** ” is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“ **Governmental Authority** ” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“ **Guarantor** ” is any Person providing a Guaranty in favor of Bank.

“ **Guaranty** ” is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

“ **Indebtedness** ” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

“ **Indemnified Person** ” is defined in Section 12.3.

“ **Initial Audit** ” is Bank’s inspection of Borrower’s Accounts, the Collateral, and Borrower’s Books.

“ **Insolvency Proceeding** ” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“ **Intellectual Property** ” means, with respect to any Person, means all of such Person’s right, title, and interest in and to the following:

- (a) its Copyrights, Trademarks and Patents;
- (b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, operating manuals;
- (c) any and all source code;

(d) any and all design rights which may be available to such Person;

(e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

“**Interest Expense**” means for any fiscal period, interest expense (whether cash or non-cash) determined in accordance with GAAP for the relevant period ending on such date, including, in any event, interest expense with respect to any Credit Extension and other Indebtedness of Borrower, including, without limitation or duplication, all commissions, discounts, or related amortization and other fees and charges with respect to letters of credit and bankers’ acceptance financing and the net costs associated with interest rate swap, cap, and similar arrangements, and the interest portion of any deferred payment obligation (including leases of all types).

“**Interest Payment Date**” means, (a) with respect to any LIBOR Advance, (i) the last day of each Interest Period applicable to such LIBOR Advance and (ii) the last day of each calendar quarter, and (b) with respect to Prime Rate Advances, the first day of each month (or, if that day of the month does not fall on a Business Day, then on the first Business Day following such date), and each date a Prime Rate Advance is converted into a LIBOR Advance to the extent of the amount converted to a LIBOR Advance.

“**Interest Period**” means, as to any LIBOR Advance, the period commencing on the date of such LIBOR Advance, or on the conversion/continuation date on which the LIBOR Advance is converted into or continued as a LIBOR Advance, and ending on the date that is one, two, three, or six months thereafter, in each case as Borrower may elect in the applicable Notice of Borrowing or Notice of Conversion/Continuation; provided, however, that (a) no Interest Period with respect to any LIBOR Advance shall end later than the Revolving Line Maturity Date, (b) the last day of an Interest Period shall be determined in accordance with the practices of the LIBOR interbank market as from time to time in effect, (c) if any Interest Period would otherwise end on a day that is not a Business Day, that Interest Period shall be extended to the following Business Day unless, in the case of a LIBOR Advance, the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the preceding Business Day, (d) any Interest Period pertaining to a LIBOR Advance that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period, and (e) interest shall accrue from and include the first Business Day of an Interest Period but exclude the last Business Day of such Interest Period.

“**Interest Rate Determination Date**” means each date for calculating the LIBOR for purposes of determining the interest rate in respect of an Interest Period. The Interest Rate Determination Date shall be the second Business Day prior to the first day of the related Interest Period for a LIBOR Advance.

“**Inventory**” is all “inventory” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of Borrower’s custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

“**Investment**” is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

“**IP Agreement**” is that certain Intellectual Property Security Agreement executed and delivered by Borrower to Bank dated as of the Effective Date.

“**Key Person**” is each of Borrower’s (a) Chief Executive Officer, who is Ronald N. Frankel as of the Effective Date, (b) Chief Financial Officer, who is William J. Stuart as of the Effective Date.

“ **Letter of Credit** ” is a standby or commercial letter of credit issued by Bank upon request of Borrower based upon an application, guarantee, indemnity, or similar agreement.

“ **LIBOR** ” means, for any Interest Rate Determination Date with respect to an Interest Period for any Advance to be made, continued as or converted into a LIBOR Advance, the rate of interest per annum determined by Bank to be the per annum rate of interest at which deposits in Dollars are offered to Bank in the London interbank market (rounded upward, if necessary, to the nearest 0.0001%) in which Bank customarily participates at 11:00 a.m. (local time in such interbank market) two (2) Business Days prior to the first day of such Interest Period for a period approximately equal to such Interest Period and in an amount approximately equal to the amount of such Advance.

“ **LIBOR Advance** ” means an Advance that bears interest based at the LIBOR Rate.

“ **LIBOR Rate** ” means, for each Interest Period in respect of LIBOR Advances comprising part of the same Advances, an interest rate *per annum* (rounded upward, if necessary, to the nearest 0.0001%) equal to LIBOR for such Interest Period *divided by one (1) minus* the Reserve Requirement for such Interest Period.

“ **LIBOR Rate Margin** ” is three percent (3.00%).

“ **Lien** ” is a claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

“ **Liquidity** ” is, at any time, the sum of (a) the aggregate amount of unrestricted cash and Cash Equivalents held at such time by Borrower, plus (b) the Availability Amount.

“ **Loan Documents** ” are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Perfection Certificate, the IP Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement by Borrower and/or any Guarantor with or for the benefit of Bank in connection with this Agreement or Bank Services, all as amended, restated, or otherwise modified.

“ **Material Adverse Change** ” is (a) a material impairment in the perfection or priority of Bank’s Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or condition (financial or otherwise) of Borrower; or (c) a material impairment of the prospect of repayment of any portion of the Obligations; or (d) Bank determines, based upon information available to it and in its reasonable judgment, that there is a substantial likelihood that Borrower shall fail to comply with one or more of the financial covenants in Section 6 during the next succeeding financial reporting period.

“ **Monthly Financial Statements** ” is defined in Section 6.2(c).

“ **Net Income** ” means, as calculated on a consolidated basis for Borrower and its Subsidiaries for any period as at any date of determination, the net profit (or loss), after provision for taxes, of Borrower and its Subsidiaries for such period taken as a single accounting period.

“ **Notice of Borrowing** ” means a notice given by Borrower to Bank in accordance with Section 3.5(a), substantially in the form of Exhibit B, with appropriate insertions.

“ **Notice of Conversion/Continuation** ” means a notice given by Borrower to Bank in accordance with Section 3.6, substantially in the form of Exhibit C, with appropriate insertions.

“ **Obligations** ” are Borrower’s obligations to pay when due any debts, principal, interest, fees, Bank Expenses, and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents, or otherwise, including, without limitation, all obligations relating to letters of credit (including reimbursement obligations for drawn and undrawn letters of credit), cash management services, and foreign exchange contracts, if any, and including interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and to perform Borrower’s duties under the Loan Documents.

“ **Operating Documents** ” are, for any Person, such Person’s formation documents, as certified by the Secretary of State (or equivalent agency) of such Person’s jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

“ **Overadvance** ” is defined in Section 2.2.

“ **Parent** ” is defined in Section 3.7(b).

“ **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.

“ **Perfection Certificate** ” is defined in Section 5.1.

