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

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

BILL.COM HOLDINGS, INC.
(Exact name of registrant as specified in its charter)

Delaware 7372 83-2661725
(State or other jurisdiction of incorporation or organization) (Primary Standard Industrial Classification Code Number) (I.R.S. Employer Identification Number)

1810 Embarcadero Road
Palo Alto, California 94303
(650) 621-7700
(Address, including zip code, and telephone number, including area code, of registrant’s principal executive offices)

René Lacerte
Chief Executive Officer and Founder
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Palo Alto, California 94303
(650) 621-7700
(Name, address, including zip code, and telephone number, including area code, of agent for service)

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Palo Alto, California 94304
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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Securities Exchange Act of 1934, as amended.

Large accelerated filer ☐ Accelerated filer ☐
Non-accelerated filer ☒ Smaller reporting company ☐
Emerging growth company ☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

<table>
<thead>
<tr>
<th>Title of each class of securities to be registered</th>
<th>Proposed maximum aggregate offering price(1)(2)</th>
<th>Amount of registration fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common stock, $0.00001 par value per share</td>
<td>$100,000,000</td>
<td>$12,980</td>
</tr>
</tbody>
</table>

(1) Estimated solely for the purpose of calculating the amount of the registration fee in accordance with Rule 457(o) of the Securities Act.
(2) Includes the aggregate offering price of any additional shares that the underwriters have the option to purchase.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.
This is the initial public offering of our common stock.

Prior to this offering, there has been no public market for our shares of common stock. It is currently estimated that the initial public offering price per share will be between $ and $ per share.

We have applied to list our common stock on the New York Stock Exchange under the symbol "BILL."

We are an "emerging growth company" as that term is used in the Jumpstart Our Business Startups Act of 2012 and, as such, may elect to comply with certain reduced public company reporting requirements in future reports after the completion of this offering.

See the section titled "Risk Factors" beginning on page 12 to read about factors you should consider before buying shares of our common stock.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

| Initial public offering price | $ | $ |
| Underwriting discount(1)     | $ | $ |
| Proceeds, before expenses    | $ | $ |

(1) See the section titled "Underwriting" beginning on page 13 of this prospectus for additional information regarding total underwriting compensation.

To the extent that the underwriters sell more than shares of our common stock, the underwriters have an option to purchase up to an additional shares from us at the initial public offering price, less the underwriting discount.

The underwriters expect to deliver the shares against payment in New York, New York, on or about , 2019.

Goldman Sachs & Co. LLC    BofA Securities    Jefferies    KeyBanc Capital Markets
Canaccord Genuity    Needham & Company    William Blair

Prospectus dated , 2019
"Bill.com gave me my life back!"
Jeremy Pyles, Founder and CEO of Niche, a modern lighting company

"Bill.com is like an extra partner in the office... it helps me be more productive."
Mark Lindsay, Managing Director at Lindsay Leasing, a property management company

"Bill.com is reliable, dependable, trustworthy, and secure—all the things you want to see in your finance chain."
Aspen Clarke, Partner at The Secret Chocolatier, a boutique chocolate business

"Bill.com has made a huge difference to our operations... freeing up precious time to focus on more important initiatives."
Diane Westrep, Controller at Atlanta Humane Society

"Without Bill.com we would have had to hire at least one more full-time accounts payable person."
Jurie Victor, Finance Manager at Spikeball, a sports equipment company

"Bill.com saved us from having to outsource our accounts payable. By not0 handing it over to an outside firm we saved about $150,000 last year."
David Garrow, President of D&M Restaurant Group, a Burger King, Taco Bell and Blaze Pizza franchise

"I like Bill.com because it's much, much easier for me to see our cash on hand."
Keeley Tilletson, Founder and CEO of WildFriends Foods, a clean-food company

"Bill.com is the cornerstone of our business. The success of our clients, and our company, depends on it."
Laura Redmond, Founder of Redmond Accounting
<table>
<thead>
<tr>
<th>Table of Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROSPECTUS SUMMARY</td>
<td>1</td>
</tr>
<tr>
<td>RISK FACTORS</td>
<td>12</td>
</tr>
<tr>
<td>SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS</td>
<td>48</td>
</tr>
<tr>
<td>INDUSTRY AND MARKET DATA</td>
<td>50</td>
</tr>
<tr>
<td>USE OF PROCEEDS</td>
<td>51</td>
</tr>
<tr>
<td>DIVIDEND POLICY</td>
<td>52</td>
</tr>
<tr>
<td>CAPITALIZATION</td>
<td>53</td>
</tr>
<tr>
<td>DILUTION</td>
<td>56</td>
</tr>
<tr>
<td>SELECTED CONSOLIDATED FINANCIAL AND OTHER DATA</td>
<td>59</td>
</tr>
<tr>
<td>MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS</td>
<td>63</td>
</tr>
<tr>
<td>A LETTER FROM BILL.COM CEO AND FOUNDER RENÉ LACERTE</td>
<td>94</td>
</tr>
<tr>
<td>BUSINESS</td>
<td>96</td>
</tr>
<tr>
<td>MANAGEMENT</td>
<td>122</td>
</tr>
<tr>
<td>EXECUTIVE COMPENSATION</td>
<td>130</td>
</tr>
<tr>
<td>CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS</td>
<td>143</td>
</tr>
<tr>
<td>PRINCIPAL STOCKHOLDERS</td>
<td>146</td>
</tr>
<tr>
<td>DESCRIPTION OF CAPITAL STOCK</td>
<td>149</td>
</tr>
<tr>
<td>SHARES ELIGIBLE FOR FUTURE SALE</td>
<td>156</td>
</tr>
<tr>
<td>MATERIAL U.S. FEDERAL TAX CONSEQUENCES TO NON-U.S. HOLDERS OF OUR COMMON STOCK</td>
<td>159</td>
</tr>
<tr>
<td>UNDERWRITING</td>
<td>164</td>
</tr>
<tr>
<td>LEGAL MATTERS</td>
<td>170</td>
</tr>
<tr>
<td>EXPERTS</td>
<td>170</td>
</tr>
<tr>
<td>WHERE YOU CAN FIND MORE INFORMATION</td>
<td>170</td>
</tr>
<tr>
<td>INDEX TO CONSOLIDATED FINANCIAL STATEMENTS</td>
<td>F-1</td>
</tr>
</tbody>
</table>

Through and including , (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer’s obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

Neither we nor any of the underwriters have authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. Neither we nor any of the underwriters take responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is accurate only as of its date, regardless of the time of delivery of this prospectus or of any sale of our common stock.

For investors outside the United States: Neither we nor any of the underwriters have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of our common stock and the distribution of this prospectus outside the United States.
PROSPECTUS SUMMARY

This summary highlights selected information presented in greater detail elsewhere in this prospectus. This summary does not contain all the information you should consider before investing in our common stock. You should carefully read this prospectus in its entirety before investing in our common stock, including the sections titled “Risk Factors,” “Management's Discussion and Analysis of Financial Condition and Results of Operations,” and “Special Note Regarding Forward-Looking Statements,” and our consolidated financial statements and the accompanying notes included elsewhere in this prospectus. Our fiscal year end is June 30, and our fiscal quarters end on September 30, December 31, March 31, and June 30. Our fiscal years ended June 30, 2017, 2018, and 2019 are referred to herein as fiscal 2017, fiscal 2018, and fiscal 2019, respectively.

Overview

Our mission is to make it simple to connect and do business.

We are champions of small and midsize businesses (SMBs). We are a leading provider of cloud-based software that simplifies, digitizes, and automates complex back-office financial operations for SMBs. By transforming how SMBs manage their cash inflows and outflows, we create efficiencies and free our customers to run their businesses.

Our purpose-built, artificial-intelligence (AI)-enabled financial software platform creates seamless connections between our customers, their suppliers, and their clients. Customers use our platform to generate and process invoices, streamline approvals, send and receive payments, sync with their accounting system, and manage their cash. We have built sophisticated integrations with popular accounting software solutions, banks, and payment processors, enabling our customers to access these mission-critical services through a single connection. As a result, we are central to an SMB’s accounts payable and accounts receivable operations.

We Make Paper-based Manual Transaction Processing Obsolete

We believe we have a significant opportunity to help millions of SMBs improve their financial operations. Most SMBs are still dependent on manual accounts payable and accounts receivable processes: mailing invoices, printing paper checks, waiting for payments, and storing paper in filing cabinets. According to the SMB Technology Adoption Index, in 2016 over 90% of SMBs surveyed still relied on paper checks to make and accept business-to-business payments. Manual processes are time-consuming, inefficient, and costly. A survey of back-office employees by Levvel Research points to process issues, such as long approval cycles and missing information on invoices, as the leading cause of late payments and missed discounts. Customers who adopt our platform benefit from streamlined back-office processes, as evidenced by our customers’ electronically exchanging more than 8,000 messages per day, approving more than 2.4 million bills per month, and storing almost 45 million documents per year, collectively, as of June 30, 2019.

Today, over 81,000 customers trust our platform to manage their financial workflows and process their payments, which totaled over $70 billion for fiscal 2019, and nearly $22 billion for the three months ended September 30, 2019. As of June 30, 2019, we had over 1.8 million network members. We define network members as our customers plus their suppliers and clients with accounts on our platform. Our network members entrust us with their bank account details, enabling them to connect, invoice, pay, and get paid electronically.

Because many of our customers use our platform to manage their end-to-end financial workflows, we have visibility into the entire transaction lifecycle. We leverage this transaction data to provide our
customers with insights into their back-office processes and business relationships, which allows our customers to make more informed financial decisions.

We Partner with Many of the Most Trusted Accounting Firms and Financial Institutions in the United States

We efficiently reach SMBs through our proven direct and indirect go-to-market strategies. We acquire customers directly through digital marketing and inside sales, and indirectly through accounting firms and strategic partners. As of September 30, 2019, our partners included some of the most trusted brands in the financial services business, including more than 70 of the top 100 accounting firms and several of the largest financial institutions in the United States, including Bank of America, JPMorgan Chase, and American Express. As we add customers and partners, we expect our network to continue to grow organically.

We have grown and scaled our business operations rapidly in recent periods. Our total revenue was $64.9 million and $108.4 million for fiscal 2018 and 2019, respectively, an increase of 67%. For the three months ended September 30, 2018 and 2019, our total revenue was $22.4 million and $35.2 million, respectively, an increase of 57%. We incurred net losses of $7.2 million and $7.3 million for fiscal 2018 and 2019, respectively. For the three months ended September 30, 2018 and 2019, we incurred net losses of $0.9 million and $5.7 million, respectively.

Industry Trends

**Back-Office Financial Workflows Are Essential to All Businesses**

The transaction lifecycle—encompassing the processes that enable businesses to pay and get paid—is critical to every business. Businesses begin the transaction lifecycle by creating and mailing invoices, approving bills, and making payments, and end the process by recording and reconciling transactions in an accounting system. The ability to manage this critical set of activities efficiently and effectively is key for any business. Yet, for many businesses, cash flow is managed in a complex, inefficient, and all too often, paper-based manner.

**SMBs are Underserved by Current Software Solutions**

We believe SMBs, despite comprising a large part of the economy, are underserved by existing financial software solutions. Many software providers attempt to sell solutions designed for consumers or enterprises, which struggle to gain traction in the SMB market. Solutions for consumers are too simple, while enterprise solutions are too complex and expensive. Additionally, these products generally do not integrate well with other systems, requiring SMBs to piece together an expensive patchwork of individual products to meet their needs. We believe we have a greenfield opportunity to provide SMBs with a platform to automate their back-office financial operations.

**SMBs Generally Rely upon Antiquated and Inefficient Processes**

SMBs generally handle their financial workflows the same way they have for decades. The lack of an end-to-end financial software platform tailored for SMBs results in a back office that is:

- **Manual and Cumbersome.** Legacy back-office workflows are plagued by manual data entry and inefficiency, resulting in a transaction lifecycle that takes too long and costs too much.

- **Inaccurate and Error-Prone.** Legacy processes rely upon disparate systems throughout the transaction lifecycle. Multiple entries in different systems introduce the risk of improperly recorded transactions, unreconciled items, or late payments and associated penalty fees.

- **Paper-Based and Not Secure.** Traditional financial processes are dependent on paper throughout the transaction lifecycle, including mailed invoices, signatures on documents.
indicating approval to pay, and the issuance of physical checks. This is not only inefficient and costly but also not secure, leaving SMBs exposed to fraud risk.

- **Lacking Visibility and Data.** Legacy workflows leave businesses with limited visibility into their current and future cash position as well as their accounts payable and accounts receivable workflows. SMBs lack data insights and tools to track usage, spend, and cash flows.

We believe SMBs deserve and are ready to adopt a modern, efficient, cloud-based offering that meets their needs.

**Our Solution**

Our cloud-based, intelligent platform was purpose-built as an end-to-end solution that automates the SMB back office and enables our customers to pay their suppliers and collect payments from their clients, in effect acting as a system of control for their accounts payable and accounts receivable activities. As a result, our platform frees our customers from cumbersome legacy financial processes and provides the following key benefits:

- **Automated and Efficient.** Our AI-enabled platform helps our customers pay their bills efficiently and get paid faster. We provide tools such as our Intelligent Virtual Assistant (IVA) that streamlines the transaction lifecycle by automating data capture and entry, routing bills for approval, and detecting duplicate invoices.

- **Unified, Integrated, and Accurate.** We provide an end-to-end platform that connects our customers to their suppliers and clients. Our platform integrates with accounting software, banks, and payment processors, enabling our customers to access all of these mission-critical partners through a single connection. Because we provide a unified view, customers can more easily find inconsistencies and inaccuracies, and fix them quickly.

- **Digital and Secure.** We enable secure connections and storage of sensitive supplier and client information and documents, such as invoices and contracts, and make them accessible to authorized users through our cloud-based application, on any device.

- **Visible and Transparent.** With our platform dashboard, customers can easily view their transaction workflows, enabling them to gain deeper insight into their financial operations and manage their cash flows intelligently.

**Our Opportunity**

According to the U.S. Census Bureau, there were approximately six million employer SMBs in the U.S. in 2018. Globally, there were approximately 20 million small and medium enterprises (SMEs) according to the SME Finance Forum’s 2019 database.

We estimate the annual addressable market for the services we offer today to be $30 billion globally and $9 billion domestically. We derive these estimates by multiplying our average fiscal 2019 revenue per customer of $1,500 by each of the 20 million SMEs globally and 6 million domestic employer firms.

In addition, we believe we have the following incremental monetization opportunities, including to:

- expand our target market to include sole proprietors and larger companies;
- enter international markets;
- sell additional solutions or products on our platform; and
- capture more of the overall business-to-business payments flow from new and existing customers.

According to IDC, in 2019 small and lower-midsize businesses will spend approximately $65 billion on software in the U.S. We believe that we are well positioned to capture a meaningful portion of that spend as we increase the breadth of our platform to sell additional solutions or products.

According to a 2018 Mastercard report, North American companies make approximately $25 trillion of business-to-business payments annually, and, according to Deloitte, the United States market for SMB payments is expected to exceed $9 trillion in 2020. Over 90% of SMBs still rely on paper checks, according to a survey by the SMB Technology Adoption Index. As more SMBs move to digital payments, we believe we are well-positioned to capitalize on this evolution.

**Our Go-to-Market Strategy**

We seek to acquire customers in an efficient manner. We market our platform directly to businesses through online digital marketing and referral programs and indirectly by leveraging partnerships with accounting firms, financial institutions, and accounting software companies.

**Direct-to-SMBs.** Our direct-to-SMB strategy leverages digital customer acquisition tools, supported by efficient inside sales capabilities, and a steady stream of new SMBs continuously introduced to our platform through our 1.8 million network members as of June 30, 2019.

**Accounting Firms.** Our accountant-specific tools help firms grow their client advisory services practices and establish a competitive advantage, while delivering our platform to their large base of SMB clients. We currently partner with more than 70 of the top 100 accounting firms, and over 4,000 accounting firms nationwide.

**Financial Institutions.** SMBs look to financial institutions for digital solutions for end-to-end cash flow management. As a result, many of those financial institutions turn to us to meet their customers’ needs. By working with Bill.com, our financial institution partners can provide their customers with many of the benefits realized by our directly-acquired customers. We are currently integrated with several of the largest financial institutions in the United States, including Bank of America, JPMorgan Chase, and American Express.

**Accounting Software Companies.** We are integrated with Intuit QuickBooks, making our features available to millions of SMBs. In addition, we have referral relationships with several other popular accounting software providers, including Oracle NetSuite and Sage Intacct.

**What Sets Us Apart**

- **Purpose-Built for SMBs.** Our easy-to-use, unified platform provides SMBs with core functionality and value-added services generally reserved for larger companies. Through our cloud-based desktop and mobile applications, SMBs can connect and do business from anywhere, at any time.

- **Diverse Distribution Channels.** We leverage both direct and indirect channels—accounting firms, financial institution partners, and accounting software integrations—to efficiently reach our target market.

- **Large and Growing Network of Connected Businesses.** As accounts receivable customers issue invoices and accounts payable customers pay bills on our platform, they
connect to their clients and suppliers, driving a powerful network effect. This aids our customer acquisition efforts by increasing the number of businesses connected to our platform, which then become prospects.

- **Large Data Asset.** We have a large data asset as a result of processing millions of documents and billions of dollars in business payments annually for our customers. By leveraging our AI and machine learning capabilities, we generate insights from this data that drive product innovation.

- **Risk Management Expertise.** Leveraging our data, our risk engine has trained upon millions of business-to-business ACH, check, card, and wire transactions. Our AI capabilities have enhanced the power of that engine, enabling us to keep our customers’ funds secure.

- **Experienced Management Team and Vibrant Culture.** Our management team and employees have deep experience with SMBs, software-as-a-service (SaaS) companies, and financial institutions.

### Our Growth Strategy

Key elements of our growth strategy include:

- Acquiring new customers;
- Increasing adoption by our existing customers;
- Growing the number of network members;
- Expanding our platform capabilities; and
- Expanding internationally.

### Risks Associated with Our Business

Our business is subject to numerous risks and uncertainties, including those highlighted in the section titled “Risk Factors” immediately following this Prospectus Summary. These risks include, but are not limited to, the following:

- We have a history of operating losses and may not achieve or sustain profitability in the future;
- Our recent rapid growth, including growth in our volume of payments, may not be indicative of our future growth, and if we continue to grow rapidly, we may not be able to manage our growth effectively;
- We transfer large sums of customer funds daily, and are subject to the risk of loss, errors, and fraudulent activities of customers or third parties, any of which could result in financial losses, damage to our reputation, or loss of trust in our brand, which would harm our business and financial results;
- Customer funds that we hold in trust are subject to market, interest rate, foreign exchange, and liquidity risks, as well as general political and economic conditions. The loss of these funds could have a material adverse effect on our business;
- We earn revenue from interest earned on customer funds held in trust while payments are clearing, which is subject to market conditions and may decrease as customers’ adoption of electronic payments and technology continues to evolve;
- If we are unable to attract new customers or convert trial customers into paying customers, our revenue growth and operating results will be adversely affected;
- If we are unable to retain our current customers or sell additional functionality and services to them, our revenue growth will be adversely affected;
- Our business depends, in part, on our relationships with accounting firms;
- Our business depends, in part, on our strategic partnerships with financial institutions;
- Our business depends, in part, on our relationship with Intuit;
- The markets in which we participate are competitive, and if we do not compete effectively, our operating results could be harmed; and
- Payments and other financial services-related regulations and oversight are material to our business. Our failure to comply could materially harm our business.

### Channels for Disclosure of Information

Following the completion of this offering, we intend to announce material information to the public through filings with the Securities and Exchange Commission (SEC), the investor relations page on our website, www.bill.com, press releases, public conference calls, and public webcasts.

Any updates to the list of disclosure channels through which we will announce information will be posted on the investor relations page on our website.

### Corporate Information

BDC Payments Holdings, Inc., a Delaware corporation, was formed in August 2018, and changed its name to Bill.com Holdings, Inc., a Delaware corporation, in June 2019. Bill.com Holdings, Inc. is a holding company and its principal assets are the equity interests of Bill.com, LLC. We were initially formed in April 2006 as Cashboard, Inc., a Delaware corporation. We changed our name to Cashview, Inc. in September 2006 and to Bill.com, Inc. in December 2007. In November 2018, we completed a corporate reorganization whereby Bill.com, Inc. became a subsidiary of Bill.com Holdings, Inc., and reorganized as a LLC, Bill.com LLC. Our principal executive offices are located at 1810 Embarcadero Road, Palo Alto, California 94303. Our telephone number is (650) 621-7700. Our website address is www.bill.com. The information contained on, or that can be accessed through, our website is not a part of this prospectus. Investors should not rely on any such information in deciding whether to purchase our common stock. Unless otherwise indicated, the terms “Bill.com,” “we,” “us,” and “our” refer to Bill.com Holdings, Inc., together with our subsidiary, Bill.com LLC.

Bill.com, the Bill.com logo, and other registered or common law trade names, trademarks, or service marks of Bill.com appearing in this prospectus are the property of Bill.com. This prospectus contains additional trade names, trademarks, and service marks of ours and of other companies. We do not intend our use or display of other companies’ trade names, trademarks, or service marks to imply a relationship with, or endorsement or sponsorship of us, by these other companies. Other trademarks appearing in this prospectus are the property of their respective holders. Solely for convenience, our trademarks and tradenames referred to in this prospectus appear without the ® and ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights, or the right of the applicable licensor, to these trademarks and tradenames.
Implications of Being an Emerging Growth Company

As a company with less than $1.07 billion in revenue during our most recently completed fiscal year, we qualify as an "emerging growth company" as defined in Section 2(a) of the Securities Act of 1933, as amended, or the Securities Act, as modified by the Jumpstart Our Business Startups Act of 2012 (JOBS Act). As an emerging growth company, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable, in general, to public companies that are not emerging growth companies. These provisions include:

- an exemption from compliance with the auditor attestation requirement on the effectiveness of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act);
- an exemption from compliance with any requirement that the Public Company Accounting Oversight Board may adopt regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements;
- reduced disclosure about our executive compensation arrangements;
- exemptions from the requirements to obtain a non-binding advisory vote on executive compensation or a stockholder approval of any golden parachute arrangements; and
- extended transition periods for complying with new or revised accounting standards.

We will remain an emerging growth company until the earliest to occur of: (i) the last day of the fiscal year in which we have more than $1.07 billion in annual revenue; (ii) the date we qualify as a "large accelerated filer," with at least $700 million of equity securities held by non-affiliates; (iii) the date on which we have issued, in any three-year period, more than $1.0 billion in non-convertible debt securities; and (iv) the last day of the fiscal year ending after the fifth anniversary of the completion of this offering.

We may take advantage of these exemptions until such time that we are no longer an emerging growth company. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock. Further, pursuant to Section 107 of the JOBS Act, as an emerging growth company, we have elected to take advantage of the extended transition period for complying with new or revised accounting standards until those standards would otherwise apply to private companies. As a result, our operating results and consolidated financial statements may not be comparable to the operating results and financial statements of other companies who have adopted the new or revised accounting standards. It is possible that some investors will find our common stock less attractive as a result, which may result in a less active trading market for our common stock and higher volatility in our stock price.
The Offering

Common stock offered by us shares
Option to purchase additional shares of common stock shares
Common stock to be outstanding immediately after this offering shares ( shares, if the underwriters’ option to purchase additional shares of our common stock from us is exercised in full).

We estimate that the net proceeds from the sale of shares of our common stock in this offering will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares in full, based upon an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses.

Use of proceeds

We intend to use the net proceeds from this offering for working capital and other general corporate purposes, which may include research and development, sales and marketing, general and administrative matters, and capital expenditures. We may also use a portion of the proceeds for the acquisition of, or investment in, technologies, solutions, or businesses that complement our business. However, we do not have binding agreements or commitments for any acquisitions or investments outside the ordinary course of business at this time. See the section titled "Use of Proceeds" for additional information.

Risk factors

See the section titled "Risk Factors" and other information included in this prospectus for a discussion of some of the factors you should consider before deciding to purchase shares of our common stock.

New York Stock Exchange trading symbol “BILL”

The number of shares of our common stock to be outstanding after this offering is based on 121,461,891 shares of our common stock outstanding as of September 30, 2019 and excludes:

• 22,493,593 shares of our common stock issuable upon the exercise of stock options outstanding as of September 30, 2019, with a weighted-average exercise price of $3.49 per share under our 2006 Equity Incentive Plan (the 2006 Plan), and our 2016 Equity Incentive Plan (the 2016 Plan);
• 1,923,500 shares of our common stock issuable upon the exercise of stock options granted after September 30, 2019 under our 2016 Plan, with a weighted-average exercise price of $8.14 per share;

• 125,000 shares of our common stock issuable upon the exercise of outstanding warrants to purchase common stock outstanding as of September 30, 2019, with a weighted-average exercise price of $3.20 per share;

• 102,740 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series B redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $0.73 per share;

• 25,000 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series D redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $1.25 per share;

• 11,264,926 shares of common stock that are not currently outstanding but may become issuable, when certain conditions are met, upon the issuance and exercise of warrants with an exercise price of $2.25 per share; and

• shares of our common stock reserved for future issuance under our equity compensation plans, consisting of (i) 362,309 shares of our common stock reserved for future issuance under our 2016 Plan, as of September 30, 2019 (which number of shares is prior to the stock options to purchase shares of our common stock granted after September 30, 2019), (ii) shares of our common stock reserved for future issuance under our 2019 Equity Incentive Plan, or the 2019 Plan, which will become effective on the date immediately prior to the date of this prospectus, and (iii) shares of our common stock reserved for issuance under our 2019 Employee Stock Purchase Plan (ESPP), which will become effective on the date of this prospectus.

On the date immediately prior to the date of this prospectus, any remaining shares available for issuance under our 2016 Plan will be added to the shares of our common stock reserved for issuance under our 2019 Plan, and we will cease granting awards under the 2016 Plan. Our 2019 Plan and ESPP also provide for automatic annual increases in the number of shares reserved thereunder. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for additional information.

Unless otherwise noted, the information in this prospectus reflects and assumes the following:

• the automatic conversion of all shares of our redeemable convertible preferred stock outstanding as of September 30, 2019 into an aggregate of 104,869,089 shares of common stock in connection with the completion of this offering;

• a reverse stock split to be effected on , 2019;

• the filing of our restated certificate of incorporation and the effectiveness of our restated bylaws, each of which will occur immediately prior to the completion of this offering;

• no exercise of outstanding stock options or warrants subsequent to September 30, 2019; and

• no exercise of the underwriters’ option to purchase additional shares of our common stock in this offering.
Summary Consolidated Financial Data

The following tables summarize our consolidated financial data. We derived our summary consolidated statements of operations for fiscal 2018 and 2019 and our summary consolidated balance sheet data as of June 30, 2019 from our audited consolidated financial statements included elsewhere in this prospectus. We derived our summary consolidated statements of operations for the three months ended September 30, 2018 and 2019 and our summary consolidated balance sheet data as of September 30, 2019 from our unaudited interim consolidated financial statements that are included elsewhere in this prospectus. We have prepared the unaudited interim consolidated financial statements on the same basis as the audited consolidated financial statements and have included all adjustments, consisting only of normal recurring adjustments that, in our opinion, are necessary to state fairly the information set forth in those consolidated financial statements. Our historical results are not necessarily indicative of the results to be expected in any future period, and the results of operations for the three months ended September 30, 2019 are not necessarily indicative of the results to be expected for the full year ending June 30, 2020 or any future period. You should read the following summary consolidated financial data in conjunction with the sections titled “Selected Consolidated Financial and Other Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements, the accompanying notes, and other financial information included elsewhere in this prospectus.

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30, 2018</th>
<th>Three Months Ended September 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$56,992</td>
<td>$85,951</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>$7,873</td>
<td>$22,400</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td>$64,865</td>
<td>$108,351</td>
</tr>
<tr>
<td><strong>Cost of revenue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>$53,310</td>
<td>$88,236</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(7,817)</td>
<td>(7,470)</td>
</tr>
<tr>
<td>Other income, net</td>
<td>$632</td>
<td>$1,877</td>
</tr>
<tr>
<td>Loss before provision for (benefit from) income taxes</td>
<td>(7,185)</td>
<td>(5,603)</td>
</tr>
<tr>
<td>Provision for (benefit from) income taxes</td>
<td>10</td>
<td>(21)</td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>$ (7,195)</td>
<td>$ (5,696)</td>
</tr>
<tr>
<td>Net loss per share attributable to common stockholders, basic and diluted</td>
<td>$(0.50)</td>
<td>$(0.47)</td>
</tr>
<tr>
<td>Weighted-average number of common shares used to compute net loss per share attributable to common stockholders, basic and diluted</td>
<td>14,310</td>
<td>16,462</td>
</tr>
<tr>
<td>Pro forma net loss per share attributable to common stockholders, basic and diluted</td>
<td>$(0.06)</td>
<td>$(0.05)</td>
</tr>
<tr>
<td>Weighted-average number of shares used to compute pro forma net loss per share attributable to common stockholders, basic and diluted</td>
<td>115,198</td>
<td>121,331</td>
</tr>
</tbody>
</table>
Includes stock-based compensation expense as follows (in thousands):

<table>
<thead>
<tr>
<th>Year Ended June 30,</th>
<th>Three Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>$78</td>
</tr>
<tr>
<td>Research and development</td>
<td>429</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>508</td>
</tr>
<tr>
<td>General and administrative</td>
<td>530</td>
</tr>
<tr>
<td>Total stock-based compensation expense</td>
<td>$1,545</td>
</tr>
</tbody>
</table>

See Notes 12 and 13 to our consolidated financial statements included elsewhere in this prospectus for an explanation of the method used to calculate basic and diluted net loss per share attributable to common stockholders and pro forma net loss per share attributable to common stockholders, and the weighted-average number of shares used in the computation of the per share amounts.

As of September 30, 2019

<table>
<thead>
<tr>
<th>Actual</th>
<th>Pro Forma(^{(1)})</th>
<th>Pro Forma(^{(2)})</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(unaudited)</td>
<td>Adjusted(^{(2)})</td>
</tr>
</tbody>
</table>

**Consolidated Balance Sheet Data:**

<table>
<thead>
<tr>
<th></th>
<th>2019</th>
<th>2019</th>
<th>2019</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash, cash equivalents and short-term investments</td>
<td>$157,642</td>
<td>$157,642</td>
<td>$157,642</td>
<td>$157,642</td>
</tr>
<tr>
<td>Working capital</td>
<td>158,544</td>
<td>159,397</td>
<td>158,544</td>
<td>159,397</td>
</tr>
<tr>
<td>Funds held for customers</td>
<td>1,466,492</td>
<td>1,466,492</td>
<td>1,466,492</td>
<td>1,466,492</td>
</tr>
<tr>
<td>Total assets</td>
<td>1,662,157</td>
<td>1,662,157</td>
<td>1,662,157</td>
<td>1,662,157</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock warrant liabilities</td>
<td>853</td>
<td>-</td>
<td>853</td>
<td>-</td>
</tr>
<tr>
<td>Deferred revenue, current and non-current</td>
<td>5,248</td>
<td>5,248</td>
<td>5,248</td>
<td>5,248</td>
</tr>
<tr>
<td>Customer fund deposits</td>
<td>1,466,492</td>
<td>1,466,492</td>
<td>1,466,492</td>
<td>1,466,492</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock</td>
<td>276,307</td>
<td>-</td>
<td>276,307</td>
<td>-</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(123,352)</td>
<td>(123,352)</td>
<td>(123,352)</td>
<td>(123,352)</td>
</tr>
<tr>
<td>Total stockholders’ (deficit) equity</td>
<td>(105,981)</td>
<td>171,179</td>
<td>(105,981)</td>
<td>171,179</td>
</tr>
</tbody>
</table>

\(^{(1)}\) The pro forma consolidated balance sheet information reflects (i) the automatic conversion of all outstanding shares of redeemable convertible preferred stock into common stock, as if such conversion occurred on September 30, 2019, into 104,869,089 shares of our common stock, (ii) the reclassification of the redeemable convertible preferred stock warrant liabilities to additional paid-in capital in connection with the conversion of the outstanding warrants to purchase shares of redeemable convertible preferred stock into warrants to purchase shares of common stock, and (iii) the filing and effectiveness of our restated certificate of incorporation in Delaware that will become effective immediately prior to the completion of this offering.

