

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

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): February 14, 2020

INSTRUCTURE, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-37629
(Commission
File Number)

26-3505687
(IRS Employer
Identification No.)

6330 South 3000 East, Suite 700
Salt Lake City, UT
(Address of principal executive offices)

84121
(Zip Code)

Registrant's telephone number, including area code: (800) 203-6755

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:

<u>Title of each class</u>	<u>Trading symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$0.0001	INST	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

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

Item 1.01.**Entry into a Material Definitive Agreement.**

On February 13, 2020, Instructure, Inc., a Delaware corporation (“Instructure” or the “Company”) entered into Amendment No. 1 to the Agreement and Plan of Merger (“Amendment No. 1”), by and among Instructure Holdings, LLC, a Delaware limited liability company (f/k/a PIV Purchaser, LLC) (“Parent”), PIV Merger Sub, Inc., a Delaware corporation and wholly owned subsidiary of Parent (“Merger Sub”) and the Company. Amendment No. 1 amends the Agreement and Plan of Merger, dated as of December 4, 2019 (the “Merger Agreement”).

Amendment No. 1, among other things: (a) increases the consideration to be paid with respect to each share of Instructure common stock (other than shares owned by the Company or a stockholder that has properly exercised and not withdrawn such stockholder’s appraisal rights under the General Corporation Law of the State of Delaware), if the Merger is completed, to \$49.00 per share in cash, without interest thereon, less any applicable withholding taxes, from \$47.60 per share in cash, without interest thereon, less any applicable withholding taxes, and (b) obligates the Company to convene the stockholder meeting to approve the Merger as promptly as reasonably practical following the filing of the proxy supplement and other required filings with respect to Amendment No. 1.

The foregoing description of Amendment No. 1 may not contain all of the information that is important to you and is qualified in its entirety by reference to the full text of Amendment No. 1, which is attached hereto as Exhibit 2.1 and is incorporated herein by reference.

Item 5.02**Amendment of Waiver Agreement.**

Daniel T. Goldsmith, the Chief Executive Officer of the Company, entered into an Amended and Restated Waiver of Certain Change in Control Benefits Agreement, dated as of February 13, 2020 (the “A&R CIC Benefits Waiver”) with the Company, superseding the Waiver of Certain Change in Control Benefits Agreement that Mr. Goldsmith entered into with the Company on December 4, 2019. Pursuant to the terms of the A&R CIC Benefits Waiver, effective as of immediately prior to the Effective Time (as defined in the Merger Agreement), Mr. Goldsmith agreed that (1) the following equity awards shall vest and be cashed out in accordance with the terms of the Merger Agreement, subject to the occurrence of the Effective Time: (a) all of his outstanding equity awards that vest prior to or on March 1, 2020, and (b) 52% of his outstanding equity awards that vest after March 1, 2020, and (2) he shall forfeit 48% of his outstanding equity awards that vest after March 1, 2020, effective immediately prior to the Effective Time. Pursuant to the A&R CIC Benefits Waiver, Mr. Goldsmith waived any claims with respect to such forfeited awards.

The foregoing description of the A&R CIC Benefits Waiver does not purport to be complete and is qualified in its entirety by the full text of the A&R CIC Benefits Waiver, a copy of which is filed as Exhibit 10.2 hereto and is incorporated by reference herein.

Item 8.01 Other Events.**Adjournment of Special Meeting.**

A special meeting of the stockholders of the Company (the “Special Meeting”) was scheduled for 9:00 a.m. Mountain time on February 14, 2020 to consider matters related to the previously announced Merger Agreement with Thoma Bravo, LLC. On February 14, 2020, the Company announced that it was adjourning the Special Meeting until 9:00 a.m. Mountain time on February 25, 2020. The Special Meeting will be convened at the Company’s office located at 6330 South 3000 East, Suite 700, Salt Lake City, Utah, 84121.

On February 14, 2020, the Company issued a press release announcing the adjournment of the Special Meeting. The press release is filed as Exhibit 99.1 hereto and is incorporated herein by reference.

Additional Information and Where to Find It

In connection with the proposed transaction, on January 7, 2020 the Company filed with the SEC its revised definitive proxy statement (the “Proxy Statement”), as well as other relevant documents concerning the proposed transaction. The Company mailed the Proxy Statement and a proxy card to each stockholder of the Company entitled to vote at the special meeting relating to the proposed transaction on or about January 14, 2020. **Investors and security holders of the Company are urged to carefully read the Proxy Statement (and any amendments thereto when such filings become available) and other filings made in connection therewith because such documents will contain important information about the proposed transaction.**

Investors and security holders of the Company are able to obtain a free copy of the Proxy Statement, and will be able to obtain a free copy of any amendments thereto, as well as other relevant filings containing information about the Company and the proposed transaction, including materials that are incorporated by reference into the Proxy Statement, without charge, at the SEC’s website (<http://www.sec.gov>) or from the Company by contacting the Company’s Investor Relations at (866) 574-3127, by email at Investors@instructure.com, or by going to the Company’s Investor Relations page on its website at <https://ir.instructure.com/overview/default.aspx> and clicking on the link titled “SEC Filings.”