“ **Permitted Acquisition** ” is the acquisition by Borrower of all or substantially all of the assets of another company or companies (collectively, the “ **Target** ”), provided that (a) Target is engaged in a similar line of business as Borrower both prior to and after giving effect to such acquisition, (b) the total consideration used by Borrower in connection with the acquisition of Targets formed and existing in a jurisdiction other than the United States of America does not exceed Five Million Dollars (\$5,000,000.00) in the aggregate, (c) such acquisition is non-hostile in nature, (d) no Event of Default has occurred and is continuing or would exist after giving effect to such acquisition, (e) Borrower remains a separate legal entity following the transactions in connection with and contemplated by such acquisition, (f) Borrower provides evidence to Bank acceptable to Bank in its sole and absolute discretion, at least thirty (30) days prior to giving effect to such acquisition, that Borrower is and shall be in compliance with the financial covenants set forth in Section 6.7 of this Agreement both prior to and after giving effect to such acquisition, (g) if the Target is a surviving entity, immediately after giving effect to such acquisition, Borrower shall provide Bank a joinder agreement and cause Target to join this Agreement as a co-borrower, in accordance with Section 6.12, (h) the total consideration used by Borrower in connection with all such acquisitions does not exceed Ten Million Dollars (\$10,000,000.00) in the aggregate, per calendar year, (i) prior to the consummation of such acquisition, Borrower delivers to Bank evidence that the assets of Target are free and clear of all Liens, (j) no Indebtedness, other than Permitted Indebtedness, shall be assumed or incurred by Borrower in connection with such acquisition, and (k) immediately after giving effect to such acquisition, Borrower shall have Liquidity of no less than Fifteen Million Dollars (\$15,000,000.00).

“ **Permitted Indebtedness** ” is:

- (a) Borrower’s Indebtedness to Bank under this Agreement and the other Loan Documents;
- (b) capital leases entered into by Borrower in the ordinary course of Borrower’s business;
- (c) Indebtedness existing on the Effective Date and shown on the Perfection Certificate;
- (d) Subordinated Debt;
- (e) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;
- (f) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;
- (g) Indebtedness secured by Liens permitted under clauses (a) and (c) of the definition of “Permitted Liens” hereunder; and
- (h) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (f) above, provided that the principal amount thereof is not increased or the

terms thereof are not modified to impose more burdensome terms upon Borrower or its Subsidiary, as the case may be.

“ **Permitted Investments** ” are:

- (a) Investments (including, without limitation, Subsidiaries) existing on the Effective Date and shown on the Perfection Certificate;
- (b) Investments consisting of Cash Equivalents;
- (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 deposit accounts in which Bank has a perfected security interest;
- (e) Investments accepted in connection with Transfers permitted by Section 7.1;
- (f) Investments consisting of the creation of a Subsidiary for the purpose of consummating a merger transaction permitted by Section 7.3 of this Agreement, which is otherwise a Permitted Investment;
- (g) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower’s Board of Directors;
- (h) 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; and
- (i) 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 this paragraph (i) shall not apply to Investments of Borrower in any Subsidiary.

“ **Permitted Liens** ” are:

- (a) Liens existing on the Effective Date and shown on the Perfection Certificate or arising under this Agreement and the other Loan Documents;
- (b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on its Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;
- (c) purchase money Liens (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment;
- (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 attach only to Inventory and which are not delinquent or remain payable without penalty or which 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) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;

(g) 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;

(h) non-exclusive license of Intellectual Property granted to third parties in the ordinary course of business;

(i) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.4 and 8.7; and

(j) Liens in favor of other financial institutions arising in connection with Borrower's deposit and/or securities accounts held at such institutions, provided that Bank has a perfected security interest in the amounts held in such deposit and/or securities accounts.

"**Person**" is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Prime Rate**" is the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason as determined by Bank, the "Prime Rate" shall mean the rate of interest per annum announced by Bank as its prime rate in effect at its principal office in the State of California (such Bank announced Prime Rate not being intended to be the lowest rate of interest charged by Bank in connection with extensions of credit to debtors).

"**Prime Rate Advance**" means an Advance that bears interest based at the Prime Rate.

"**Prime Rate Margin**" is one-half of one percent (0.50%).

"**Quick Assets**" is, on any date, Borrower's consolidated unrestricted cash and Cash Equivalents and net billed accounts receivable determined according to GAAP .

"**Registered Organization**" is any "registered organization" as defined in the Code with such additions to such term as may hereafter be made.

"**Regulatory Change**" means, with respect to Bank, any change on or after the date of this Agreement in United States federal, state, or foreign laws or regulations, including Regulation D, or the adoption or making on or after such date of any interpretations, directives, or requests applying to a class of lenders including Bank, or of under any United States federal or state, or any foreign laws or regulations (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof.

"**Requirement of Law**" is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other

Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“**Reserve Requirement**” means, for any Interest Period, the average maximum rate at which reserves (including any marginal, supplemental, or emergency reserves) are required to be maintained during such Interest Period under Regulation D against “Eurocurrency liabilities” (as such term is used in Regulation D) by member banks of the Federal Reserve System. Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by Bank by reason of any Regulatory Change against (a) any category of liabilities which includes deposits by reference to which the LIBOR Rate is to be determined as provided in the definition of LIBOR or (b) any category of extensions of credit or other assets which include Advances.

“**Responsible Officer**” is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower.

“**Restricted License**” is any material license or other agreement with respect to which Borrower is the licensee (a) that prohibits or otherwise restricts Borrower from granting a security interest in Borrower’s interest in such license or agreement or any other property, or (b) for which a default under or termination of could interfere with the Bank’s right to sell any Collateral.

“**Revolving Line**” is an aggregate principal amount equal to Ten Million Dollars (\$10,000,000.00).

“**Revolving Line Maturity Date**” is September 27, 2015.

“**SEC**” shall mean the Securities and Exchange Commission, any successor thereto, and any analogous Governmental Authority.

“**Securities Account**” is any “securities account” as defined in the Code with such additions to such term as may hereafter be made.

“**Subordinated Debt**” is indebtedness incurred by Borrower subordinated to all of Borrower’s now or hereafter indebtedness to Bank (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Bank entered into between Bank and the other creditor), on terms acceptable to Bank.

“**Subsidiary**” is, 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, 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.

“**Total Liabilities**” is on any day, obligations that should, under GAAP, be classified as liabilities on Borrower’s consolidated balance sheet, including all Indebtedness, but excluding all other Subordinated Debt.

“**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.

“**Transfer**” is defined in Section 7.1.

“**Unused Revolving Line Facility Fee**” is defined in Section 2.4(c).

[Signature page follows.]

IN WITNESS WHEREOF , the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

SYNACOR, INC.