\(^{(2)}\) The pro forma as adjusted consolidated balance sheet information reflects (i) all adjustments included in footnote \(^{(1)}\) above, and (ii) the sale of shares of our common stock in this offering at an assumed initial public offering price of $per share, which is the midpoint of the price range set forth on the front cover of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses. The pro forma as adjusted information discussed above is illustrative only and will be adjusted based on the actual public offering price and other terms of this offering determined at pricing. Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) cash, cash equivalents and short-term investments, working capital, total assets, and total stockholders’ equity by $ million, assuming that the number of shares offered, as set forth on the cover of this prospectus, remains the same, and after deducting the estimated underwriting discounts and commissions payable by us. Similarly, each increase (decrease) of one million shares in the number of shares offered by us would increase (decrease) cash, cash equivalents and short-term investments, working capital, total assets, and total stockholders’ equity by approximately $ million, assuming the assumed initial public offering price, which is the midpoint of the price range set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions payable by us.
RISK FACTORS

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and the accompanying notes included elsewhere in this prospectus before deciding whether to invest in shares of our common stock. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of or that we deem immaterial may also become important factors that adversely affect our business. If any of the following risks actually occur, our business, financial condition, operating results, and future prospects could be materially and adversely affected. In that event, the market price of our common stock could decline, and you could lose part or all of your investment.

Risks Related to Our Business and Industry

We have a history of operating losses and may not achieve or sustain profitability in the future.

We were incorporated in 2006 and have experienced net losses and negative cash flows from operations since inception. We generated a net loss of $7.2 million and $7.3 million for fiscal 2018 and 2019, respectively, and of $0.9 million and $5.7 million during the three months ended September 30, 2018 and 2019, respectively. As of September 30, 2019, we had an accumulated deficit of $123.4 million. While we have experienced significant revenue growth in recent periods, we are not certain whether or when we will obtain a high enough volume of subscription and transaction fee revenue to sustain or increase our growth or achieve or maintain profitability in the future. We also expect our costs and expenses to increase in future periods, which could negatively affect our future operating results if our revenue does not increase. In particular, we intend to continue to expend significant funds to further develop our platform, including introducing new products and functionality, and to expand our marketing programs and sales teams to drive new customer adoption, expand strategic partner integrations, and support international expansion. Our profitability each quarter is also impacted by the mix of our revenue generated from subscriptions and transaction fees, on the one hand, and interest earned on customer funds that we hold in trust, on the other. Any changes in this revenue mix will have the effect of increasing or decreasing our margins. We will also face increased compliance and security costs associated with growth, the expansion of our customer base, and being a public company. Our efforts to grow our business may be costlier than we expect, and we may not be able to increase our revenue enough to offset our increased operating expenses. We may incur significant losses in the future for several reasons, including the other risks described herein, and unforeseen expenses, difficulties, complications, delays, and other unknown events. If we are unable to achieve and sustain profitability, the value of our business and common stock may significantly decrease.

Our recent rapid growth, including growth in our volume of payments, may not be indicative of our future growth, and if we continue to grow rapidly, we may not be able to manage our growth effectively. Our rapid growth also makes it difficult to evaluate our future prospects and may increase the risk that we will not be successful.

Our revenue was $64.9 million and $108.4 million, and our payment volume was $49.6 billion and $71.3 billion, for fiscal 2018 and 2019, respectively. For the three months ended September 30, 2018 and 2019, our revenue was $22.4 million and $35.2 million, and our payment volume was $15.5 billion and $22.0 billion, respectively. Although we have recently experienced significant growth in our revenue and payment volume, even if our revenue continues to increase, we expect our growth rate will decline in the future as a result of a variety of factors, including the increasing scale of our business. Overall growth of our revenue depends on a number of factors, including our ability to:

- price our platform effectively to attract new customers and increase sales to our existing customers;
• expand the functionality and scope of the products we offer on our platform;
• maintain the rates at which customers subscribe to and continue to use our platform;
• maintain payment volume;
• generate interest income on customer funds that we hold in trust;
• provide our customers with high-quality customer support that meets their needs;
• introduce our products to new markets outside of the United States;
• serve SMBs across a wide cross-section of industries;
• expand our target market beyond SMBs;
• successfully identify and acquire or invest in businesses, products, or technologies that we believe could complement or expand our platform; and
• increase awareness of our brand and successfully compete with other companies.

We may not successfully accomplish any of these objectives, which makes it difficult for us to forecast our future operating results. Further, the revenue that we derive from interest income on customer funds is dependent on interest rates, which we do not control. If the assumptions that we use to plan our business are incorrect or change in reaction to changes in our market, or if we are unable to maintain consistent revenue or revenue growth, our stock price could be volatile, and it may be difficult to achieve and maintain profitability. You should not rely on our revenue from any prior quarterly or annual periods as any indication of our future revenue or revenue or payment growth.

In addition, we expect to continue to expend substantial financial and other resources on:
• sales, marketing and customer success, including an expansion of our sales organization and new customer success initiatives;
• our technology infrastructure, including systems architecture, scalability, availability, performance, and security;
• product development, including investments in our product development team and the development of new products and new functionality for our AI-enabled platform;
• acquisitions or strategic investments;
• international expansion;
• regulatory compliance and risk management; and
• general administration, including increased legal and accounting expenses associated with being a public company.

These investments may not result in increased revenue growth in our business. If we are unable to increase our revenue at a rate sufficient to offset the expected increase in our costs, or if we encounter difficulties in managing a growing volume of payments, our business, financial position, and operating results will be harmed, and we may not be able to achieve or maintain profitability over the long term.

Our risk management efforts may not be effective to prevent fraudulent activities by our customers or their counterparties, which could expose us to material financial losses and liability and otherwise harm our business.

We offer software that digitizes and automates back-office financial operations for a large number of customers and executes payments to their vendors or from their clients. We are responsible for
verifying the identity of our customers and their users, and monitoring transactions for fraud. We have been in the past and will continue to be targeted by parties who seek to commit acts of financial fraud using techniques such as stolen identities and bank accounts, compromised business email accounts, employee or insider fraud, account takeover, false applications, and check fraud. We may suffer losses from acts of financial fraud committed by our customers and their users, our employees or third-parties. For example, in 2016, an accounts payable customer fraudulently enrolled on our platform using a stolen business identity and bank account, and disbursed approximately $300,000 funded by an unauthorized bank account. While we were able to recover some of the funds, we incurred a loss of approximately $200,000 in connection with that incident. Also, in 2018, we processed payments on behalf of an accounts receivables customer, whose client made approximately $225,000 in payments to our customer with funds from stolen bank accounts. We were able to recover a portion of the funds but incurred a loss of approximately $75,000 in connection with that incident.

The techniques used to perpetrate fraud on our platform are continually evolving, and we expend considerable resources to continue to monitor and combat them. In addition, when we introduce new products and functionality, or expand existing products, we may not be able to identify all risks created by the new products or functionality. Our risk management policies, procedures, techniques, and processes may not be sufficient to identify all of the risks to which we are exposed, to enable us to prevent or mitigate the risks we have identified, or to identify additional risks to which we may become subject in the future. Furthermore, our risk management policies, procedures, techniques, and processes may contain errors or our employees or agents may commit mistakes or errors in judgment as a result of which we may suffer large financial losses. The software-driven and highly automated nature of our platform could enable criminals and those committing fraud to steal significant amounts of money from businesses like ours. As greater numbers of customers use our platform, our exposure to material risk losses from a single customer, or from a small number of customers, will increase.

Our current business and anticipated domestic and international growth will continue to place significant demands on our risk management efforts, and we will need to continue developing and improving our existing risk management infrastructure, policies, procedures, techniques, and processes. As techniques used to perpetrate fraud on our platform evolve, we may need to modify our products or services to mitigate fraud risks. As our business grows and becomes more complex, we may be less able to forecast and carry appropriate reserves in our books for fraud related losses. Further, these types of fraudulent activities on our platform can also expose us to civil and criminal liability, governmental and regulatory sanctions as well as potentially cause us to be in breach of our contractual obligations to our third-party partners.

**We transfer large sums of customer funds daily, and are subject to the risk of errors, which could result in financial losses, damage to our reputation, or loss of trust in our brand, which would harm our business and financial results.**

For fiscal 2019, over 76,000 customers processed over $70 billion in Total Payment Volume on our platform. During the three months ended September 30, 2019, over 81,000 customers processed nearly $22 billion in Total Payment Volume on our platform. We have grown rapidly and seek to continue to grow, and although we maintain a robust and multi-faceted risk management process, our business is always subject to the risk of financial losses as a result of credit losses, operational errors, software defects, service disruption, employee misconduct, security breaches, or other similar actions or errors on our platform. As a provider of accounts payable, accounts receivable, and payment solutions, we collect and transfer funds on behalf of our customers. Software errors in our platform and operational errors by our employees may also expose us to losses.

Moreover, our trustworthiness and reputation are fundamental to our business. As a provider of cloud-based software for complex back-office financial operations, the occurrence of any credit losses,
operational errors, software defects, service disruption, employee misconduct, security breaches, or other similar actions or errors on our
platform could result in financial losses to our business and our customers, loss of trust, damage to our reputation, or termination of our
agreements with strategic partners and accountants, each of which could result in:

- loss of customers;
- lost or delayed market acceptance and sales of our platform;
- legal claims against us, including warranty and service level agreement claims;
- regulatory enforcement action; or
- diversion of our resources, including through increased service expenses or financial concessions, and increased insurance costs.

Although our terms of service allocate to our customers the risk of loss resulting from our customers’ errors, omissions, employee
fraud, or other fraudulent activity related to their systems, in some instances we may cover such losses for efficiency or to prevent damage to
our reputation. Although we maintain insurance to cover losses resulting from our errors and omissions, there can be no assurance that our
insurance will cover all losses or our coverage will be sufficient to cover our losses. If we suffer significant losses or reputational harm as a
result, our business, operating results, and financial condition could be adversely affected.

Customer funds that we hold in trust are subject to market, interest rate, foreign exchange, and liquidity risks, as well as general
political and economic conditions. The loss of these funds could have a material adverse effect on our business, financial
condition, and results of operations.

We invest funds that we hold in trust for our customers, including funds being remitted to suppliers, in highly liquid, investment-grade
marketable securities, money market securities, and other cash equivalents. Nevertheless, our customer fund assets are subject to general
market, interest rate, credit, foreign exchange, and liquidity risks. These risks may be exacerbated, individually or in aggregate, during periods
of heavy financial market volatility. In the event of a global financial crisis, such as that experienced in 2008, employment levels and interest
rates may decrease with a corresponding impact on our business. As a result, we could be faced with a severe constriction of the availability
of liquidity, which could impact our ability to fulfill our obligations to move customer money to its intended recipient. Additionally, we rely upon
certain banking partners and third parties to originate ACH payments, process checks, execute wire transfers, and issue virtual cards, which
could be similarly affected by a liquidity shortage and further exacerbate our ability to operate our business. Any loss of or inability to access
customer funds could have an adverse impact on our cash position and results of operations, could require us to obtain additional sources of
liquidity, and could have a material adverse effect on our business, financial condition, and results of operations.

We are licensed as a money transmitter in all required U.S. states. In certain jurisdictions where we operate, we are required to hold
eligible liquid assets, as defined by the relevant regulators in each jurisdiction, equal to at least 100% of the aggregate amount of all customer
balances. Our ability to manage and accurately account for the assets underlying our customer funds and comply with applicable liquid asset
requirements requires a high level of internal controls. As our business continues to grow and we expand our product offerings, we will need
to scale our associated internal controls. Our success requires significant public confidence in our ability to properly manage our customers’
balances and handle large and growing transaction volumes and amounts of customer funds. Any failure to maintain the necessary controls
or to accurately manage our customer funds and the assets underlying our customer funds in compliance with applicable regulatory
requirements could
result in reputational harm, lead customers to discontinue or reduce their use of our products, and result in significant penalties and fines, possibly including the loss of our state money transmitter licenses, which would materially harm our business.

**We earn revenue from interest earned on customer funds held in trust while payments are clearing, which is subject to market conditions and may decrease as customers’ adoption of electronic payments and technology continues to evolve.**

For fiscal 2018 and 2019, we generated $7.9 million and $22.4 million, respectively, in revenue from interest earned on funds held in trust on behalf of customers while payment transactions are clearing, or approximately 12% and 21% of our total revenue for such periods. For the three months ended September 30, 2018 and 2019, we generated $4.3 million and $6.6 million, respectively, in revenue from interest earned on funds held in trust on behalf of customers while payment transactions are clearing, or approximately 19% of our total revenue for both such periods. While these payments are clearing, we deposit the funds in highly liquid short-term investments, and generate revenue that is correlated to the federal funds rate. When interest rates decrease, the amount of revenue we generate from these investments decreases. Additionally, because we process electronic payments faster than checks, we hold customer funds for a shorter time and consequently, earn less revenue. If our customers transition from checks to electronic payments faster than we anticipate, or to new, faster payment rails like The Clearing House’s Real Time Payments Network, our revenue could decrease and our financial results could be adversely affected.

**If we are unable to attract new customers or convert trial customers into paying customers, our revenue growth and operating results will be adversely affected.**

To increase our revenue, we must continue to attract new customers and increase sales to those customers. As our market matures, product and service offerings evolve, and competitors introduce lower cost or differentiated products or services that are perceived to compete with our platform, our ability to sell subscriptions could be impaired. Similarly, our subscription sales could be adversely affected if customers or users perceive that features incorporated into alternative products reduce the need for our platform or if they prefer to purchase products that are bundled with solutions offered by other companies. Further, in an effort to attract new customers, we may offer simpler, lower-priced products, which may reduce our profitability.

We rely upon our marketing strategy of offering risk-free trials of our platform and other inbound, digital marketing strategies to generate sales opportunities. Many of our customers start a risk-free trial of our service. Converting these trial customers to paid customers often requires extensive follow-up and engagement. Many prospective customers never convert from the trial version of a product to a paid version of a product. Further, we often depend on individuals within an organization who initiate the trial versions of our products being able to convince decision makers within their organization to convert to a paid version. To the extent that these users do not become, or are unable to convince others to become, paying customers, we will not realize the intended benefits of this marketing strategy, and our ability to grow our revenue will be adversely affected. As a result of these and other factors, we may be unable to attract new customers, which would have an adverse effect on our business, revenue, gross margins, and operating results.

**If we are unable to retain our current customers or sell additional functionality and services to them, our revenue growth will be adversely affected.**

To increase our revenue, in addition to acquiring new customers, we must continue to retain existing customers and convince them to expand their use of our platform by increasing the number of users and incenting them to pay for additional functionality. Our ability to retain our customers and
increase their usage could be impaired for a variety of reasons, including customer reaction to changes in the pricing of our products or the other risks described in this prospectus. As a result, we may be unable to retain existing customers or increase the usage of our platform by them, which would have an adverse effect on our business, revenue, gross margins, and other operating results, and accordingly, on the trading price of our common stock.

Our ability to sell additional functionality to our existing customers may require more sophisticated and costly sales efforts, especially for our larger customers with more senior management and established procurement functions. Similarly, the rate at which our customers purchase additional products from us depends on several factors, including general economic conditions and the pricing of additional product functionality. If our efforts to sell additional functionality to our customers are not successful, our business and growth prospects would suffer.

While some of our contracts are non-cancelable annual subscription contracts, most of our contracts with customers and accounting firms primarily consist of open-ended arrangements that can be terminated by either party without penalty at any time. Our customers have no obligation to renew their subscriptions for our platform after the expiration of their subscription period. For us to maintain or improve our operating results, it is important that our customers continue to maintain their subscriptions on the same or more favorable terms. We cannot accurately predict renewal or expansion rates given the diversity of our customer base in terms of size, industry, and geography. Our renewal and expansion rates may decline or fluctuate as a result of several factors, including customer spending levels, customer satisfaction with our platform, decreases in the number of users, changes in the type and size of our customers, pricing changes, competitive conditions, the acquisition of our customers by other companies, and general economic conditions. If our customers do not renew their subscriptions, or if they reduce their usage of our platform, our revenue and other operating results will decline and our business will suffer. If our renewal or expansion rates fall significantly below the expectations of the public market, securities analysts, or investors, the trading price of our common stock would likely decline.

Our business depends, in part, on our relationships with accounting firms.

Our relationships with our over 4,000 accounting firm partners account for approximately 54% of our total customers and 45% of our revenue as of and for fiscal 2019. We market and sell our products and services through accounting firms. We also have a partnership with CPA.com to market our products and services to accounting firms, which then enroll their customers directly onto our platform. Although our relationships with accounting firms are independent of one another, if our reputation in the accounting industry more broadly were to suffer, or if we were unable to establish relationships with new accounting firms and grow our relationships with existing accounting firm partners, our growth prospects would weaken and our business, financial position, and operating results may be adversely affected.

Our business depends, in part, on our strategic partnerships with financial institutions.

To grow our business, we will seek to expand our relationships with our financial institution partners and to partner with additional banks and financial institutions. Establishing our strategic partner relationships, particularly with our financial institution customers and, to a lesser extent, accounting software providers, entails extensive and highly specific upfront sales efforts, with little predictability and various ancillary requirements. For example, our financial institution partners generally require us to submit to an exhaustive security audit, given the sensitivity and importance of storing their customer billing and payment data on our platform. As a result, sales to new strategic partner enterprises involve risks that may not be present or that are present to a lesser extent with sales to SMB organizations. With strategic partners, the decision to subscribe to our platform
frequently requires the approval of multiple management personnel and more technical personnel than would be typical of a smaller organization. Accordingly, sales to strategic partners may require us to invest more time educating and selling to these potential customers. Purchases by strategic partners are also frequently subject to budget constraints and unplanned administrative, processing, and other delays, including considerable efforts to negotiate and document relationships with them. Further, we integrate our platform with our financial institution partners’ own websites and apps, which requires significant time and resources to design and deploy even after sales have been processed and documented. If we are unable to increase sales of our platform to strategic partners and manage the costs associated with marketing our platform to such customers and integrating with their systems, our business, financial position, and operating results may be adversely affected.

We may not be able to attract new financial institution strategic partners if our potential partners favor our competitors’ products or services over our platform or choose to compete with our products directly. Further, many of our existing financial institution partners have greater resources than we do and could choose to develop their own solutions to replace ours. Moreover, certain financial institutions may elect to focus on other market segments, and decide to terminate their SMB-focused services. For example, in late 2018, one of our former financial institution partners chose not to renew its relationship with us due to a change in business strategy. As a result, we lost approximately 5,000 customers. Although these customers did not represent a significant amount of revenue for our business, there can be no guarantee that other financial institution partners will not choose to terminate their relationships for strategic or other reasons. If we are unsuccessful in establishing, growing, or maintaining our relationships with strategic partners, our ability to compete in the marketplace or to grow our revenue could be impaired, and our results of operations may suffer.

Our business depends, in part, on our relationship with Intuit.

In addition to our relationship with financial institutions, we rely on our strategic relationship with Intuit Inc., a leading provider of financial, accounting, and tax preparation software, to further expand our business. Our platform is integrated into Intuit’s QuickBooks product, which millions of SMBs rely on for accounting services. Achieving this integration required extensive coordination and commitment of time and resources, and has led to thousands of additional customers for us. If we are unable to increase adoption of our platform by Intuit’s customers, however, our growth prospects may be adversely affected. Additionally, if Intuit reconfigures its platform in a manner that no longer supports our integration or if Intuit terminates this relationship or replaces our platform with that of another provider, we would lose customers and our business would be adversely affected. Finally, Intuit may seek to develop a solution of its own, acquire a solution to compete with ours, thereby or decide to partner with a competitor and build a new product, which its SMB customers may select over ours, thereby harming our growth prospects and adversely affecting our results of operations.

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

The market for financial back-office solutions is fragmented, competitive, and constantly evolving. Our competitors range from large entities that predominantly focus on enterprise resource planning solutions, to smaller niche suppliers of solutions that focus exclusively on document management, workflow management, accounts payable, accounts receivable, and/or electronic bill presentment and payment. With the introduction of new technologies and market entrants, we expect that the competitive environment will remain intense going forward. Our competitors that currently focus on enterprise solutions may offer products to SMBs that compete with ours. Accounting software providers, such as Intuit, as well as the financial institutions with which we partner, may internally develop products, acquire existing, third-party products, or may enter into partnerships or other strategic relationships that would enable them to expand their product offerings to compete with our
platform or provide more comprehensive offerings than they individually had offered or achieve greater economies of scale than us. These software providers and financial institutions may have the operating flexibility to bundle competing solutions with other offerings, including offering them at a lower price or for no additional cost to customers as part of a larger sale. In addition, new entrants not currently considered to be competitors may enter the market through acquisitions, partnerships, or strategic relationships. As we look to market and sell our platform to potential customers or strategic partners with existing solutions, we must convince their internal stakeholders that our platform is superior to their current solutions.

We compete on several factors, including:

• product features, quality, and functionality;
• data asset size and ability to leverage artificial intelligence to grow faster and smarter;
• ease of deployment;
• ease of integration with leading accounting and banking technology infrastructures;
• ability to automate processes;
• cloud-based delivery architecture;
• advanced security and control features;
• regulatory compliance leadership, as evidenced by money transmitter licenses in all required US jurisdictions;
• brand recognition; and
• pricing and total cost of ownership.

Our competitors vary in size, breadth, and scope of the products and services offered. Many of our competitors and potential competitors have greater name recognition, longer operating histories, more established customer relationships, larger marketing budgets, and greater resources than us. Our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards, and customer requirements. For example, an existing competitor or new entrant could introduce new technology that reduces demand for our platform.

For these reasons, we may not be able to compete successfully against our current or future competitors, and this competition could result in the failure of our platform to continue to achieve or maintain market acceptance, any of which would harm our business, operating results, and financial condition.

If we do not or cannot maintain the compatibility of our platform with popular accounting software solutions or offerings of our strategic partners, our revenue and growth prospects will decline.

To deliver a comprehensive solution, our platform integrates with popular accounting software providers including Intuit QuickBooks, Oracle NetSuite, and Sage Intacct, through application program interfaces (APIs) made available by these software providers. We automatically synchronize customers, suppliers, clients, invoices, and payment transactions between our platform and these systems. This two-way sync eliminates duplicate data entry and provides the basis for managing cash-flow through an integrated solution for accounts payables, accounts receivable, and payments.

If any of the accounting software providers change the features of their APIs, discontinue their support of such APIs, restrict our access to their APIs, or alter the terms governing their use in a
manner that is adverse to our business, we will not be able to provide synchronization capabilities, which could significantly diminish the value of our platform and harm our business, operating results, and financial condition.

The functionality and popularity of our platform depends, in part, on our ability to integrate our platform with the offerings of our strategic partners. Critically, our financial institution strategic partners must be able to integrate our platform into their existing offerings. These strategic partners periodically update and change their systems, and although we have been able to adapt our platform to their evolving needs in the past, there can be no guarantee that we will be able to do so in the future. In particular, if we are unable to adapt to the needs of our strategic partners’ platforms, our strategic partners may terminate their agreements with us and we may lose access to large numbers of customers as a result.

We depend upon several third-party service providers for processing our transactions. If any of our agreements with our processing providers are terminated, we could experience service interruptions.

We depend on banks, including JPMorgan Chase, The Bancorp Bank, and Silicon Valley Bank, to process ACH transactions and checks for our customers. We have entered into treasury services or similar agreements with these banks for payment processing and related services. Those agreements include significant security, compliance, and operational obligations. If we are not able to comply with those obligations or our agreements with the processing banks are terminated for any reason, we could experience service interruptions as well as delays and additional expenses in arranging new services.

Similarly, we have an agreement with Cambridge Mercantile Corp., under which Cambridge provides us with cross-border wire transfer capabilities. This arrangement has enabled us to offer our cross-border payments service, which we view as a significant growth opportunity for our business. Finally, we have an agreement with Comdata Inc., under which Comdata acts as our program manager and card issuer processor for our virtual card program.

If any of our banking agreements related to ACH transactions or checks, or our agreements with Cambridge or Comdata are terminated, we may experience business interruptions and delays, and be forced to incur additional expenses, potentially interfering with our existing customer relationships or making us less attractive to potential new customers.

Interruptions or delays in the services provided by AWS or other third-party data centers or internet service providers could impair the delivery of our platform and our business could suffer.

We host our platform using third-party cloud infrastructure services, including co-location facilities at Equinix, Iron Mountain, and Digital West. We also use public cloud hosting with Amazon Web Services (AWS). All of our products utilize resources operated by us through these providers. We therefore depend on our third-party cloud providers’ ability to protect their data centers against damage or interruption from natural disasters, power or telecommunications failures, criminal acts, and similar events. Our operations depend on protecting the cloud infrastructure hosted by such providers by maintaining their respective configuration, architecture, and interconnection specifications, as well as the information stored in these virtual data centers and transmitted by third-party internet service providers. We have periodically experienced service disruptions in the past, and we cannot assure you that we will not experience interruptions or delays in our service in the future. We may also incur significant costs for using alternative equipment or taking other actions in preparation for, or in reaction to, events that damage the data storage services we use. Although we have disaster recovery plans
that utilize multiple data storage locations, any incident affecting their infrastructure that may be caused by fire, flood, severe storm, earthquake, power loss, telecommunications failures, unauthorized intrusion, computer viruses and disabling devices, natural disasters, military actions, terrorist attacks, negligence, and other similar events beyond our control could negatively affect our platform. Any prolonged service disruption affecting our platform for any of the foregoing reasons could damage our reputation with current and potential customers, expose us to liability, cause us to lose customers, or otherwise harm our business. Also, in the event of damage or interruption, our insurance policies may not adequately compensate us for any losses that we may incur.

Our platform is accessed by many customers, often at the same time. As we continue to expand the number of our customers and products available to our customers, we may not be able to scale our technology to accommodate the increased capacity requirements, which may result in interruptions or delays in service. In addition, the failure of data centers, internet service providers, or other third-party service providers to meet our capacity requirements could result in interruptions or delays in access to our platform or impede our ability to grow our business and scale our operations. If our third-party infrastructure service agreements are terminated, or there is a lapse of service, interruption of internet service provider connectivity, or damage to data centers, we could experience interruptions in access to our platform as well as delays and additional expense in arranging new facilities and services.

Moreover, we are in the process of gradually migrating our systems from internal data centers and smaller vendors to AWS. AWS provides us with computing and storage capacity pursuant to an agreement that continues until terminated by either party. We have a limited history of operating on AWS. As we migrate our data from our servers to AWS' servers, we may experience some duplication and incur additional costs. If our data migration is not successful, or if AWS unexpectedly terminates our agreement, we would be forced to incur additional expenses to locate an alternative provider and may experience outages or disruptions to our service. Any service disruption affecting our platform during such migration or while operating on the AWS cloud infrastructure could damage our reputation with current and potential customers, expose us to liability, cause us to lose customers, or otherwise harm our business.

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

Our primary competition remains the legacy manual processes that SMBs have relied on for generations. Our success will depend, to a substantial extent, on the widespread adoption of our cloud-based back-office solutions as an alternative to existing solutions or adoption by customers that are not using any such solutions at all. Some organizations may be reluctant or unwilling to use our platform for several reasons, including concerns about additional costs, uncertainty regarding the reliability and security of cloud-based offerings, or lack of awareness of the benefits of our platform. Our ability to expand sales of our platform depends on several factors, including prospective customers' awareness of our platform, the timely completion, introduction, and market acceptance of enhancements to our platform or new products that we may introduce, the effectiveness of our marketing programs, the costs of our platform, and the success of our competitors. If we are unsuccessful in developing and marketing our platform, or if organizations do not perceive or value the benefits of our platform as an alternative to legacy systems, the market for our platform may not continue to develop or may develop more slowly than we expect, either of which would harm our growth prospects and operating results.
Payments and other financial services-related regulations and oversight are material to our business. Our failure to comply could materially harm our business.

The local, state, and federal laws, rules, regulations, licensing schemes, and industry standards that govern our business include, or may in the future include, those relating to banking, deposit-taking, cross-border and domestic money transmission, foreign exchange, payments services (such as money transmission, payment processing, and settlement services), anti-money laundering, combating terrorist financing, escheatment, international sanctions regimes, and compliance with the Payment Card Industry Data Security Standard, a set of requirements designed to ensure that all companies that process, store, or transmit payment card information maintain a secure environment to protect cardholder data. We do not directly collect or store payment card information; instead, we rely on a third-party payment processor to do so. These laws, rules, regulations, licensing schemes, and standards are enforced by multiple authorities and governing bodies in the United States, including the Department of the Treasury, the Federal Deposit Insurance Corporation, the SEC, self-regulatory organizations, and numerous state and local agencies. As we expand into new jurisdictions, the number of foreign laws, rules, regulations, licensing schemes, and standards governing our business will expand as well. In addition, as our business and products continue to develop and expand, we may become subject to additional laws, rules, regulations, licensing schemes, and standards. We may not always be able to accurately predict the scope or适用性 of certain laws, rules, regulations, licensing schemes, or standards to our business, particularly as we expand into new areas of operations, which could have a significant negative effect on our existing business and our ability to pursue future plans.

Our subsidiary, Bill.com, LLC, has obtained licenses or made registrations, as applicable, to operate as a money transmitter (or its equivalent) in the United States, in the District of Columbia, and, to the best of our knowledge, in all the states where such licensure or registration is required for our business. As a licensed money transmitter, we are subject to obligations and restrictions with respect to the investment of customer funds, reporting requirements, bonding requirements, minimum capital requirements, and inspection by state regulatory agencies concerning various aspects of our business. Evaluation of our compliance efforts, as well as the questions of whether and to what extent our products and services are considered money transmission, are matters of regulatory interpretation and could change over time. In the past, regulators have identified violations and we have been subject to fines and other penalties by regulatory authorities due to their interpretations and applications to our business of their respective state money transmission laws. Regulators and third-party auditors have also identified gaps in our anti-money laundering program. In the future, as a result of the regulations applicable to our business, we could be subject to investigations and resulting liability, including governmental fines, restrictions on our business, or other sanctions, and we could be forced to cease conducting certain aspects of our business with residents of certain jurisdictions, be forced to change our business practices in certain jurisdictions, or be required to obtain additional licenses or regulatory approvals. There can be no assurance that we will be able to obtain or maintain any such licenses, and, even if we were able to do so, there could be substantial costs and potential product changes involved in maintaining such licenses, which could have a material and adverse effect on our business. In addition, there are substantial costs and potential product changes involved in maintaining and renewing such licenses, certifications, and approvals, and we could be subject to fines or other enforcement action if we are found to violate disclosure, reporting, anti-money laundering, capitalization, corporate governance, or other requirements of such licenses. These factors could impose substantial additional costs, involve considerable delay to the development or provision of our products or services, require significant and costly operational changes, or prevent us from providing our products or services in any given market.
Government agencies may impose new or additional rules on money transmission, including regulations that:

- prohibit, restrict, and/or impose taxes or fees on money transmission transactions in, to or from certain countries or with certain governments, individuals, and entities;
- impose additional customer identification and customer due diligence requirements;
- impose additional reporting or recordkeeping requirements, or require enhanced transaction monitoring;
- limit the types of entities capable of providing money transmission services, or impose additional licensing or registration requirements;
- impose minimum capital or other financial requirements;
- limit or restrict the revenue that may be generated from money transmission, including revenue from interest earned on customer funds, transaction fees, and revenue derived from foreign exchange;
- require enhanced disclosures to our money transmission customers;
- require the principal amount of money transmission originated in a country to be invested in that country or held in trust until paid;
- limit the number or principal amount of money transmission transactions that may be sent to or from a jurisdiction, whether by an individual or in the aggregate; and
- restrict or limit our ability to process transactions using centralized databases, for example, by requiring that transactions be processed using a database maintained in a particular country or region.

If we lose our founder or key members of our management team or are unable to attract and retain executives and employees we need to support our operations and growth, our business may be harmed.

Our success and future growth depend upon the continued services of our management team and other key employees. Our founder and Chief Executive Officer, René Lacerte, is critical to our overall management, as well as the continued development of our products, strategic partnerships, our culture, our relationships with accounting firms, and our strategic direction. From time to time, there may be changes in our management team resulting from the hiring or departure of executives and key employees, which could disrupt our business. Our senior management and key employees are employed on an at-will basis. We currently do not have “key person” insurance on any of our employees. Certain of our key employees have been with us for a long period of time and have fully vested stock options or other long-term equity incentives that may become valuable and will be publicly tradable if we become a public company. The loss of our founder, or one or more of our senior management, or other key employees could harm our business, and we may not be able to find adequate replacements. We cannot ensure that we will be able to retain the services of any members of our senior management or other key employees or that we would be able to timely replace members of our senior management or other key employees should any of them depart.

If we fail to offer high-quality customer support, or if our support is more expensive than anticipated, our business and reputation could suffer.

Our customers rely on our customer support services, which we refer to as customer success, to resolve issues and realize the full benefits provided by our platform. High-quality support is also important for the renewal and expansion of our subscriptions with existing customers. We primarily
provide customer support over chat and email, with limited phone-based support. If we do not help our customers quickly resolve issues and provide effective ongoing support, or if our support personnel or methods of providing support are insufficient to meet the needs of our customers, our ability to retain customers, increase adoption by our existing customers and acquire new customers could suffer, and our reputation with existing or potential customers could be harmed. If we are not able to meet the customer support needs of our customers by chat and email during the hours that we currently provide support, we may need to increase our support coverage and provide additional phone-based support, which may reduce our profitability.

If we fail to adapt and respond effectively to rapidly changing technology, evolving industry standards, changing regulations, and changing business needs, requirements, or preferences, our products may become less competitive.