Participants in the Solicitation

The Company and certain of its directors, executive officers and employees may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding the interests of the Company’s directors and executive officers and their ownership of Company common stock is set forth in the Company’s annual report on Form 10-K filed with the SEC on February 20, 2019 and the Company’s proxy statement on Schedule 14A filed with the SEC on April 8, 2019. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests in the proposed transaction, by security holdings or otherwise, are contained in the Proxy Statement, and will be contained in the other relevant materials to be filed with the SEC in connection with the proposed transaction. Free copies of these documents may be obtained, without charge, from the SEC or the Company as described in the preceding paragraph.

Notice Regarding Forward-Looking Statements

This communication contains forward-looking information related to the Company and the acquisition of the Company. Forward-looking statements in this release include, among other things, statements about the potential benefits of the proposed transaction, the Company’s plans, objectives, expectations and intentions, the financial condition, results of operations and business of the Company, and the anticipated timing of closing of the proposed transaction. Risks and uncertainties include, among other things, risks related to the ability of the Company to consummate the proposed transaction on a timely basis or at all, including due to complexities resulting from the adoption of new accounting pronouncements and associated system implementations; the satisfaction of the conditions precedent to consummation of the proposed transaction; the Company’s ability to secure regulatory approvals on the terms expected in a timely manner or at all; disruption from the transaction making it more difficult to maintain business and operational relationships; the negative side effects of the announcement or the consummation of the proposed transaction on the market price of the Company’s common stock or on the Company’s operating results; significant transaction costs; unknown liabilities; the risk of litigation and/or regulatory actions related to the proposed transaction; competitive factors, including competitive responses to the transaction and changes in the competitive environment, pricing changes, sales cycle time and increased competition; customer demand for the Company’s products; new application introductions and the Company’s ability to develop and deliver innovative applications and features; the Company’s ability to provide high-quality service and support offerings; the Company’s ability to build and expand its sales efforts; regulatory requirements or developments; changes in capital resource requirements; and other business effects, including the effects of industry, market, economic, political or regulatory conditions; future exchange and interest rates; changes in tax and other laws, regulations, rates and policies; and future business combinations or disposals.

Further information on these and other risk and uncertainties relating to the Company can be found in its reports on Forms 10-K, 10-Q and 8-K and in other filings the Company makes with the SEC from time to time and available at www.sec.gov. These documents are available under the SEC filings heading of the Investors section of the Company's website at <https://ir.instructure.com/overview/default.aspx>.

The forward-looking statements included in this communication are made only as of the date hereof. The Company assumes no obligation and does not intend to update these forward-looking statements, except as required by law.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

<u>Number</u>	<u>Description</u>
2.1	<u>Amendment No. 1 to the Agreement and Plan of Merger, dated as of February 13, 2020, Instructure Holdings, LLC, PIV Merger Sub, Inc., and Instructure, Inc.</u>
10.2	<u>Amended and Restated Waiver of Certain Change in Control Benefits Agreement, dated as of February 13, 2020, by and between Instructure, Inc., Daniel Goldsmith and Instructure Holdings, LLC and PIV Merger Sub, Inc.</u>
99.1	<u>Press release of Instructure, Inc., dated February 14, 2020.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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 hereunto duly authorized.

INSTRUCTURE, INC.

By: /s/ Matthew Kaminer
Matthew A. Kaminer
Chief Legal Officer

Date: February 14, 2020

AMENDMENT NO. 1 TO THE AGREEMENT AND PLAN OF MERGER

This AMENDMENT NO. 1 (this “**Amendment**”), is made and entered into as of February 13, 2020 (the “**Amendment Date**”), to the Agreement and Plan of Merger (the “**Merger Agreement**”), dated as of December 4, 2019, by and among Instructure Holdings, LLC, formerly known as PIV Purchaser, LLC, a Delaware limited liability company (“**Parent**”), PIV Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Parent (“**Merger Sub**”), and Instructure, Inc., a Delaware corporation (the “**Company**”). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

RECITALS

WHEREAS, Parent, Merger Sub and the Company entered into the Merger Agreement on December 4, 2019;

WHEREAS, Section 8.4 of the Merger Agreement provides that at any time prior to the Effective Time, the parties thereto may modify, supplement or amend the Merger Agreement, by execution of an instrument in writing signed on behalf of each of Parent, Merger Sub and the Company (pursuant to authorized action by the Company Board (or a committee thereof));

WHEREAS, each of Parent, Merger Sub and the Company desires to amend certain terms of the Merger Agreement as set forth this Amendment and to make certain representations, warranties, covenants and agreements in connection with this Amendment;

WHEREAS, concurrently with the execution of this Amendment, and as a condition and inducement to the Company’s willingness to enter into this Amendment, Parent and Merger Sub have delivered an amended and restated commitment letter between Parent and the Guarantor, pursuant to which the Guarantor has committed, subject to the terms and conditions thereof, to invest in Parent, directly or indirectly, the cash amounts set forth therein (as amended, restated, supplemented, modified or waived from time to time in accordance with its terms, the “**Equity Commitment Letter**”).