By /s/ William J. Stuart

Name: William J. Stuart

Title: CFO

BANK:

SILICON VALLEY BANK

By /s/ Russell Follansbee

Name: Russell Follansbee

Title: Vice President

Signature Page to Loan and Security Agreement

EXHIBIT A – COLLATERAL DESCRIPTION

The Collateral consists of all of Borrower's right, title and interest in and to the following personal property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles, commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and all Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

EXHIBIT B
FORM OF NOTICE OF BORROWING

SYNACOR, INC.

Date: _____

To: Silicon Valley Bank
275 Grove St., Suite 2-200
Newton, MA 02466
Attention: Russell Follansbee
Email: rfollansbee@svb.com

RE: Loan and Security Agreement dated as of September 27, 2013 (as amended, modified, supplemented or restated from time to time, the "Loan Agreement"), by and between SYNACOR, INC. ("Borrower"), and Silicon Valley Bank (the "Bank")

Ladies and Gentlemen:

The undersigned refers to the Loan Agreement, the terms defined therein and used herein as so defined, and hereby gives you notice irrevocably, pursuant to Section 3.4(a) of the Loan Agreement, of the borrowing of an Advance.

1. The Funding Date, which shall be a Business Day, of the requested borrowing is _____.
2. The aggregate amount of the requested Advance is \$_____.
3. The requested Advance shall consist of \$_____ of Prime Rate Advances and \$_____ of LIBOR Advances.
4. The duration of the Interest Period for the LIBOR Advances included in the requested Advance shall be _____ months.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed Advance before and after giving effect thereto, and to the application of the proceeds therefrom, as applicable:

- (a) all representations and warranties of Borrower contained in the Loan Agreement are true, accurate and complete in all material respects as of the date hereof; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date;
- (b) no Event of Default has occurred and is continuing, or would result from such proposed Advance; and
- (c) the requested Advance will not cause the aggregate principal amount of the outstanding Advances to exceed, as of the designated Funding Date, the Availability Amount.

BORROWER **SYNACOR, INC.**

By: _____

Name: _____

Title: _____

For internal Bank use only

LIBOR Pricing Date	LIBOR	LIBOR Variance	Maturity Date
		____%	

EXHIBIT C

FORM OF NOTICE OF CONVERSION/CONTINUATION

SYNACOR, INC.

Date:

To: Silicon Valley Bank
275 Grove St., Suite 2-200
Newton, MA 02466
Attention: Russell Follansbee

Email: rfollansbee@svb.com

RE: Loan and Security Agreement dated as of September 27, 2013 (as amended, modified, supplemented or restated from time to time, the "Loan Agreement"), by and between SYNACOR, INC. ("Borrower"), and Silicon Valley Bank (the "Bank")

Ladies and Gentlemen:

The undersigned refers to the Loan Agreement, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to Section 3.5 of the Loan Agreement, of the [conversion] [continuation] of the Advances specified herein, that:

1. The date of the [conversion] [continuation] is _____, 2013.
2. The aggregate amount of the proposed Advances to be [converted] is

\$ _____ or [continued] is \$ _____.

3. The Advances are to be [converted into] [continued as] [LIBOR] [Prime Rate] Advances.
4. The duration of the Interest Period for the LIBOR Advances included in the [conversion] [continuation] shall be _____ months.

The undersigned, on behalf of Borrower, hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed [conversion] [continuation], before and after giving effect thereto and to the application of the proceeds therefrom:

- (a) all representations and warranties of Borrower stated in the Loan Agreement are true, accurate and complete in all material respects as of the date hereof; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date;
- (b) no Event of Default has occurred and is continuing, or would result from such proposed [conversion] [continuation]; and
- (c) the requested [conversion] [continuation] will not cause the aggregate principal amount of the outstanding Advances to exceed, as of the designated Funding Date, (i) the lesser of (A) the Revolving Line or (B) the Borrowing Base minus (ii) the amount of all outstanding Letters of Credit (including drawn but unreimbursed Letters of Credit), and minus (iii) the aggregate outstanding principal amount of any Advances.

BORROWER **SYNACOR, INC.**

By: _____

Name: _____

Title: _____

For internal Bank use only

LIBOR Pricing Date	LIBOR	LIBOR Variance	Maturity Date
		____%	

EXHIBIT D - BORROWING BASE CERTIFICATE

Borrower: SYNACOR, INC
Lender: Silicon Valley Bank
Commitment Amount: up to \$10,000,000.00

ACCOUNTS RECEIVABLE

1	Accounts Receivable (invoiced) Book Value as of _____	\$ _____
2	Additions (Please explain on next page)	\$ _____
3	Less: Intercompany / Employee / Non-Trade Accounts	\$ _____
4	NET TRADE ACCOUNTS RECEIVABLE	\$ _____

ACCOUNTS RECEIVABLE DEDUCTIONS (without duplication)

5	90 Days Past Invoice Date	\$ _____
6	Credit Balances over 90 Days	\$ _____
7	Balance of 50% over 90 Day Accounts (Cross-Age or Current Affected)	\$ _____
8	Foreign Account Debtor Accounts	\$ _____
9	Foreign Invoiced and/or Collected Accounts	\$ _____
10	Contra / Customer Deposit Accounts	\$ _____
11	U.S. Government Accounts	\$ _____
12	Promotion or Demo Accounts; Guaranteed Sale or Consignment Sale Accounts	\$ _____
13	Accounts with Memo or Pre-Billings	\$ _____
14	Contract Accounts; Accounts with Progress / Milestone Billings	\$ _____
15	Accounts for Retainage Billings	\$ _____
16	Trust / Bonded Accounts	\$ _____
17	Bill and Hold Accounts	\$ _____
18	Unbilled Accounts	\$ _____
19	Non-Trade Accounts (If not already deducted above)	\$ _____
20	Accounts with Extended Term Invoices (Net 90+)	\$ _____
21	Chargebacks Accounts / Debit Memos	\$ _____
22	Product Returns / Exchanges	\$ _____
23	Disputed Accounts; Insolvent Account Debtor Accounts	\$ _____
24	Deferred Revenue, if applicable / Other (Please explain on next page)	\$ _____
25	Concentration Limits	\$ _____
26	TOTAL ACCOUNTS RECEIVABLE DEDUCTIONS	\$ _____
27	Eligible Accounts (#4 minus #26)	\$ _____
28	ELIGIBLE AMOUNT OF ACCOUNTS (80% of #27)	\$ _____

BALANCES

29	Maximum Loan Amount	\$10,000,000
30	Total Funds Available Lesser of #29 or (#28)	\$ _____
31	Present balance owing on Line of Credit	\$ _____
32	RESERVE POSITION (#29 minus #30 and #31)	\$ _____

[Continued on following page.]