The market for SMB financial back-office solutions is relatively new and subject to ongoing technological change, evolving industry standards, payment methods and changing regulations, and changing customer needs, requirements, and preferences. The success of our business will depend, in part, on our ability to adapt and respond effectively to these changes on a timely basis, including launching new products and services. The success of any new product and service, or any enhancements or modifications to existing products and services, depends on several factors, including the timely completion, introduction, and market acceptance of such products and services, enhancements, and modifications. If we are unable to enhance our platform, add new payment methods or develop new products that keep pace with technological and regulatory change and achieve market acceptance, or if new technologies emerge that are able to deliver competitive products and services at lower prices, more efficiently, more conveniently, or more securely than our products, our business, operating results, and financial condition would be adversely affected. Furthermore, modifications to our existing platform or technology will increase our research and development expenses. Any failure of our services to operate effectively with existing or future network platforms and technologies could reduce the demand for our services, result in customer dissatisfaction and adversely affect our business.

If the prices we charge for our services are unacceptable to our customers, our operating results will be harmed.

We generate revenue by charging customers a fixed monthly rate per user for subscriptions as well as transaction fees. As the market for our platform matures, or as new or existing competitors introduce new products or services that compete with ours, we may experience pricing pressure and be unable to renew our agreements with existing customers or attract new customers at prices that are consistent with our pricing model and operating budget. Our pricing strategy for new products we introduce, including our virtual card and cross-border payment products, may prove to be unappealing to our customers, and our competitors could choose to bundle certain products and services competitive with ours. If this were to occur, it is possible that we would have to change our pricing strategies or reduce our prices, which could harm our revenue, gross profits, and operating results.

We typically provide service level commitments under our strategic partner agreements. If we fail to meet these contractual commitments, we could be obligated to provide credits or refunds for prepaid amounts related to unused subscription services or face contract terminations, which could adversely affect our revenue.

Our agreements with our strategic partners typically contain service level commitments on a monthly basis. If we are unable to meet the stated service level commitments or suffer extended periods of unavailability for our platform, we may be contractually obligated to provide these partners with service credits, up to 10% of the partner’s subscription fees for the month in which the service
level was not met. In addition, we could face contract terminations, in which case we would be subject to refunds for prepaid amounts related to unused subscription services. Our revenue could be significantly affected if we suffer unexcused downtime under our agreements with our partners. Further, any extended service outages could adversely affect our reputation, revenue, and operating results.

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

As usage of our platform grows and we sign additional strategic partners, we will need to devote additional resources to improving and maintaining our infrastructure and computer network and integrating with third-party applications to maintain the performance of our platform. In addition, we will need to appropriately scale our internal business systems and our services organization, including customer support, risk and compliance operations, and professional services, to serve our growing customer base.

Any failure of or delay in these efforts could result in service interruptions, impaired system performance, and reduced customer satisfaction, resulting in decreased sales to new customers, lower subscription renewal rates by existing customers, the issuance of service credits, or requested refunds, all of which could hurt our revenue growth. If sustained or repeated, these performance issues could reduce the attractiveness of our platform to customers and could result in lost customer opportunities and lower renewal rates, any of which could hurt our revenue growth, customer loyalty, and our reputation. Even if we are successful in these efforts to scale our business, they will be expensive and complex, and require the dedication of significant management time and attention. We could also face inefficiencies or service disruptions as a result of our efforts to scale our internal infrastructure. We cannot be sure that the expansion and improvements to our internal infrastructure will be effectively implemented on a timely basis, if at all, and such failures could adversely affect our business, operating results, and financial condition.

The failure to attract and retain additional qualified personnel and any restrictions on the movement of personnel could prevent us from executing our business strategy and growth plans.

To execute our business strategy, we must attract and retain highly qualified personnel. Competition for executive officers, software developers, compliance and risk management personnel and other key employees in our industry and location is intense and increasing. We compete with many other companies for software developers with high levels of experience in designing, developing, and managing cloud-based software and payment systems, as well as for skilled legal and compliance and risk operations professionals. The current regulatory environment related to immigration may increase the likelihood that immigration laws may be modified to further limit the availability of H1-B and other visas. If a new or revised visa program is implemented, it may impact our ability to recruit, hire, retain or effectively collaborate with qualified skilled personnel, including in the areas of artificial intelligence and machine learning, and payment systems and risk management, which could adversely impact our business, operating results and financial condition. Many of the companies with which we compete for experienced personnel have greater resources than we do and can frequently offer such personnel substantially greater compensation than we can offer. If we fail to identify, attract, develop and integrate new personnel, or fail to retain and motivate our current personnel, our growth prospects would be adversely affected.
Failure to effectively develop and expand our sales and marketing capabilities could harm our ability to increase our customer base and achieve broader market acceptance of our products.

Our ability to increase our customer base and achieve broader market acceptance of our platform will depend to a significant extent on our ability to expand our sales and marketing organizations, and to deploy our sales and marketing resources efficiently. We plan to continue expanding our direct-to-SMB sales force as well as our sales force focused on identifying new strategic partners. We also dedicate significant resources to sales and marketing programs, including digital advertising through services such as Google AdWords. The effectiveness and cost of our online advertising has varied over time and may vary in the future due to competition for key search terms, changes in search engine use, and changes in the search algorithms used by major search engines. These efforts will require us to invest significant financial and other resources. Our business and operating results will be harmed if our sales and marketing efforts do not generate significant increases in revenue. We may not achieve anticipated revenue growth from expanding our sales force if we are unable to hire, develop, integrate, and retain talented and effective sales personnel, if our new and existing sales personnel are unable to achieve desired productivity levels in a reasonable period of time, or if our sales and marketing programs and advertising are not effective.

We are subject to governmental regulation and other legal obligations, particularly those related to privacy, data protection, and information security, and our actual or perceived failure to comply with such obligations could harm our business, by resulting in litigation, fines, penalties, or adverse publicity and reputational damage that may negatively affect the value of our business and decrease the price of our common stock. Compliance with such laws could also result in additional costs and liabilities to us or inhibit sales of our products.

Our customers, their suppliers, customers and other users store personal and business information, financial information and other sensitive information on our platform. In addition, we receive, store, and process personal and business information and other data from and about actual and prospective customers and users, in addition to our employees and service providers. Our handling of data is subject to a variety of laws and regulations, including regulation by various government agencies, such as the U.S. Federal Trade Commission (FTC), and various state, local, and foreign agencies. Our data handling also is subject to contractual obligations and industry standards.

The U.S. federal and various state and foreign governments have adopted or proposed limitations on the collection, distribution, use, and storage of data relating to individuals and businesses, including the use of contact information and other data for marketing, advertising, and other communications with individuals and businesses. In the United States, various laws and regulations apply to the collection, processing, disclosure, and security of certain types of data, including the Electronic Communications Privacy Act, the Computer Fraud and Abuse Act, the Gramm Leach Bliley Act, and state laws relating to privacy and data security. Additionally, the FTC and many state attorneys general are interpreting federal and state consumer protection laws as imposing standards for the online collection, use, dissemination, and security of data. For example, in June 2018, California enacted the California Consumer Privacy Act, which becomes operative on January 1, 2020 and will broadly define personal information, give California residents expanded privacy rights and protections, and provide for civil penalties for violations and a private right of action for data breaches. Many aspects of the California Consumer Privacy Act and its interpretation remain unclear, and its full impact on our business and operations remains uncertain. The laws and regulations relating to privacy and data security are evolving, can be subject to significant change, and may result in ever-increasing regulatory and public scrutiny and escalating levels of enforcement and sanctions.

In addition, several foreign countries and governmental bodies, including the European Union, have laws and regulations dealing with the handling and processing of personal information obtained
from their residents, which in certain cases are more restrictive than those in the United States. Laws and regulations in these jurisdictions apply broadly to the collection, use, storage, disclosure, and security of various types of data, including data that identifies or may be used to identify an individual, such as names, email addresses, and in some jurisdictions, Internet Protocol (IP) addresses. While we believe that the products and services that we currently offer do not subject us to such laws or regulations in foreign jurisdictions, such laws and regulations may be modified or subject to new or different interpretations, and new laws and regulations may be enacted in the future.

Within the European Union, the General Data Protection Regulation (GDPR), significantly increases the level of sanctions for non-compliance from those in existing EU data protection law and imposes direct obligations on data processors in addition to data controllers. EU data protection authorities have the power to impose administrative fines for violations of the GDPR of up to a maximum of €20 million or 4% of the data controller's or data processor's total worldwide global turnover for the preceding fiscal year, whichever is higher, and violations of the GDPR may also lead to damages claims by data controllers and data subjects. Such penalties are in addition to any civil litigation claims by data controllers, customers, and data subjects. While we believe that the products and services that we currently offer do not subject us to the GDPR, the GDPR and other laws and regulations relating to privacy, data protection, and information security may be modified or subject to new or different interpretations or may be modified in the future, or modifications or enhancements that we make to our products may subject us to GDPR, or we otherwise may become, or have it asserted that we are, subject to the GDPR or other laws or regulations relating to privacy, data protection, or information security. If we are, or are asserted to be, subject to the GDPR, we may need to take steps to cause our processes to be compliant with applicable portions of the GDPR, but we cannot assure you that we will be able to implement changes in a timely manner or without significant disruption to our business, or that such steps will be effective, and we may face the risk of liability under the GDPR.

The scope and interpretation of the laws that are or may be applicable to us are often uncertain and may be conflicting, as a result of the rapidly evolving regulatory framework for privacy issues worldwide. For example, laws relating to the liability of providers of online services for activities of their users and other third parties are currently being tested by a number of claims, including actions based on invasion of privacy and other torts, unfair competition, copyright and trademark infringement, and other theories based on the nature and content of the materials searched, the ads posted, or the content provided by users. As a result of the laws that are or may be applicable to us, and due to the sensitive nature of the information we collect, we have implemented policies and procedures to preserve and protect our data and our customers' data against loss, misuse, corruption, misappropriation caused by systems failures, or unauthorized access. If our policies, procedures, or measures relating to privacy, data protection, marketing, or customer communications fail to comply with laws, regulations, policies, legal obligations, or industry standards, we may be subject to governmental enforcement actions, litigation, regulatory investigations, fines, penalties, and negative publicity, and could cause our application providers, customers and partners to lose trust in us, and have an adverse effect on our business, operating results, and financial condition.

In addition to government regulation, privacy advocates and industry groups may propose new and different self-regulatory standards that may apply to us. Because the interpretation and application of privacy and data protection laws, regulations, rules, and other standards are still uncertain, it is possible that these laws, rules, regulations, and other actual or alleged legal obligations, such as contractual or self-regulatory obligations, may be interpreted and applied in a manner that is inconsistent with our existing data management practices or the functionality of our platform. If so, in addition to the possibility of fines, lawsuits and other claims, we could be required to fundamentally change our business activities and practices or modify our software, which could have an adverse effect on our business.
Any failure or perceived failure by us to comply with laws, regulations, policies, legal, or contractual obligations, industry standards, or regulatory guidance relating to privacy or data security, may result in governmental investigations and enforcement actions, litigation, fines and penalties, or adverse publicity, and could cause our customers and partners to lose trust in us, which could have an adverse effect on our reputation and business. We expect that there will continue to be new proposed laws, regulations, and industry standards relating to privacy, data protection, marketing, consumer communications, and information security, and we cannot determine the impact such future laws, regulations, and standards may have on our business. Future laws, regulations, standards, and other obligations or any changed interpretation of existing laws or regulations could impair our ability to develop and market new functionality and maintain and grow our customer base and increase revenue. Future restrictions on the collection, use, sharing, or disclosure of data, or additional requirements for express or implied consent of our customers, partners, or end users for the use and disclosure of such information could require us to incur additional costs or modify our platform, possibly in a material manner, and could limit our ability to develop new functionality.

If we are not able to comply with these laws or regulations, or if we become liable under these laws or regulations, we could be directly harmed, and we may be forced to implement new measures to reduce our exposure to this liability. This may require us to expend substantial resources or to discontinue certain products, which would negatively affect our business, financial condition, and operating results. In addition, the increased attention focused upon liability issues as a result of lawsuits and legislative proposals could harm our reputation or otherwise adversely affect the growth of our business. Furthermore, any costs incurred as a result of this potential liability could harm our operating results.

We, our strategic partners, our customers, and others who use our services obtain and process a large amount of sensitive data. Any real or perceived improper or unauthorized use of, disclosure of, or access to such data could harm our reputation as a trusted brand, as well as have a material adverse effect on our business.

We, our strategic partners, our customers, and the third-party vendors and data centers that we use, obtain and process large amounts of sensitive data, including data related to our customers and their transactions, as well as other data of the counterparties to their payments. We face risks, including to our reputation as a trusted brand, in the handling and protection of this data, and these risks will increase as our business continues to expand to include new products and technologies.

Cybersecurity incidents and malicious internet-based activity continue to increase generally, and providers of cloud-based services have frequently been targeted by such attacks. These cybersecurity challenges, including threats to our own IT infrastructure or those of our customers or third-party providers, may take a variety of forms ranging from stolen bank accounts, business email compromise, customer employee fraud, account takeover, check fraud or cybersecurity attacks, to “mega breaches” targeted against cloud-based services and other hosted software, which could be initiated by individual or groups of hackers or sophisticated cyber criminals. A cybersecurity incident or breach could result in disclosure of confidential information and intellectual property, or cause production downtimes and compromised data. We have in the past experienced cybersecurity incidents of limited scale. We may be unable to anticipate or prevent techniques used in the future to obtain unauthorized access or to sabotage systems because they change frequently and often are not detected until after an incident has occurred. As we increase our customer base and our brand becomes more widely known and recognized, third parties may increasingly seek to compromise our security controls or gain unauthorized access to our sensitive corporate information or our customers’ data.

We have administrative, technical, and physical security measures in place, and we have policies and procedures in place to contractually require service providers to whom we disclose data to
implement and maintain reasonable privacy and security measures. However, if our privacy protection or security measures or those of the previously mentioned third parties are inadequate or are breached as a result of third-party action, employee or contractor error, malfeasance, malware, phishing, hacking attacks, system error, software bugs or defects in our products, trickery, process failure, or otherwise, and, as a result, there is improper disclosure of, or someone obtains unauthorized access to or exfiltrates funds or sensitive information, including personally identifiable information, on our systems or our partners’ systems, or if we suffer a ransomware or advanced persistent threat attack, or if any of the foregoing is reported or perceived to have occurred, our reputation and business could be damaged. Recent high-profile security breaches and related disclosures of sensitive data by large institutions suggest that the risk of such events is significant, even if privacy protection and security measures are implemented and enforced. If sensitive information is lost or improperly disclosed or threatened to be disclosed, we could incur significant costs associated with remediation and the implementation of additional security measures, and may incur significant liability and financial loss, and be subject to regulatory scrutiny, investigations, proceedings, and penalties.

In addition, our financial institution strategic partners conduct regular audits of our cybersecurity program, and if any of them were to conclude that our systems and procedures are insufficiently rigorous, they could terminate their relationships with us, and our financial results and business could be adversely affected. Under our terms of service and our contracts with strategic partners, if there is a breach of payment information that we store, we could be liable to the partner for their losses and related expenses. Additionally, if our own confidential business information were improperly disclosed, our business could be materially and adversely affected. A core aspect of our business is the reliability and security of our platform. Any perceived or actual breach of security, regardless of how it occurs or the extent of the breach, could have a significant impact on our reputation as a trusted brand, cause us to lose existing partners or other customers, prevent us from obtaining new partners and other customers, require us to expend significant funds to remedy problems caused by breaches and implement measures to prevent further breaches, and expose us to legal risk and potential liability including those resulting from governmental or regulatory investigations, class action litigation, and costs associated with remediation, such as fraud monitoring and forensics. Any actual or perceived security breach at a company providing services to us or our customers could have similar effects.

While we maintain cybersecurity insurance, our insurance may be insufficient or may not cover all liabilities incurred by such attacks. We also cannot be certain that our insurance coverage will be adequate for data handling or data security liabilities actually incurred, that insurance will continue to be available to us on economically reasonable terms, or at all, or that any insurer will not deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceed available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, including our financial condition, operating results, and reputation.

**We currently handle cross-border payments and plan to expand our offering to new customers and to make payments to new countries, creating a variety of operational challenges.**

A component of our growth strategy involves our cross-border payments product and, ultimately, expanding our operations internationally. Although we do not currently serve customers outside the United States, starting in 2018 we introduced cross-border payments through our relationship with Cambridge Mercantile, and now offer our United States-based customers the ability to disburse funds to over 130 countries. We are continuing to adapt to and develop strategies to address payments to new countries. However, there is no guarantee that such efforts will have the desired effect.
Our cross-border payments product and international operations strategy involve a variety of risks, including:

- changes in financial regulations and our ability to comply and obtain any relevant licenses;
- currency exchange rate fluctuations and the resulting effect on our revenue and expenses, and the cost and risk of entering into hedging transactions;
- reduction in cross-border trade resulting from trade sanctions, other trade regulations, and relations;
- potential application of more stringent regulations relating to privacy, data protection, and data security, and the authorized use of, or access to, commercial and personal information;
- potential changes in trade relations, regulations, or laws;
- exposure to liabilities under anti-corruption and anti-money laundering laws, including the U.S. Foreign Corrupt Practices Act (FCPA), U.S. bribery laws, the UK Bribery Act, and similar laws and regulations in other jurisdictions; and
- unexpected changes in tax laws.

If we invest substantial time and resources to further expand our cross-border payments offering and are unable to do so successfully and in a timely manner, our business and operating results may suffer.

Future acquisitions, strategic investments, partnerships, collaborations, or alliances could be difficult to identify and integrate, divert the attention of management, disrupt our business, dilute stockholder value, and adversely affect our operating results and financial condition.

We may in the future seek to acquire or invest in businesses, products, or technologies that we believe could complement or expand our platform, enhance our technical capabilities, or otherwise offer growth opportunities. The pursuit of potential acquisitions may divert the attention of management and cause us to incur various expenses in identifying, investigating, and pursuing suitable acquisitions, whether or not such acquisitions are completed. In addition, we have no experience in acquiring other businesses, and we may not successfully identify desirable acquisition targets, or if we acquire additional businesses, we may not be able to integrate them effectively following the acquisition. Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, as well as unfavorable accounting treatment and exposure to claims and disputes by third parties, including intellectual property claims. We also may not generate sufficient financial returns to offset the costs and expenses related to any acquisitions. In addition, if an acquired business fails to meet our expectations, our business, operating results, and financial condition may suffer.

We use open source software in our products, which could subject us to litigation or other actions.

We use open source software in our products. From time to time, there have been claims challenging the ownership of open source software against companies that incorporate it into their products. As a result, we could be subject to lawsuits by parties claiming ownership of what we believe to be open source software. Litigation could be costly for us to defend, have a negative effect on our operating results and financial condition, or require us to devote additional research and development resources to change our products. In addition, if we were to combine our proprietary software products with open source software in a certain manner under certain open source licenses, we could be required to release the source code of our proprietary software products. If we inappropriately use or incorporate open source software subject to certain types of open source licenses that challenge the proprietary nature of our products, we may be required to re-engineer such products, discontinue the sale of such products, or take other remedial actions.
If we fail to maintain and enhance our brand, our ability to expand our customer base will be impaired and our business, operating results, and financial condition may suffer.

We believe that maintaining and enhancing the Bill.com brand is important to support the marketing and sale of our existing and future products to new customers and strategic partners and to expand sales of our platform to existing customers and strategic partners. Our ability to protect our brand is limited as a result of its descriptive nature. Successfully maintaining and enhancing our brand will depend largely on the effectiveness of our marketing and demand generation efforts, our ability to provide reliable products that continue to meet the needs of our customers at competitive prices, our ability to maintain our customers' trust, our ability to continue to develop new functionality and products, and our ability to successfully differentiate our platform and products from competitive products and services. Our brand promotion activities may not generate customer awareness or yield increased revenue, and even if they do, any increased revenue may not offset the expenses we incur in building our brand. If we fail to successfully promote and maintain our brand, our business could suffer.

If we fail to adequately protect our proprietary rights, our competitive position could be impaired and we may lose valuable assets, generate less revenue and incur costly litigation to protect our rights.

Our success is dependent, in part, upon protecting our proprietary technology. We rely on a combination of patents, copyrights, trademarks, service marks, trade secret laws, and contractual provisions to establish and protect our proprietary rights. However, the steps we take to protect our intellectual property may be inadequate. While we have been issued patents in the United States and have additional patent applications pending, we may be unable to obtain patent protection for the technology covered in our patent applications. In addition, any patents issued in the future may not provide us with competitive advantages or may be successfully challenged by third parties. Any of our patents, trademarks, or other intellectual property rights may be challenged or circumvented by others or invalidated through administrative process or litigation. There can be no guarantee that others will not independently develop similar products, duplicate any of our products, or design around our patents. Furthermore, legal standards relating to the validity, enforceability, and scope of protection of intellectual property rights are uncertain. Despite our precautions, it may be possible for unauthorized third parties to copy our products and use information that we regard as proprietary to create products and services that compete with ours.

No assurance can be given that these agreements will be effective in controlling access to and distribution of our products and proprietary information. Further, these agreements do not prevent our competitors or partners from independently developing technologies that are substantially equivalent or superior to our platform.

We have been in the past, and may in the future be, subject to intellectual property disputes, which are costly and may subject us to significant liability and increased costs of doing business.

We have been in the past and may in the future become subject to intellectual property disputes. Lawsuits are time-consuming and expensive to resolve and they divert management’s time and attention. Although we carry insurance, our insurance may not cover potential claims of this type or may not be adequate to indemnify us for all liability that may be imposed. We cannot predict the outcome of lawsuits and cannot assure you that the results of any such actions will not have an adverse effect on our business, operating results, or financial condition.

The software industry is characterized by the existence of many patents, copyrights, trademarks, trade secrets, and other intellectual and proprietary rights. Companies in the software industry are
often required to defend against litigation claims based on allegations of infringement or other violations of intellectual property rights. Our technologies may not be able to withstand any third-party claims against their use. In addition, many companies have the capability to dedicate substantially greater resources to enforce their intellectual property rights and to defend claims that may be brought against them. Any litigation may also involve patent holding companies or other adverse patent owners that have no relevant product revenue, and therefore, our patents may provide little or no deterrence as we would not be able to assert them against such entities or individuals. If a third party is able to obtain an injunction preventing us from accessing such third-party intellectual property rights, or if we cannot license or develop alternative technology for any infringing aspect of our business, we would be forced to limit or stop sales of our software or cease business activities related to such intellectual property. Any inability to license third-party technology in the future would have an adverse effect on our business or operating results and would adversely affect our ability to compete. We may also be contractually obligated to indemnify our customers in the event of infringement of a third party’s intellectual property rights. Responding to such claims, regardless of their merit, can be time consuming, costly to defend, and damaging to our reputation and brand.

**Indemnity provisions in various agreements potentially expose us to substantial liability for intellectual property infringement, data protection, and other losses.**

Our agreements with strategic partners and some larger customers include indemnification provisions under which we agree to indemnify them for losses suffered or incurred as a result of claims of intellectual property infringement, data protection, damages caused by us to property or persons, or other liabilities relating to or arising from our platform or other contractual obligations. Some of these indemnity agreements provide for uncapped liability and some indemnity provisions survive termination or expiration of the applicable agreement. Large indemnity payments could harm our business, operating results, and financial condition. Although we normally limit our liability with respect to such obligations in our contracts with direct customers and with customers acquired through our accounting firm partners, we may still incur substantial liability, and we may be required to cease use of certain functions of our platform or products, as a result of IP-related claims. Any dispute with a customer with respect to these obligations could have adverse effects on our relationship with that customer and other existing or new customers, and harm our business and operating results. In addition, although we carry insurance, our insurance may not be adequate to indemnify us for all liability that may be imposed, or otherwise protect us from liabilities or damages with respect to claims alleging compromises of customer data, and any such coverage may not continue to be available to us on acceptable terms or at all.

**Changes to payment card networks fees or rules could harm our business.**

We are required to comply with Mastercard, American Express, and Visa payment card network operating rules in connection with our virtual card payments service and our subscription billing engine. We have agreed to reimburse our service providers for any fines they are assessed by payment card networks as a result of any rule violations by us. We may also be directly liable to the payment card networks for rule violations. The payment card networks set and interpret the card operating rules. The payment card networks could adopt new operating rules or interpret or reinterpret existing rules that we or our processors might find difficult or even impossible to follow, or costly to implement. We also may seek to introduce other card-related products in the future, which would entail additional operating rules. As a result of any violations of rules, new rules being implemented, or increased fees, we could lose our ability to make payments using virtual cards, or such payments could become prohibitively expensive for us or for our customers. If we are unable to make customer payments to vendors using virtual cards, our business would be adversely affected.
Our business is subject to extensive government regulation and oversight. Our failure to comply with extensive, complex, overlapping, and frequently changing rules, regulations, and legal interpretations could materially harm our business.

Our success and increased visibility may result in increased regulatory oversight and enforcement and more restrictive rules and regulations that apply to our business. We are subject to a wide variety of local, state, federal, and international laws, rules, regulations, licensing schemes, and industry standards in the United States and in other countries in which we operate. These laws, rules, regulations, licensing schemes, and standards govern numerous areas that are important to our business. In addition to the payments and financial services-related regulations, and the privacy, data protection, and information security-related laws described elsewhere, our business is also subject to, without limitation, rules and regulations applicable to: securities, labor and employment, immigration, competition, and marketing and communications practices. Laws, rules, regulations, licensing schemes, and standards applicable to our business are subject to changes and evolving interpretations and application, including by means of legislative changes and/or executive orders, and it can be difficult to predict how they may be applied to our business and the way we conduct our operations, particularly as we introduce new products and services and expand into new jurisdictions. We may not be able to respond quickly or effectively to regulatory, legislative, and other developments, and these changes may in turn impair our ability to offer our existing or planned features, products, and services and/or increase our cost of doing business.

Although we have a compliance program focused on the laws, rules, regulations, licensing schemes, and industry standards that we have assessed as applicable to our business and we are continually investing more in this program, there can be no assurance that our employees or contractors will not violate such laws, rules, regulations, licensing schemes, and industry standards. Any failure or perceived failure to comply with existing or new laws, rules, regulations, licensing schemes, industry standards, or orders of any governmental authority (including changes to or expansion of the interpretation of those laws, regulations, standards or orders), may:

- subject us to significant fines, penalties, criminal and civil lawsuits, license suspension or revocation, forfeiture of significant assets, audits, inquiries, whistleblower complaints, adverse media coverage, investigations, and enforcement actions in one or more jurisdictions levied by federal, state, local or foreign regulators, state attorneys general and private plaintiffs who may be acting as private attorneys general pursuant to various applicable federal, state, and local laws;
- result in additional compliance and licensure requirements;
- increase regulatory scrutiny of our business; and
- restrict our operations and force us to change our business practices or compliance program, make product or operational changes, or delay planned product launches or improvements.

The complexity of U.S. federal and state regulatory and enforcement regimes, coupled with the scope of our international operations and the evolving regulatory environment, could result in a single event giving rise to many overlapping investigations and legal and regulatory proceedings by multiple government authorities in different jurisdictions.

Any of the foregoing could, individually or in the aggregate, harm our reputation as a trusted provider, damage our brands and business, cause us to lose existing customers, prevent us from obtaining new customers, require us to expend significant funds to remedy problems caused by breaches and to avert further breaches, expose us to legal risk and potential liability, and adversely affect our results of operations and financial condition.
We may require additional capital to support the growth of our business, and this capital might not be available on acceptable terms, if at all.

We have funded our operations since inception primarily through equity financings, sales of subscriptions to our products, and usage-based transaction fees. We cannot be certain when or if our operations will generate sufficient cash to fully fund our ongoing operations or the growth of our business. We intend to continue to make investments to support our business, which may require us to engage in equity or debt financings to secure additional funds. Additional financing may not be available on terms favorable to us, if at all. If adequate funds are not available on acceptable terms, we may be unable to invest in future growth opportunities, which could harm our business, operating results, and financial condition. If we incur additional debt, the debt holders would have rights senior to holders of common stock to make claims on our assets, and the terms of any debt could restrict our operations, including our ability to pay dividends on our common stock. Furthermore, if we issue additional equity securities, stockholders will experience dilution, and the new equity securities could have rights senior to those of our common stock. Because our decision to issue securities in the future will depend on numerous considerations, including factors beyond our control, we cannot predict or estimate the amount, timing, or nature of any future issuances of debt or equity securities. As a result, our stockholders bear the risk of future issuances of debt or equity securities reducing the value of our common stock and diluting their interests.

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

As of June 30, 2019, we had U.S. federal net operating loss (NOL) carryforwards of approximately $104.2 million and state net operating loss carryforwards of approximately $71.3 million. The federal and material state net operating loss carryforwards will begin to expire in 2026. As of June 30, 2019, we had U.S. federal research and development tax credit carryforwards of approximately $4.7 million and state research and development tax credit carryforwards of approximately $4.3 million. In general, under Sections 382 and 383 of the United States Internal Revenue Code of 1986, as amended, or the Code, a corporation that undergoes an "ownership change" is subject to limitations on its ability to utilize its pre-change NOLs and other tax attributes such as research tax credits to offset future taxable income. If it is determined that we have in the past experienced an ownership change, or if we undergo one or more ownership changes as a result of this offering or future transactions in our stock, then our ability to utilize NOLs and other pre-change tax attributes could be limited by Sections 382 and 383 of the Code. Future changes in our stock ownership, many of which are outside of our control, could result in an ownership change under Sections 382 or 383 of the Code. Furthermore, our ability to utilize NOLs of companies that we may acquire in the future may be subject to limitations. For these reasons, we may not be able to utilize a material portion of the NOLs, even if we were to achieve profitability.

The Tax Cuts and Jobs Act (Tax Act) was enacted on December 22, 2017 and significantly reforms the Code. The Tax Act, among other things, includes changes to U.S. federal tax rates and the rules governing net operating loss carryforwards. For federal NOLs arising in tax years beginning after December 31, 2017, the Tax Act limits a taxpayer’s ability to utilize NOL carryforwards to 80% of taxable income. In addition, federal NOLs arising in tax years ending after December 31, 2017 can be carried forward indefinitely, but carryback is generally prohibited. NOLs generated in tax years beginning before January 1, 2018 will not be subject to the taxable income limitation, and NOLs generated in tax years ending before January 1, 2018 will continue to have a two-year carryback and twenty-year carryforward period. Deferred tax assets for NOLs will need to be measured at the applicable tax rate in effect when the NOL is expected to be utilized. The changes in the carryforward/carryback periods as well as the new limitation on use of NOLs may significantly impact our valuation allowance assessments for NOLs generated after December 31, 2017.
We could be required to collect additional sales taxes or be subject to other tax liabilities that may increase the costs our customers would have to pay for our offering and adversely affect our operating results.

The vast majority of states have considered or adopted laws that impose tax collection obligations on out-of-state companies. States where we have nexus may require us to calculate, collect, and remit taxes on sales in their jurisdiction. Additionally, the Supreme Court of the United States recently ruled in South Dakota v. Wayfair, Inc. et al (Wayfair) that online sellers can be required to collect sales and use tax despite not having a physical presence in the buyer’s state. In response to Wayfair, or otherwise, states or local governments may enforce laws requiring us to calculate, collect, and remit taxes on sales in their jurisdictions. We may be obligated to collect and remit sales and use tax in states in which we have not collected and remitted sales and use tax. A successful assertion by one or more states requiring us to collect taxes where we historically have not or presently do not do so could result in substantial tax liabilities, including taxes on past sales, as well as penalties and interest. The imposition by state governments or local governments of sales tax collection obligations on out-of-state sellers could also create additional administrative burdens for us, put us at a perceived competitive disadvantage if they do not impose similar obligations on our competitors, and decrease our future sales, which could adversely effect our business and operating results.

Changes in our effective tax rate or tax liability may adversely effect our operating results.

Our effective tax rate could increase due to several factors, including:

- changes in the relative amounts of income before taxes in the various jurisdictions in which we operate due to differing statutory tax rates in various jurisdictions;
- changes in tax laws, tax treaties, and regulations or the interpretation of them, including the Tax Act;
- changes to our assessment about our ability to realize our deferred tax assets that are based on estimates of our future results, the prudence and feasibility of possible tax planning strategies, and the economic and political environments in which we do business;
- the outcome of current and future tax audits, examinations, or administrative appeals; and
- limitations or adverse findings regarding our ability to do business in some jurisdictions.

Any of these developments could adversely affect our operating results.

Natural catastrophic events and man-made problems such as power-disruptions, computer viruses, data security breaches, and terrorism may disrupt our business.