WHEREAS, the respective boards of directors or other governing body of each of Parent, Merger Sub and the Company have approved the Merger on the terms and subject to the conditions set forth in the Merger Agreement, as amended by this Amendment, and have approved and declared advisable the Merger Agreement, as amended by this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the parties hereto hereby agree as follows:

1. **Merger Consideration.** Section 2.7(a)(ii) of the Merger Agreement is hereby amended and restated in its entirety to read as follows:

“each share of Company Common Stock that is outstanding as of immediately prior to the Effective Time (other than Owned Company Shares or Dissenting Company Shares) will be cancelled and extinguished and automatically converted into the right to receive cash in an amount equal to ~~\$47.60~~ \$49.00, without interest thereon, subject to any required withholding of Taxes (the “Per Share Price”), in accordance with the provisions of Section 2.9 (or in the case of a lost, stolen or destroyed certificate, upon delivery of an affidavit (and bond, if required) in accordance with the provisions of Section 2.11); and”

2. **Company Stockholder Meeting.** Section 6.4 of the Merger Agreement is hereby amended and restated in its entirety as follows:

“(a) Call of Company Stockholder Meeting. Subject to the provisions of this Agreement, the Company will take all action necessary in accordance with the DGCL, the Charter, the Bylaws and the rules of NYSE to establish a record date for (and the Company will not change the record date without the prior written consent of Parent (such consent not to be unreasonably withheld, conditioned or delayed)), duly call, give notice of, convene and hold a meeting of its stockholders (the “**Company Stockholder Meeting**”) as promptly as reasonably practicable following the ~~mailing of the Proxy Statement to the Company Stockholders~~ filing of the supplement to the Proxy Statement and the Other Required Company Filings required to be filed by the Company in connection with the Amendment for the purpose of obtaining the Requisite Stockholder Approval. Notwithstanding anything to the contrary in this Agreement, the Company will not be required to convene and hold the Company Stockholder Meeting at any time prior to the 20th Business Day following the mailing of the Proxy Statement to the Company Stockholders; provided that the Company Stockholder Meeting shall not be held later than 45 days after the SEC Clearance Date. Subject to Section 5.3 and unless there has been a Company Board Recommendation Change, the Company will use its reasonable best efforts to solicit proxies to obtain the Requisite Stockholder Approval.”

(b) Adjournment of Company Stockholder Meeting. Notwithstanding anything to the contrary in this Agreement, nothing will prevent the Company from postponing or adjourning the Company Stockholder Meeting if (i) there are holders of an insufficient number of shares of the Company Common Stock present or represented by proxy at the Company Stockholder Meeting to constitute a quorum at the Company Stockholder Meeting (it being understood that the Company may not postpone or adjourn the Company Stockholder Meeting more than two times pursuant to this clause (i) without Parent’s prior written consent); ~~or~~ (ii) the Company is required to postpone or adjourn the Company Stockholder Meeting by applicable law, order or a request from the SEC or its staff, (iii) in order to give the Company Stockholders sufficient time to evaluate any information or disclosure that the Company has sent to the Company Stockholders or otherwise made available to the Company Stockholders or (iv) if the Company reasonably believes, after consultation with Parent, it is necessary or advisable to solicit additional votes in order to obtain the Requisite Stockholder Approval; provided that any postponed or adjourned Company Stockholder Meeting will be for a date no later than two Business Days prior to the Termination Date. Unless this Agreement is validly terminated in accordance with Section 8.1, the Company will submit this Agreement and the Merger to its stockholders at the Company Stockholder Meeting even if the Company Board (or a committee thereof) has effected a Company Board Recommendation Change.”

3. **Parent Vote.** Section 6.18 of the Merger Agreement is hereby amended to insert the following after the last sentence therein:

“Immediately following execution of Amendment No. 1 to this Agreement, dated as of February 13, 2020 (the “Amendment”), Parent, in its capacity as sole stockholder of Merger Sub, will execute and deliver to Merger Sub and the Company a written consent approving the Merger, as amended by the Amendment, in accordance with the DGCL.”

4. **Certain Interpretations.** Section 1.13 of the Merger Agreement is hereby amended to add the following as a new subsection (s):

“(s) Each reference to “herein”, “hereof,” “hereunder,” “hereby,” and “this Agreement” shall, from and after the date of the Amendment, refer to the Merger Agreement, as amended by the Amendment. Each reference herein to “the date of the Amendment” shall refer to February 13, 2020 and each reference to the “date of this Agreement”, the “date hereof”, “concurrently with the execution and delivery of this Agreement” and similar references shall refer to December 4, 2019.”