Explanatory comments from previous page:

The undersigned represents and warrants that this is true, complete and correct, and that the information in this Borrowing Base Certificate complies with the representations and warranties in the Loan and Security Agreement between the undersigned and Silicon Valley Bank.

COMMENTS:

By: _____
Authorized Signer

Date: _____

BANK USE ONLY	
Received by: _____	AUTHORIZED SIGNER
Date: _____	
Verified: _____	AUTHORIZED SIGNER
Date: _____	
Compliance Status: Yes No	

EXHIBIT E
COMPLIANCE CERTIFICATE

TO: SILICON VALLEY BANK
 FROM: SYNACOR, INC.

Date: _____

The undersigned authorized officer of SYNACOR, INC. ("Borrower") certifies that under the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "Agreement"):

(1) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below; (2) there are no Events of Default; (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9 of the Agreement; and (5) no Liens have been levied or claims made against Borrower relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank.

Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

<u>Reporting Covenants</u>	<u>Required</u>	<u>Complies</u>
Monthly financial statements with Compliance Certificate	Monthly within 30 days	Yes No
Annual financial statement (CPA Audited), if not otherwise publicly available	FYE within 120 days	Yes No
Borrowing Base Certificate A/R & A/P Agings	Monthly within 30 days	Yes No
The following Intellectual Property was registered (or a registration application submitted) after the Effective Date (if no registrations, state "None")		

<u>Financial Covenants</u>	<u>Required</u>	<u>Actual</u>	<u>Complies</u>
Maintain at all times (tested on a Quarterly Basis):			
Adjusted Quick Ratio	2.50:1.0	_____:1.0	Yes No
Trailing 12 Month EBITDA	\$1,500,000	\$ _____	Yes No

The following financial covenant analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Certificate.

[September 2013]

Other Matters

Have there been any amendments of or other changes to the capitalization table of Borrower and to the Operating Documents of Borrower or any of its Subsidiaries? If yes, provide copies of any such amendments or changes with this Compliance Certificate.

Yes

No

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

SYNACOR, INC.

By: ___
Name: ___
Title: ___

BANK USE ONLY

Received by: _____
AUTHORIZED SIGNER

Date: _____

Verified: _____
AUTHORIZED SIGNER

Date: _____

Compliance Status: Yes No

[September 2013]

Schedule 1 to Compliance Certificate

Financial Covenants of Borrower

In the event of a conflict between this Schedule and the Loan Agreement, the terms of the Loan Agreement shall govern.

Dated: _____

I. Adjusted Quick Ratio (Section 6.7(a))

Required: ____:1.00

Actual:

A.	Value of the consolidated unrestricted cash and Cash Equivalents of Borrower and its Subsidiaries	\$
B.	Value of the net billed accounts receivable of Borrower	\$
C.	Aggregate value of all outstanding Obligations	\$
D.	Line A plus line B	\$
E.	Adjusted Quick Ratio (Line D divided by Line C)	

Is Line E equal to or greater than 2.50:1.00?

No, not in compliance ___ Yes, in compliance

II. EBITDA (Section 6.7(b))

Required: \$1,500,000.00 on a trailing twelve month basis

Actual:

A.	Net Income	\$
B.	Interest Expense	\$
C.	To the extent included in the determination of Net Income depreciation and amortization expense	
D.	Income tax expense	\$
E.	Stock compensation	\$
F.	Non-cash items and one-time expenses approved by Bank, in its sole discretion	\$
G.	EBITDA (Sum of lines A through F)	

Is line G equal to or greater than \$1,500,000.00?

No, not in compliance ___ Yes, in compliance

[September 2013]

**AMENDMENT #1
TO
MASTER SERVICES AND LINKING AGREEMENT**

This Amendment #1 to Master Services and Linking Agreement ("Amendment") effective December 1, 2011 ("Amendment Effective Date") is between **Synacor, Inc.** ("Synacor") and **Toshiba America Information Systems, Inc.** ("Client") under which the parties hereto mutually agree to modify and amend the **Master Services and Linking Agreement**, dated as of **July 1, 2010** (including the exhibits, schedules and amendments thereto, the "Agreement"). All terms defined herein shall be applicable solely to this Amendment. Any capitalized terms used herein, which are defined in the Agreement and not otherwise defined herein, shall have the meanings ascribed to them in the Agreement.

In consideration of the premises and mutual covenants herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1.0 Schedule A: A new Section 1.14 of Schedule A are hereby added as follows:

1.14 **Premium Offerings.** Synacor will provide to Client the premium content offerings set forth in Schedule I to this Agreement in exchange for the fees set forth therein.

2.0 Schedule I: A new Schedule I to the Agreement is attached to this Amendment, and incorporated and made a part of the Agreement.

3.0 Scope of Amendment: This Amendment supersedes all proposals, oral or written, all negotiations, conversations, or discussions between or among parties relating to the subject matter of this Amendment and all past dealing or industry custom. This Amendment shall be integrated in and form part of the Agreement upon execution. All terms and conditions of the Agreement shall remain unchanged except as expressly modified in this Amendment; and the terms of the Agreement, as modified by this Amendment, are hereby ratified and confirmed. Where the terms of the Agreement conflict with those of this Amendment, however, the terms of this Amendment shall control. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Amendment Effective Date.

SYNACOR, INC. TOSHIBA AMERICA

INFORMATION SYSTEMS, INC.

By: /s/ William J. Stuart _____ By: /s/ Jeff Barney _____
Name: William J. Stuart _____ Name: Jeff Barney _____
Title: CFO _____ Title: VP/GM _____

SCHEDULE I

PREMIUM OFFERINGS AND ASSOCIATED FEES

The Premium Offerings described below are hereby made available to Client for placement on the Client Branded Portal subject to the terms and conditions of Schedule D. The content included in the Premium Offerings is Synacor Content, as such term is defined in Schedule D to the Agreement. In the event Client elects to place any of the Premium Offerings on the Client Branded Portal, Synacor shall bill Client each month for an amount determined by multiplying the number of Users subscribing for the Premium Offerings ("Subscribers") in a given month by the monthly fees relating to the pertinent Premium Offering(s).

1. Premium Offerings. The following Premium Offering(s) will be made available to Client, subject to prior Synacor Provider approval, for distribution to Subscribers for the Premium Offering Fees described below:

(a) Games Package:

- i. **IGN Insider** - IGN.com's premier Insider Access which includes exclusive ad free access to reviews, codes, and previews.
- ii. **Clever Island** -90 interactive games and activities targeting 27 learning skills, regular updates. Clever parent center with kids' progress reports Developed by experts from Harvard, Hanna Barbara, The Learning Company and Harvard University.
- iii. **Shockwave@ Unlimited**TM - An advertising free, premium games service, which provides you with online and download access to a vast selection of games—hundreds of them.