Natural disasters or other catastrophic events may cause damage or disruption to our operations, international commerce and the global economy, and thus could harm our business. We have a large employee presence in Palo Alto, California and a smaller presence in Houston, Texas, and our data centers are located in California and Arizona. The west coast of the United States contains active earthquake zones and the Houston area frequently experiences significant hurricanes. In the event of a major earthquake, hurricane or catastrophic event such as fire, power loss, telecommunications failure, vandalism, cyber-attack, war, or terrorist attack, we may be unable to continue our operations and may endure system interruptions, reputational harm, delays in our application development, lengthy interruptions in our products, breaches of data security, and loss of critical data, all of which could harm our business, operating results, and financial condition.

Additionally, as computer malware, viruses, and computer hacking, fraudulent use attempts, and phishing attacks have become more prevalent, we, and third parties upon which we rely, face
increased risk in maintaining the performance, reliability, security, and availability of our solutions and related services and technical infrastructure to the satisfaction of our customers. Any computer malware, viruses, computer hacking, fraudulent use attempts, phishing attacks, or other data security breaches related to our network infrastructure or information technology systems or to computer hardware we lease from third parties, could, among other things, harm our reputation and our ability to retain existing customers and attract new customers.

In addition, the insurance we maintain may be insufficient to cover our losses resulting from disasters, cyber-attacks, or other business interruptions, and any incidents may result in loss of, or increased costs of, such insurance.

As a result of becoming a public company, we will be obligated to develop and maintain proper and effective internal control over financial reporting, and if we fail to develop and maintain an effective system of disclosure controls and internal control over financial reporting, our ability to produce timely and accurate financial statements or comply with applicable laws and regulations could be impaired.

As a public company, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (Exchange Act), the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act), the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the listing requirements of the New York Stock Exchange, and other applicable securities rules and regulations. Compliance with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time consuming, or costly, and increase demand on our systems and resources, particularly after we are no longer an emerging growth company. The Exchange Act requires, among other things, that we file annual, quarterly, and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting to meet this standard. As a result, management’s attention may be diverted from other business concerns, which could adversely affect our business and operating results. Although we have already hired additional employees to comply with these requirements, we may need to hire more employees in the future or engage outside consultants, which would increase our costs and expenses. Furthermore, for fiscal 2018, we identified material weaknesses in our internal control over financial reporting relating to our financial statement close process and reconciliation of funds held for customers. While no material weaknesses were identified in fiscal 2019, our remediation efforts are still ongoing and there can be no assurance that we will not experience additional material weaknesses in the future.

As a public company, we will also be required, pursuant to Section 404 of the Sarbanes-Oxley Act (Section 404), to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting commencing with our second annual report on Form 10-K. Effective internal control over financial reporting is necessary for us to provide reliable financial reports and, together with adequate disclosure controls and procedures, are designed to prevent fraud. Any failure to implement required new or improved controls, or difficulties encountered in their implementation, could cause us to fail to meet our reporting obligations. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our common stock.

This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting, as well as a statement that our independent registered public accounting firm has issued an opinion on the effectiveness of our internal control over financial reporting, provided that our independent registered public accounting firm
will not be required to attest to the effectiveness of our internal control over financial reporting until our first annual report required to be filed with the SEC following the later of the date we are deemed to be an “accelerated filer” or a “large accelerated filer,” each as defined in the Exchange Act, or the date we are no longer an emerging growth company, as defined in the JOBS Act. We could be an emerging growth company for up to five years. An independent assessment of the effectiveness of our internal controls could detect problems that our management’s assessment might not. Undetected material weaknesses in our internal controls could lead to financial statement restatements and require us to incur the expense of remediation. We will be required to disclose changes made in our internal control and procedures on a quarterly basis. To comply with the requirements of being a public company, we may need to undertake various actions, such as implementing new internal controls and procedures and hiring accounting or internal audit staff.

We are in the early stages of the costly and challenging process of compiling the system and processing documentation necessary to perform the evaluation needed to comply with Section 404. We may not be able to complete our evaluation, testing, and any required remediation in a timely fashion. During the evaluation and testing process, if we identify material weaknesses in our internal control over financial reporting, we will be unable to assert that our internal control over financial reporting is effective.

If we are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion on the effectiveness of our internal control, including as a result of the material weakness described above, we could lose investor confidence in the accuracy and completeness of our financial reports, which could cause the price of our common stock to decline, and we may be subject to investigation or sanctions by the SEC. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on .

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

U.S. generally accepted accounting principles (GAAP) is subject to interpretation by the Financial Accounting Standards Board (FASB), the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported operating results and financial condition and could affect the reporting of transactions already completed before the announcement of a change.

If our estimates or judgments relating to our critical accounting policies prove to be incorrect, our operating results could be adversely affected.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, as provided in the section titled “Management’s Discussion and Analysis of Financial Condition and Operating Results—Critical Accounting Policies and Estimates.” The results of these estimates form the basis for making judgments about the carrying values of assets, liabilities, and equity, and the amount of revenue and expenses that are not readily apparent from other sources. Significant estimates and judgments involve the identification of performance obligations in revenue recognition, the valuation of the stock-based awards, including the determination of fair value of common stock, and the period of benefit for amortizing deferred commissions, among others. Our operating results may be adversely affected if our assumptions change or if actual circumstances differ from those in our assumptions, which could cause our operating results to fall below the expectations of securities analysts and investors, resulting in a decline in the trading price of our common stock.
Any future litigation against us could be costly and time-consuming to defend.

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

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

Market opportunity estimates and growth forecasts included in this prospectus, including those we have generated ourselves, are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. The variables that go into the calculation of our market opportunity are subject to change over time, and there is no guarantee that any particular number or percentage of addressable users or companies covered by our market opportunity estimates will purchase our products at all or generate any particular level of revenue for us. Any expansion in our market depends on a number of factors, including the cost, performance, and perceived value associated with our platform and those of our competitors. Even if the market in which we compete meets the size estimates and growth forecasted in this prospectus, our business could fail to grow at similar rates, if at all. Our growth is subject to many factors, including our success in implementing our business strategy, which is subject to many risks and uncertainties. Accordingly, the forecasts of market growth included in this prospectus should not be taken as indicative of our future growth. For more information regarding the estimates of market opportunity and the forecasts of market growth included in this prospectus, see the section titled “Industry and Market Data.”

We are subject to governmental laws and requirements regarding economic and trade sanctions, anti-money laundering, and counter-terror financing that could impair our ability to compete in international markets or subject us to criminal or civil liability if we violate them.

Although we currently only operate in the United States, in the future we will seek to expand internationally and will become subject to additional laws and regulations, and will need to implement new regulatory controls to comply with applicable laws. We are currently required to comply with U.S. economic and trade sanctions administered by the U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC) and we have processes in place to comply with the OFAC regulations as well as similar requirements in other jurisdictions. As part of our compliance efforts, we scan our customers against OFAC and other watchlists. While we offer services only to customers domiciled in the United States, our application could be accessed from anywhere in the world. If our service is accessed from a sanctioned country in violation of the trade and economic sanctions, we could be subject to fines or other enforcement action. We are also subject to various anti-money laundering and counter-terrorist financing laws and regulations around the world that prohibit, among other things, our involvement in transferring the proceeds of criminal activities. In the United States, most of our services are subject to anti-money laundering laws and regulations, including the Bank Secrecy Act, as amended (BSA), and similar laws and regulations. The BSA, among other things, requires money transmitters to develop and implement risk-based anti-money laundering programs, to report large cash transactions and
suspicious activity, and in some cases, to collect and maintain information about customers who use their services and maintain other transaction records. Regulators in the United States and globally continue to increase their scrutiny of compliance with these obligations, which may require us to further revise or expand our compliance program, including the procedures we use to verify the identity of our customers and to monitor transactions on our system, including payments to persons outside of the United States. Regulators regularly re-examine the transaction volume thresholds at which we must obtain and keep applicable records or verify identities of customers, and any change in such thresholds could result in greater costs for compliance.

We are subject to anti-corruption, anti-bribery, and similar laws, and non-compliance with such laws can subject us to criminal or civil liability and harm our business.

We are subject to the FCPA, U.S. domestic bribery laws, and other anti-corruption laws. Anti-corruption and anti-bribery laws have been enforced aggressively in recent years and are interpreted broadly to generally prohibit companies, their employees, and their third-party intermediaries from authorizing, offering, or providing, directly or indirectly, improper payments or benefits to recipients in the public sector. These laws also require that we keep accurate books and records and maintain internal controls and compliance procedures designed to prevent any such actions. Although we currently only maintain operations in the United States, as we increase our international cross-border business and expand operations abroad, we may engage with business partners and third-party intermediaries to market our services and to obtain necessary permits, licenses, and other regulatory approvals. In addition, we or our third-party intermediaries may have direct or indirect interactions with officials and employees of government agencies or state-owned or affiliated entities. We can be held liable for the corrupt or other illegal activities of these third-party intermediaries, our employees, representatives, contractors, partners, and agents, even if we do not explicitly authorize such activities.

We cannot assure you that all of our employees and agents will not take actions in violation of our policies and applicable law, for which we may be ultimately held responsible. As we increase our international business, our risks under these laws may increase.

Detecting, investigating, and resolving actual or alleged violations of anti-corruption laws can require a significant diversion of time, resources, and attention from senior management. In addition, noncompliance with anti-corruption or anti-bribery laws could subject us to whistleblower complaints, investigations, sanctions, settlements, prosecution, enforcement actions, fines, damages, other civil or criminal penalties, injunctions, suspension or debarment from contracting with certain persons, reputational harm, adverse media coverage, and other collateral consequences. If any subpoenas are received or investigations are launched, or governmental or other sanctions are imposed, or if we do not prevail in any possible civil or criminal proceeding, our business, operating results, and financial condition could be materially harmed. In addition, responding to any action will likely result in a materially significant diversion of management’s attention and resources and significant defense costs and other professional fees.

Our Senior Secured Credit Facilities Credit Agreement provides our lender with a first-priority lien against substantially all of our assets, and contains financial covenants and other restrictions on our actions, which could limit our operational flexibility and otherwise adversely affect our financial condition.

Our Senior Secured Credit Facilities Credit Agreement (Senior Facilities Agreement) restricts our ability to, among other things:

- use our accounts receivable, inventory, trademarks, and most of our other assets as security in other borrowings or transactions, unless the value of the assets subject thereto does not exceed a certain threshold;
• incur additional indebtedness;
• incur liens upon our property;
• dispose of certain assets;
• declare dividends or make certain distributions; and
• undergo a merger or consolidation or other transactions.

Our Senior Facilities Agreement also prohibits us during certain covered time periods from allowing Net Revenue (as defined in the Senior Facilities Agreement) for any fiscal quarter to be less than prescribed minimums. Our ability to comply with this and other covenants is dependent upon several factors, some of which are beyond our control.

Our failure to comply with the covenants or payment requirements, or the occurrence of other events specified in our Senior Facilities Agreement, could result in an event of default under the Senior Facilities Agreement, which would give our lender the right to terminate its commitments to provide additional loans under the Senior Facilities Agreement and to declare all borrowings outstanding, together with accrued and unpaid interest and fees, to be immediately due and payable. In addition, we have granted our lender first-priority liens against all of our assets as collateral. Failure to comply with the covenants or other restrictions in the Senior Facilities Agreement could result in a default. If the debt under our Senior Facilities Agreement was to be accelerated, we may not have sufficient cash on hand or be able to sell sufficient collateral to repay it, which would have an immediate adverse effect on our business and operating results.

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

We believe our culture has been a key contributor to our success to date and that the critical nature of the platform that we provide promotes a sense of greater purpose and fulfillment in our employees. Any failure to preserve our culture could negatively affect our ability to retain and recruit personnel, which is critical to our growth, and to effectively focus on and pursue our corporate objectives. As we grow and develop the infrastructure of a public company, we may find it difficult to maintain these important aspects of our culture. If we fail to maintain our company culture, our business and competitive position may be adversely affected.

We expect fluctuations in our financial results, making it difficult to project future results, and if we fail to meet the expectations of securities analysts or investors with respect to our operating results, our stock price and the value of your investment could decline.

Our operating results have fluctuated in the past and are expected to fluctuate in the future due to a variety of factors, many of which are outside of our control. As a result, our past results may not be indicative of our future performance. In addition to the other risks described herein, factors that may affect our operating results include the following:

• fluctuations in demand for or pricing of our platform;
• our ability to attract new customers;
• our ability to retain and grow engagement with our existing customers;
• our ability to expand our relationships with our accounting firm partners, financial institution partners, and accounting software partners, or identify and attract new partners;
• customer expansion rates;
changes in customer preference for cloud-based services as a result of security breaches in the industry or privacy concerns, or other security or reliability concerns regarding our products;

fluctuations or delays in purchasing decisions in anticipation of new products or product enhancements by us or our competitors;

changes in customers’ budgets and in the timing of their budget cycles and purchasing decisions;

potential and existing customers choosing our competitors’ products or developing their own solutions in-house;

the development or introduction of new platforms or services that are easier to use or more advanced than our current suite of services, especially related to the application of artificial intelligence-based services;

our failure to adapt to new forms of payment that become widely accepted, including cryptocurrency;

the adoption or retention of more entrenched or rival services in the international markets where we compete;

our ability to control costs, including our operating expenses;

the amount and timing of payment for operating expenses, particularly research and development and sales and marketing expenses, including commissions;

the amount and timing of non-cash expenses, including stock-based compensation, goodwill impairments, and other non-cash charges;

the amount and timing of costs associated with recruiting, training, and integrating new employees, and retaining and motivating existing employees;

fluctuation in market interest rates, which impacts interest earned on funds held for customers;

the effects of acquisitions and their integration;

general economic conditions, both domestically and internationally, as well as economic conditions specifically affecting industries in which our customers participate;

the impact of new accounting pronouncements;

changes in the competitive dynamics of our market;

security breaches of, technical difficulties with, or interruptions to, the delivery and use of our platform; and

awareness of our brand and our reputation in our target markets.

Any of these and other factors, or the cumulative effect of some of these factors, may cause our operating results to vary significantly. In addition, we expect to incur significant additional expenses due to the increased costs of operating as a public company. If our quarterly operating results fall below the expectations of investors and securities analysts who follow our stock, the price of our common stock could decline substantially, and we could face costly lawsuits, including securities class action suits.
Risks Related to Ownership of Our Common Stock

There has been no prior public market for our common stock, the stock price of our common stock may be volatile or may decline regardless of our operating performance, and you may not be able to resell your shares at or above the initial public offering price.

There has been no public market for our common stock prior to this offering. The initial public offering price for our common stock will be determined through negotiations between the underwriters and us, and may vary from the market price of our common stock following this offering. An active trading market for our common stock may not develop on the New York Stock Exchange or elsewhere or, if developed, any market may not be sustained. The market prices of the securities of newly public companies such as ours have historically been highly volatile. The market price of our common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- overall performance of the equity markets;
- actual or anticipated fluctuations in our revenue and other operating results;
- changes in the financial projections we may provide to the public or our failure to meet these projections;
- failure of securities analysts to initiate or maintain coverage of us, changes in financial estimates by any securities analysts who follow our company, or our failure to meet these estimates or the expectations of investors;
- recruitment or departure of key personnel;
- the economy as a whole and market conditions in our industry;
- negative publicity related to the real or perceived quality of our platform, as well as the failure to timely launch new products and services that gain market acceptance;
- rumors and market speculation involving us or other companies in our industry;
- announcements by us or our competitors of new products or services, commercial relationships, or significant technical innovations;
- acquisitions, strategic partnerships, joint ventures, or capital commitments;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- lawsuits threatened or filed against us, litigation involving our industry, or both;
- developments or disputes concerning our or other parties’ products, services or intellectual property rights;
- changes in accounting standards, policies, guidelines, interpretations, or principles;
- interpretations of any of the above or other factors by trading algorithms, including those that employ natural language processing and related methods to evaluate our public disclosures;
- other events or factors, including those resulting from war, incidents of terrorism, or responses to these events;
- the expiration of contractual lock-up or market stand-off agreements; and
- sales of shares of our common stock by us or our stockholders.

In addition, the stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. Stock prices
of many companies, and technology companies in particular, have fluctuated in a manner unrelated or disproportionate to the operating performance of those companies. In the past, stockholders have instituted securities class action litigation following periods of market volatility. If we were to become involved in securities litigation, it could subject us to substantial costs, divert resources and the attention of management from our business, and adversely affect our business.

**Concentration of ownership of our common stock among our existing executive officers, directors, and principal stockholders may prevent new investors from influencing significant corporate decisions.**

Based upon shares outstanding as of September 30, 2019, upon the completion of this offering, our executive officers, directors, and current beneficial owners of 5% or more of our common stock will, in the aggregate, beneficially own approximately % of our outstanding common stock. These persons, acting together, will be able to significantly influence all matters requiring stockholder approval, including the election and removal of directors and any merger or other significant corporate transactions. The interests of this group of stockholders may not coincide with the interests of other stockholders.

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

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

- authorize our board of directors to issue, without further action by the stockholders, shares of undesignated preferred stock with terms, rights, and preferences determined by our board of directors that may be senior to our common stock;
- require that any action to be taken by our stockholders be affected at a duly called annual or special meeting and not by written consent;
- specify that special meetings of our stockholders can be called only by our board of directors, the chairperson of our board of directors, or our chief executive officer;
- establish an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors;
- establish that our board of directors is divided into three classes, with each class serving three-year staggered terms;
- prohibit cumulative voting in the election of directors;
- provide that our directors may be removed for cause only upon the vote of sixty-six and two-thirds percent (66 2/3%) of our outstanding shares of common stock;
- provide that vacancies on our board of directors may be filled only by a majority vote of directors then in office, even though less than a quorum; and
- require the approval of our board of directors or the holders of at least sixty-six and two-thirds percent (66 2/3%) of our outstanding shares of common stock to amend our bylaws and certain provisions of our certificate of incorporation.

In addition, our restated certificate of incorporation will provide that the Court of Chancery of the State of Delaware, to the fullest extent permitted by law, will be the exclusive forum for any derivative
action or proceeding brought on our behalf, any action asserting a breach of fiduciary duty, any action asserting a claim against us arising pursuant to the Delaware General Corporation Law (DGCL), our restated certificate of incorporation, or our restated bylaws, or any action asserting a claim against us that is governed by the internal affairs doctrine. This choice of forum provision may limit a stockholder’s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers, and other employees. This exclusive forum provision will not apply to claims that are vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery of the State of Delaware, or for which the Court of Chancery of the State of Delaware does not have subject matter jurisdiction. For instance, the provision would not preclude the filing of claims brought to enforce any liability or duty created by the Exchange Act or Securities Act or the rules and regulations thereunder in federal court.

Moreover, Section 203 of the DGCL may discourage, delay, or prevent a change in control of our company. Section 203 imposes certain restrictions on mergers, business combinations, and other transactions between us and holders of 15% or more of our common stock. See the section titled “Description of Capital Stock” for additional information.

We are an “emerging growth company,” and we cannot be certain if the reduced reporting and 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 may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies,” including the auditor attestation requirements of Section 404 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. Pursuant to Section 107 of the JOBS Act, as an emerging growth company, we have elected to use the extended transition period for complying with new or revised accounting standards until those standards would otherwise apply to private companies. As a result, our consolidated financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies, which may make our common stock less attractive to investors. In addition, if we cease to be an emerging growth company, we will no longer be able to use the extended transition period for complying with new or revised accounting standards.

We will remain an emerging growth company until the earliest of (i) the last day of the fiscal year following the fifth anniversary of this offering, (ii) the last day of the first fiscal year in which our annual gross revenue is $1.07 billion or more, (iii) the date on which we have, during the previous rolling three-year period, issued more than $1 billion in non-convertible debt securities, and (iv) the last day of the fiscal year in which the market value of our common stock held by non-affiliates exceeded $700 million as of December 31st, our second fiscal quarter, of such fiscal year.

We cannot predict if investors will find our common stock less attractive if we choose to rely on these exemptions. For example, if we do not adopt a new or revised accounting standard, our future operating results may not be as comparable to the operating results of certain other companies in our industry that adopted such standards. 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.
We will incur increased costs as a result of operating as a public company, and our management will be required to devote substantial time to compliance with our public company responsibilities and corporate governance practices.

As a public company, we will incur significant legal, accounting, and other expenses that we did not incur as a private company, which we expect to further increase after we are no longer an “emerging growth company.” The Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, the listing requirements of the New York Stock Exchange, and other applicable securities rules and regulations impose various requirements on public companies. Our management and other personnel devote a substantial amount of time to compliance with these requirements. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. We cannot predict or estimate the amount of additional costs we will incur as a public company or the specific timing of such costs.

Our management team has limited experience managing a public company.

Our management team has limited experience managing a publicly traded company, interacting with public company investors and securities analysts, and complying with the increasingly complex laws pertaining to public companies. These new obligations and constituents require significant attention from our management team and could divert their attention away from the day-to-day management of our business, which could harm our business, operating results, and financial condition.

We do not intend to pay dividends for the foreseeable future and, as a result, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock.

We have never declared or paid any cash dividends on our capital stock, and we do not intend to pay any cash dividends in the foreseeable future. In addition, our Senior Credit Facilities Agreement contains restrictions on our ability to pay cash dividends on our capital stock. Any determination to pay dividends in the future will be at the discretion of our board of directors. Accordingly, 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 investments.

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

Our stock price and trading volume following the completion of this offering will be heavily influenced by the way analysts and investors interpret our financial information and other disclosures. Securities and industry analysts do not currently, and may never, publish research on our business. If few securities analysts commence coverage of us, or if industry analysts cease coverage of us, our stock price could be negatively affected. If securities or industry analysts do not publish research or reports about our business, downgrade our common stock, or publish negative reports about our business, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, demand for our common stock could decrease, which might cause our stock price to decline and could decrease the trading volume of our common stock.

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

Sales of a substantial number of shares of our common stock in the public market following the completion of this offering, or the perception that these sales might occur, could depress the market
price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. We are unable to predict the effect that such sales may have on the prevailing market price of our common stock.

All of our directors and officers and the holders of substantially all of our capital stock and securities convertible into our capital stock are subject to lock-up agreements that restrict their ability to transfer shares of our capital stock for 180 days from the date of this prospectus. These lock-up agreements limit the number of shares of capital stock that may be sold immediately following this offering. Subject to certain limitations, approximately shares of common stock, based upon an assumed initial public offering price of per share (which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus), will become eligible for sale upon expiration of the 180-day lock-up period. Goldman Sachs & Co. LLC may, in their sole discretion, permit our stockholders who are subject to these lock-up agreements to sell shares prior to the expiration of the lock-up agreements.

In addition, there were 22,493,593 shares of common stock issuable upon the exercise of options outstanding as of September 30, 2019. We intend to register all of the shares of common stock issuable upon exercise of outstanding options or other equity incentives we may grant in the future, for public resale under the Securities Act. The shares of common stock will become eligible for sale in the public market to the extent such options are exercised, subject to the lock-up agreements described above and compliance with applicable securities laws.

Based on shares outstanding as of September 30, 2019, upon completion of this offering, holders of up to approximately shares, or %, of our common stock will have rights, subject to some conditions, to require us to file registration statements covering the sale of their shares or to include their shares in registration statements that we may file for ourselves or other stockholders.

We may issue our shares of common stock or securities convertible into our common stock from time to time in connection with financings, acquisitions, investments, or otherwise. Any such issuance could result in substantial dilution to our existing stockholders and cause the trading price of our common stock to decline.

We will have broad discretion in the use of the net proceeds to us from this offering and may not use them effectively.

We will have broad discretion in the application of the net proceeds to us from this offering, including for any of the purposes described in the section titled “Use of Proceeds,” and you will not have the opportunity as part of your investment decision to assess whether the net proceeds are being used appropriately. Because of the number and variability of factors that will determine our use of the net proceeds from this offering, their ultimate use may vary substantially from their currently intended use. If we do not use the net proceeds that we receive in this offering effectively, our business, financial condition, operating results, and prospects could be harmed, and the market price of our common stock could decline. Pending their use, we may invest the net proceeds from this offering in short-term, investment-grade, interest-bearing securities, such as money market accounts, certificates of deposit, commercial paper, and guaranteed obligations of the U.S. government that may not generate a high yield for our stockholders.

46
You will experience immediate and substantial dilution in the net tangible book value of the shares of common stock you purchase in this offering.

The initial public offering price of our common stock will be substantially higher than the pro forma net tangible book value per share of our common stock immediately after this offering. If you purchase shares of our common stock in this offering, you will suffer immediate dilution of $ per share, or $ per share if the underwriters exercise their option to purchase additional shares in full, representing the difference between our pro forma as adjusted net tangible book value per share after giving effect to the sale of common stock in this offering and the assumed public offering price of $ per share, the midpoint of the price range set forth on the cover page of this prospectus. See “Dilution.” If outstanding options or warrants to purchase our common stock are exercised in the future, you will experience additional dilution.
SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. All statements contained in this prospectus other than statements of historical fact, including statements regarding our future operating results and financial position, our business strategy and plans, market growth, and our objectives for future operations, are forward-looking statements. The words "believe," "may," "will," "potentially," "estimate," "continue," "anticipate," "intend," "could," "would," "project," "target," "plan," "expect," and similar expressions are intended to identify forward-looking statements.

Forward-looking statements contained in this prospectus include, but are not limited to, statements about:

- our future financial performance, including our expectations regarding our revenue, cost of revenue, gross profit, operating expenses, including changes in research and development, sales and marketing and general and administrative expenses (including any components of the foregoing) and our ability to achieve, and maintain, future profitability;
- our business plan and our ability to effectively manage our growth;
- our market opportunity, including our total addressable market;
- our international expansion plans and ability to expand internationally;
- anticipated trends, growth rates, and challenges in our business and in the markets in which we operate;
- beliefs and objectives for future operations;
- our ability to further attract, retain, and expand our customer base;
- our ability to develop new products and services and bring them to market in a timely manner;
- our expectations concerning relationships with third parties, including strategic partners;
- our ability to maintain, protect, and enhance our intellectual property;
- the effects of increased competition in our markets and our ability to compete effectively;
- future acquisitions or investments in complementary companies, products, services, or technologies;
- our ability to stay in compliance with laws and regulations that currently apply or become applicable to our business;
- economic and industry trends, projected growth, or trend analysis;
- our ability to attract and retain qualified employees;
- the estimates and methodologies used in preparing our consolidated financial statements and determining stock option exercise prices;
- the increased expenses associated with being a public company; and
- the future market prices of our common stock.

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

These forward-looking statements are subject to a number of risks, uncertainties, and assumptions, including those described in the section titled “Risk Factors.” Moreover, we operate in a
very competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties, and assumptions, the future events and trends discussed in this prospectus may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. The events and circumstances reflected in the forward-looking statements may not be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, performance, or achievements. We undertake no obligation to update any of these forward-looking statements for any reason after the date of this prospectus or to conform these statements to actual results or to changes in our expectations, except as required by law.

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this prospectus, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

You should read this prospectus and the documents that we reference in this prospectus and have filed with the SEC as exhibits to the registration statement of which this prospectus is a part with the understanding that our actual future results, performance, and events and circumstances may be materially different from what we expect.
INDUSTRY AND MARKET DATA

Unless otherwise indicated, information contained in this prospectus concerning our industry and the markets in which we operate, including our general expectations, market position, market opportunity, and market size, is based on information from various sources, as well as assumptions that we have made that are based on those data and other similar sources and on our knowledge of the markets for our products and services. This information involves important assumptions and limitations, and you are cautioned not to give undue weight to such estimates. While we believe the market position, market opportunity, and market size information included in this prospectus is generally reliable, information of this sort is inherently imprecise. In addition, projections, assumptions, and estimates of our future performance and the future performance of the industry in which we operate is necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in the section titled “Risk Factors” and elsewhere in this prospectus. These and other factors could cause results to differ materially from those expressed in the estimates made by the independent parties and by us. The information contained on, or that can be accessed through, any website listed below is not a part of this prospectus.

This prospectus contains statistical data, estimates, and forecasts that are based on industry publications or reports generated by third-parties or other publicly available information, as well as other information based on our internal sources.

The source of, and selected additional information contained in, the independent industry and other publications related to the information so identified are provided below:

- RPMG Research, Electronic Accounts Payable Benchmark Survey Results, 2018.
- PYMNTS.COM, SMB Technology Adoption Index, 2016.
- 2018 Association for Financial Professionals (AFP) Payments Fraud and Control Survey Report.
USE OF PROCEEDS

We estimate that the net proceeds from our sale of shares of common stock in this offering at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses, will be approximately $ million, or $ million if the underwriters' option to purchase additional shares is exercised in full.

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share would increase (decrease) the net proceeds from this offering by approximately $ million, assuming the number of shares of our common stock offered by us remains the same and after deducting estimated underwriting discounts and commissions. Similarly, each increase (decrease) of 1,000,000 shares in the number of shares of our common stock offered would increase (decrease) the net proceeds from this offering by approximately $ million, assuming that the assumed initial public offering price of $ remains the same, and after deducting the estimated underwriting discounts and commissions.

The principal purposes of this offering are to create a public market for our common stock, increase our visibility in the marketplace, obtain additional capital, and increase our capitalization and financial flexibility. We currently intend to use the net proceeds we receive from this offering for working capital and other general corporate purposes, which may include product development, general and administrative matters, and capital expenditures. We may also use a portion of the net proceeds for the acquisition of, or investment in, technologies, solutions, or businesses that complement our business. However, we do not have agreements or commitments for any acquisitions or investments outside the ordinary course of business at this time.

We will have broad discretion over the uses of the net proceeds of this offering. Pending these uses, we intend to invest the net proceeds from this offering in short-term, investment-grade interest-bearing securities such as money market accounts, certificates of deposit, commercial paper, and guaranteed obligations of the U.S. government.
DIVIDEND POLICY

We have never declared or paid cash dividends on our capital stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any dividends on our capital stock in the foreseeable future. Any future determination to declare dividends will be made at the discretion of our board of directors and will depend on our financial condition, operating results, capital requirements, general business conditions, and other factors that our board of directors may deem relevant. In addition, our Senior Facilities Agreement contains restrictions on our ability to pay cash dividends on our capital stock.
CAPITALIZATION

The following table sets forth our cash, cash equivalents and short-term investments, as well as our capitalization, as of September 30, 2019, on:

• an actual basis;
• a pro forma basis, which reflects (i) the automatic conversion of all outstanding shares of our redeemable convertible preferred stock as of September 30, 2019 into 104,869,089 shares of our common stock, (ii) the reclassification of the redeemable convertible preferred stock warrant liabilities to additional paid-in capital in connection with the conversion of the outstanding warrants to purchase shares of redeemable convertible preferred stock into warrants to purchase shares of common stock, and (iii) the filing and effectiveness of our restated certificate of incorporation; and
• a pro forma as adjusted basis, which reflects (i) all adjustments included in the pro forma column and (ii) the sale of shares of our common stock in this offering at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the front cover of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses.
The pro forma as adjusted information presented is illustrative only and will be adjusted based on the actual initial public offering price and other terms of this offering determined at pricing. You should read this table together with our consolidated financial statements and related notes, “Selected Financial and Other Data,” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” each included elsewhere in this prospectus.

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<td></td>
</tr>
<tr>
<td>Cash, cash equivalents and short-term investments</td>
<td>$157,642</td>
<td>$157,642</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock warrant liabilities</td>
<td>$853</td>
<td>-</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock: 106,090,134 shares authorized; 104,869,089 shares issued and outstanding, actual; no shares authorized, issued, and outstanding, pro forma and pro forma as adjusted</td>
<td>276,307</td>
<td>-</td>
</tr>
<tr>
<td>Stockholders’ (deficit) equity:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common stock: $0.00001 par value per share; 169,300,000 shares authorized, 16,592,802 shares issued and outstanding, actual; 500,000,000 shares authorized, 121,461,891 shares issued and outstanding, pro forma; 500,000,000 shares authorized, 500,000,000 shares issued and outstanding, pro forma as adjusted</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Non-voting common stock: $0.00001 par value per share; 14,000,000 shares authorized, no shares issued and outstanding, actual; no shares authorized, issued and outstanding, pro forma; no shares authorized, issued and outstanding, pro forma as adjusted</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Preferred stock, $0.00001 par value per share; no shares authorized, issued and outstanding, actual; 10,000,000 shares authorized, no shares issued and outstanding, pro forma and pro forma as adjusted</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>17,242</td>
<td>294,401</td>
</tr>
<tr>
<td>Accumulated other comprehensive income</td>
<td>128</td>
<td>128</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(123,352)</td>
<td>(123,352)</td>
</tr>
<tr>
<td>Total stockholders’ (deficit) equity</td>
<td>(105,981)</td>
<td>171,179</td>
</tr>
<tr>
<td>Total capitalization</td>
<td>$171,179</td>
<td>$171,179</td>
</tr>
</tbody>
</table>

(1) Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) our pro forma as adjusted cash, cash equivalents and short-term investments, additional paid-in capital, total stockholders’ equity, and total capitalization by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions. Similarly, each increase (decrease) of 1,000,000 shares in the number of shares of our common stock offered would increase (decrease) the amount of our pro forma as adjusted cash, cash equivalents and short-term investments, additional paid-in capital, total stockholders’ equity, and total capitalization by approximately $ million, assuming that the assumed initial public offering price remains the same, and after deducting the estimated underwriting discounts and commissions. If the underwriters exercise their option to purchase additional shares in full, the pro forma as adjusted amount of each of cash, cash equivalents and short-term investments, additional paid-in capital, total stockholders’ (deficit) equity, and total capitalization would increase by approximately $ million, after deducting the estimated underwriting discounts and commissions, and we would have shares of our common stock issued and outstanding, pro forma as adjusted.
The number of shares of our common stock to be outstanding after this offering is based on 121,461,891 shares of our common stock outstanding as of September 30, 2019 and excludes:

- 22,493,593 shares of our common stock issuable upon the exercise of stock options outstanding as of September 30, 2019 under our 2006 Plan and our 2016 Plan, with a weighted-average exercise price of $3.49 per share;
- 1,923,500 shares of our common stock issuable upon the exercise of stock options granted after September 30, 2019 under our 2016 Plan, with a weighted-average exercise price of $8.14 per share;
- 125,000 shares of our common stock issuable upon the exercise of outstanding warrants to purchase common stock outstanding as of September 30, 2019, with a weighted-average exercise price of $3.20 per share;
- 102,740 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series B redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $0.73 per share;
- 25,000 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series D redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $1.25 per share;
- 11,264,926 shares of common stock that are not currently outstanding but may become issuable, when certain conditions are met, upon the issuance and exercise of warrants with an exercise price of $2.25 per share; and
- shares of our common stock reserved for future issuance under our equity compensation plans, consisting of
  (i) 362,309 shares of our common stock reserved for future issuance under our 2016 Plan, as of September 30, 2019 (which number of shares is prior to the stock options to purchase shares of our common stock granted after September 30, 2019),
  (ii) shares of our common stock reserved for future issuance under our 2019 Plan, which will become effective on the date immediately prior to the date of this prospectus, and (iii) shares of our common stock reserved for issuance under our ESPP, which will become effective on the date of this prospectus.