5. **Representations and Warranties.**

(a) *Company.* The Company hereby represents and warrants to Parent and Merger Sub that:

i. The Company has the requisite corporate power and authority to (a) execute and deliver this Amendment; (b) perform its covenants and obligations under the Merger Agreement, as amended by this Amendment; and (c) subject to receiving the Requisite Stockholder Approval, consummate the Merger.

ii. The execution and delivery of this Amendment by the Company, the performance by the Company of its covenants and obligations under the Merger Agreement, as amended by this Amendment, and the consummation of the Merger have been duly authorized by all necessary corporate action on the part of the Company and no additional corporate actions on the part of the Company are necessary to authorize (a) the execution and delivery of this Amendment by the Company; (b) the performance by the Company of its covenants and obligations under the Merger Agreement, as amended by this Amendment; or (c) subject to the receipt of the Requisite Stockholder Approval, the consummation of the Merger.

iii. This Amendment has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by Parent and Merger Sub, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Limitations.

iv. The Company Board has unanimously (a) determined that the Merger Agreement, as amended by this Amendment, is in the best interests of the Company and its stockholders, and declared it advisable, to enter into this Amendment and consummate the Merger upon the terms and subject to the conditions set forth in the Merger Agreement, as amended by this Amendment; (b) approved the execution and delivery of the Amendment by the Company, the performance by the Company of its covenants and other obligations under the Merger Agreement, as amended by this Amendment, and the consummation of the Merger upon the terms and conditions set forth in the Merger Agreement, as amended by this Amendment; and (c) resolved to recommend that the Company Stockholders adopt the Merger Agreement, as amended by this Amendment, and approve the Merger in accordance with the DGCL.

(b) *Parent and Merger Sub.* Parent and Merger Sub each hereby represent and warrant to the Company that:

i. Each of Parent and Merger Sub has the requisite power and authority to (a) execute and deliver this Amendment; (b) perform its covenants and obligations under the Merger Agreement, as amended by this Amendment; and (c) consummate the Merger.

ii. The execution and delivery of this Amendment by each of Parent and Merger Sub, the performance by each of Parent and Merger Sub of its respective covenants and obligations under the Merger Agreement, as amended by this Amendment and the consummation of the Merger have been duly authorized by all necessary action on the part of each of Parent and Merger Sub and no additional actions on the part of Parent or Merger Sub are necessary to authorize (i) the execution and delivery of this Amendment by each of Parent and Merger Sub; (ii) the performance by each of Parent and Merger Sub of its respective covenants and obligations under the Merger Agreement, as amended by this Amendment; or (iii) the consummation of the Merger.

iii. This Amendment has been duly executed and delivered by each of Parent and Merger Sub and, assuming due execution and delivery by the Company, constitutes a legal, valid and binding agreement of Parent and Merger Sub, enforceable against each of Parent and Merger Sub in accordance with its term, subject to the Enforceability Limitations.

iv. Parent has delivered to the Company a true, correct and complete copy of the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date), pursuant to which the Guarantor has committed, subject to the terms and conditions thereof, to invest in Parent, directly or indirectly, the cash amounts set forth therein solely for the purpose of funding the Closing Payments. As of the Amendment Date, except in accordance with the terms of the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date), (A) the Equity Commitment Letter, and the terms of the Equity Financing have not been amended or modified as of the Amendment Date (B) no such amendment or modification is contemplated; and (C) the respective commitments contained therein have not been withdrawn, terminated or rescinded in any respect. There are no other Contracts, agreements, side letters or arrangements to which Parent or Merger Sub is a party relating to the funding or investing, as applicable, of the full amount of the Equity Financing, other than as expressly set forth in the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date). Other than as set forth in the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date), there are no conditions precedent related to the funding or investing, as applicable, of the full amount of the Equity Financing. The net proceeds of the Equity Financing, when funded in accordance with the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date) will be, in the aggregate, sufficient to make the payment of the Required Amount. As of the Amendment Date, the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date), is in full force and effect and constitutes the legal, valid and binding obligations of Parent, Merger Sub and the Guarantor, as applicable, enforceable against Parent, Merger Sub and the Guarantor, as applicable, in accordance with its terms, subject to the Enforceability Limitations. Other than as expressly set forth in the Equity Commitment Letter (in the form delivered by Parent to the Company as of the Amendment Date), there are no conditions precedent or other contingencies related to the funding of the full proceeds of the Equity Financing pursuant to any agreement relating to the Equity Financing to which the Guarantor, Parent or Merger Sub, or any of their respective Affiliates, is a party. As of the Amendment Date, no event has occurred that, with notice or lapse of time or both, would, or would reasonably be expected to, constitute a default or breach on the part of Parent, Merger Sub or the Guarantor pursuant to the Equity Commitment Letter (it being understood that Parent and Merger Sub are not making any representation or warranty regarding the effect of any inaccuracy of the representations and warranties in Article III or the Company's compliance hereunder). As of the Amendment Date, Parent has no reason to believe that it will be unable to satisfy on a timely basis any term or condition of the Equity Financing to be satisfied by it, whether or not such term or condition is contained in the Equity Commitment Letter (it being understood that Parent and Merger Sub are not making any representation or warranty regarding the effect of any inaccuracy of the representations and warranties in Article III or the Company's compliance hereunder). As of the Amendment Date, Parent and Merger Sub have fully paid, or caused to be fully paid, all commitment or other fees that are due and payable on or prior to the date hereof, in each case pursuant to and in accordance with the terms of the Equity Commitment Letter.