(b) Sports Package:

- i. **MLB.com Live Baseball** - Allows users to listen to every regular season and postseason game both home and away feeds, catch all the key plays with game highlights, watch the entire game or parts of archived games, and stay updated with daily fantasy baseball news and notes.
- ii. **NHL@ Premium Video** - Select condensed NHL game videos available shortly after each game.
- iii. **NASCAR.com Trackpass** - Includes multiple virtual camera angles, virtual dashboard, and in-car and team audio.
- iv. **Fox Sports Video** - Hundreds of ad free videos across dozens sports. Easy to search and find what you want, Top Sports News, Spotlights and Editors Picks included.
- v. **PlaysportsTV** - Award-winning, video-based coaching and instruction for coaches, parents, and teams.

(c) Variety Package:

- i. **American Greetings** - the ultimate card store on the Internet enables users to enhance their relationships by sending premium eCards and printed greetings and projects.
- ii. **Encyclopedia Britannica** - Unlimited access to the updated 32-volume Encyclopedia Britannica, plus: Britannica's Student & Concise encyclopedias, thousands of exclusive video & audio clips

- iii. **iKnowthat.com** –allows children from ages 2 to 12 to discover the magic and power of lifelong learning skills. All activities are highly interactive, and use state of the art web multimedia including heavy animation, sound, and digitized children's voices.
- iv. **MLB.com Live Baseball** – Allows users to LISTEN to every regular season and postseason game both home and away feeds, catch all the key plays with game highlights, watch the entire game or parts of archived games, and stay updated with daily fantasy baseball news and notes.
- v. **NHL@ Premium Video** – Select condensed NHL game videos available shortly after each game.
- vi. **NASCAR.com RaceView** – Allows you to see live racing action from 3 virtual camera angles, track pit stats and times, get instant crash and caution updates and view real time driver data positions. Move effortlessly between the entire field of drivers without missing a moment of the race, track driver speeds and times behind the race leader, and listen to driver and team communication.
- vii. **Fox Sports Video** – Hundreds of ad free videos across dozens sports, Easy to search and find what you want, Top Sports News, Spotlights and Editors Picks included.
- viii. **Shockwave@ Unlimited™** – An advertising free, premium games service, which provides you with online and download access to a vast selection of games—hundreds of them.

2. Premium Offering Fees .

(a) Monthly Fees :

- i. Games Package: Client's cost shall be \$[*].
- ii. Sports Package: Client's cost shall be \$[*].
- iii. Variety Package: Client's cost shall be \$[*].

(b) [*]

3. Reporting and Payment. Client or its subcontractor shall report to Synacor the accurate number of Subscribers for each Premium Offering, and [*], by no later than the third (3rd) business day after each month end commencing on the Amendment Effective Date. [*]. Synacor will provide a monthly invoice to Client or its subcontractor based on the revenue generated/disclosed in such a report; provided that Client will notify Synacor of the contact information of the subcontractor with sufficient time prior to such month so that Synacor can comply with such obligation. Client or its subcontractor will pay the invoice amount to Synacor within forty five (45) days of receipt; provided that Client will remain jointly and severally liable for the acts or omissions of the subcontractor.

**AMENDMENT #2
TO
MASTER SERVICES AND LINKING AGREEMENT
(FINAL EXECUTION VERSION)**

This Amendment #2 to Master Services and Linking Agreement (“Amendment”) effective as of December 20, 2011 (“Amendment Effective Date”) and dated as of the date signed by the parties below (the “Amendment Execution Date”), is between **Synacor, Inc.** (“Synacor”) and **Toshiba America Information Systems, Inc.** (“Client”) under which the parties hereto mutually agree to modify and amend the **Master Services and Linking Agreement**, dated as of **July 1, 2010** (including the exhibits, schedules and amendments thereto, the “Agreement”). All terms defined herein shall be applicable solely to this Amendment. Any capitalized terms used herein, which are defined in the Agreement and not otherwise defined herein, shall have the meanings ascribed to them in the Agreement.

In consideration of the premises and mutual covenants herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1.0 Definitions :

1.1 Section 1.20 is hereby amended as follows:

1.20 “Territory” means the United States and the Latin America Territory.

1.2 A new definition is added to Section 1 as follows:

“Latin America Territory” means South America excluding Brazil, Central America, the Caribbean, and Mexico.

2.0 Schedule A: A new Section 1.15 of Schedule A is hereby added as follows:

1.15 **Client Portal for Latin America.** Synacor will provide to Client a client branded portal for Users in Latin America as set forth in Schedule J to this Agreement in exchange for the fees set forth therein.

3.0 Schedule J: A new Schedule J to the Agreement is attached to this Amendment, and incorporated and made a part of the Agreement.

4.0 Scope of Amendment: This Amendment supersedes all proposals, oral or written, all negotiations, conversations, or discussions between or among parties relating to the subject matter of this Amendment and all past dealing or industry custom. This Amendment shall be integrated in and form part of the Agreement upon execution. All terms and conditions of the Agreement shall remain unchanged except as expressly modified in this Amendment; and the terms of the Agreement, as modified by this Amendment, are hereby ratified and confirmed. Where the terms of the Agreement conflict with those of this Amendment, however, the terms of this Amendment shall control. This Amendment may be executed in

one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Amendment Effective Date.

**SYNACOR, INC. TOSHIBA AMERICA
 INFORMATION SYSTEMS, INC.**

By: /s/ George Chamoun_____ By: /s/ Jeff Barney_____

Name: George Chamoun_____ Name: Jeff Barney_____

Title: EVP Sales & Marketing_____ Title: VP/GM_____

Date: 9/4/13_____ Date: 8/22/13_____

SCHEDULE J

LATIN AMERICAN PORTAL AND ASSOCIATED FEES

1. **Latin American Portal.** Synacor will create, host and maintain a client branded portal for Users in Latin America (the "Latin America Portal").
 - (a) **Latin America Portal Elements.** The Latin America Portal will consist of the following elements:
 - i. Development of a Client Branded Portal with elements of Synacor's standard portal template branded with Client presentation layer (look and feel, logos, trademarks, etc.) as determined mutually by Client and Synacor;
 - ii. API's for unified registration login and update (to be added when applicable based on mutual agreement of the parties);
 - iii. Hosting of portal framework and Synacor Content within Synacor's data center;
 - iv. User Authentication as agreed upon by the parties; and
 - v. Synacor will include links to Client's terms of use and privacy policy on each page of the Latin America Portal which client will ensure abides by and accommodates applicable laws of Latin American countries.
 - (b) **Portal Content.** The below-listed initial Content will be provided, subject to the Content Provider's approval, by Synacor and integrated into the Latin America Portal. The following list of Content may change from time to time as Synacor modifies its Content Providers and content mix or in response to Client requests. Provision and use of Content shall be subject to the terms and conditions in Schedule D attached to this Agreement. Subject to the foregoing, Synacor initially will provide Content on the Latin America Portal:
 - i. Links to the following third party websites (note: these links will display as icons that link out to the identified sites and will not include an RSS feed or any other integration).
 1. CNN
<http://cnnespanol.cnn.com/>
 2. Weather.com
<http://espanol.weather.com/regional Sports>
 3. ESPN
<http://espndeportes.espn.go.com/?cc=3888> Video
 4. YouTube
<http://www.youtube.com/index?gl=ES>
 - ii. Header and footer links that point to Toshiba properties, as mutually determined by Synacor and Client.
 - (c) **Portal Best Practice Policies.** Synacor's current best practice policies for the Latin America Portal are as follows and Client shall comply with them throughout the Term of the Agreement:

[*]

- (d) **Promotional Campaigns.** Synacor may, from time to time and with Client's prior written approval, design and implement periodic marketing promotions supporting the Latin America Portal.
- (e) **Search Services and Revenue Share.** Synacor shall provide search services pursuant to the terms and conditions of Schedule B and subject to the revenue share set forth in section 1.7 of Schedule A.
- (f) **Advertising .** Subject to the terms of Sections 1, 2, and 3 of Schedule C to the Agreement, a permanent banner ad will appear on the bottom of every page of the Latin America Portal. Synacor will sell advertising within the banner ad directly or through third parties, and Synacor and Client will share advertising revenue therefrom as follows:
 - i. Where advertising is sold by third parties all Latin America Advertising Revenue (as defined below) shall be [*].
 - ii. Where advertising is sold directly by Synacor, [*].
 - iii. The term "Latin America Advertising Revenue" includes all revenue earned by Synacor from advertising appearing within the banner ad described above, whether sourced by Synacor or from third party advertising partners, less any fees due to third parties related to provision of such advertising, including but not limited to, ad serving and advertising management services fees.
- (g) **Costs.**
 - i. *General.* Client shall be responsible for [*] directly attributable to the Latin America Portal incurred by Synacor associated with (i) all Latin America Portal Content (ii) bandwidth, (iii) hosting (including data center costs), (iv) reporting, and (v) other Services, provided by Synacor under this Schedule. Client shall not be responsible for any cost associated with any of Synacor's other clients. Unless otherwise agreed by the parties in writing, Client shall be responsible to [*] associated with any Content it licenses directly from a Content Provider for inclusion on the Latin America Branded Portal.
 - ii. *Initial Fee.* The initial development costs for the Synacor Services set forth in this Schedule J are [*], which shall be payable by Client to Synacor within forty-five (45) days from the Amendment Execution Date and presentation of an invoice for services rendered.
- (h) **Carriage Fees.** Client may, from time to time, choose to utilize Synacor integrated services for the distribution of Client Content. If any such Services are required, [*].
- (i) **Taxes.** Payment of taxes by Client will be in accordance with Section 6.3 of the Agreement. In the event Synacor is subject to value added tax, goods and services or any similar taxes, Synacor

will be solely responsible for the collection and remittance of any and all applicable GST, value-added tax, or other consumption-based tax.

- (j) **Reporting Terms.** Synacor will provide the same reporting related to the Latin America Portal as it provides related to the Client Branded Portal under Section 1.13 of Schedule A.

AMENDMENT #3
TO
MASTER SERVICES AND LINKING AGREEMENT

Regarding Statement of Work
Connected TV Project

This Amendment #3 to Master Services and Linking Agreement ("Amendment") effective as of January 1, 2013 ("Amendment Effective Date") is between **Synacor, Inc.** ("Synacor") and **Toshiba America Information Systems, Inc.** ("Client") under which the parties hereto mutually agree to further modify and amend the **Master Services and Linking Agreement**, dated July 1, 2010, as amended by **Amendment #1 to Master Services and Linking Agreement**, dated December 1, 2011, and by **Amendment #2 to Master Services and Linking Agreement**, effective as of December 20, 2011 (including the exhibits, schedules, addenda and amendments thereto, the "Agreement"). All terms defined herein shall be applicable solely to this Amendment. Any defined terms used herein, which are defined in the Agreement and not otherwise defined herein, shall have the meanings ascribed to them in the Agreement.

Whereas, Synacor has provided certain additional services to Client relating to Client's Connected TV (as defined in the attached Statement of Work); and

Whereas, Client has received such additional services.

Therefore, in consideration of the premises and mutual covenants herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

- 1. Services.** Synacor has undertaken and completed the services set out in the attached Statement of Work ("SOW") in accordance with the requirements specified in the SOW, hereinafter referred to as the "Connected TV Services."
- 2. Project Fees and Expenses.** Client will pay Synacor [*] for the development and continued use of the Connected TV Services during the Term of the Agreement ("Project Fees"). Client will also reimburse Synacor [*] for the reasonable and necessary business travel expenses incurred by Synacor to date in connection with the performance of the Connected TV Services ("Expenses"). Expenses include, but are not limited to, business trips for Synacor's employees and contractors performing the Connected TV Services, including reasonable travel, lodging and food expenses. Future Expenses incurred, if any, must be submitted on Synacor's invoice, together with appropriate supporting documentation. Said Project Fees and Expenses shall be payable in accordance with Section 6 of the Agreement (it being understood that Synacor may deliver an invoice for such fees and expenses any time after the parties' execution of this Amendment). The Project Fees and Expenses are non-refundable.
- 3. Search Services.** Synacor shall provide and control the Search Services on the Connected TV. When a user initiates a search within Connected TV, the user will be sent to the Portal (at start.tv.toshiba.com). Client and Synacor will share the revenue earned through the Search Services within the Connected TV in accordance with Section 1.7 of Schedule A to the Agreement.
- 4. Advertising Services.** Utilizing the advertising API provided by Synacor under the attached SOW Synacor shall provide and control the Advertising Services on the Connected TV. Synacor will share the revenue earned through the Advertising Services within the Connected TV in accordance with Section 1.8 of Schedule A to the Agreement.
- 5. Definitions.** Section 1.6 of the Agreement is hereby amended to add the Connected TV to the list of Client products included under "Client Products."
- 6. Portal Best Practices Policies.** [*]
- 7. Proprietary Rights.** The parties hereby agree that the development performed by Synacor under the attached SOW shall be considered Software for purposes of the Agreement. The parties further agree that such Software may only be used in accordance with the Agreement and that Synacor shall retain all right, title and

Amendment to MSLA CONFIDENTIAL Page 1 of 2

[*] = CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

STATEMENT OF WORK
Toshiba Connected TV Project

This SOW describes tasks and activities to be performed by Synacor on the Connected TV project in conjunction with Toshiba's Cloud Home Solution.