On the date immediately prior to the date of this prospectus, any remaining shares available for issuance under our 2016 Plan will be added to the shares of our common stock reserved for issuance under our 2019 Plan, and we will cease granting awards under the 2016 Plan. Our 2019 Plan and ESPP also provide for automatic annual increases in the number of shares reserved thereunder. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for additional information.

To the extent that any outstanding options to purchase our common stock are exercised or new awards are granted under our equity compensation plans, there will be further dilution to investors participating in this offering.
DILUTION

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

As of September 30, 2019, our pro forma net tangible book value was approximately $ million, or $ per share of common stock. Our pro forma net tangible book value per share represents the amount of our total tangible assets reduced by the amount of our total liabilities and divided by the total number of shares of our common stock outstanding as of September 30, 2019, after giving effect to (i) the automatic conversion of all outstanding shares of our redeemable convertible preferred stock into 104,869,089 shares of our common stock, (ii) the reclassification of the redeemable convertible preferred stock warrant liabilities to additional paid-in capital in connection with the conversion of the outstanding warrants to purchase shares of redeemable convertible preferred stock into warrants to purchase shares of common stock, and (iii) the filing and effectiveness of our restated certificate of incorporation.

After giving effect to our sale in this offering of shares of our common stock, at an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses, our pro forma as adjusted net tangible book value as of September 30, 2019 would have been approximately $ million, or $ per share. This represents an immediate increase in pro forma net tangible book value of $ per share to our existing stockholders and an immediate dilution of $ per share to investors purchasing common stock in this offering at the assumed initial public offering price.

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

| Assumed initial public offering price per share | $ |
| Pro forma net tangible book value per share as of September 30, 2019, before giving effect to this offering | $ |
| Increase in pro forma net tangible book value per share attributable to new investors in this offering | $ |
| Pro forma as adjusted net tangible book value per share | $ |
| Dilution in pro forma as adjusted net tangible book value per share to new investors in this offering | $ |

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the price range reflected on the cover page of this prospectus, would increase (decrease) our pro forma as adjusted net tangible book value per share after this offering by $ per share and would increase (decrease) the dilution per share to new investors in this offering by $ per share, assuming the number of shares of common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions. Similarly, each increase (decrease) of 1,000,000 shares in the number of shares of common stock offered would increase (decrease) the pro forma as adjusted net tangible book value per share after this offering by $ per share and would increase (decrease) the dilution to new investors by $ per share, assuming the assumed initial public offering price, which is the midpoint of the price range set forth on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions.
If the underwriters exercise their option to purchase additional shares in full, the pro forma as adjusted net tangible book value per share of our common stock after giving effect to this offering would be $ per share, and the dilution in pro forma net tangible book value per share to investors in this offering would be $ per share.

The following table summarizes, on a pro forma as adjusted basis as of September 30, 2019, after giving effect to the pro forma adjustments described above, the difference between existing stockholders and new investors purchasing shares of common stock in this offering with respect to the number of shares purchased from us, the total consideration paid to us, and the average price per share paid by our existing stockholders or to be paid by investors purchasing shares in this offering at an assumed offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, before deducting the estimated underwriting discounts and commissions and estimated offering expenses:

<table>
<thead>
<tr>
<th>Shares Purchased</th>
<th>Total Consideration</th>
<th>Average Price Per Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>Percent</td>
<td>Amount</td>
</tr>
<tr>
<td>Existing stockholders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New public investors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>$</td>
</tr>
</tbody>
</table>

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase (decrease) total consideration paid by new investors and total consideration paid by all stockholders by $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus remains the same and after deducting the estimated underwriting discounts and commissions.

Except as otherwise indicated, the above discussion and tables assume no exercise of the underwriters’ option to purchase additional shares of our common stock. If the underwriters exercise their option to purchase additional shares in full, our existing stockholders would own % and our new investors would own % of the total number of shares of our common stock outstanding after this offering.

In addition, to the extent we issue any additional stock options or any outstanding stock options or warrants are exercised, or we issue any other securities or convertible debt in the future, investors will experience further dilution.

The number of shares of our common stock to be outstanding after this offering is based on 121,461,891 shares of our common stock outstanding as of September 30, 2019 and excludes:

- 22,493,593 shares of our common stock issuable upon the exercise of stock options outstanding as of September 30, 2019 under our 2006 Plan and our 2016 Plan, with a weighted-average exercise price of $3.49 per share;
- 1,923,500 shares of our common stock issuable upon the exercise of stock options granted after September 30, 2019 under our 2016 Plan, with a weighted-average exercise price of $8.14 per share;
- 125,000 shares of our common stock issuable upon the exercise of outstanding warrants to purchase common stock outstanding as of September 30, 2019, with a weighted-average exercise price of $3.20 per share;
- 102,740 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series B redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $0.73 per share;
• 25,000 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series D redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $1.25 per share;

• 11,264,926 shares of common stock that are not currently outstanding but may become issuable, when certain conditions are met, upon the issuance and exercise of warrants with an exercise price of $2.25 per share; and

• shares of our common stock reserved for future issuance under our equity compensation plans, consisting of (i) 362,309 shares of our common stock reserved for future issuance under our 2016 Plan, as of September 30, 2019 (which number of shares is prior to the stock options to purchase shares of our common stock granted after September 30, 2019), (ii) shares of our common stock reserved for future issuance under our 2019 Plan which will become effective on the date immediately prior to the date of this prospectus, and (iii) shares of our common stock reserved for issuance under our ESPP which will become effective on the date of this prospectus.

On the date immediately prior to the date of this prospectus, any remaining shares available for issuance under our 2016 Plan will be added to the shares of our common stock reserved for issuance under our 2019 Plan, and we will cease granting awards under the 2016 Plan. Our 2019 Plan and ESPP also provide for automatic annual increases in the number of shares reserved thereunder. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for additional information.
SELECTED CONSOLIDATED FINANCIAL AND OTHER DATA

The following tables present selected historical consolidated financial and other data for our business. We derived the selected consolidated statements of operations data for the fiscal years ended June 30, 2018 and 2019 and the consolidated balance sheet data as of June 30, 2019 from our audited consolidated financial statements that are included elsewhere in this prospectus. We derived our selected consolidated statements of operations for the three months ended September 30, 2018 and 2019 and our selected consolidated balance sheet data as of September 30, 2019 from our unaudited interim consolidated financial statements that are included elsewhere in this prospectus. We have prepared the unaudited interim consolidated financial statements on the same basis as the audited consolidated financial statements and have included all adjustments, consisting only of normal recurring adjustments that, in our opinion, are necessary to state fairly the information set forth in those consolidated financial statements. Our historical results are not necessarily indicative of the results that may be expected for any other period in the future, and the results of operations for the three months ended September 30, 2019 are not necessarily indicative of the results to be expected for the full year ending June 30, 2020 or any other future period. You should read this information in conjunction with the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements, the accompanying notes, and other financial information included elsewhere in this prospectus.

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30</th>
<th>Three Months Ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$56,992</td>
<td>$85,951</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>7,873</td>
<td>22,400</td>
</tr>
<tr>
<td>Total revenue</td>
<td>64,865</td>
<td>108,351</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>19,372</td>
<td>29,918</td>
</tr>
<tr>
<td>Gross profit</td>
<td>45,493</td>
<td>78,433</td>
</tr>
<tr>
<td>Operating expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>17,986</td>
<td>28,924</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>19,290</td>
<td>30,114</td>
</tr>
<tr>
<td>General and administrative</td>
<td>16,034</td>
<td>29,198</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>53,310</td>
<td>88,236</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(7,817)</td>
<td>(9,803)</td>
</tr>
<tr>
<td>Other income, net</td>
<td>632</td>
<td>2,333</td>
</tr>
<tr>
<td>Loss before provision for income taxes</td>
<td>(7,185)</td>
<td>(7,470)</td>
</tr>
<tr>
<td>Provision for income taxes</td>
<td>10</td>
<td>(156)</td>
</tr>
<tr>
<td>Net loss</td>
<td>(7,195)</td>
<td>(7,314)</td>
</tr>
<tr>
<td>Net loss per share</td>
<td>(0.50)</td>
<td>(0.47)</td>
</tr>
<tr>
<td>Weighted-average shares</td>
<td>14,310</td>
<td>15,594</td>
</tr>
<tr>
<td>Pro forma net loss per share</td>
<td>$ (0.06)</td>
<td>$ (0.05)</td>
</tr>
</tbody>
</table>
Includes stock-based compensation expense as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30, 2018</th>
<th></th>
<th>Three Months Ended September 30, 2018</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of revenue</td>
<td>$78</td>
<td>$331</td>
<td>$69 $148</td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>429</td>
<td>1,128</td>
<td>233 671</td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>508</td>
<td>922</td>
<td>166 382</td>
<td></td>
</tr>
<tr>
<td>General and administrative</td>
<td>530</td>
<td>1,701</td>
<td>139 1,075</td>
<td></td>
</tr>
<tr>
<td>Total stock-based compensation expense</td>
<td>$1,545</td>
<td>$4,082</td>
<td>$607 2,276</td>
<td></td>
</tr>
</tbody>
</table>

See Notes 12 and 13 to our consolidated financial statements included elsewhere in this prospectus for an explanation of the method used to calculate basic and diluted net loss per share attributable to common stockholders and pro forma net loss per share attributable to common stockholders, and the weighted-average number of shares used in the computation of the per share amounts.

As of June 30, 2019

Consolidated Balance Sheet Data:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30, 2018</th>
<th></th>
<th>Year Ended June 30, 2019</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash, cash equivalents and short-term investments</td>
<td>$162,275</td>
<td>$157,642</td>
<td>$162,275</td>
<td>$157,642</td>
</tr>
<tr>
<td>Working capital</td>
<td>163,685</td>
<td>158,544</td>
<td>163,685</td>
<td>158,544</td>
</tr>
<tr>
<td>Funds held for customers</td>
<td>1,329,306</td>
<td>1,466,492</td>
<td>1,329,306</td>
<td>1,466,492</td>
</tr>
<tr>
<td>Total assets</td>
<td>1,526,298</td>
<td>1,662,157</td>
<td>1,526,298</td>
<td>1,662,157</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock warrant liabilities</td>
<td>688</td>
<td>853</td>
<td>688</td>
<td>853</td>
</tr>
<tr>
<td>Deferred revenue, current and non-current</td>
<td>5,255</td>
<td>5,248</td>
<td>5,255</td>
<td>5,248</td>
</tr>
<tr>
<td>Customer fund deposits</td>
<td>1,329,306</td>
<td>1,466,492</td>
<td>1,329,306</td>
<td>1,466,492</td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(117,656)</td>
<td>(123,352)</td>
<td>(117,656)</td>
<td>(123,352)</td>
</tr>
<tr>
<td>Total stockholders’ deficit</td>
<td>(102,657)</td>
<td>(105,981)</td>
<td>(102,657)</td>
<td>(105,981)</td>
</tr>
</tbody>
</table>

Key Business Metrics:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30, 2018</th>
<th></th>
<th>Year Ended June 30, 2019</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Customers at End of Period</td>
<td>63,653</td>
<td>76,790</td>
<td>67,511 81,374</td>
<td></td>
</tr>
<tr>
<td>Total Payment Volume (in millions)(1)</td>
<td>$49,592</td>
<td>$71,282</td>
<td>$15,514 21,982</td>
<td></td>
</tr>
<tr>
<td>Transactions Processed(1)</td>
<td>15,256,358</td>
<td>19,861,298</td>
<td>4,491,511 5,934,610</td>
<td></td>
</tr>
</tbody>
</table>

Non-GAAP Financial Measures

To supplement our consolidated financial statements, which are prepared and presented in accordance with U.S. generally accepted accounting principles (GAAP), we use certain non-GAAP financial measures, as described below, to understand and evaluate our core operating performance. These non-GAAP financial measures, which may be different than similarly-titled measures used by other companies, are presented to enhance investors’ overall understanding of our financial performance and should not be considered a substitute for, or superior to, the financial information prepared and presented in accordance with GAAP.
We believe that these non-GAAP financial measures provide useful information about our financial performance, enhance the overall understanding of our past performance and future prospects and allow for greater transparency with respect to important metrics used by our management for financial and operational decision-making. We are presenting these non-GAAP metrics to assist investors in seeing our financial performance using a management view. We believe that these measures provide an additional tool for investors to use in comparing our core financial performance over multiple periods with other companies in our industry.

### Non-GAAP Gross Profit and Non-GAAP Gross Margin

We define non-GAAP gross profit and non-GAAP gross margin as GAAP gross profit and GAAP gross margin, respectively, excluding stock-based compensation expense, depreciation and amortization expense and amortization of deferred costs. We believe non-GAAP gross profit and non-GAAP gross margin provide our management and investors consistency and comparability with our past financial performance and facilitate period-to-period comparisons of operations, as these measures eliminate the effects of certain variables unrelated to our overall operating performance. The following table presents a reconciliation of our non-GAAP gross profit and non-GAAP gross margin for our GAAP gross profit and GAAP gross margin for the periods presented (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30</th>
<th></th>
<th>Three Months Ended September 30</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-GAAP gross profit (in thousands)</td>
<td>$47,396</td>
<td>$82,154</td>
<td>$16,847</td>
<td>$27,170</td>
</tr>
<tr>
<td>Non-GAAP gross margin</td>
<td>73%</td>
<td>76%</td>
<td>75%</td>
<td>77%</td>
</tr>
<tr>
<td>Free cash flow (in thousands)</td>
<td>$(10,402)</td>
<td>$(8,248)</td>
<td>$(3,510)</td>
<td>$(4,541)</td>
</tr>
</tbody>
</table>

---

**Non-GAAP Gross Profit and Non-GAAP Gross Margin**

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30</th>
<th></th>
<th>Three Months Ended September 30</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total revenue</td>
<td>$64,865</td>
<td>$108,351</td>
<td>$22,424</td>
<td>$35,180</td>
</tr>
<tr>
<td>Gross profit</td>
<td>45,493</td>
<td>78,433</td>
<td>16,083</td>
<td>26,033</td>
</tr>
<tr>
<td>Add:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stock-based compensation expense</td>
<td>78</td>
<td>331</td>
<td>69</td>
<td>148</td>
</tr>
<tr>
<td>Depreciation and amortization expense and amortization of deferred costs</td>
<td>1,825</td>
<td>3,390</td>
<td>695</td>
<td>989</td>
</tr>
<tr>
<td>Non-GAAP gross profit</td>
<td>$47,396</td>
<td>$82,154</td>
<td>$16,847</td>
<td>$27,170</td>
</tr>
<tr>
<td>Gross margin</td>
<td>70%</td>
<td>72%</td>
<td>72%</td>
<td>74%</td>
</tr>
<tr>
<td>Non-GAAP gross margin</td>
<td>73%</td>
<td>76%</td>
<td>75%</td>
<td>77%</td>
</tr>
</tbody>
</table>
Free Cash Flow

Free cash flow is defined as net cash used in operating activities reduced by purchases of property and equipment and capitalization of internal-use software costs. We believe free cash flow is an important liquidity measure of the cash (if any) that is available, after purchases of property and equipment and capitalization of internal-use software costs, for operational expenses and investment in our business. Free cash flow is useful to investors as a liquidity measure because it measures our ability to generate or use cash. Once our business needs and obligations are met, cash can be used to maintain a strong balance sheet and invest in future growth. The following table presents a reconciliation of our free cash flow to net cash used in operating activities for the periods presented (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30,</th>
<th>Three Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Net cash used in operating activities</td>
<td>$(8,356)</td>
<td>$(3,949)</td>
</tr>
<tr>
<td>Purchases of property and equipment</td>
<td>(1,313)</td>
<td>(2,743)</td>
</tr>
<tr>
<td>Capitalization of internal-use software costs</td>
<td>(733)</td>
<td>(1,556)</td>
</tr>
<tr>
<td>Free cash flow</td>
<td>$(10,402)</td>
<td>$(8,248)</td>
</tr>
</tbody>
</table>
Overview

We are a leading provider of cloud-based software that simplifies, digitizes, and automates complex back-office financial operations for small and midsize businesses (SMBs). By transforming how SMBs manage their cash inflows and outflows, we create efficiencies and free our customers to run their businesses.

Our purpose-built, artificial-intelligence (AI)-enabled financial software platform creates seamless connections between our customers, their suppliers, and their clients. Customers use our platform to generate and process invoices, streamline approvals, send and receive payments, reconcile their books, and manage their cash. We have built sophisticated integrations with popular accounting software solutions, banks, and payment processors, enabling our customers to access these mission-critical services through a single connection. In essence, we sit at the center of an SMB’s accounts payable and accounts receivable operations.

We efficiently reach SMBs through our proven direct and indirect go-to-market strategies. We acquire customers directly through digital marketing and inside sales, and indirectly through accounting firms and strategic partnerships. As of September 30, 2019, our partners included some of the most trusted brands in the financial services business, including more than 70 of the top 100 accounting firms and several of the largest financial institutions in the United States, including Bank of America, JPMorgan Chase and American Express. As we add customers and partners, we expect our network to continue to grow organically.
Since our founding, our dedication to customer experience and innovation has propelled us to achieve numerous key business and financial milestones. As we have expanded our platform, launched new products and added new strategic partners over time, we have experienced significant growth in annual payment volume processed:

Our Track Record of Organic Growth

We have grown rapidly and scaled our business operations in recent periods. Our total revenue was $64.9 million and $108.4 million for fiscal 2018 and 2019, respectively, an increase of 67%. Our total revenue was $22.4 million and $35.2 million for the three months ended September 30, 2018 and 2019, respectively, an increase of 57%. We incurred net losses of $7.2 million and $7.3 million for fiscal 2018 and 2019, respectively, and $0.9 million and $5.7 million for the three months ended September 30, 2018 and 2019, respectively.

Our Revenue Model

We generate revenue by charging subscription and transaction fees, and by earning interest on funds held in trust on behalf of customers while their payment transactions are clearing.

Our subscription revenue is primarily based on a fixed monthly or annual rate per user charged to our customers. Our transaction revenue is comprised of transaction fees on a fixed or variable rate per transaction. Transactions include check issuance, ACH origination, cross-border payments, virtual card issuance, and creation of invoices. Much of our revenue comes from repeat transactions; in fact, repeat transactions by our customers are an important contributor to our recurring revenue: approximately 80% of both the Total Payment Volume (as defined below) and the number of transactions on our platform in every month of fiscal 2019 represented payments to suppliers or from clients that had also been paid or received by those same customers in the preceding three months.
Our pricing model reflects the flexibility and value that our customers have come to expect from our platform. Most of our SMB customers pay their subscription fee monthly, while some customers enter into annual contracts with up-front payments. Our financial institution strategic partners typically sign multi-year contracts with minimum annual revenue commitments.

We offer a variety of subscription price plans to our customers depending on their required features and functionality. The below chart is an illustrative view of what we provide our customers as part of the different plans but it is not a comprehensive list of our product offerings. Note that network members who are not customers do not pay subscription or transaction fees but become prospects for our paid services in the future.

Our transaction fees include the following:

<table>
<thead>
<tr>
<th>Transaction Fees</th>
<th>Prices</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACH Processing</td>
<td>$0.49 / send and receive</td>
</tr>
<tr>
<td>Checks or Invoices Mailed</td>
<td>$1.69 / check payment or invoice</td>
</tr>
<tr>
<td>Virtual Card Payments</td>
<td>Variable based upon transaction size</td>
</tr>
<tr>
<td>Cross-Border Wire Transfers—U.S. Dollars</td>
<td>$9.99 / transaction</td>
</tr>
<tr>
<td>Cross-Border Wire Transfers—Foreign Exchange</td>
<td>Variable based upon transaction size and currency</td>
</tr>
</tbody>
</table>

Transactions priced on a variable basis include cross-border foreign currency and virtual card payments, for which our revenue is a percentage of the dollar value of the transactions that we process.

With our strategic and accounting partners, we generally provide wholesale prices, and our partners determine the final prices to their clients.
We also generate revenue from interest earned on funds held in trust on behalf of customers while payment transactions are clearing. When we process payment transactions, the funds flow through our bank accounts and we have a balance of funds held for customers that is a function of the volume and the type of payments processed. Interest is earned from interest-bearing deposit accounts, certificates of deposit, money market funds, commercial paper, and U.S. Treasury securities. We hold these funds from the day they are withdrawn from a payer’s account to the day the funds are credited to the receiver. This revenue can fluctuate depending on the amount of customer funds held, as well as our yield on customer funds invested, which is influenced by market interest rates and our investments. We are authorized to hold customer funds and process payments through our bank accounts because we are a licensed money transmitter in all required U.S. states. This allows us to provide advanced treasury services and protect our customers from potential fraud.

Our Business Model

We efficiently reach SMBs through our proven direct and indirect go-to-market strategies. We acquire customers directly through digital marketing and inside sales. We also acquire customers indirectly by partnering with leading companies that are trusted by our current and prospective customers, including accounting firms, financial institutions, and software companies.

Our revenue is visible and predictable from our existing customers. For the fiscal year ended June 30, 2019, over 80% of our subscription and transaction revenue, which we also refer to as core revenue, came from customers who were acquired prior to the start of the fiscal year. We expand within our existing customer base by adding more users, increasing transactions per customer, launching additional products, and through pricing and packaging our services. We make it easy for SMBs to try our platform through our risk-free trial program. Should an SMB choose to become a customer after the trial period, it can take several months to adapt their financial operations to fully leverage our platform. Even with a transition period, however, we believe our customer retention is strong. Excluding those from our financial institution partners, over 82% of customers as of June 30, 2018 were still customers as of June 30, 2019.

Net Dollar-Based Retention Rate

Net dollar-based retention rate is an important indicator of customer satisfaction and usage of our platform, as well as potential revenue for future periods. We calculate our net dollar-based retention rate at the end of each fiscal year. We calculate our net dollar-based retention rate by starting with the revenue billed to customers in the last quarter of the prior fiscal year (Prior Period Revenue). We then calculate the revenue billed to these same customers in the last quarter of the current fiscal year (Current Period Revenue). Current Period Revenue includes any upsells and is net of contraction or attrition, but excludes revenue from new customers and excludes interest earned on customer funds held in trust. We then repeat the calculation of Prior Period Revenue and Current Period Revenue with respect to each of the preceding three quarters, and aggregate the four Prior Period Revenues (the Aggregate Prior Period Revenue) and the four Current Period Revenues (the Aggregate Current Period Revenue). Our net dollar-based retention rate equals the Aggregate Current Period Revenue divided by Aggregate Prior Period Revenue. Our net dollar-based retention rate was 110% for fiscal 2019 and 106% for fiscal 2018, which increase is primarily attributable to an increase in the number of users, transactions per customer, and selling additional products to those customers.

Cohort Analysis

To illustrate the economics of our customer relationships, we are providing an analysis of the revenue growth and contribution margin to date of the customers we acquired during fiscal 2017,
excluding customers acquired through financial institutions, which we refer to as the 2017 Cohort. We exclude customers from financial institutions from our cohort analysis because our financial institution partners pay minimum fees regardless of the number of customers that adopt our platform and, as a result, our cost of sales and sales and marketing expenses for these customers are not comparable to those of customers not acquired through financial institutions. We selected the 2017 Cohort to illustrate the potential long-term growth and profitability of our customer base. The 2017 Cohort of customers represents various industries and geographies and includes customers who have expanded their subscriptions as well as those that have reduced or not renewed their subscriptions, and we believe the 2017 Cohort fairly represents our overall customer base, excluding those acquired through our financial institution partners. We define contribution margin for a period as the billed revenue that represents amounts billed to and collected from our customers less the estimated, allocated variable costs for the period associated with such revenues. The cost allocated to these revenues includes cost of sales and sales and marketing expenses associated with converting the customer. We define contribution margin percentage for a cohort in a period as contribution margin divided by the revenue associated with such cohort in a given period. The growth of the 2017 Cohort is depicted below:

Cost of sales expense includes customer support and payment operations expenses, transaction fulfillment costs, and a portion of our platform technical operations costs. Sales and marketing expense includes personnel-related expenses, sales commissions paid associated with these customers, marketing program expenses, and allocated overhead costs. Costs of sales and allocated sales and marketing expenses exclude share-based compensation and depreciation expenses. A significant majority of our sales and marketing expenses are dedicated to acquiring new customers. Accordingly, these costs are mainly associated with the newest cohort of customers in a given fiscal year.

We allocate cost of sales to a cohort by multiplying the period non-GAAP Gross Margin for all cohorts by the revenue of the 2017 Cohort.

We allocate our sales and marketing expenses to a cohort in two steps. First, we segment expenses between non-commission sales expenses and marketing expenses. We then separately assign these categories of expenses to acquiring or renewing and upselling activity. We allocate non-commission sales expenses using the estimated proportion of time, based on internal data, that our sales team spends acquiring customers versus renewing or upselling customers. We allocate marketing expenses based on the estimated proportion of marketing expenses we spend to acquire or renew and upsell customers. In the second step, we allocate the expenses to the cohort based on the
cohort’s respective share of revenue in each category. We exclude all sales and marketing expenses associated with our financial institution partners. We exclude all research and development and general and administrative expenses from this analysis because these expenses support the growth of our business generally.

For fiscal 2017, the 2017 Cohort represented $6.7 million in revenue billed to these customers and $11.8 million in sales and marketing costs to acquire these customers, and $2.3 million of cost of sales representing a computed contribution margin of -108%. In fiscal 2018 and 2019, the 2017 Cohort represented $14.2 million and $17.3 million, respectively, in revenue billed to these customers and $3.9 million and $4.2 million, respectively, in estimated costs related to retaining and expanding these customers, representing a computed contribution margin of 73% and 76%, respectively.

While we believe the 2017 Cohort to be a fair representation of our overall customer base, excluding those acquired through our financial institution partners, the 2017 Cohort may not be representative of any other group of customers or periods. We expect that the contribution margin and contribution margin percentage of our customer cohorts will fluctuate from one period to another depending upon the number of customers remaining in each cohort, our ability to increase their revenue, as well as changes in our associated costs. We may not experience similar financial outcomes from future customers. The revenue, associated costs, contribution margins, and contribution margin percentages for other cohorts could differ from those for the 2017 Cohort. Contribution margin is not a measure that our management uses to manage or evaluate our business nor is it a predictor of past or future financial performance. Unlike our financial statements, contribution margin is not prepared in accordance with GAAP and may not be comparable to contribution margin calculations prepared by other companies. Contribution margin is an operational measure; it is not a financial measure of profitability and is not intended to be used as a proxy for the profitability of our business.

Customer Acquisition Efficiency

Our efficient direct and indirect go-to-market strategy, combined with our recurring revenue model, results in our short payback period. We define “payback period” as the number of quarters it takes for the cumulative non-GAAP gross profit we earn from customers acquired during a given quarter to exceed our total sales and marketing spend in that same quarter. For customers acquired during fiscal 2018, the average payback period was approximately five quarters.

Key Factors Affecting Our Performance

Acquiring New Customers

Sustaining our growth requires continued adoption of our platform by new customers. We will continue to invest in our efficient go-to-market strategy as we further penetrate our addressable markets. Our financial performance will depend in large part on the overall demand for our platform, particularly demand from SMBs. As of September 30, 2019, we had over 81,000 customers across a wide variety of industries and geographies in the United States.

Expanding Our Relationship with Existing Customers

Our revenue grows as we address the evolving needs of our customers and as our customers increase usage of our platform. As they realize the benefits of our solution, our customers often increase the number of users on our platform. We also experience growth from customers when we introduce new products and services that are adopted by our customers.
Our ability to monetize our payments-related services is an important part of our business model. Today, we charge fixed and variable transaction fees for payment transactions initiated, and our revenue and payment volume generally grow as customers process more transactions on our platform. Our ability to influence customers to process more transactions on our platform will have a direct impact on our transaction fee revenue. As payment volume grows we experience growth in the level of funds held for customers, and we also earn interest revenue on these funds while payment transactions are clearing. Our interest earned on customer funds is positively correlated with our interest earnings rate and with customer fund balances. Our interest earnings rate is a function of the market interest rate environment and the mix of our investments across interest bearing accounts, government money market funds, and short-term highly liquid securities. The fund balances are a function of the amount of money transmitted by our customers and the mix of payment types, with some payment types averaging more days in transit than others.

**Investing in Sales and Marketing**

We intend to increase our marketing spend to drive awareness and generate demand to acquire new customers and develop new accounting firm and strategic partner relationships. Our investment in supporting accounting firms and strategic partners has been significant and will continue. We support these accounting firms and strategic partners through education and training initiatives like hosting webinars, presenting at industry trade shows, and developing sell-sheet case studies.

As a result, we expect our expenses related to marketing and sales to increase as we continue to grow. These efforts will require us to invest significant financial and other resources.

**Investing in Our Platform**

We will invest in our platform to maintain our position as a leading provider of SMB back-office financial software. To drive adoption and increase penetration within our base, we will continue to introduce new products and features. We believe that investment in research and development will contribute to our long-term growth but may also negatively impact our short-term profitability. We will continue to leverage emerging technologies and invest in the development of more features that meet and anticipate SMB needs.
Key Business Metrics

We regularly review several metrics, including the metrics presented in the table below, to measure our performance, identify trends affecting our business, prepare financial projections, and make strategic decisions. We believe that these key business metrics provide meaningful supplemental information for management and investors in assessing our historical and future operating performance. The calculation of the key metrics and other measures discussed below may differ from other similarly-titled metrics used by other companies, securities analysts or investors.

<table>
<thead>
<tr>
<th></th>
<th>As of June 30, 2018</th>
<th>As of June 30, 2019</th>
<th>% Growth</th>
<th>As of September 30, 2018</th>
<th>As of September 30, 2019</th>
<th>% Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Customers(1)</td>
<td>63,653</td>
<td>76,790</td>
<td>21%</td>
<td>67,511</td>
<td>81,374</td>
<td>21%</td>
</tr>
<tr>
<td>Total Payment Volume (amounts in millions)</td>
<td>$49,592</td>
<td>$71,282</td>
<td>44%</td>
<td>$15,514</td>
<td>$21,982</td>
<td>42%</td>
</tr>
<tr>
<td>Transactions Processed</td>
<td>15,256,358</td>
<td>19,861,298</td>
<td>30%</td>
<td>4,491,511</td>
<td>5,934,610</td>
<td>32%</td>
</tr>
</tbody>
</table>

(1) Number of customers as of June 30, 2018 and September 30, 2018 includes approximately 5,000 and 4,500 customers, respectively, from a strategic partner that did not renew its contract during fiscal 2019. Excluding these customers, our customer growth would have been 31% during fiscal 2019 and 29% during the three months ended September 30, 2019.

Number of Customers

For the purposes of measuring our key business metrics, we define customers as entities that are either billed directly by us or for which we bill our strategic partners during a particular period. Customers who are using our platform during a trial period are not counted as new customers during that period. If an organization has multiple entities billed separately for the use of our platform, each entity is counted as a customer. The number of customers in the table above represents the total number of customers at the end of our fiscal year and quarter.