v. Neither Parent or Merger Sub nor any of their respective Affiliates is a party to any Contract, or has authorized, made or entered into, or committed or agreed to enter into, any formal or informal arrangements or other understandings (whether or not binding) with any stockholder (other than any existing limited partner of the Guarantor or any of its Affiliates), director, officer, employee or other Affiliate of the Company Group (a) relating to (i) this Agreement or the Merger; or (ii) the Surviving Corporation or any of its Subsidiaries, businesses or operations (including as to continuing employment) from and after the Effective Time; or (b) pursuant to which any (i) such holder of Company Common Stock would be entitled to receive consideration of a different amount or nature than the Per Share Price in respect of such holder's shares of Company Common Stock; (ii) such holder of Company Common Stock has agreed to approve this Agreement or vote against any Superior Proposal; or (iii) such stockholder, director, officer, employee or other Affiliate of the Company other than the Guarantor has agreed to provide, directly or indirectly, equity investment to Parent, Merger Sub or the Company to finance any portion of the Merger.

6. **Confirmation of Merger Agreement.** Other than as expressly modified pursuant to this Amendment, all of the terms, covenants and other provisions of the Merger Agreement are hereby ratified and confirmed and shall continue to be in full force and effect in accordance with their respective terms.

7. **Counterparts.** This Amendment may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute one and the same agreement.

8. **General Provisions.** The provisions of Article IX of the Merger Agreement shall apply mutatis mutandis to this Amendment, and to the Merger Agreement as modified by this Amendment, taken together as a single agreement, reflecting the terms therein as modified by this Amendment.

[Signature page follows.]

IN WITNESS WHEREOF, this Amendment has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first written above.

INSTRUCTURE HOLDINGS, LLC

By: /s/ Holden Spaht
Name: Holden Spaht
Title: President and Assistant Secretary

PIV MERGER SUB, INC.

By: /s/ Holden Spaht
Name: Holden Spaht
Title: President and Assistant Secretary

[Signature Page to Amendment No. 1 to the Agreement and Plan of Merger]

IN WITNESS WHEREOF, this Amendment has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first written above.

INSTRUCTURE, INC.

By: /s/ Matthew Kaminer

Name: Matthew Kaminer

Title: Chief Legal Officer

[Signature Page to Amendment No. 1 to the Agreement and Plan of Merger]

INSTRUCTURE, INC.
6330 South 3000 East, Suite 700
Salt Lake City, Utah 84121

February 13, 2020

INSTRUCTURE, INC.

6330 South 3000 East, Suite 700

Salt Lake City, Utah 84121

Attention: Daniel Goldsmith

Re: Amended and Restated Waiver of Certain CIC Benefits

Dear Mr. Goldsmith:

Reference is made to (i) that certain Executive Agreement, dated as of June 4, 2018, by and between Daniel Goldsmith (“Executive” or “you”) and Instructure, Inc., a Delaware corporation (the “Company” and such agreement, the “Executive Agreement”), (ii) the Minutes of the Compensation Committee of the Company, dated as of April 17, 2018 (the “Minutes”), (iii) that certain letter agreement, dated as of December 4, 2019, by and between you and the Company (the “Original Agreement”), (iv) that certain Agreement and Plan of Merger, dated as of December 4, 2019, by and among Instructure Holdings, LLC (f/k/a PIV Purchaser, LLC), a Delaware limited liability company (“Parent”), PIV Merger Sub, Inc., a Delaware corporation (“Merger Sub”), and the Company (as it may be amended, supplemented or otherwise modified from time to time, the “Merger Agreement”), and (v) that certain Amendment No. 1 to Agreement and Plan of Merger, dated as of February 13, 2020, by and among Parent, Merger Sub and the Company (the “Amendment”). Capitalized terms used but not otherwise defined herein shall have the respective meanings set forth in the Minutes. You, the Company, Parent and Merger Sub are sometimes referred to herein collectively as the “Parties” and each, a “Party”.