Project Description

Video News Feed API	[*]
Synacor creates and provides a [*] video feed for use within Toshiba's Cloud Home application	
<ul style="list-style-type: none"> • Custom feed created that points to video player page • Video assets include title, description & thumbnail provided by 5Min (AOL) • Content publishing team will update the video feed once per day and include seven video assets during each publish cycle 	
Video Player page custom development (Phase 1: CES)	[*]
Synacor creates a video player page (at start.tv.toshiba.com) that is built as a custom solution as the destination page when a user selects to view a video from Toshiba's Cloud Home application	
<ul style="list-style-type: none"> • Custom Primetime deployment to start.tv.toshiba.com • Creation of three components for the player page: <ul style="list-style-type: none"> o The Now Playing component o The Playlist component o Content Published component • Creation of custom navigation code: <ul style="list-style-type: none"> o Navigable from a D-Pad remote o JavaScript code needs to be added to detect keypress events on the remote 	
Video Player page custom development (Phase 2: Launch)	[*]
Synacor engineers a solution for the video player landing page (based on Phase 1) that includes the design and functionality required by Toshiba	
<ul style="list-style-type: none"> • Reconfigure page & layout based on Toshiba's Cloud TV design • Creation of custom navigation code: <ul style="list-style-type: none"> o Navigable from a D-Pad remote o JavaScript code needs to be added to detect keypress events on the remote 	
Ad Feed API	[*]
Synacor creates a custom advertising API that Toshiba will utilize for display within their Toshiba's Cloud Home application	

<ul style="list-style-type: none">• Custom ad feed that includes advertising partners from multiple networks• Feed includes image, destination URL & tracking	
Joint Integration Consultation [*]	[*]
Synacor sent [*] to work with multiple teams on the integration of the Video/Ad APIs. Expenses incurred in addition to time	[*]

Assumptions
<ul style="list-style-type: none">• Current version of Cloud Home application will be consistent with the final version

Client Responsibilities
<ul style="list-style-type: none">• Deliver final version of Cloud Home application• Provide firmware/software updates to in-house TV for testing• Perform joint testing & provide feedback on results• Finalize requirements & approve designs for default browser start page

Total Cost: [*] [*]
<ul style="list-style-type: none">• [*] Hours at [*]/hour equals [*]• Expenses incurred by Synacor for travel [*]• Notes: Price covers development, integration and forward maintenance costs, during the Term of the Agreement, for the deliverables developed pursuant to this SOW.

**AMENDMENT #4
TO
MASTER SERVICES AGREEMENT**

This Amendment ("Amendment") effective June 30, 2013 ("Amendment Effective Date") is between **Synacor, Inc.** ("Synacor") and **Toshiba America Information Systems, Inc.** ("Client") under which the parties hereto mutually agree to modify and amend the **Master Services and Linking Agreement** entered into as of July 1, 2010 (including the exhibits, schedules and amendments thereto, the "Agreement").

1.0 Term: Pursuant to Section 7.2 of the Agreement, the parties hereby agree to extend the term of the Agreement for one year ending September 30, 2014.

2.0 Scope of Amendment: This Amendment supersedes all proposals, oral or written, all negotiations, conversations, or discussions between or among parties relating to the subject matter of this Amendment and all past dealing or industry custom. This Amendment shall be integrated in and form part of the Agreement upon execution. All terms and conditions of the Agreement shall remain unchanged except as expressly modified in this Amendment; and the terms of the Agreement, as modified by this Amendment, are hereby ratified and confirmed. Where the terms of the Agreement conflict with those of this Amendment, however, the terms of this Amendment shall control. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Amendment Effective Date.

SYNACOR, INC.

TOSHIBA AMERICA INFORMATION SYSTEMS, INC.

By: /s/ Scott A. Bailey_____ By: /s/ Jeff Barney_____

Name: Scott Bailey_____ Name: Jeff Barney_____

Title: Chief Operating Officer_____ Title: VP/GM_____

Statement of Work (SOW) #1 – September 24, 2013

[*] *Portal Project*

Governed by: MASTER SERVICES AND LINKING AGREEMENT between Toshiba America Information Systems, Inc. (“TAIS” or “Toshiba” or “Client”) and Synacor, Inc. (“Synacor”) effective as of July 1, 2010 (“Agreement”)

Today’s Date : September 24, 2013
SOW Effective Date: September 24, 2013
SOW End Date: As described under “Term” below
Company Name: Toshiba America Information Systems Inc.
Contractor/Contractor Name (if applicable) Synacor, Inc.

Acceptance

This Statement of Work is approved by the following representatives for their respective companies.

Approved by:

Toshiba America Information Systems Inc.

Synacor, Inc.

Signature /s/ Terry Cronin
Approved by Terry Cronin _____ on
9/24/13

Signature /s/ George Chamoun
Approved by George Chamoun _____ on
9/24/13

**Statement of Work
Toshiba [*] Portal Project**

This Statement of Work describes the tasks and activities to be performed on the Toshiba [*] Portal project. Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to them in the Agreement.

Introduction:

As more fully set forth below, the project herein covers the development of one or more landing pages that [*]. The landing page(s) will allow the user to [*] and also direct the user to other pages within [*].

Subject to the terms and conditions herein, the total cost for the Deliverables in this SOW is [*], which shall become due upon completion by Synacor and acceptance by Client of all Deliverables in this SOW and [*] after Client's receipt of Synacor invoice.

Definitions:

"Client Product" shall mean [*]

"Landing Page(s)" shall mean the HTML page(s) [*].

"Portal [*]" shall mean an Internet site serving as a point of entry to the World Wide Web, which contains limited content as contemplated herein. There will be [*] Portal [*] created under this Statement of Work: [*].

Term: This SOW shall be coterminous with the term of the Agreement.

Deliverables:

Subject to the terms and conditions herein and in the Agreement, Synacor will develop the Landing Pages and Portal [*] described below.