Total Payment Volume

To grow revenue from customers we must deliver a product experience that helps them automate their back-office financial operations. The more they use the product and rely upon our features to automate their operations, the more transactions they process on our platform. This metric provides an important indication of the value of transactions that customers are completing on the platform and is an indicator of our ability to generate revenue from our customers. We define Total Payment Volume (TPV) as the value of customer transactions that we process on our platform in a period. Our calculation of TPV includes payments that are subsequently reversed. Such payments comprised approximately 1% of TPV for fiscal 2019 and the three months ended September 30, 2019.

Transactions Processed

We define transactions processed as the number of customer payment transactions, such as checks, ACH items, wire transfers, and virtual cards, initiated and processed through our platform during a particular period.
Components of Results of Operations

Revenue

We generate revenue from two sources: (1) subscription and transaction fees, and (2) interest on funds held for customers.

Subscription fees are fixed monthly or annually and charged to our customers for the use of our platform to process transactions. Subscription fees are generally charged on a per user per period basis, normally monthly or annually. Transaction fees are fees collected for each transaction processed through our platform, on either a fixed or variable fee basis. Transaction fees primarily include processing of payments in the form of checks, ACH, cross-border payments, virtual cards, and the creation of invoices.

Interest on funds held for customers consists of the interest that we earn from customer funds while payment transactions are clearing. We invest these funds in interest-bearing investment securities, primarily money market funds, commercial paper, and U.S. Treasury securities, until those payments are cleared and credited to the intended recipient.

Our contracts with SMB and accounting firm customers primarily consist of cancelable contracts that can be terminated by either party without penalty at any time. In July 2019, we updated our terms of service for our monthly subscription contracts, whereby cancellations become effective at the end of the monthly subscription period in which the last transaction is processed. We recognize subscription revenue for cancelable contracts on a daily basis and transaction revenue on the date we process the transactions. Some of our contracts are non-cancelable annual or monthly contracts. We recognize revenue for non-cancelable annual and monthly contracts as a series of distinct services satisfied over time. We determine the transaction price for such contracts by estimating the total consideration to be received over the contract term from subscription and transaction fees. We recognize the transaction price from annual and monthly contracts as a single performance obligation based on the proportion of transactions processed to the total estimated transactions to be processed over the contract period.

We enter into multi-year contracts with financial institution customers that typically include fees for initial implementation services that are paid during the period. Fees for subscription and transaction processing services are subject to guaranteed monthly minimum fees that are paid over the contract term. These contracts enable the financial institutions to provide their clients with access to online bill pay services through the financial institution’s online platform. Implementation services are required up-front to establish an infrastructure that allows the financial institution’s online platform to communicate with our platform. The financial institution’s clients cannot access online bill pay services until implementation is complete and the financial institution has provided acceptance of the implementation services. The fees we earn through these contracts vary based on the number of users and transactions processed. We have determined these contracts meet the variable consideration allocation exception and therefore we recognize guaranteed monthly payments and any overages as revenue in the month they are earned. We recognize implementation fees based on the proportion of transactions processed to the total estimated transactions to be processed over the contract period.

Cost of Revenue and Expenses

Cost of revenue—Cost of revenue consists primarily of personnel-related costs, including stock-based compensation expenses, for our customer success and payment operations teams, certain costs that are directly attributed to processing customers’ transactions (such as the cost of printing checks), postage for mailing checks, expenses for processing payments (ACH, check, and cross-border wires), direct and amortized costs for implementing and integrating our cloud-based platform
into our strategic partners’ systems, costs for maintaining, optimizing, and securing our cloud payments infrastructure, amortization of capitalized internal-use developed software, fees on the investment of customer funds, and allocation of overhead costs. We expect that cost of revenue will increase in absolute dollars, but may fluctuate as a percentage of total revenue from period to period, as we continue to invest in growing our business.

**Research and development**—Research and development expenses consist primarily of personnel-related expenses, including stock-based compensation expenses, incurred in developing new products or enhancing existing products, and allocated overhead costs. We capitalize certain software development costs that are attributable to developing new products and adding incremental functionality to our platform and amortize such costs in cost of revenue over the estimated life of the new product or incremental functionality, which is generally three years.

We expense a substantial portion of research and development expenses as incurred. We believe delivering new functionality is critical to attract new customers and expand our relationship with existing customers. We expect to continue to make investments in and expand our offerings to enhance our customers’ experience and satisfaction, and to attract new customers. We expect our research and development expenses to increase in absolute dollars, but they may fluctuate as a percentage of total revenue from period to period as we expand our research and development team to develop new products and product enhancements.

**Sales and Marketing**—Sales and marketing expenses consist primarily of personnel-related expenses, including stock-based compensation expenses, sales commissions, marketing program expenses, travel-related expenses and costs to market and promote our platform through advertisements, marketing events, partnership arrangements, direct customer acquisition, and allocated overhead costs. Sales commissions that are incremental to obtaining new customer contracts are deferred and amortized ratably over the estimated period of our relationship with new customers. We focus our sales and marketing efforts on generating awareness of our company, platform, and products, creating sales leads, and establishing and promoting our brand. We plan to increase our investment in sales and marketing by hiring additional sales and marketing personnel, driving our go-to-market strategies, building our brand awareness, and sponsoring additional marketing events. We expect our sales and marketing expenses to increase in absolute dollars, but they may fluctuate as a percentage of total revenue from period to period.

**General and Administrative**—General and administrative expenses consist primarily of personnel-related expenses, including stock-based compensation expenses, for finance, risk management, legal and compliance, human resources and information technology, costs incurred for external professional services, losses from fraud and credit exposure, and allocated overhead costs. We expect to incur additional general and administrative expenses as a result of operating as a public company, including expenses to comply with the rules and regulations applicable to companies listed on a national securities exchange, expenses related to compliance and reporting obligations pursuant to the rules and regulations of the SEC, as well as higher expenses for director and officer insurance, investor relations, and professional services. We also expect to increase the size of our general and administrative functions to support the growth in our business. As a result, we expect that our general and administrative expenses will increase in absolute dollars but may fluctuate as a percentage of total revenue from period to period.

**Other Income, Net**—Other income, net consists primarily of interest income on corporate funds invested in money market instruments and highly liquid short-term investments, partially offset by interest expense on our bank borrowings.

**Provision for (Benefit from) Income Taxes**—This consists of income tax benefit shown on the consolidated statements of operations that is offset against the income tax on the unrealized gain on
investments in available-for-sale securities that is shown on the consolidated statements of other comprehensive loss, as well as state income taxes.

Results of Operations

The following table sets forth our results of operations for the periods presented (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30,</th>
<th>Three Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$56,992</td>
<td>$85,951</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>7,873</td>
<td>22,400</td>
</tr>
<tr>
<td>Total revenue</td>
<td>64,865</td>
<td>108,351</td>
</tr>
<tr>
<td>Cost of revenue(1)</td>
<td>19,372</td>
<td>29,918</td>
</tr>
<tr>
<td>Gross profit</td>
<td>45,493</td>
<td>78,433</td>
</tr>
<tr>
<td>Operating expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research and development(1)</td>
<td>17,986</td>
<td>28,924</td>
</tr>
<tr>
<td>Sales and marketing(1)</td>
<td>19,290</td>
<td>30,114</td>
</tr>
<tr>
<td>General and administrative(1)</td>
<td>16,034</td>
<td>29,198</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>53,310</td>
<td>88,236</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(7,817)</td>
<td>(9,803)</td>
</tr>
<tr>
<td>Other income, net</td>
<td>632</td>
<td>2,333</td>
</tr>
<tr>
<td>Loss before provision for (benefit from) income taxes</td>
<td>(7,185)</td>
<td>(7,470)</td>
</tr>
<tr>
<td>Provision for (benefit from) income taxes</td>
<td>10</td>
<td>(156)</td>
</tr>
<tr>
<td>Net loss</td>
<td>$(7,195)</td>
<td>$(7,314)</td>
</tr>
</tbody>
</table>

(1) Includes stock-based compensation expenses as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30,</th>
<th>Three Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>$78</td>
<td>$331</td>
</tr>
<tr>
<td>Research and development</td>
<td>429</td>
<td>1,128</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>508</td>
<td>922</td>
</tr>
<tr>
<td>General and administrative</td>
<td>530</td>
<td>1,701</td>
</tr>
<tr>
<td></td>
<td>$1,545</td>
<td>$4,082</td>
</tr>
</tbody>
</table>
The following table presents the components of our consolidated statements of operations for the periods presented as a percentage of total revenue:

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30</th>
<th>Three Months Ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>88%</td>
<td>79%</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>12%</td>
<td>21%</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>Cost of revenue</strong></td>
<td>30%</td>
<td>28%</td>
</tr>
<tr>
<td><strong>Gross profit</strong></td>
<td>70%</td>
<td>72%</td>
</tr>
<tr>
<td><strong>Operating expenses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>28%</td>
<td>27%</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>29%</td>
<td>27%</td>
</tr>
<tr>
<td>General and administrative</td>
<td>25%</td>
<td>27%</td>
</tr>
<tr>
<td><strong>Total operating expenses</strong></td>
<td>82%</td>
<td>81%</td>
</tr>
<tr>
<td><strong>Loss from operations</strong></td>
<td>(12)%</td>
<td>(9)%</td>
</tr>
<tr>
<td>Other income, net</td>
<td>1%</td>
<td>2%</td>
</tr>
<tr>
<td><strong>Loss before provision for (benefit from) income taxes</strong></td>
<td>(11)%</td>
<td>(7)%</td>
</tr>
<tr>
<td>Provision for (benefit from) income taxes</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Net loss</strong></td>
<td>(11)%</td>
<td>(7)%</td>
</tr>
</tbody>
</table>

**Comparison of the Three Months Ended September 30, 2018 and 2019**

**Revenue**

The components of our revenue during the three months ended September 30, 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended September 30</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$ 18,170</td>
<td>$28,548</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>4,254</td>
<td>6,632</td>
</tr>
<tr>
<td><strong>Total revenue</strong></td>
<td>$22,424</td>
<td>$35,180</td>
</tr>
</tbody>
</table>

Subscription and transaction fees increased to $28.5 million during the three months ended September 30, 2019 from $18.2 million during the three months ended September 30, 2018, an increase of $10.3 million or 57%. Subscription fees increased to $18.0 million during the three months ended September 30, 2019 from $13.0 million during the three months ended September 30, 2018, an increase of $5.0 million or 38%, driven primarily by the increase in customers and average subscription revenue per customer. Transaction fees increased to $10.5 million during the three months ended September 30, 2019 from $5.1 million during the three months ended September 30, 2018, an increase of $5.4 million or 105%, primarily due to increased adoption of new product offerings and the increase in the number of transactions initiated. Our total customers increased to over 81,000 as of
September 30, 2019 compared to over 67,000 as of September 30, 2018, or an increase of approximately 21%. Our average subscription revenue and transaction fees per customer increased by 15% and 70%, respectively, during the three months ended September 30, 2019, driven primarily by the increase in customers’ usage of our platform and payment activities.

Interest on funds held for customers increased to $6.6 million during the three months ended September 30, 2019 from $4.3 million during the three months ended September 30, 2018, an increase of $2.4 million or 56%. The increase was due primarily to the increase in the balance of customer funds held while payment transactions are clearing and also from the increase in the yield we earned from investing the funds. The average balance of customer funds in transit increased to approximately $1.3 billion during the three months ended September 30, 2019 from approximately $946 million during the three months ended September 30, 2018, or an increase of 41%. Fund balances increased primarily due to growth in TPV. Our TPV increased to approximately $22.0 billion during the three months ended September 30, 2019 from approximately $15.5 billion during the three months ended September 30, 2018, or an increase of 42%. The annualized rate of return earned on customer funds held was 1.97% during the three months ended September 30, 2019, an increase of 19 basis points over the annualized yield during the same period in fiscal 2019. The increase in yield was primarily due to the short-term interest rate environment as the average daily effective Federal Funds rate increased by 27 basis points during the three months ended September 30, 2019 over the same period in fiscal 2019.

**Cost of Revenue, Gross Profit, and Gross Margin**

Cost of revenue, gross profit, and gross margin during the three months ended September 30, 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three months ended September 30</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>$ 6,341</td>
<td>$ 9,147</td>
</tr>
<tr>
<td>Gross profit</td>
<td>$16,083</td>
<td>$26,033</td>
</tr>
<tr>
<td>Gross margin</td>
<td>72%</td>
<td>74%</td>
</tr>
</tbody>
</table>

Cost of revenue increased to $9.1 million during the three months ended September 30, 2019 from $6.3 million during the three months ended September 30, 2018, an increase of $2.8 million or 44%. The increase was due primarily to a $1.4 million increase in direct costs associated with the processing of our customers’ payment transactions, use of software applications and equipment, bank fees for holding the funds of our customers, and data hosting services, which were driven by the increase in the number of customers and volume of transactions. The increase was also due to a $0.9 million increase in personnel-related costs, including stock-based compensation expense and amortization of increased deferred service costs, due to the hiring of additional personnel who were directly engaged in providing implementation and support services to our customers, and a $0.5 million increase in shared overhead costs. Our average headcount of such personnel during the three months ended September 30, 2019 increased by 33% compared to the same period in fiscal 2019.

Gross margin increased to 74% during the three months ended September 30, 2019 from 72% during the three months ended September 30, 2018. The increase was driven primarily by higher revenue on increased adoption of new product offerings.
Research and Development Expenses

Research and development expenses during the three months ended September 30, 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three months ended September 30,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Research and development expenses</td>
<td>$5,424</td>
<td>$11,515</td>
</tr>
<tr>
<td>Percentage of revenue</td>
<td>24%</td>
<td>33%</td>
</tr>
</tbody>
</table>

Research and development expenses increased to $11.5 million during the three months ended September 30, 2019 from $5.4 million during the three months ended September 30, 2018, an increase of $6.1 million or 112%. The increase was due primarily to a $5.0 million increase in personnel-related costs, including stock-based compensation expense, resulting from the hiring of additional personnel who were directly engaged in developing new product offerings, a $0.6 million increase in shared overhead costs, and a $0.5 million increase in costs for engaging consultants and temporary contractors who provided product development services. Our average research and development headcount during the three months ended September 30, 2019 increased by 67% compared to the same period in fiscal 2019.

As a percentage of total revenue, research and development expenses increased to 33% during the three months ended September 30, 2019 from 24% during the three months ended September 30, 2018 due primarily to the increase in our headcount, which resulted in higher personnel-related costs relative to the increase in our revenue.

Sales and Marketing Expenses

Sales and marketing expenses during the three months ended September 30, 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three months ended September 30,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Sales and marketing expenses</td>
<td>$5,944</td>
<td>$10,267</td>
</tr>
<tr>
<td>Percentage of revenue</td>
<td>27%</td>
<td>29%</td>
</tr>
</tbody>
</table>

Sales and marketing expenses increased to $10.3 million during the three months ended September 30, 2019 from $5.9 million during the three months ended September 30, 2018, an increase of $4.4 million or 73%. The increase was due primarily to a $2.2 million increase in personnel-related costs (net of capitalized sales commissions of $0.4 million), including stock-based compensation expense, due to the hiring of additional personnel who were directly engaged in acquiring new customers and in marketing our products and services, and a $0.4 million increase in shared overhead costs. Our average sales and marketing headcount during the three months ended September 30, 2019 increased by 51% compared to the same period in fiscal 2019. The increase was also attributed to a $1.0 million increase in various marketing initiatives and activities, such as engaging consultants and attending marketing events, and a $0.8 million increase in advertising spend, as we continued to increase our effort in promoting our products and services and in increasing brand awareness.

As a percentage of total revenue, sales and marketing expenses increased to 29% during the three months ended September 30, 2019 from 27% during the three months ended September 30, 2018, due primarily to the increase in our headcount, which resulted in higher personnel-related costs relative to the increase in our revenue.
General and Administrative Expenses

General and administrative expenses during the three months ended September 30, 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three months ended September 30,</th>
<th>Change</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td>Amount</td>
</tr>
<tr>
<td>General and administrative expenses</td>
<td>$5,937</td>
<td>$10,535</td>
<td>$4,598</td>
</tr>
<tr>
<td>Percentage of revenue</td>
<td>26%</td>
<td>30%</td>
<td></td>
</tr>
</tbody>
</table>

General and administrative expenses increased to $10.5 million during the three months ended September 30, 2019 from $5.9 million during the three months ended September 30, 2018, an increase of $4.6 million or 77%. The increase was due primarily to a $2.8 million increase in personnel-related costs, including stock-based compensation expense, resulting from the hiring of additional executive employees and administrative personnel. Our average general and administrative headcount during the three months ended September 30, 2019 increased by 65% compared to the same period in fiscal 2019. The increase was also due to a $0.7 million increase in recruiting fees and temporary staffing costs as we engaged external help to recruit employees or to temporarily fill certain roles within the organization, a $0.5 million increase in money transfer license fees and credit card processing fees, a $0.4 million increase in shared overhead costs, and a $0.3 million increase in professional and consulting fees as we obtained additional external assistance in connection with the overall growth of our business and our preparation to operate as a public company.

As a percentage of total revenue, general and administrative expenses increased to 30% during the three months ended September 30, 2019 from 26% during the three months ended September 30, 2018 due primarily to the increase in our headcount, which resulted in higher personnel-related costs relative to the increase in our revenue.

Other Income, Net

Other income, net during the three months ended September 30, 2018 and 2019 was as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three months ended September 30,</th>
<th>Change</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td>Amount</td>
</tr>
<tr>
<td>Other income, net</td>
<td>$317</td>
<td>$639</td>
<td>$322</td>
</tr>
</tbody>
</table>

Other income, net increased to $0.6 million during the three months ended September 30, 2019 from $0.3 million during the three months ended September 30, 2018, due primarily to a $0.5 million increase in interest earned on corporate funds that we invested in money market instruments and highly liquid short-term investments, partially offset by a $0.2 million loss on the revaluation of warrants liabilities.

(Benefit from) Provision for Income Taxes

(Benefit from) provision for income taxes during the three months ended September 30, 2018 and 2019 was as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Three months ended September 30,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>(Benefit from) provision for income taxes</td>
<td>$(21)</td>
<td>$51</td>
</tr>
</tbody>
</table>

77
The provision for income taxes during the three months ended September 30, 2019 pertains primarily to state income taxes. The benefit from income taxes during the three months ended September 30, 2018 pertains primarily to the income tax benefit that is reported on the consolidated statements of operations and is offset against the income tax on the unrealized gain on investments in available-for-sale securities that is shown on the consolidated statements of comprehensive loss.

**Comparison of the Years Ended June 30, 2018 and 2019**

The components of our revenue during fiscal 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30,</th>
<th>Change</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td>Amount</td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$56,992</td>
<td>$85,951</td>
<td>$28,959</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>7,873</td>
<td>22,400</td>
<td>14,527</td>
</tr>
<tr>
<td>Total revenue</td>
<td>$64,865</td>
<td>$108,351</td>
<td>$43,486</td>
</tr>
</tbody>
</table>

Subscription and transaction fees increased to $86.0 million during fiscal 2019 from $57.0 million during fiscal 2018, an increase of $29.0 million or 51%. Subscription fees increased to $59.6 million during fiscal 2019 from $42.0 million during fiscal 2018, an increase of $17.6 million or 42%, driven primarily by the increase in customers and average subscription revenue per customer. Transaction fees increased to $26.4 million during fiscal 2019 from $15.0 million during fiscal 2018, an increase of $11.4 million or 76%, primarily due to increased adoption of new product offerings and increases in the number of transactions initiated. Our total customers increased to over 76,000 as of June 30, 2019 compared to over 63,000 as of June 30, 2018, or an increase of approximately 21%. Our average subscription revenue and transaction fees per customer increased by 12% and 39%, respectively, during fiscal 2019, driven primarily by the increase in customers’ usage of our platform and payment activity.

Interest on funds held for customers increased to $22.4 million during fiscal 2019 from $7.9 million during fiscal 2018, an increase of $14.5 million or 185%. The increase was due primarily to the increase in the yield we earned from strategically investing funds held for customers and the increase in the balance of customer funds while payment transactions are clearing. The annualized rate of return on our average customer funds held was 1.99% during fiscal 2019, an increase of 101 basis points over the annualized yield during fiscal 2018. The increase in yield was primarily due to the short-term interest rate environment as the average daily effective Federal Funds rate increased by 85 basis points during fiscal 2019 over the prior fiscal year. Our active management of customer funds during fiscal 2019 also improved the return generated on our funds held. The average balance of customer funds in transit increased to approximately $1.1 billion during fiscal 2019 from approximately $777 million during fiscal 2018, or an increase of 42%. Fund balances increased primarily due to growth in TPV. Our TPV increased to approximately $71.3 billion during fiscal 2019 from approximately $49.6 billion during fiscal 2018, or an increase of 44%.
Cost of Revenue, Gross Profit, and Gross Margin

Cost of revenue, gross profit, and gross margin during fiscal 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30, 2018</th>
<th>Year Ended June 30, 2019</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of revenue</td>
<td>$19,372</td>
<td>$29,918</td>
<td>$10,546</td>
</tr>
<tr>
<td>Gross profit</td>
<td>45,493</td>
<td>78,433</td>
<td>32,940</td>
</tr>
<tr>
<td>Gross margin</td>
<td>70%</td>
<td>72%</td>
<td></td>
</tr>
</tbody>
</table>

Cost of revenue increased to $29.9 million during fiscal 2019 from $19.4 million during fiscal 2018, an increase of $10.5 million or 54%. The increase was due primarily to a $4.2 million increase in direct costs associated with the processing of our customers’ payment transactions, use of software applications and equipment, bank fees for holding the funds of our customers, and data hosting services, which were driven by the increase in the number of customers and volume of transactions. The increase was also due to a $4.0 million increase in personnel-related costs, including stock-based compensation expense and amortization of deferred service costs, due to the hiring of additional personnel who were directly engaged in providing implementation and support services to our customers, and a $1.4 million increase in shared overhead costs. Our average headcount of such personnel during fiscal 2019 increased by 26% compared to fiscal 2018.

Gross margin increased to 72% during fiscal 2019 from 70% during fiscal 2018. The increase was driven primarily by the increase in our total revenue and in our revenue mix, in particular the increase in interest on funds held for customers, which has low costs and high gross margin, partially offset by the increase in costs as a percentage of revenue related primarily to software applications that we used to support our customers as well as allocated shared overhead costs.

Research and Development Expenses

Research and development expenses during fiscal 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30, 2018</th>
<th>Year Ended June 30, 2019</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research and development expenses</td>
<td>$17,986</td>
<td>$28,924</td>
<td>$10,938</td>
</tr>
<tr>
<td>Percentage of revenue</td>
<td>28%</td>
<td>27%</td>
<td></td>
</tr>
</tbody>
</table>

Research and development expenses increased to $28.9 million during fiscal 2019 from $18.0 million during fiscal 2018, an increase of $10.9 million or 61%. The increase was due primarily to an $8.1 million increase in personnel-related costs, including stock-based compensation expense, resulting from the hiring of additional personnel who were directly engaged in developing new product offerings and a related $1.5 million increase in shared overhead costs. Our average research and development headcount during fiscal 2019 increased by 45% compared to fiscal 2018.

As a percentage of total revenue, research and development expenses decreased to 27% during fiscal 2019 from 28% during fiscal 2018 due primarily to the leveraging of our overall expenses on higher revenue.
Sales and Marketing Expenses

Sales and marketing expenses during fiscal 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th>Year Ended June 30</th>
<th>Change</th>
<th>Amount</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td></td>
</tr>
<tr>
<td>Sales and marketing expenses</td>
<td>$19,290</td>
<td>$30,114</td>
<td>$10,824</td>
</tr>
<tr>
<td>Percentage of revenue</td>
<td>29%</td>
<td>27%</td>
<td></td>
</tr>
</tbody>
</table>

Sales and marketing expenses increased to $30.1 million during fiscal 2019 from $19.3 million during fiscal 2018, an increase of $10.8 million or 56%. The increase was due primarily to a $4.5 million increase in personnel-related costs (net of capitalized sales commissions of $2.1 million), including stock-based compensation expense, due to the hiring of additional personnel who were directly engaged in acquiring new customers and in marketing our products and services, and a $0.8 million increase in shared overhead costs due to the increase in headcount. Our average sales and marketing headcount during fiscal 2019 increased by 37% compared to fiscal 2018. The increase was also attributed to a $2.9 million increase in advertising spend and a $1.9 million increase in various marketing initiatives and activities, such as engaging consultants and attending marketing events, as we continued to increase our effort in promoting our products and services and in increasing brand awareness.

As a percentage of total revenue, sales and marketing expenses decreased to 27% during fiscal 2019 from 29% during fiscal 2018, due primarily to the leveraging of our overall expenses on higher revenue.

General and Administrative Expenses

General and administrative expenses during fiscal 2018 and 2019 were as follows (amounts in thousands):

<table>
<thead>
<tr>
<th>Year Ended June 30</th>
<th>Change</th>
<th>Amount</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td></td>
</tr>
<tr>
<td>General and administrative expenses</td>
<td>$16,034</td>
<td>$29,198</td>
<td>$13,164</td>
</tr>
<tr>
<td>Percentage of revenue</td>
<td>25%</td>
<td>27%</td>
<td></td>
</tr>
</tbody>
</table>

General and administrative expenses increased to $29.2 million during fiscal 2019 from $16.0 million during fiscal 2018, an increase of $13.2 million or 82%. The increase was due primarily to a $6.4 million increase in personnel-related costs, including stock-based compensation expense, resulting from the hiring of additional executive employees and administrative personnel. Our average general and administrative headcount during fiscal 2019 increased by 63% compared to fiscal 2018. The increase was also due to a $1.9 million increase in professional and consulting fees as we obtained additional external assistance in connection with the overall growth of our business and our preparation to operate as a public company, a $1.6 million increase in recruiting fees and temporary staffing costs as we engaged external help to recruit employees or to temporarily fill certain roles within the organization, a $1.5 million increase for sales and use taxes due to an increase in state reporting, collection and remittance requirements, and a $0.8 million increase in losses on funds held due to the increase in the number of instances of fraud during the year.

As a percentage of total revenue, general and administrative expenses increased to 27% during fiscal 2019 from 25% during fiscal 2018 as we engaged in more activities in connection with the overall growth of the business and our preparation to become a public company.
Other Income, Net

Other income, net during fiscal 2018 and 2019 was as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Other income, net</td>
<td>$632</td>
<td>$2,333</td>
</tr>
</tbody>
</table>

Other income, net increased to $2.3 million during fiscal 2019 from $0.6 million during fiscal 2018, due primarily to a $2.1 million increase in interest earned on corporate funds that we invested in money market instruments and highly liquid short-term investments, partially offset by an increase in interest expense of $0.4 million.

Provision for (Benefit from) Income Taxes

Provision for (benefit from) income taxes during fiscal 2018 and 2019 was as follows (amounts in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year Ended June 30,</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Provision for (benefit from) income taxes</td>
<td>$10</td>
<td>$(156)</td>
</tr>
</tbody>
</table>

The benefit from income taxes during fiscal 2019 pertains primarily to the income tax benefit that is reported on the consolidated statements of operations and is offset against the income tax on the unrealized gain on investments in available-for-sale securities that is shown on the consolidated statements of comprehensive loss. The provision for income taxes during fiscal 2018 pertains to state income taxes.
Quarterly Results of Operations

The following tables present our unaudited consolidated statements of operations for each of the last nine quarters in the period ended September 30, 2019, as well as the percentage of each line item to our total revenue for each quarter presented. The unaudited consolidated statements of operations for each quarter have been prepared on the same basis as the annual consolidated financial statements included in the prospectus and reflect all normal and recurring adjustments that are, in our opinion, necessary for the fair presentation of the results of operations for the periods presented. Our historical results are not necessarily indicative of the results that may be expected in the future. The following quarterly financial data should be read in conjunction with our consolidated financial statements included elsewhere in the prospectus.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue (in thousands)</td>
<td>12,365</td>
<td>13,338</td>
<td>14,921</td>
<td>16,368</td>
<td>18,170</td>
<td>20,444</td>
<td>22,112</td>
<td>25,225</td>
<td>28,548</td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>737</td>
<td>1,825</td>
<td>2,177</td>
<td>3,134</td>
<td>4,264</td>
<td>5,565</td>
<td>6,132</td>
<td>6,459</td>
<td>6,832</td>
</tr>
<tr>
<td>Total revenue</td>
<td>13,102</td>
<td>15,163</td>
<td>17,098</td>
<td>19,502</td>
<td>22,424</td>
<td>25,999</td>
<td>28,244</td>
<td>31,684</td>
<td>35,180</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>4,413</td>
<td>4,395</td>
<td>5,006</td>
<td>6,556</td>
<td>6,341</td>
<td>7,175</td>
<td>7,914</td>
<td>8,488</td>
<td>9,147</td>
</tr>
<tr>
<td>Gross profit</td>
<td>8,689</td>
<td>10,768</td>
<td>12,092</td>
<td>13,944</td>
<td>16,083</td>
<td>18,824</td>
<td>20,330</td>
<td>23,196</td>
<td>26,033</td>
</tr>
<tr>
<td>Operating expenses</td>
<td>11,641</td>
<td>12,426</td>
<td>13,556</td>
<td>15,687</td>
<td>17,305</td>
<td>19,414</td>
<td>23,168</td>
<td>28,349</td>
<td>32,317</td>
</tr>
<tr>
<td>Research and development(1)</td>
<td>4,206</td>
<td>4,391</td>
<td>4,415</td>
<td>4,974</td>
<td>5,424</td>
<td>6,154</td>
<td>7,899</td>
<td>9,447</td>
<td>11,515</td>
</tr>
<tr>
<td>Sales and marketing(1)</td>
<td>4,068</td>
<td>4,586</td>
<td>4,697</td>
<td>5,939</td>
<td>5,944</td>
<td>6,856</td>
<td>7,365</td>
<td>9,949</td>
<td>10,267</td>
</tr>
<tr>
<td>General and administrative(1)</td>
<td>3,367</td>
<td>3,449</td>
<td>4,444</td>
<td>4,774</td>
<td>5,637</td>
<td>6,604</td>
<td>7,904</td>
<td>8,953</td>
<td>10,535</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>11,641</td>
<td>12,426</td>
<td>13,556</td>
<td>15,687</td>
<td>17,305</td>
<td>19,414</td>
<td>23,168</td>
<td>28,349</td>
<td>32,317</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(2,952)</td>
<td>(1,658)</td>
<td>(1,464)</td>
<td>(1,743)</td>
<td>(1,222)</td>
<td>(590)</td>
<td>(2,838)</td>
<td>(5,153)</td>
<td>(6,284)</td>
</tr>
<tr>
<td>Other (expense) income, net</td>
<td>(37)</td>
<td>70</td>
<td>273</td>
<td>326</td>
<td>317</td>
<td>686</td>
<td>734</td>
<td>596</td>
<td>639</td>
</tr>
<tr>
<td>(Loss) income before income taxes</td>
<td>(2,989)</td>
<td>(1,588)</td>
<td>(1,191)</td>
<td>(1,417)</td>
<td>(805)</td>
<td>96</td>
<td>(2,104)</td>
<td>(4,557)</td>
<td>(5,645)</td>
</tr>
<tr>
<td>Income taxes</td>
<td>6</td>
<td>-</td>
<td>-</td>
<td>4</td>
<td>(21)</td>
<td>(8)</td>
<td>(70)</td>
<td>(59)</td>
<td>51</td>
</tr>
<tr>
<td>Net (loss) income</td>
<td>$ (2,995)</td>
<td>$ (1,588)</td>
<td>$ (1,191)</td>
<td>$ (1,421)</td>
<td>$ (884)</td>
<td>$ 102</td>
<td>$ (2,034)</td>
<td>$ (4,498)</td>
<td>$ (5,696)</td>
</tr>
</tbody>
</table>

(1) Includes stock-based compensation expenses as follows:

<table>
<thead>
<tr>
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<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of revenue</td>
<td>25</td>
<td>16</td>
<td>16</td>
<td>21</td>
<td>69</td>
<td>42</td>
<td>93</td>
<td>127</td>
<td>148</td>
</tr>
<tr>
<td>Research and development</td>
<td>89</td>
<td>100</td>
<td>108</td>
<td>132</td>
<td>233</td>
<td>119</td>
<td>379</td>
<td>397</td>
<td>671</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>125</td>
<td>118</td>
<td>111</td>
<td>154</td>
<td>166</td>
<td>122</td>
<td>299</td>
<td>335</td>
<td>382</td>
</tr>
<tr>
<td>General and administrative</td>
<td>131</td>
<td>131</td>
<td>135</td>
<td>133</td>
<td>199</td>
<td>311</td>
<td>605</td>
<td>646</td>
<td>1,075</td>
</tr>
<tr>
<td>$ 370</td>
<td>$ 366</td>
<td>$ 370</td>
<td>$ 440</td>
<td>$ 607</td>
<td>$ 594</td>
<td>$ 1,376</td>
<td>$ 1,505</td>
<td>$ 2,276</td>
<td></td>
</tr>
</tbody>
</table>
### Table of Contents

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subscription and</td>
<td>94%</td>
<td>88%</td>
<td>87%</td>
<td>84%</td>
<td>81%</td>
<td>79%</td>
<td>78%</td>
<td>80%</td>
<td>81%</td>
</tr>
<tr>
<td>transaction fees</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest on funds held</td>
<td>6%</td>
<td>12%</td>
<td>13%</td>
<td>16%</td>
<td>19%</td>
<td>21%</td>
<td>22%</td>
<td>20%</td>
<td>19%</td>
</tr>
<tr>
<td>for customers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total revenue</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>34%</td>
<td>29%</td>
<td>29%</td>
<td>28%</td>
<td>28%</td>
<td>28%</td>
<td>28%</td>
<td>28%</td>
<td>28%</td>
</tr>
<tr>
<td>Gross profit</td>
<td>66%</td>
<td>71%</td>
<td>71%</td>
<td>72%</td>
<td>72%</td>
<td>72%</td>
<td>72%</td>
<td>72%</td>
<td>72%</td>
</tr>
<tr>
<td>Operating expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research and</td>
<td>32%</td>
<td>29%</td>
<td>26%</td>
<td>26%</td>
<td>24%</td>
<td>24%</td>
<td>28%</td>
<td>30%</td>
<td>33%</td>
</tr>
<tr>
<td>development</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>31%</td>
<td>30%</td>
<td>27%</td>
<td>30%</td>
<td>27%</td>
<td>26%</td>
<td>26%</td>
<td>31%</td>
<td>29%</td>
</tr>
<tr>
<td>General and</td>
<td>26%</td>
<td>23%</td>
<td>27%</td>
<td>25%</td>
<td>25%</td>
<td>25%</td>
<td>28%</td>
<td>28%</td>
<td>28%</td>
</tr>
<tr>
<td>administrative</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total operating</td>
<td>89%</td>
<td>82%</td>
<td>80%</td>
<td>81%</td>
<td>77%</td>
<td>75%</td>
<td>82%</td>
<td>89%</td>
<td>92%</td>
</tr>
<tr>
<td>expenses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(23)%</td>
<td>(11)%</td>
<td>(9)%</td>
<td>(9)%</td>
<td>(5)%</td>
<td>(3)%</td>
<td>(10)%</td>
<td>(18)%</td>
<td>(18)%</td>
</tr>
<tr>
<td>Other income, net</td>
<td>-</td>
<td>1%</td>
<td>2%</td>
<td>1%</td>
<td>3%</td>
<td>3%</td>
<td>2%</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>(Loss) income before income taxes</td>
<td>(23)%</td>
<td>(10)%</td>
<td>(7)%</td>
<td>(7)%</td>
<td>(4)%</td>
<td>-</td>
<td>(7)%</td>
<td>(14)%</td>
<td>(16)%</td>
</tr>
<tr>
<td>Income taxes</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Net (loss) income</td>
<td>(23)%</td>
<td>(10)%</td>
<td>(7)%</td>
<td>(7)%</td>
<td>(4)%</td>
<td>-</td>
<td>(7)%</td>
<td>(14)%</td>
<td>(16)%</td>
</tr>
</tbody>
</table>

### Quarterly Revenue Trends

Our subscription and transaction fees in each of the quarters presented increased consecutively over all periods presented due primarily to the increase in the number of customers and the increase in average subscription and transaction fees per customer. Additionally, our transaction fees during the quarters ended June 30, 2019 and September 30, 2019 increased partially due to the increase in the adoption of new product offerings.