By executing below, each of the Parties acknowledges and agrees that this letter agreement shall amend, replace and supersede in its entirety, the Original Agreement. The entry into this letter agreement is an express condition to Parent’s willingness to enter into the Amendment and without the covenants, agreements, releases and waivers set forth herein, Parent would not have entered into the Amendment. Parent is relying on this letter agreement as an inducement to consummate the transactions contemplated by the Merger Agreement as modified by the Amendment.

Notwithstanding anything in the Executive Agreement or the Minutes to the contrary, by executing below, you hereby acknowledge and agree that, contingent upon the consummation of the transactions (the “Transactions”) contemplated by the Merger Agreement (as amended by the Amendment):

1. (i) All of your outstanding stock awards (whether in the form of options or RSUs) which vest prior to or on March 1, 2020 and (ii) fifty-two percent (52%) of your outstanding stock awards (whether in the form of options or RSUs) which vest after March 1, 2020 shall become fully vested with respect to the shares subject thereto, effective immediately prior to the consummation of the Transactions (clauses (i) and (ii), collectively, the “Accelerated Awards”);
2. The remaining forty-eight percent (48%) of your outstanding stock awards (whether in the form of options or RSUs) which are unvested as of immediately prior to the consummation of the Transactions (but, for the avoidance of doubt, excluding any stock award that will vest on or prior to March 1, 2020 which will vest pursuant to paragraph 1 above) shall automatically be forfeited and cancelled upon consummation of the Transactions with no consideration payable thereon, and you will have no further rights or entitlements with respect to such awards (the “Forfeited Awards” and, together with the Accelerated Awards, the “Equity Awards”); and
3. The consummation of the Transactions alone and the potential related changes in your job

duties, responsibilities, title or authority solely as a result of the Company no longer being publicly traded will not constitute Good Reason for purposes of the Executive Agreement, including as contemplated in the Minutes. Without limiting the foregoing, you nonetheless expressly and irrevocably waive and release any and all claims you may have to terminate your employment for Good Reason (as defined in the Executive Agreement or similar or related definitions of “good reason” or “constructive dismissal” or the like in any plan, program, agreement or other arrangement sponsored or implemented by the Company or any of its affiliates) and to receive (i) the CIC Benefits (as defined in the Executive Agreement) and (ii) any other payments, benefits or entitlements under any plan, program, agreement or other arrangement sponsored by the Company or any of its affiliates, in each case, in connection with your resignation of employment with the Company for Good Reason based solely on the consummation of the Transactions and the potential related changes in your job duties, responsibilities, title or authority solely as a result of the Company no longer being publicly traded.

Without limiting the forfeiture and cancellation of the Forfeited Awards, nothing contained in this letter agreement shall be considered a waiver of any other compensation or benefits to which you may be entitled or a waiver of any of your rights to raise a claim of Good Reason (or similar or related definitions of “good reason” or “constructive dismissal” or the like) in any plan, program, agreement or other arrangement sponsored or implemented by the Company or its affiliates to the extent arising out of an act, failure to act or other circumstance, in each case, that first occurs after the date hereof and that is not related to the consummation of the Transactions and the potential changes to your job duties, responsibilities, title or authority solely as a result of the Company no longer being publicly traded and in connection with the consummation of the Transactions.

Effective upon the consummation of the Transactions, you (on behalf of yourself and your spouse, representatives, attorneys, assigns heirs, executors, and administrators), fully, voluntarily and unconditionally hereby irrevocably waive, fully and finally release, acquit and forever discharge the Company, Parent, Merger Sub and their respective affiliates (including, following the Transactions, Thoma Bravo, LLC and its affiliated investment funds), boards of directors, employees, members, managers, equityholders and agents (collectively, the “Released Parties” and each, a “Released Party”) from any and all claims, actions, proceedings, suits, liabilities or obligations of any kind or nature whatsoever (collectively, the “Claims” and each, a “Claim”), with respect to the Forfeited Awards and the cancellation and forfeiture thereof. You agree that you hereby waive all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever with respect to the Forfeited Awards. The release provided under this letter agreement with respect to the Forfeited Awards extends to and will be binding upon you and each of your heirs, representatives, beneficiaries, successors, assigns and affiliates, and shall inure to the benefit of all of the Released Parties.

Each payment or benefit provided under this letter agreement is intended to be either (1) exempt from Section 409A, including, but not limited to, by compliance with the short-term deferral exemption as specified in Treas. Reg. Section 1.409A-1(b)(4), or (2) compliant with Section 409A, to the extent subject thereto, and accordingly, the provisions of this letter agreement will be administered, interpreted and construed, to the maximum extent permitted, to be exempt therefrom or in compliance therewith. Each amount to be paid or benefit to be provided to you pursuant to this letter agreement that constitutes deferred compensation subject to Section 409A shall be construed as a separate identified payment for purposes of Section 409A. Notwithstanding anything to the contrary contained herein, the Company shall pay any tax, penalty or interest imposed under Section 409A that you may incur (determined on an after tax basis) in the event that any payment hereunder is subject to Section 409A and determined not to be in compliance with Section 409A as a result of the application of the terms of this letter agreement.