Toshiba [] Portal Project CONFIDENTIAL Page 2 of 7*

[*] = CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

[*] Landing Page	[*]
Create the [*] of the Landing Page that will [*] <ul style="list-style-type: none"> • [*] • [*] 	
[*] Landing Page	[*]
Create [*] of the Landing Page that will [*] <ul style="list-style-type: none"> • [*] • [*] 	
[*] Portal [*] Monthly Maintenance:	[*] [*] per month
<ul style="list-style-type: none"> • Web Hosting • The SLA set forth in the Agreement will apply. 	
[*] Landing Page	[*]
Create [*] of the Landing Page that will [*] <ul style="list-style-type: none"> • [*] • [*] 	
[*] Portal [*]: Monthly Maintenance:	[*] [*] per month
<ul style="list-style-type: none"> • Web Hosting • The SLA set forth in the Agreement will apply. 	
[*] Landing Page	[*]
Create [*] of the Landing Page that will [*] <ul style="list-style-type: none"> • [*] • [*] 	
[*] Landing Page	[*]
Create [*] of the Landing Page that will [*] <ul style="list-style-type: none"> • [*] • [*] 	

<p>[*] Portal [*] Monthly Maintenance:</p>	<p>[*] [*] per month</p>
<ul style="list-style-type: none"> • Web Hosting • The SLA set forth in the Agreement will apply. 	
<p>Assumptions</p>	
<ul style="list-style-type: none"> • The parties will work together in good faith in an effort to achieve a product that is ready for launch by [*] • All of the [*] in each Client Product [*] will [*] in this SOW in an identical manner to one another [*] 	
<p>Client Responsibilities</p>	
<ul style="list-style-type: none"> • Submitting Deals & Offers to Synacor through existing channels • [*] • [*] • Determining [*] to determine which Bundled Apps & Services to show • Workflow diagram for [*] • [*] • Matrix showing what Bundled Apps & Services are available for each [*] • Delivery of Client branding • Deliver to Synacor for posting [*], a privacy policy in the [*] that meets [*] law and, in any event, discloses the use of cookies and web beacons for targeted advertising purposes, and provides opt-out capabilities in accordance with applicable law. 	
<p>General :</p>	
<ul style="list-style-type: none"> o The Landing Page Mock-up below is for illustrative purposes only. Excluding any content for the [*] Landing Page, Synacor cannot commit to the inclusion of any specific content (e.g., within the Trending Now or Start 360 areas, news, sports, etc.), and the display of certain content may trigger additional costs that will be mutually discussed and agreed to by the Parties before inclusion on the applicable Landing Page. • **For some or all of the Portal [*] (and corresponding Landing Pages), the inclusion of [*] functionality or [*] branding may be subject to the [*] provider's prior approval, which the [*] provider may grant or withhold in its sole discretion. • The software code and any related materials delivered to Toshiba by Synacor, excluding any material provided by Toshiba to Synacor, in connection with the Landing Page hereunder ("Synacor Materials") are the sole and exclusive property of Synacor, and shall be considered the Confidential Information of Synacor as such term is defined in the Agreement. Synacor Materials may only be used by Client in connection with the Landing Pages on Client Products. Upon termination of the Agreement, Client shall cease all use of the Synacor Materials (it being understood that Synacor Materials cannot be removed from already-sold Client Product, Client Product that has left manufacturing facilities, and/or Client Product that is in the pre-existing production schedule). • The Client Product shall be considered a "Client Material" as defined in the Agreement. • The term "User" as defined in the Agreement shall apply to users of the Landing Pages and Portal [*] being delivered hereunder. • [*]. Absent [*], Synacor will continue operation of [*] Portal [*] until termination of the Agreement. 	

Payment

- For [*] Revenue, if any, and [*] Revenue, the revenue sharing set forth in [*] shall apply, [*].
- Upon launch of [*] Portal [*] (the launch date of [*] portal to be determined [*]), a pro rata amount of the initial [*] monthly maintenance fee for [*] such portal (for web hosting by Synacor, subject to the SLA in the Agreement) shall become due, and the ongoing monthly fee shall continue for so long as Synacor makes such Portal [*] available to Client and/or until Client [*] (up to a total of [*] fee each month).
- The provisions of Schedule A of the Agreement regarding carriage fees, taxes, and reporting shall apply to the payments within this Payment section.
- The payment terms set forth in Section 6 of the Agreement shall apply to the monthly maintenance fee and revenue shares.
- Section 10 of the Agreement shall apply to the [*] feeds being made available hereunder.
- If [*] Services are included, [*] shall apply to such Services.
- Sections 1, 2, and 3 of Schedule C of the Agreement shall apply to Advertising Services.

Landing Page Requirements [*]

- Toshiba Logo
- [*] (See note in "General" above)
- Bundled Apps & Services
 - o This section of the portal will always be active [*]
 - o Each [*] will have different bundled apps [*]
- 300 x 250 Ad
- Deals & Offers
 - o Deals & Offers should be sent to Synacor using the same process as the current portal (Currently, Toshiba marketing sends changes on a weekly basis to Content Publishing. There is a dedicated resource on Synacor's end that changes out the images and text in the CMS.)
 - o [*]
- Start 360 content
 - o [*] Feeds
 - o Depending on cost and availability, may include video feeds
 - o [*]
- [*]
- Syndication for all [*] (only Bundled Apps & Services and the Toshiba Logo [*])
- Portal statistics (i.e. [*]) need to be traceable [*] (but do not need to be traced [*])

Portal [*] Requirements [*]

For [*]:

- Toshiba Logo
- [*] (See note in "General" above)
- Domestic News
- Sports
- World News
- [*] Link (actual link names TBD)
- All areas require [*] to be provided by Synacor; if Synacor uses the services of a third party for such [*], it will invoice Client for the actual costs associated therewith that are pre-approved by Client in writing.
- Portal statistics (i.e. [*]) need to be [*] (but do not need to be traced [*])

Toshiba [] Portal Project CONFIDENTIAL Page 6 of 7*

[*] = CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

[*]

Toshiba [] Portal Project CONFIDENTIAL Page 7 of 7*

[*] = CERTAIN INFORMATION HAS BEEN OMITTED AND FILED SEPARATELY WITH THE COMMISSION. CONFIDENTIAL TREATMENT HAS BEEN REQUESTED WITH RESPECT TO THE OMITTED PORTIONS.

CERTIFICATIONS

I, Ronald N. Frankel, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Synacor, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 14, 2013

/s/ Ronald N. Frankel
Chief Executive Officer

CERTIFICATIONS

I, William J. Stuart, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Synacor, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 14, 2013
/s/ William J. Stuart
Chief Financial Officer

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

I, Ronald N. Frankel, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Synacor, Inc. on Form 10-Q for the quarterly period ended September 30, 2013 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc.

Date: November 14, 2013

/s/ Ronald N. Frankel
Ronald N. Frankel
President and Chief Executive Officer
(Principal Executive Officer)

I, William J. Stuart, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Synacor, Inc. on Form 10-Q for the quarterly period ended September 30, 2013 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Synacor, Inc.

Date: November 14, 2013

/s/ William J. Stuart
William J. Stuart
Chief Financial Officer
(Principal Financial and Accounting Officer)

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to Synacor, Inc. and will be retained by Synacor, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. This certification "accompanies" the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.