Our interest on funds held for customers in each of the quarters presented increased consecutively over all periods presented due primarily to the increase in the balance of customer funds held while payment transactions are clearing.

### Quarterly Cost of Revenue and Gross Margin Trends

Our cost of revenue in each of the quarters presented increased consecutively for all subsequent periods due primarily to the increase in transaction-related costs, which was the result of the increase in the number of customers and the increase in payment transactions that we processed, and the increase in costs directly associated to providing support to our customers.

Our gross margin during the quarter ended December 31, 2017 increased compared to the preceding quarter due primarily to the increase in our total revenue and the increase in our revenue mix. Our gross margin slightly increased during the quarter ended June 30, 2018 compared to the preceding quarters due primarily to the increase in our total revenue, which was higher relative to the increase in costs. Our gross margin had consecutively increased from the quarter ended June 30, 2019 due primarily to the increase in our total revenue, in particular the increase in adoption of new product offerings, and the increase in our revenue mix, in particular the increase in interest on funds held for customers.
Quarterly Operating Expenses Trends

Our operating expenses in each of the quarters presented increased consecutively for all subsequent periods due primarily to the increase in personnel-related costs, including stock-based compensation expense, as we invested in additional headcount quarter-over-quarter to support the growth of our business. Additionally, our professional and consulting fees, temporary staffing costs, and shared overhead costs increased consecutively over all periods due to the overall growth of our business. We also continued to increase our sales and marketing spend quarter over quarter, in particular advertising and promotional marketing expenses, as we continued to invest in promoting brand awareness.

As a percentage of total revenue, our operating expenses fluctuated in the quarters presented. Our operating expenses as a percentage of total revenue during the quarter ended September 30, 2018 and December 31, 2018 decreased compared to the respective preceding quarters due primarily to the leveraging of certain costs on relatively higher revenue, in particular due to the lower personnel-related costs as a percentage of total revenue resulting from the timing of hiring employees. Our operating expenses as a percentage of total revenue during the quarter ended June 30, 2019 increased compared to the preceding quarters due primarily to the increase in professional and consulting fees as we obtained additional external assistance in connection with the overall growth of our business and our preparation to operate as a public company. Our operating expenses as a percentage of total revenue during the quarter ended September 30, 2019 increased compared to the preceding quarters due primarily to the increase in personnel-related costs, including stock-based compensation expense, due to the increase in headcount.

Quarterly Other Income Trends

Our other income (net) in each of the quarters presented increased consecutively for all subsequent periods due primarily to the increase in interest earned on corporate funds that we invested in money market instruments and highly liquid short-term investments.

Liquidity and Capital Resources

We have financed our operations and capital expenditures primarily through sales of redeemable convertible preferred stock, bank borrowings, and utilization of cash generated from operations. As of September 30, 2019, our principal sources of liquidity are our cash and cash equivalents of $86.2 million, our available-for-sale short-term investments of $71.4 million, and funds available under our Senior Facilities Agreement (as defined below). Our cash equivalents are comprised primarily of money market funds and investments in debt securities with original maturities of three months or less. Our short-term investments are comprised primarily of investments in corporate bonds, asset-backed securities and U.S. Treasury securities with original maturities of more than three months to less than one year. Our Senior Facilities Agreement, which expires on June 28, 2022, allows us to borrow up to $50.0 million. We had no outstanding borrowings from our Senior Facilities Agreement as of September 30, 2019.

We believe that our cash, cash equivalents, available-for sale short-term investments, and funds available under our Senior Facilities Agreement will be sufficient to meet our working capital requirements for at least the next twelve months. To the extent existing cash, cash from operations, and amounts available for borrowing under the Senior Facilities Agreement are insufficient to fund future activities, we may need to raise additional funds. In the future, we may attempt to raise additional capital through the sale of equity securities or through equity-linked or debt financing arrangements. If we raise additional funds by issuing equity or equity-linked securities, the ownership of our existing stockholders will be diluted. If we raise additional financing by the incurrence of
additional indebtedness, we may be subject to increased fixed payment obligations and could also be subject to additional restrictive covenants, such as limitations on our ability to incur additional debt, and other operating restrictions that could adversely impact our ability to conduct our business. Any future indebtedness we incur may result in terms that could be unfavorable to equity investors. There can be no assurances that we will be able to raise additional capital. The inability to raise capital would adversely affect our ability to achieve our business objectives.

Cash Flows

Below is a summary of our consolidated cash flows (in thousands):

<table>
<thead>
<tr>
<th>Net cash provided by (used in):</th>
<th>Year Ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating activities</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>$ (8,356)</td>
<td>$ (3,949)</td>
</tr>
<tr>
<td></td>
<td>$ (2,255)</td>
<td>$ (2,380)</td>
</tr>
<tr>
<td>Investing activities</td>
<td>$ (335,421)</td>
<td>$ (419,801)</td>
</tr>
<tr>
<td></td>
<td>$ (104,019)</td>
<td>$ (138,132)</td>
</tr>
<tr>
<td>Financing activities</td>
<td>326,282</td>
<td>491,655</td>
</tr>
<tr>
<td></td>
<td>99,181</td>
<td>136,455</td>
</tr>
<tr>
<td>Net (decrease) increase in cash and cash equivalents</td>
<td>$ (17,495)</td>
<td>$ 67,905</td>
</tr>
<tr>
<td></td>
<td>$ (7,093)</td>
<td>$ (4,057)</td>
</tr>
</tbody>
</table>

**Net Cash Used in Operating Activities**

Our primary source of cash provided by our operating activities is our revenue from subscription and transaction fees. Our subscription revenue is primarily based on a fixed monthly or annual rate per user charged to our customers. Our transaction revenue is comprised of transaction fees on a fixed or variable rate per type of transaction. We also generate cash from the interest earned on funds held in trust on behalf of customers while payment transactions are clearing.

Our primary uses of cash in our operating activities include payments for employee salary and related costs, payments to third parties to fulfill our payment transactions, payments to sales and marketing partners, and other general corporate expenditures.

Net cash used in operating activities increased to $2.4 million during the three months ended September 30, 2019 from $2.3 million during the three months ended September 30, 2018 due primarily to the increase in cash paid for our cost of services and operating expenses, primarily employee salary and related costs due to the increase in headcount, offset by the increase in cash received from subscription and transaction fees revenue, as well as the increase in cash received from interest on funds held for customers.

Net cash used in operating activities decreased to $3.9 million during fiscal 2019 from $8.4 million during fiscal 2018 due primarily to the increase in cash paid for our cost of services and operating expenses, primarily employee salary and related costs due to the increase in headcount.

**Net Cash Used in Investing Activities**

Cash provided by our investing activities consists primarily of proceeds from the maturities and sale of corporate and customer fund available-for-sale investments. Cash used in our investing activities consists primarily of purchases of corporate and customer fund available-for-sale investments, purchases of property and equipment, and capitalization of internal-use software.

85
Net cash used in investing activities increased to $138.1 million during the three months ended September 30, 2019 from $104.0 million during the three months ended September 30, 2018, due primarily to an increase in restricted cash and cash equivalents included in funds held for customers and an increase in purchases of property and equipment, offset by an increase in proceeds from the maturities and sale of corporate and customer fund available-for-sale investments.

Net cash used in investing activities increased to $419.8 million during fiscal 2019 from $335.4 million during fiscal 2018, due primarily to an increase in purchases of corporate and customer fund available-for-sale investments, an increase in restricted cash and cash equivalents included in funds held for customers, an increase in purchases of property and equipment and an increase in capitalized internal-use software, offset by an increase in proceeds from the maturities and sale of corporate and customer fund available-for-sale investments.

Net Cash Provided by Financing Activities

Cash provided by our financing activities consists primarily of increase in customer fund deposits liability, proceeds from the issuance of redeemable convertible preferred stock, exercise of stock options and bank borrowings. Cash used in our financing activities consists primarily of repayments of our bank borrowings.

Net cash provided by financing activities increased to $136.5 million during the three months ended September 30, 2019 from $99.2 million during the three months ended September 30, 2018, due primarily to an increase in customer fund deposits liability, offset by payments of deferred offering costs and deferred debt issuance costs.

Net cash provided by financing activities increased to $491.7 million during fiscal 2019 from $326.3 million during fiscal 2018, due primarily to an increase in customer fund deposits liability, proceeds from the issuance of Series H redeemable convertible preferred stock and an increase in proceeds from exercise of stock options, offset by an increase in repayments of bank borrowings.

Credit Facilities

On June 28, 2019, we entered into a Senior Secured Credit Facilities Credit Agreement (Senior Facilities Agreement) with Silicon Valley Bank for a revolving credit facility of up to $50.0 million, which amount may be increased by up to $25.0 million upon request and subject to conditions. Under the Senior Facilities Agreement, Bill.com, LLC is the borrower and Bill.com Holdings, Inc. is the guarantor. The Senior Facilities Agreement expires on June 28, 2022 and is secured by substantially all of our assets.

Borrowings under the Senior Facilities Agreement are subject to interest, determined as follows: (a) Eurodollar loans shall bear interest at a rate per annum equal to the Eurodollar rate plus the applicable margin of 1.75% or 2.75%, depending on company cash balances (Eurodollar rate is calculated based on the ratio of Eurodollar Base Rate, which is determined by reference to ICE Benchmark Administration London Interbank Offered Rate (LIBOR), but not less than 0%) or (b) Alternate Base Rate (ABR) loans shall bear interest at a rate per annum equal to the ABR minus the applicable margin of 0.25% or 1.25% depending on company cash balances (ABR is equal to the highest of (i) the prime rate, (ii) the Federal Funds Effective Rate plus 0.50%, and (iii) the Eurodollar rate plus 1.25%).

The Senior Facilities Agreement requires us to comply with certain restrictive covenants. As of June 30, 2019 and September 30, 2019, we were in compliance with the loan covenants.

86
We had no outstanding borrowings under the Senior Facilities Agreement as of June 30, 2019 and September 30, 2019.

On October 5, 2017, we entered into an Amended and Restated Loan and Security Agreement (Loan and Security Agreement) with Silicon Valley Bank providing for a term loan of up to $10.0 million and a revolving line of credit of up to $15.0 million. The Loan and Security Agreement was terminated on June 28, 2019, upon our entry into the Senior Facilities Agreement.

**Contractual Obligations and Other Commitments**

Our principal commitments consist of obligations under operating leases for office space, a strategic partnership agreement to promote our platform, and agreements with various third parties to purchase software and maintenance services. The following table summarizes our commitments to settle contractual obligations in cash as of June 30, 2019 (in thousands):

<table>
<thead>
<tr>
<th>Commitment</th>
<th>Total</th>
<th>Less than 1 year</th>
<th>1 - 3 years</th>
<th>3 - 5 years</th>
<th>More than 5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating lease commitments(1)</td>
<td>$ 5,677</td>
<td>$ 2,611</td>
<td>$ 1,246</td>
<td>$ 1,310</td>
<td>$ 510</td>
</tr>
<tr>
<td>Partnership and other commitments(2)</td>
<td>18,724</td>
<td>3,471</td>
<td>5,566</td>
<td>4,187</td>
<td>5,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$24,401</strong></td>
<td><strong>$ 6,082</strong></td>
<td><strong>$6,812</strong></td>
<td><strong>$5,497</strong></td>
<td><strong>$6,010</strong></td>
</tr>
</tbody>
</table>

(1) Consists of future non-cancellable minimum rental payments under operating leases for our offices.
(2) Consists of future minimum payments under a strategic partnership agreement and for purchases of software and maintenance services.

**Off-Balance Sheet Arrangements**

As of June 30, 2019 and September 30, 2019, we had no off-balance sheet arrangements that have, or are reasonably likely to have, a current or future material effect on our consolidated financial condition, results of operations, liquidity, capital expenditures, or capital resources.

**Quantitative and Qualitative Disclosures about Market Risk**

Our overall investment portfolio is comprised of corporate investments including company operating cash and cash equivalents, and short-term marketable securities. Customer funds assets are funds that have been collected from customers, but not yet remitted to the applicable supplier or deposited into our customers' accounts.

Our corporate investments are invested in cash and cash equivalents and highly liquid, investment-grade marketable securities. These assets are available for corporate operating purposes. All of our short-term fixed-income securities are classified as available-for-sale securities.

Our customer funds assets are invested with safety of principal, liquidity, and diversification as the primary objectives. Consistent with those objectives, we also seek to maximize interest income and to minimize the volatility of interest income. Customer funds assets are invested in money market funds that maintain a constant market price, other cash equivalents, and highly liquid, investment-grade fixed income securities, with maturities of three months or less or more than three months to one year at the time of purchase. The types of investments that we can make with the fund balances are governed by our investment policy and restrictions on permissible investments or other similar restrictions in applicable state money transmitter laws.
As part of our customer funds investment strategy, we use the daily collection of funds from our customers to satisfy other unrelated customer funds obligations, rather than liquidating previously-collected customer funds that have already been invested in available-for-sale securities. We minimize the risk of not having funds collected from a customer available at the time the customer’s obligation becomes due by collecting the customer’s funds in advance of the timing of payment of the customer’s obligation. As a result of this practice, we have consistently maintained the required level of customer funds assets to satisfy all of our obligations.

There are inherent risks and uncertainties involving our investment strategy relating to our customer funds assets. Such risks include liquidity risk, including the risk associated with our ability to liquidate, if necessary, our available-for-sale securities in a timely manner in order to satisfy our customer funds obligations. However, our investments are made with the safety of principal, liquidity, and diversification as the primary goals to minimize the risk of not having sufficient funds to satisfy all of our customer funds obligations. We also believe we have significantly reduced the risk of not having sufficient funds to satisfy our customer funds obligations by maintaining a portion of our customer funds in demand deposit accounts and money market funds that maintain a constant market price, as well as maintaining access to other sources of liquidity, including our corporate cash balances and available borrowings under our Senior Facilities Agreement. In addition to liquidity risk, our investments are subject to interest rate risk and credit risk, as discussed below.

**Interest Rate and Credit Risk**

We are exposed to interest-rate risk relating to our investment portfolio and funds of our customers that we process through our bank accounts. Our investment portfolio consists principally of interest-bearing bank deposits, money market funds, certificates of deposit, corporate bonds, asset-backed securities, and U.S. Treasury securities. Funds that we hold for customers are held in non-interest and interest-bearing bank deposits, money market funds, certificates of deposit, commercial paper and other corporate notes, and U.S. Treasury securities. We recognize interest earned from funds held for customers as revenue. We do not pay interest to customers. Factors that influence the rate of interest we earn include the short-term market interest rate environment and the weighting of balances by security type.

The annualized interest rate earned on our investment portfolio and funds held for customers increased to 2.05% during fiscal 2019 from 1.03% during fiscal 2018. The annualized interest rate earned on our investment portfolio and funds held for customers increased to 2.02% during the three months ended September 30, 2019 from 1.81% during the three months ended September 30, 2018. Our investments in both fixed rate and floating rate interest earning securities carry a degree of interest rate risk. Fixed rate securities may have their fair market value adversely affected due to a rise in interest rates, while floating rate securities may produce less income than predicted if interest rates fall. Unrealized gains or losses on our marketable debt securities are primarily due to interest rate fluctuations as a result of a change in market interest rates compared to interest rates at the time of purchase. We account for both fixed and variable rate securities at fair value with unrealized gains and losses recorded in accumulated other comprehensive income until the securities are sold. Based on current investment practices, a change in the Federal Funds interest rate of 100 basis points would have changed our interest income from our short-term investment portfolio by approximately $1.3 million and our interest on funds held for customers by approximately $9.3 million on the average balances for fiscal 2019 of $133 million in Company investments and $1.1 billion in customer funds, respectively. Such a change in the Federal Funds interest rate would have changed our interest income from our short-term investment portfolio by approximately $0.4 million and our interest on funds held for customers by approximately $3.4 million on the average balances during the three months ended September 30, 2019 of $159.2 million in Company investments and $1.3 billion in customer funds, respectively. In addition to interest rate risks, we also have exposure to risks associated with changes in laws and regulations that may affect customer fund
balances. For example, a change in regulations that restricts the permissible investment alternatives for customer funds would reduce our interest earned revenue.

We are also exposed to interest-rate risk relating to future bank borrowings. As of June 30, 2019 and September 30, 2019, our Senior Facilities Agreement provides a revolving credit facility of up to $50.0 million that may be increased by up to $25.0 million, subject to conditions, incurring interest expense at a floating market rate plus a contractual spread. However, we had no outstanding borrowings under the Senior Facilities Agreement as of June 30, 2019 and September 30, 2019.

We are exposed to credit risk in connection with our investments in available-for-sale marketable securities through the possible inability of the borrowers to meet the terms of the securities. We limit credit risk by investing in investment-grade securities as rated by Moody's, Standard & Poor's or Fitch, by investing only in securities that mature in the near-term, and by limiting concentration in commercial paper. Investment in securities of issuers with short-term credit ratings must be rated A-2/P-2/F2 or higher. Investment in securities of issuers with long-term credit ratings must be rated A- or A3, or higher. Investment in asset-backed securities and money market funds must be rated AAA or equivalent. Investment in repurchase agreements will be at least 100 percent collateralized with securities issued by the U.S. government or its agencies. Securities in our corporate portfolio may not mature beyond two years from purchase, and securities held in our customer fund accounts may not mature beyond 13 months from purchase. No more than 5% of invested funds, either corporate or customer, may be held in the issues of a single corporation.

We are also exposed to credit risk related to the timing of payments made from customer funds collected. We typically remit customer funds to our customers' suppliers in advance of having good or confirmed funds collected from our customers. Our customers generally have three days to dispute transactions and if we remit funds in advance of receiving confirmation that no dispute was initiated by our customer, then we could suffer a credit loss. We mitigate this credit exposure by leveraging our data assets to make credit underwriting decisions about whether to accelerate disbursements, managing exposure limits, and various controls in our operating systems.

Foreign Currency Exchange Risk

We are exposed to foreign currency exchange risk relating to our cross-border payments, which allows customers to pay their international suppliers in foreign currencies. When customers make a cross-border payment, customers fund those payments in U.S. dollars based upon an exchange rate that is quoted on the initiation date of the transaction. Subsequently, when we remit those funds to our customers' suppliers through our global payment partner, the exchange rate may differ, due to foreign exchange fluctuation, compared to the exchange rate that was initially quoted. Our transaction fees to our customers are not adjusted for changes in foreign exchange rates between the initiation date of the transaction and the date the funds are remitted. If the value of the U.S. dollar weakens relative to the foreign currencies, this may have an unfavorable effect on our cash flows and operating results. We do not believe that a 10% change in the relative value of the U.S. dollar to other foreign currencies would have a material effect on our cash flows and operating results.

Critical Accounting Policies and Estimates

Our consolidated financial statements have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements, as well as the reported revenue generated, and reported expenses incurred during the reporting periods. Our estimates are based on our historical
experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are described in the notes to our consolidated financial statements included elsewhere in this prospectus, we believe that the following critical accounting policies are most important to understanding and evaluating our reported financial results.

Revenue recognition—Our contracts with financial institutions require us to provide multiple services comprising subscription, transaction and implementation services. We identify performance obligations in these contracts by evaluating whether individual services are distinct. We consider a service distinct if it is (i) capable of being distinct and (ii) distinct within the context of the agreement. Services that are not distinct are combined into a single performance obligation. The evaluation of whether a service is distinct involves judgment and could impact the timing of revenue recognition. We determine the transaction price in these contracts based on the amount of consideration we expect to be entitled to, which are typically variable. The transaction price is then allocated to each separate performance obligation on a relative standalone selling price basis. We determine the standalone selling prices based on the overall pricing objectives, taking into consideration the adjusted market assessment approach and the expected cost plus margin approach. Each performance obligation is analyzed to determine if it is satisfied over time or at a point in time. Our performance obligations are generally recognized as revenue over the period each performance obligation is satisfied. Our implementation services included in these contracts consist of the development of interfaces between our platform and the financial institution’s platform and the development of graphical user interfaces within the financial institution’s platform. The financial institution’s customers cannot access online bill pay services until implementation is complete and the financial institution has provided acceptance of the implementation services. As a result, initial implementation services are not capable of being distinct from subscription and transaction processing services, and are therefore combined into a single performance obligation. The ability of financial institution customers to renew contracts without having to pay up-front implementation fees again provides them a material right. Material rights, which have not been significant to date, are treated as separate performance obligations and are recognized over the expected period of benefit.

We recognize revenue over time using an attribution method that best reflects the measure of progress in satisfying the performance obligation. The attribution method used involves judgment and impacts the timing of revenue recognition. We recognize revenue on annual and monthly subscription contracts based on the proportion of transactions processed compared to the total estimated transactions to be processed over the contract period.

Deferred costs—Deferred costs include deferred sales commissions that are incremental costs of obtaining customer contracts. We amortize deferred sales commissions ratably over the estimated period of our relationship with new customers of four to six years. Based on historical experience, we determine the average life of our customer relationship by taking into consideration our customer contracts and the estimated technological life of our platform and related significant features.

Stock-based compensation—We use the grant-date fair-value-based measurements for stock-based compensation using the Black-Scholes option-pricing model. We recognize these compensation costs on a straight-line basis over the requisite service period of the award, which is generally the option vesting term of four years, reduced for estimated forfeitures at the date of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. We estimate the forfeiture rate based on the historical experience for annual grant years where the majority of the vesting terms have been satisfied.
The Black-Scholes option-pricing model requires the use of highly subjective assumptions which determine the fair value of stock-based awards. These assumptions include:

*Expected term*—The expected term represents the period that stock-based awards are expected to be outstanding. The expected term for option grants is determined using the simplified method. The simplified method deems the term to be the average of the time-to-vesting and the contractual life of the stock-based awards.

*Expected volatility*—Since we are privately held and do not have any trading history for our common stock, the expected volatility was estimated based on the average volatility for comparable publicly traded companies over a period equal to the expected term of the stock option grants. The comparable companies were chosen based on their similar size, stage in the lifecycle or area of specialty.

*Risk-free interest rate*—The risk-free interest rate is based on the U.S. Treasury zero coupon issues in effect at the time of grant for periods corresponding with the expected term of the option.

*Expected dividend yield*—We have never paid dividends on our common stock and have no plans to pay dividends on our common stock.

**Common Stock Valuation**—Historically, for all periods prior to this offering, the fair value of the shares of common stock underlying our share-based awards were estimated on each grant date by our Board of Directors with input from management and contemporaneous third-party valuations. We believe that our Board of Directors has the relevant experience and expertise to determine the fair value of our common stock. Given the absence of a public trading market for our common stock, our Board of Directors exercised reasonable judgment and considered a number of objective and subjective factors to determine the best estimate of the fair value of our common stock, including:

- contemporaneous valuations of our common stock performed by independent third-party appraisers;
- our actual operating results and financial performance;
- conditions in the industry and economy in general;
- the rights, preferences and privileges of our redeemable convertible preferred stock relative to those of our common stock;
- the likelihood of achieving a liquidity event for the holders of our common stock, such as an initial public offering or a sale of our company, given prevailing market conditions;
- equity market conditions affecting comparable public companies and the market performance of comparable publicly traded companies;
- the U.S. and global capital market conditions; and,
- the lack of marketability of our common stock and the results of independent third-party valuations. Valuations of our common stock were prepared by an unrelated third-party valuation firm in accordance with the guidance provided by the *American Institute of Certified Public Accountants 2013 Practice Aid, Valuation of Privately-Held-Company Equity Securities Issued as Compensation*.

In valuing our common stock, our Board of Directors determined the equity value of our business generally using the income approach and the market comparable approach valuation methods. When applicable due to a recent preferred stock offering, the prior sale of company stock method was also utilized.
The income approach estimates value based on the expectation of future cash flows that a company will generate—such as cash earnings, cost savings, tax deductions, and the proceeds from disposition. These future cash flows are discounted to their present values using a discount rate derived from an analysis of the cost of capital of comparable publicly traded companies in our industry or similar lines of business as of each valuation date and is adjusted to reflect the risks inherent in our cash flows. In addition, we also considered an appropriate discount adjustment to recognize the lack of marketability due to being a closely-held entity.

The market comparable approach estimates value based on a comparison of the subject company to comparable public companies in a similar line of business. From the comparable companies, a representative market value multiple is determined which is applied to the subject company’s operating results to estimate the value of the subject company. In our valuations, the multiple of the comparable companies was determined using a ratio of the market value of invested capital less cash to each of the last twelve-month revenues and the forecasted future twelve month revenues. The estimated value is then discounted by a non-marketability factor because stockholders of private companies do not have access to trading markets similar to those enjoyed by stockholders of public companies which impacts liquidity. To determine our peer group of companies, we considered public enterprise cloud-based application providers and select those that are similar to us in size, stage of lifecycle, and financial leverage.

The resulting equity value is then allocated to each class of stock using an Option Pricing Model (OPM). The OPM treats common stock and redeemable convertible preferred stock as call options on an equity value, with exercise prices based on the liquidation preference of our redeemable convertible preferred stock. Under this method, our common stock has value only if the funds available for distribution to stockholders exceed the value of the liquidation preference at the time of a liquidity event, such as a merger or sale, assuming we have funds available to make a liquidation preference meaningful and collectible by the stockholders. The common stock is considered to be a call option with a claim at an exercise price equal to the remaining value immediately after the redeemable convertible preferred stock is liquidated.

Beginning in December 2018, the resulting equity value was allocated to each class of stock using a Probability Weighted Expected Return Method (PWERM). The PWERM involves the estimation of future potential outcomes of our company as well as values and probabilities associated with each respective potential outcome. The common stock per share value determined using this approach is ultimately based upon probability-weighted per share values resulting from the various future scenarios, which can include an IPO, merger or sale, dissolution, or continued operation as a private company. There was a very wide range of possible future exit events for the “remain private scenario” in our PWERM analysis, and forecasting specific probabilities and potential values associated with any future events would be highly speculative and imprecise for this scenario. As such, we relied primarily upon the OPM in order to allocate the equity value among the stockholders for the “remain private scenario” in our PWERM analysis.

In some cases, we considered the amount of time between the valuation date and the grant date to determine whether to use the latest common stock valuation determined pursuant to one of the methods described above or a straight-line calculation between the two valuation dates. This determination included an evaluation of whether the subsequent valuation indicated that any significant change in valuation had occurred between the previous valuation and the grant date.

After the completion of this offering, our Board of Directors will determine the fair value of each share of underlying common stock based on the closing price as reported on the date of grant on the primary stock exchange on which our common stock is traded.
Recent Accounting Pronouncements

See Note 1 to our consolidated financial statements included elsewhere in this prospectus for recently adopted accounting pronouncements and recently issued accounting pronouncements not yet adopted as of the date of this prospectus.

Emerging Growth Company Status

We are an emerging growth company, as defined in the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, these consolidated financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates. During fiscal 2018, we early adopted ASU 2014-09, Revenue from Contracts with Customers (Accounting Standards Codification Topic 606) effective July 1, 2017 using the full retrospective method as the JOBS Act does not preclude an emerging growth company from early adopting a new or revised accounting standard earlier than the time that such standard applies to private companies. We expect to use the extended transition period for any other new or revised accounting standards during the period in which we remain an emerging growth company.
A LETTER FROM BILL.COM CEO AND FOUNDER RENÉ LACERTE

Dear Prospective Shareholder,

Thank you for your interest in Bill.com. I wrote this letter to help you understand the opportunity we have ahead of us, the large problem we are solving, and the power of what we have built for our customers.

Since founding Bill.com, I have been motivated by the desire to build solutions that make a real difference for small and mid-sized businesses (SMBs). At Bill.com, we have merged software, payments and artificial intelligence to move the back-office of SMBs into the cloud. We have created an end-to-end software platform that simplifies, digitizes, and automates the repetitive and manual tasks involved in paying suppliers and getting paid by clients. Our unified platform weaves software and payments seamlessly together, resulting in better, more efficient and reliable financial operations.

Financial software solutions are in my DNA. My parents and grandparents owned their own businesses, each of them using software to automate the processes surrounding data processing and payroll. After working for an accounting firm post-college, I returned to my parents’ business where I worked in all parts of the operation and experienced firsthand the daily challenges of managing a small business back-office.

I subsequently joined Intuit with the idea of building something that could make a difference for small businesses like my family’s. I was part of the group that built consumer bill pay and was one of the founding team members who launched the connected payroll business. The success of those initiatives gave me the confidence to co-found my first company, PayCycle, in 1999. Over the next decade, PayCycle became one of the fastest growing online payroll services in America and was acquired by Intuit in 2009. This Intuit platform continues to grow, and was recently rated the best online payroll system for small businesses by Business.com.

It was the running of the day-to-day back-office at PayCycle that drove home how difficult it was to manage a business successfully. I was drowning in paper: snail-mailed bills, filing cabinets haphazardly filled with bids and contracts, sticky notes with questions about invoices left on people’s desks, and check stock. In reality, the paper was a just symptom of a broader problem: how inefficient back-offices are at small companies. PayCycle’s accounts payable and accounts receivable workflow processes were no different than the ones my grandfather had used 60 years earlier when he started his first business. Everything about managing company cash flow was tedious, manual and complicated.

Building one of the first internet payroll solutions, I realized that cloud-based software could change much more than how employees got paid: it could change how the entire back-office worked. The more I thought about it, the more excited I got. I left PayCycle and started Bill.com in 2006 with the mission of making it simple to connect and do business.

Any business transaction is like a coin: heads on one side, tails on the other. One company’s debit is another’s credit. I built Bill.com with this holistic transaction lifecycle in mind, integrating workflow automation, accounting, and payments into a single platform, accessible with a single connection. This has allowed us to automate operations that no one had ever given any thought to changing or improving for SMBs, delivering transformative time and cost-savings.