You agree that you shall not, except done in good faith in any claim, suit, action or proceeding against you, the Company, Parent or Merger Sub, make any derogatory or disparaging statement or communication regarding the Company, Parent or Merger Sub, or any officer or director of the

foregoing. Each of the Company, Parent and Merger Sub agree that it shall direct and instruct its directors and officers to not, except done in good faith in any claim, suit, action or proceeding against the you, the Company, Parent or Merger Sub, as applicable, make any derogatory or disparaging statement or communication regarding you. Nothing in this paragraph shall limit your, the Company's, Parent's or Merger Sub's ability to make true and accurate statements or communications in connection with any disclosure such party reasonably believes is required pursuant to applicable law, nor shall it limit such party's ability to make a good faith rebuttal of any untrue or misleading statements made by any of the other parties hereto or their respective directors or officers, as applicable.

Any press release or any similar public statement or disclosure regarding the terms or existence of this letter agreement or the status of Executive's employment with the Company (or any termination thereof) shall require the prior mutual consent of the parties hereto.

This letter agreement is binding on and enforceable against you, the Company, Parent and Merger Sub notwithstanding any contrary provisions in the Merger Agreement, and in the event of a conflict between the provisions of this letter agreement and the Merger Agreement, the provisions of this letter agreement shall control with respect to the Parties. This letter agreement is made pursuant to and shall be governed by the laws of the State of Delaware, without regard to conflict of law principles.

This letter agreement may be executed in multiple counterparts which, taken together, shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this letter agreement by electronic mail in portable document format (PDF) shall be effective as delivery of a manually executed original counterpart to this letter agreement.

This letter agreement may not be altered, modified, amended or terminated (other than any automatic termination as contemplated in the immediately succeeding paragraph) except by written instrument signed by you, Parent, Merger Sub and the Company. The failure of a Party to insist upon strict adherence to any term of this letter on any occasion shall not be considered a waiver of such Party's rights or deprive such Party of the right thereafter to insist upon strict adherence to that term or any other term of this letter agreement.

In the event that the Merger Agreement is terminated in accordance with the terms thereof and the Transactions are not consummated, this letter agreement shall automatically terminate and be null and void *ab initio*, and no Party hereto shall have any obligations hereunder.

Please indicate your agreement with the foregoing by signing this letter agreement below, and by signing below, you hereby acknowledge and agree that the execution of this letter agreement will not constitute Good Reason pursuant to the Executive Agreement.

* * * * *

Sincerely,

INSTRUCTURE, INC.

By: /s/ Matthew Kaminer

Name: Matthew Kaminer

Its: Chief Legal Officer

Signature Page to Waiver Agreement

Acknowledged and Agreed as of February 13, 2020

Signature: /s/ Daniel Goldsmith
Daniel Goldsmith

Signature Page to Waiver Agreement

Acknowledged and Agreed as of February 13, 2020

INSTRUCTURE HOLDINGS, LLC

By: /s/ Holden Spaht
Name: Holden Spaht
Its: President and Assistant Secretary

PIV MERGER SUB, INC.

By: /s/ Holden Spaht
Name: Holden Spaht
Its: President and Assistant Secretary

Signature Page to Waiver Agreement

**Instructure and Thoma Bravo Amend Definitive Merger Agreement
to Increase Offer Price to \$49.00 Per Share in Cash**

—Revised Agreement Approved by Instructure’s Board of Directors—

—Revised Agreement Represents ‘Best and Final’ Offer from Thoma Bravo; Consideration Delivers Instructure Stockholders Certain and Immediate Value—

—Special Meeting of Instructure Stockholders Adjourned to February 25, 2020—

SALT LAKE CITY – FEBRUARY 14, 2020 –Instructure (NYSE: INST) and Thoma Bravo, LLC today announced that they have entered into an amendment to their definitive merger agreement under which Thoma Bravo has increased to \$49.00 per share in cash its offer to acquire all outstanding shares of Instructure. The offer, which represents a best and final offer, is an increase from the prior \$47.60 per share offer.

The Instructure Board of Directors approved the revised merger agreement and recommend that Instructure stockholders vote in favor of the transaction.

The Special Meeting of Instructure Stockholders scheduled for today will be convened and then adjourned again until Tuesday, February 25, 2020 at 9:00 a.m. Mountain Time, allowing stockholders to have additional time to consider voting in favor of the transaction.

Stockholders who have already voted do not need to recast their votes. Proxies previously submitted will be voted at the reconvened meeting unless properly revoked. Stockholders who have not already voted or wish to change their vote are encouraged to do so using the instructions provided in the revised definitive proxy statement. No other changes have been made in the proposals to be voted on by stockholders at the special meeting.

The failure to return the proxy, or vote at the special meeting in person, will have the same effect as a vote “against” the merger. Stockholders seeking copies of the definitive proxy statement or with questions about the special meeting may contact the company’s proxy solicitor, MacKenzie Partners, Inc., toll-free at (800) 322-2885.

ABOUT INSTRUMENTURE

Instructure helps people grow from the first day of school to the last day of work. More than 30 million people use the Canvas Learning Management Platform for schools and the Bridge Employee Development Platform for businesses. More information at www.instructure.com.

ABOUT THOMA BRAVO, LLC

Thoma Bravo is a leading private equity firm focused on the software and technology-enabled services sectors. With a series of funds representing more than \$35 billion in capital commitments, Thoma Bravo partners with a Company’s management team to implement operating best practices, invest in growth initiatives and make accretive acquisitions intended to accelerate revenue and earnings, with the goal of increasing the value of the business. Representative past and present portfolio companies include industry leaders such as ABC Financial, Blue Coat Systems, Deltek, Digital Insight, Frontline Education, Global Healthcare Exchange, Hyland Software, Imprivata, iPipeline, PowerPlan, Qlik, Riverbed, SailPoint, SolarWinds, SonicWall, Sparta Systems, TravelClick and Veracode. The firm has offices in San Francisco and Chicago.

Additional Information and Where to Find It

Instructure filed with the Securities and Exchange Commission (the “SEC”) a revised definitive proxy statement on Schedule 14A on January 7, 2020 (the “proxy statement”), as well as other relevant documents concerning the proposed transaction. The proxy statement contains important information about the proposed merger and related matters. Investors and security holders of Instructure are urged to carefully read the entire proxy statement because it contains important information about the proposed

transactions. A definitive proxy statement will be sent to the stockholders of Instructure seeking any required stockholder approvals.

Investors and security holders of Instructure will be able to obtain a free copy of the proxy statement, as well as other relevant filings containing information about Instructure and the proposed transactions, including materials that will be incorporated by reference into the proxy statement, without charge, at the SEC's website (<http://www.sec.gov>) or from Instructure by contacting Instructure's Investor Relations at (866) 574-3127, by email at Investors@instructure.com, or by going to Instructure's Investor Relations page on its website at <https://ir.instructure.com/overview/default.aspx> and clicking on the link titled "SEC Filings."

Participants in the Solicitation

Instructure and certain of its directors, executive officers and employees may be deemed to be participants in the solicitation of proxies in respect of the proposed merger. Information regarding the interests of Instructure's directors and executive officers and their ownership of Instructure common stock is set forth in Instructure's annual report on Form 10-K filed with the SEC on February 20, 2019 and Instructure's proxy statement on Schedule 14A filed with the SEC on April 8, 2019. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests in the proposed merger, by security holdings or otherwise, are contained in the proxy statement and other relevant materials to be filed with the SEC in connection with the proposed merger. Free copies of these documents may be obtained, without charge, from the SEC or Instructure as described in the preceding paragraph.

Notice Regarding Forward-Looking Statements

This communication contains forward-looking information related to the Company and the acquisition of the Company. Forward-looking statements in this release include, among other things, statements about the potential benefits of the proposed transaction, Instructure's plans, objectives, expectations and intentions, the financial condition, results of operations and business of Instructure, and the anticipated timing of closing of the proposed transaction. Risks and uncertainties include, among other things, risks related to the ability of Instructure to consummate the proposed transaction on a timely basis or at all, including due to complexities resulting from the adoption of new accounting pronouncements and associated system implementations; the satisfaction of the conditions precedent to consummation of the proposed transaction; Instructure's ability to secure regulatory approvals on the terms expected in a timely manner or at all; disruption from the transaction making it more difficult to maintain business and operational relationships; the negative side effects of the announcement or the consummation of the proposed transaction on the market price of Instructure's common stock or on Instructure's operating results; significant transaction costs; unknown liabilities; the risk of litigation and/or regulatory actions related to the proposed transaction; competitive factors, including competitive responses to the transaction and changes in the competitive environment, pricing changes, sales cycle time and increased competition; customer demand for Instructure's products; new application introductions and Instructure's ability to develop and deliver innovative applications and features; Instructure's ability to provide high-quality service and support offerings; Instructure's ability to build and expand its sales efforts; regulatory requirements or developments; changes in capital resource requirements; and other business effects, including the effects of industry, market, economic, political or regulatory conditions; future exchange and interest rates; changes in tax and other laws, regulations, rates and policies; and future business combinations or disposals.

Further information on these and other risk and uncertainties relating to Instructure can be found in its reports on Forms 10-K, 10-Q and 8-K and in other filings Instructure makes with the SEC from time to time and available at www.sec.gov. These documents are available under the SEC filings heading of the Investors section of Instructure's website at <https://ir.instructure.com/overview/default.aspx>.

The forward-looking statements included in this communication are made only as of the date hereof. Instructure assumes no obligation and does not intend to update these forward-looking statements, except as required by law.

CONTACTS:

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