I believe we have built a business that is not only making an impact today, but offers several avenues for growth in the future. And this is just the beginning. The Bill.com team continues to look forward, creating new ways to leverage the capabilities we have built and the data we have collected to
help our customers become even more efficient and productive. Using AI, we are eliminating data entry, preventing duplicate payments, and providing our customers with actionable insights to inform their business decisions. We are convinced that we have only scratched the surface of this new technology, and I am thrilled about the potential that lies ahead.

In closing, as a serial entrepreneur, I’d like to share my philosophy on building successful companies. Being an entrepreneur requires a perfect balance of impatience and patience. The impatience compels you to fix something that’s broken, and the patience keeps you iterating on your solution, long after others would have quit. In thirteen years, I’ve stayed focused on listening to our customers and innovating to improve their experience with our platform.

It is the success of today that drives us toward even better outcomes tomorrow. Business is personal, and for those that become shareholders, I appreciate your trust and confidence in my ability to take the company to the next level.

Thank you for taking the time to learn more about Bill.com.

Sincerely,

René Lacerte

CEO and Founder
BUSINESS

Overview

Our mission is to make it simple to connect and do business.

We are champions of small and midsize businesses (SMBs). We are a leading provider of cloud-based software that simplifies, digitizes, and automates complex back-office financial operations for SMBs. By transforming how SMBs manage their cash inflows and outflows, we create efficiencies and free our customers to run their businesses.

Our purpose-built, artificial-intelligence (AI)-enabled financial software platform creates seamless connections between our customers, their suppliers, and their clients. Customers use our platform to generate and process invoices, streamline approvals, send and receive payments, sync with their accounting system, and manage their cash. We have built sophisticated integrations with popular accounting software solutions, banks, and payment processors, enabling our customers to access these mission-critical services through a single connection. As a result, we are central to an SMB’s accounts payable and accounts receivable operations.

We Make Paper-based Manual Transaction Processing Obsolete

We believe we have a significant opportunity to help millions of SMBs improve their financial operations. Most SMBs are still dependent on manual accounts payable and accounts receivable processes: mailing invoices, printing paper checks, waiting for payments, and storing paper in filing cabinets. According to the SMB Technology Adoption Index, in 2016 over 90% of SMBs surveyed still relied on paper checks to make and accept business-to-business payments. Manual processes are time-consuming, inefficient, and costly. A survey of back-office employees by Levvel Research points to process issues, such as long approval cycles and missing information on invoices, as the leading cause of late payments and missed discounts. Customers who adopt our platform benefit from streamlined back-office processes, as evidenced by our customers’ electronically exchanging more than 8,000 messages per day, approving more than 2.4 million bills per month, and storing almost 45 million documents per year, collectively, as of June 30, 2019.

Today, over 81,000 customers trust our platform to manage their financial workflows and process their payments, which totaled over $70 billion for fiscal 2019, and nearly $22 billion for the three months ended September 30, 2019. As of June 30, 2019, we had over 1.8 million network members. We define network members as our customers plus their suppliers and clients with accounts on our platform. Our network members entrust us with their bank account details, enabling them to connect, invoice, pay, and get paid electronically.

Because many of our customers use our platform to manage their end-to-end financial workflows, we have visibility into the entire transaction lifecycle. We leverage this transaction data to provide our customers with insights into their back-office processes and business relationships, which allows our customers to make more informed financial decisions. Our customers benefit from our platform in a wide variety of ways. Here are a few of their stories:

“Bill.com automatically enters our invoices, and that made a huge difference for me when I was the only accounting person on staff. I also love that the approver system and audit trail helps me respond to any inquiries that we receive about a payment. In 2018, we paid 1,800 bills through Bill.com, a 63% increase over the previous year. Without Bill.com we would have had to hire at least one more full-time accounts payable person to print out all of those invoices and manually cut checks. Bill.com also enables us to pay international suppliers. Given the number of bills we pay, as
well as the currency amount, it took a lot of administration time for the complex tasks required when paying through banks. With Bill.com, it’s a one-click solution. It’s a lifesaver.”

-Jurie Victor, Finance Manager at Spikeball (Chicago, IL), a sports equipment company

“By moving to Bill.com we’ve decreased the time it takes to complete our accounts payable processes by 60%! With Bill.com we can trust that our checks will be issued accurately and on time after we hit the ‘Pay’ button and we are confident that all of our direct deposits will be in our customers’ accounts within 1-2 days.”

- Blake Seidman, Controller at TED Conferences (New York, NY), the organization behind TED Talks

“We had no bill payment clients before adopting Bill.com four years ago, primarily because we had no cost-effective method of processing bills on their behalf. With Bill.com, we were able to offer a service that brings in over $250,000 a year in revenue. The core of our business is to use best-of-breed software to build our firm and our services, and Bill.com’s elegant technology fits this profile and has become a fundamental part of our business plan.”

- Matthew May, Founder of Acuity (Atlanta, GA), a mid-size accounting firm

“We use both the accounts receivable and accounts payable features of Bill.com, which helps us manage our cash flow for our property-management business. Bill.com allows us to automatically withdraw rent payments directly from tenant banking accounts and schedule payments to vendors and property owners. This gives us a competitive advantage because we can pay owners faster than other property-management companies in the area. It also means we have more time to spend developing new business instead of collecting rent and paying bills. I check the Bill.com system every day, because it brings pertinent information to the surface that I need to act on and helps me be more productive.”

- Mark Lindsay, Managing Director at Lindsay Leasing (Sarasota, FL), a family-run property management company

We Partner with Many of the Most Trusted Accounting Firms and Financial Institutions in the United States

We efficiently reach SMBs through our proven direct and indirect go-to-market strategies. We acquire customers directly through digital marketing and inside sales, and indirectly through accounting firms and strategic partners. As of September 30, 2019, our partners included some of the most trusted brands in the financial services business, including more than 70 of the top 100 accounting firms and several of the largest financial institutions in the United States, including Bank of America, JPMorgan Chase, and American Express. As we add customers and partners, we expect our network to continue to grow organically.

We have grown and scaled our business operations rapidly in recent periods. Our total revenue was $64.9 million and $108.4 million for fiscal 2018 and 2019, respectively, an increase of 67%. For the three months ended September 30, 2018 and 2019, our total revenue was $22.4 million and $35.2 million, respectively, an increase of 57%. We incurred net losses of $7.2 million and $7.3 million for fiscal 2018 and 2019, respectively. For the three months ended September 30, 2018 and 2019, we incurred net losses of $0.9 million and $5.7 million, respectively.

Industry Trends

Back-Office Financial Workflows Are Essential to All Businesses

The transaction lifecycle—encompassing all processes that enable businesses to pay and get paid—is critical to companies of all sizes, in all industries and geographies. Businesses begin the transaction lifecycle by creating and mailing invoices, approving bills, and making payments, and end
the process by recording and reconciling transactions in an accounting system. The ability to manage this critical set of activities efficiently and effectively is key for any business. Yet, for most businesses, cash flow is managed in a complex, inefficient, and all too often, paper-based manner.

**SMBs Are Underserved by Current Software Solutions**

We believe SMBs, despite comprising a large part of the economy, are underserved by existing financial software solutions. Instead of developing purpose-built solutions, many software providers attempt to sell solutions designed for consumers or enterprises, which struggle to gain traction in the SMB market. Solutions for consumers are too simple, while enterprise solutions are typically too complex and expensive. Additionally, these products generally do not integrate with other systems, requiring SMBs to piece together an expensive patchwork of individual products to meet their needs. Further, SMBs are often resource-constrained and focused on their day-to-day operations, making them difficult to reach through traditional sales and marketing approaches.

SMBs remain largely underserved by current software solutions, despite an SMB Group survey showing that 74% of SMBs believe using new technology effectively is key to their survival. We believe we have a greenfield opportunity to provide SMBs with a platform to automate their back-office financial operations.

**SMBs Generally Rely upon Antiquated and Inefficient Processes**

SMBs generally handle their financial workflows the same way they have for decades. The lack of an end-to-end financial software platform tailored for SMBs results in a back office that is:

- **Manual and Cumbersome.** Legacy workflows require people to be involved at every stage of the transaction lifecycle. According to a 2019 survey by Levvel Research, the number one workflow process challenge reported by back-office employees was the level of manual data entry required and the inefficiency inherent in traditional processes. It simply takes too long and costs too much.

- **Inaccurate and Error-Prone.** Legacy processes rely upon disparate systems throughout the transaction lifecycle, introducing the risk of improperly recorded transactions, unreconciled items, or late payments and associated penalty fees. Missing information on invoices was cited as a top reason for late payments and missed discounts, according to a 2018 Levvel Research survey.

- **Paper-Based and Not Secure.** Traditional financial processes are dependent on paper throughout the transaction lifecycle, including mailed invoices, signatures on documents indicating approval to pay, and the issuance of physical checks. According to a survey conducted by RPMG Research, the estimated full cost of invoice processing and payments by check is $39 per payment. Further, check fraud is a universal problem in the United States – according to a 2018 study by AFP Payments Fraud and Control Survey, 74% of organizations surveyed experienced check fraud in 2017. This was the highest incidence of fraud across all payment methods, including wires, credit cards, and automated clearing house (ACH) payments. Unlike enterprises, SMBs generally lack the tools and budget to invest in sophisticated fraud prevention measures.

- **Lacking Visibility and Data.** Legacy software solutions leave businesses with limited visibility into their current and future cash position as well as their accounts payable and accounts receivable workflows. Many SMBs also lack data insights and tools to track usage, spending trends, and cash flows.

We believe SMBs deserve and are ready to adopt a modern, efficient, cloud-based offering that meets their needs.
Our Solution

Our cloud-based, intelligent platform was purpose-built to simplify life for SMBs. Our end-to-end solution automates the back-office processes of generating and processing invoices; receiving and approving bills; collecting and disbursing funds; and completing reconciliation. We provide businesses with both a unified and mobile platform to pay their suppliers and collect payments from their clients. In effect, we act as a system of control for their accounts payable and accounts receivable activities.

Our platform frees our customers from cumbersome legacy financial processes and provides the following key benefits:

- **Automated and Efficient.** Our AI-enabled platform helps our customers pay their bills efficiently and get paid faster. For example, our Intelligent Virtual Assistant (IVA) streamlines the transaction lifecycle by automatically capturing data from an incoming invoice and prepopulating the critical data fields that an accounts payable clerk would typically key-in manually, saving the SMB time and money. IVA also detects duplicates, flagging invoices that a customer should scrutinize before approving a duplicative payment.

- **Unified, Integrated, and Accurate.** We provide a platform that connects our customers to their suppliers and clients. Our platform integrates with popular accounting software solutions, banks, and payment processors, enabling our customers to access all these mission-critical business partners through a single connection. Because we provide a unified view, customers can more easily find inconsistencies and inaccuracies, and fix them quickly. Through these integrations, we synchronize all customer-initiated changes between the systems, so that our customers do not have to create files to update or keep their various systems in-balance. We automate financial workflows through the entire transaction lifecycle, and provide SMBs the functionality of an enterprise business infrastructure, at a fraction of the cost.

- **Digital and Secure.** Our platform securely stores over 185 million documents for our customers. With our platform, SMBs do not need to worry about manually collecting and storing sensitive supplier and client information, including bank account details. We enable secure connections and storage of sensitive supplier and client information and documents, such as invoices and contracts, and make them accessible to authorized users through our cloud-based application, on any device.

- **Visible and Transparent.** With our platform dashboard, customers can easily view their transaction workflows. They can see which bills have been approved, what payments await approvals, and what cash has been received. Progress bars show our accounts receivable customers when an invoice has been sent, been viewed by the recipient, payment scheduled, and funds received. This visibility helps SMBs gain more insight into their financial operations and manage their cash flows intelligently.

Our Opportunity

SMBs represent a significant and critical component of the U.S. economy. SMBs are businesses with fewer than 500 total employees, as defined by the Small Business Administration. In 2018, there were approximately 30 million SMBs in the United States, which provided employment for over 47.5% of U.S. workers and were responsible for a third of goods traded by value. While 24 million of these SMBs are sole-proprietors, we focus on serving the over six million employer firms. SMBs large enough to have employees tend to have a greater need for more advanced accounts payable and accounts receivable processes in their back offices.
Globally, there were approximately 20 million small and medium enterprises (SMEs) registered in the SME Finance Forum’s 2019 database.

We estimate the annual addressable market for the services we offer today to be $30 billion globally and $9 billion domestically. We derive this estimate by multiplying our average fiscal 2019 revenue per customer of $1,500 by the 20 million SMEs globally and 6 million domestic employer firms.

In addition, we believe we have the following incremental monetization opportunities, including to:

• expand our target market to include sole proprietors and larger companies;
• enter international markets;
• sell additional solutions or products on our platform; and
• capture more of the overall business-to-business payments flow from new and existing customers.

According to IDC, in 2019 small and lower-midsize businesses will spend approximately $65 billion on software in the U.S. We believe that we are well positioned to capture a meaningful portion of that spend as we increase the breadth of our platform to sell additional solutions or products.

According to a 2018 Mastercard report, North American companies make approximately $25 trillion of business-to-business payments annually, and, according to Deloitte, the United States market for SMB payments is expected to exceed $9 trillion in 2020. Over 90% of SMBs still rely on paper checks, according to a survey by the SMB Technology Adoption Index. As more SMBs move to digital payments, we believe we are well-positioned to capitalize on this evolution.

**Our Go-to-Market Strategy**

We seek to acquire customers in an efficient manner. We market our platform directly to businesses through online digital marketing and referral programs and indirectly by leveraging partnerships with accounting firms, financial institutions, and accounting software companies.

**Direct-to-SMBs**

Our direct-to-SMB strategy leverages digital customer acquisition tools and techniques and is supported by efficient inside sales capabilities. We also build awareness through direct interaction at industry trade shows and by word of mouth. In a 2019 customer survey we conducted, half of new customer respondents indicated they first heard about us because they used our platform at a prior company, or heard about us through a colleague. In addition, new SMBs are continuously being introduced to our platform’s value proposition through our 1.8 million network members as of June 30, 2019.

**Indirect through Accounting Firms and Strategic Partners**

**Accounting Firms**

Accountants are very important to SMBs. Since our inception, we have focused on providing accounting firms with tools to better manage and support their clients. Our accountant-specific tools help firms grow their client advisory services practices, establish a competitive advantage, and satisfy and retain their SMB clients. With our platform, the same accounting firm staff can serve more clients — and serve them more profitably. We partner with more than 70 of the top 100 accounting firms, and enable over 4,000 accounting firms across the country to deliver more value.
to their customers every day. As a result of this compelling value proposition, many of our customers are first introduced to us through their accountants.

**Financial Institutions**

SMBs look to financial institutions for digital solutions for end-to-end cash flow management. As a result, many of those financial institutions turn to us to meet their customers’ needs. By working with Bill.com, our financial institution partners can provide their customers with many of the benefits realized by our directly-acquired customers. We are currently integrated with several of the largest financial institutions in the United States, including Bank of America, JPMorgan Chase, and American Express. These partners embed our platform, typically on a white-label basis, into their online banking solutions, making our products available to millions of their clients.

**Accounting Software Companies**

We are integrated with Intuit QuickBooks, making our features available to millions of SMBs. Customers can seamlessly access our platform within QuickBooks Online, making it easy to manage their accounting activities and back-office workflows. In addition, we have referral relationships with several other popular accounting software providers, including Oracle NetSuite and Sage Intacct.

**What Sets Us Apart**

- **Purpose-Built for SMBs.** We understand the challenges SMBs experience each and every day running their businesses. From invoice image recognition and automated data entry, to intelligent approval routing, payment disbursement, and collections, and accounting system reconciliation, our unified platform provides SMBs with core functionality and value-added services generally reserved for larger companies. Our user-centric design provides our customers with the ease-of-use they are accustomed to with consumer applications.

- **Diverse Distribution Channels.** We leverage both direct and indirect channels to efficiently reach our target market. Our trusted brand attracts customers directly through our website, while accounting firms sell our platform to their SMB clients. Similarly, our financial institution partners distribute our platform under their brand, providing us with access to millions of businesses. Finally, our integration into Intuit’s accounting software positions us advantageously as a financial software solution of choice for SMBs using QuickBooks Online. While these partners require an initial integration investment, a go-to-market flywheel takes effect as our partners accelerate the delivery of our platform across their customer bases with minimal incremental investment from us.

- **Large and Growing Network of Connected Businesses.** As accounts receivable customers issue invoices or accounts payable customers pay bills on our platform, they connect to their clients and suppliers, driving an organic expansion of our network. Once we connect an SMB with its clients and suppliers and enable both parties to collaborate and transact electronically, we become an integral tool to the back-office operations. This drives a powerful network effect, aiding our customer acquisition efforts by increasing the number of businesses connected to our platform, which then become prospects.

- **Large Data Asset.** We have a large data asset as a result of processing millions of documents and billions of dollars in business payments annually for our customers. By leveraging our AI and machine learning capabilities, we generate insights from this data that drive product innovation. For example, we observed customers recording payments to
non-United States suppliers on our platform, but executing those transactions through other financial institutions. As a result, we introduced cross-border payments, confident that there was an opportunity among our existing customer base to address their need for international payments in addition to domestic payments. Since introducing cross-border payments, we have disbursed over $500 million for our customers, demonstrating our ability to gain further share of wallet from our existing customer base.

- **Risk Management Expertise.** In addition to leveraging our data and machine learning capabilities for product innovation, our data asset and technology drives our risk engine. We move billions of dollars of customer funds monthly, and it is critical to our business model that we keep those funds and our customers’ data safe. Every customer who enrolls and transacts on our platform benefits from our risk management capability. We believe that our risk engine, built in-house and trained upon millions of business ACH, check, card, and wire transactions, provides us with a competitive advantage.

Because we move funds on behalf of our customers, we have become licensed as a money transmitter and regulated by both state and federal entities. The decision to acquire licenses illustrates our commitment to operating in a safe, secure, and transparent manner. It also provides us with the ability to serve our customers directly with new payment offerings, creating revenue opportunities and operating leverage.

- **Experienced Management Team and Vibrant Culture.** Our management team has deep experience with SMBs, software-as-a-service (SaaS) companies, and financial institutions. We have built a strong culture where employees are tightly connected to our mission. We are passionate about our craft, dedicated to each other and our customers, humble to the core, authentic about who we are, and fun to be around. As of August 30, 2019, our Chief Executive Officer, René Lacerte, has a 98% approval rating on Glassdoor, which is indicative of the enthusiasm that our employees feel about our leadership and the culture our CEO has nurtured.

**Our Growth Strategy**

Key elements of our growth strategy include:

- **Acquire New Customers.** We believe there is an opportunity to further invest in sales and marketing activities to drive awareness and adoption of our platform by new customers. Our expanding ecosystem of strategic partners and accounting firms also provides us with a strong pipeline of SMB signups, as our partners promote our platform to their clients through their own marketing efforts. While there are millions of businesses in our network today, most are not currently customers. Many joined our network at the invitation of a Bill.com customer who wanted to pay them or be paid electronically. While we have converted some network members into paying subscribers, we believe we can increase conversion given the growth of our network to date and our efforts to increase functionality and engagement. While we intend to maintain our focus on SMBs, we also believe there is an opportunity for us to target sole proprietors and larger companies in the future.

- **Increase Adoption by Our Existing Customers.** As we become more integral to our customers’ daily business, we increase the number of our customers’ employees who become regular users. Over time, we also typically increase the number of payments processed per customer. We collect subscription revenue from our customers based on the number of enrolled users, as well as revenue from transaction fees and interest on customer funds from payments held in trust during clearing. We seek to expand these revenue streams as we introduce new products and services.
• **Grow the Number of Network Members.** As customers connect with their suppliers and clients through our platform, our member network organically expands. As companies are added to our network, we leverage our data matching algorithms to present network recommendations to our customers. With a single click, our customers can accept network recommendations and do business with these members. This creates an organic network effect that improves the reach and visibility of our platform and powers our customer acquisition efforts. This network also introduces the potential for additional monetization opportunities.

• **Expand our Platform Capabilities.** We continue to invest in research and development to enhance the breadth and depth of our platform. We continue improving our artificial intelligence engine, which enables us to help our customers manage end-to-end financial workflows, predict trends and cash flow needs, and deliver more precise, targeted network recommendations. To reach larger SMBs where their policies require a more formal procurement process prior to a purchase, we have enabled purchase order creation, processing and further accounting software synchronization.

• **Expand Internationally.** In 2018, we enabled our customers to make cross-border payments, and now offer our United States-based customers the ability to disburse funds to over 130 countries through our platform. Looking ahead, we will seek to further extend our network and engage with customers worldwide. According to Mastercard’s Business Payments 2022 whitepaper, global business-to-business non-cash payments are expected to increase at a compound average growth rate of 6.5% through 2020, reaching 122.4 billion transactions.

**Transaction Lifecycle Overview**

SMBs suffer from antiquated and inefficient accounts payable and accounts receivable processes. To illustrate the magnitude of the challenge, we have provided a detailed overview of how legacy accounts payable and accounts receivable processes function below:
Accounts Payable Process

- Business receives an invoice for goods or services purchased from a supplier. Invoices are often received by mail or electronically via email with a PDF attached.

- An accounts payable employee logs the bill, notes its terms, and files it. Details contained on an invoice can be limited and/or unclear regarding the originating party and purchase details.

- An accounts payable employee confirms the goods or services purchased were received as expected, and reviews the invoice for accuracy. This process can involve contacting other employees for confirmation of receipt and invoice approval.

- If there are inaccuracies or complaints of non-receipt, the supplier must be contacted and the invoice corrected and re-issued.

- Once validated as accurate, the accounts payable employee codes the transaction into the accounting system, makes any necessary adjustments, and an accounts payable journal entry is opened.

- The bill is routed for approval of payment based on the business’s policies and established approvals workflow. For many SMBs, the final approval comes in the form of the owner’s signature on a check.

- Once approved, the payment is initiated and sent to the supplier. This is most commonly a check.

- Once the payment is sent, the accounts payable employee enters this information into the accounting system and the accounts payable liability is released.

- The payment is received by the supplier and applied to its accounting system.

- The general ledger of the accounting system is reconciled to its bank statements.

Accounts Receivable Process

- An order is received from a client for goods or services.

- An invoice is created with complete client information, order information, and payment and credit terms, which typically come from disparate information sources.

- The invoice is sent to the client, often by mail or electronically via email with a PDF attachment.

- An accounts receivable employee codes the transaction into the accounting system, makes necessary adjustments, and an accounts receivable journal entry is opened.

- An accounts receivable employee separately tracks a variety of due dates related to early discounts and late payments.

- An accounts receivable employee follows up with the customer to ensure receipt of the invoice and timely payment, as well as to manage any disputes related to invoice accuracy or customer dissatisfaction with the purchase.

- The accounts receivable department receives payment in the form of paper check, ACH, credit card, or wire transfer.

- An accounts receivable employee identifies the payment and matches it to the invoice that corresponds to goods or services sold. This can be time-consuming, as the data supporting the payment amount rarely arrives with the payment.

- An accounts receivable employee enters the relevant transaction data to update the accounting system.

- The general ledger of the accounting system is reconciled to its bank statements.
Our Platform

Every business transaction has two sides: for accounts payable, a customer and a supplier; and for accounts receivable, a customer and a client. The same transaction can be viewed differently depending on the party; one company’s debit is another’s credit. We built our platform with that in mind, leveraging the fact that we can see both sides, easily connect both parties, and promote the rapid exchange of information. This builds stronger business relationships.

Our AI-enabled, cloud-based platform automates this entire transaction lifecycle and delivers our customer-facing products, including accounts payable, accounts receivable, and payments, along with myriad value-added services, as illustrated below:
Accounts Payable Automation

Our accounts payable automation service streamlines the entire legacy payables process, from the receipt of a bill, through the approvals workflow, to the payment, and synchronization with the accounting system. Here are some highlights of our service:

- **Visibility at a Glance**—Through our platform dashboard, our customers gain a comprehensive view of their cash in-flows and outflows as well as bills coming due. In a May 2019 customer survey that we conducted, a majority of respondents reported at least a 50% time savings in accounts payable using our platform as compared to other accounts payable methods. The left navigation bar helps users choose which actions they would like to take, based upon dashboard insights, as illustrated below:
Document Management—Our customers have shared more than 185 million documents, most of them bills and invoices, with us since our platform’s launch in 2007. Most invoices are delivered to us directly via email. When a customer enrolls in our service, Bill.com automatically assigns a dedicated email address to the customer to provide to its suppliers. Suppliers use that email address to send invoices to the customer’s dedicated Bill.com inbox directly. Alternatively, for invoices that are mailed directly to our customers’ offices, we offer the ability for scanned invoices to be uploaded directly through our application or by fax. Below is an illustration of a customer’s inbox:

Once uploaded, we store the bills securely, linking them to the associated supplier. With a single click, customers can use our powerful keyword search feature to scan thousands of documents quickly and resolve an open payables question. Our document management capabilities assist our SMBs in making payment decisions, answering supplier questions and providing supporting documentation to accountants and auditors.

We also securely store contracts, forms, and other critical information that customers need so that any document required to support any part of the transaction lifecycle is at their fingertips.
• **Intelligent bill capture**—We have automated the capture of data from bills by leveraging IVA. With IVA, incoming bills are machine-readable, and critical data fields including due date, amount, and supplier name are pre-populated. The accounts payable staff simply reviews the result, makes any adjustments required, and IVA routes the bill internally for approval as illustrated below:
Digital workflows and approvals—Our platform speeds approval processes through policy-driven workflows. Our customers approve more than 2.4 million bills per month on our platform. Much of this activity takes place while our customers are on-the-go: one of the top three uses of our mobile app is bill approvals. In fact, in a May 2019 customer survey we conducted, a majority of respondents reported that by using our platform, their bills get approved two to three times faster than they do using other methods. Our platform proactively suggests payment dates based upon a bill’s due date, helping customers avoid late payment penalty fees. SMBs assign each user a role, such as: administrator, payor, approver, clerk or accountant. Each has its own entitlements that the platform enforces to ensure appropriate checks and balances in the back office. For mid-sized firms with unique needs, we also offer the ability to create custom roles:

Collaboration and engagement—Our platform promotes collaboration between customers, their employees, and their suppliers and clients. Our in-app messaging capabilities make communications easy and trackable. For example, our platform allows administrators and payors to remind approvers to act, or delegate payment authority when a key employee is unavailable. In fiscal 2019, our customers electronically exchanged over three million messages on our platform. Our platform tracks all exchanges, keeping a clear audit trail that becomes invaluable in the event of an audit, or at tax time, when organized and complete files become critical.

Accounts Receivable Automation

Our accounts receivable service builds upon our accounts payable functionality, automating the entire receivable process, from the creation of an invoice, to its delivery to the client, to funds collection and synchronization back to the accounting system. Here are some highlights of this service:

1. Easy invoicing—Using a simple template, customers can synchronize from their accounting software or easily create electronic invoices on our platform and insert their own logos to customize the look-and-feel. For occasions when it is required, our platform also enables the printing and mailing of paper invoices. Many accounts receivable customers take advantage of our recurring invoice feature, where they can “set it and forget it.”
• **Digital workflows and visibility**—Our platform automates and simplifies electronic invoice creation, delivery, and collection of funds. Using our progress bar, customers have complete visibility into the accounts receivable process. When both trading partners are in the network, our customer can see when their invoices are delivered, opened, authorized to be paid and payment received. Invoices and supporting documents like contracts are readily accessible and notes can be entered for future reference and are visible to authorized users. The figure below illustrates the progress bar that shows an accounts receivable customer the status of an invoice that they have sent to a client:

![Invoice Progress Bar](image)

• **Collaboration and engagement**—For accounts receivable customers whose clients interact with them online, we offer a customizable, branded client payment portal. Clients receive a link to an electronic invoice accessible on the Bill.com site. From this customer-branded portal, the client can make a payment via ACH or credit card within seconds. In fact, in a May 2019 customer survey we conducted, half of respondents reported that using our platform allows them to get paid at least twice as fast as with other accounts receivable methods. In addition, for reference purposes, the client has ongoing access to its bills and associated payments within the portal. Just like our accounts payable service, our in-app collaboration tools make communications between the accounts receivable customer and its clients easy and trackable.

**Payment Services**

Using our platform, accounts payable customers can disburse funds to suppliers through multiple payment methods. Accounts receivable customers collect funds quickly and efficiently using electronic funds transfers. Our suite of comprehensive payment services includes:

• **ACH Payments**—We enable low-cost ACH transactions for both disbursements and collections. Our network makes it simple to make the switch from paper checks.

• **Card Payments**—Through a third party, we offer accounts receivable customers the convenience of accepting credit card payments. In addition, we have integrations with
Mastercard and Comdata/Fleetcor to enable our accounts payable customers to make virtual card payments. Virtual cards enable faster payments to suppliers along with the data needed to easily match incoming payments with open receivables.

- **Checks**—We issue payment via check if our customer prefers this method or is contractually obligated to pay via this method. By design, we protect our SMB customers against check fraud by never disclosing their bank account details to a supplier and by reviewing every check presented against a check issue file to detect and prevent tampering and check fraud.

- **Cross-Border Payments**—We simplify cross-border disbursements by facilitating wire transfers around the world with our Cross-Border Payments service. Payments can be issued in either U.S. or foreign currency and are synchronized with accounting software for a consolidated view of all outflows, domestic and international. We now offer our U.S.-based customers the ability to disburse funds to over 130 countries worldwide.

In addition, our platform offers these value-added services:

- **Two-Way Sync with Leading Accounting Systems**—Our platform automatically synchronizes customers, suppliers, general ledger accounts, and transactions with an SMB’s accounting system to automate reconciliation. We are integrated with several of the most popular business accounting software applications, including QuickBooks, Oracle NetSuite, and Sage Intacct. Our two-way synchronization capabilities virtually eliminate double data-entry, as our platform and the customer’s accounting software are continuously keeping each other updated. Customers who use other types of systems use our advanced file import/export capabilities to minimize data entry activities.

- **Purchase Order (PO) Matching**—We sync POs directly from accounting software systems Oracle NetSuite and Sage Intacct into our platform. Users can compare POs and invoices on one screen, then route bills for approval and payment seamlessly in the same workflow. This eliminates the need to switch between systems for two-way matching and reduces the back-and-forth communication between PO creators and AP managers.

- **Frequent Status Updates**—We provide timely status updates of financial inflows and outflows by providing timely status of all transactions on a regular basis. Through our workflow progress bars on each page, our customers can see who has approved an invoice and what approvals remain, the status of each payment, and the date transactions are expected to clear.

- **Treasury Services**—Our platform integrates advanced treasury services functionality from commercial banks, tools that are normally either not offered to or are too costly for SMBs. Examples include:
  - the positive pay feature we employ to ensure only authorized payment transactions are processed;
  - a streamlined void and reissue function when an in-process payment needs to be cancelled; and
  - the cleared check images we make available to enable our customers to confirm payment receipt and facilitate research.

- **Custom User Roles**—Our platform enables customers to define custom user roles that are unique to their organizations. These roles can be used to expand or limit each user’s access to the platform and core financial operations functions. For example, a customer can temporarily enable its auditors or tax preparers to access our platform using a custom role that allows them to view source documents in support of the professional services they are providing, but not have access to other confidential documents, invoices, or payment information.
• Document Discovery—With our advanced document management capabilities, a customer can easily search for an uploaded document and search its data elements, regardless of how old it is, or how long it has been in our system. Our customers utilize this feature when deciding whether to pay a given bill, re-issue an invoice, or determine who authorized a certain payment. It's quick, easy, and eliminates the need for filing cabinets.

Customer Case Studies

Wild Friends Foods

Situation: In 2011, Erika Welsh and Keeley Tillotson turned their passion for making nut and seed butters into a business: Wild Friends Foods. Today, the company’s nut and seed butters are available online and at 10,000 stores nationwide generating sales of over $5 million per year. As its business scaled, Wild Friends Foods hired a remote bookkeeper to assist with bookkeeping and other back office operations. This created unexpected challenges when the bookkeeper could not enter bills into Wild Friends Foods’ systems without access to paper bills and other related documents. The company tried scanning and emailing bills to the bookkeeper, but that only resulted in more time spent chasing paper. Lacking organization and flexibility, the account payment process was highly manual and error prone, and deprived Erika and Keeley of visibility into their day to day cash flow.

Solution: Receiving an accountant’s recommendation in 2014, Wild Friends Foods began using our platform for accounts payable. With Bill.com, Wild Friends Foods was able to streamline its processes to improve efficiency and attain real-time visibility into payment status. Using Bill.com’s intelligent bill capture and collaboration capabilities, the company was able to coordinate with its bookkeeper with minimal friction. Currently, Wild Friends Foods uses Bill.com’s platform to pay between 200 and 400 bills per month, reducing time spent paying bills, preventing errors as data travels between systems, and enabling it to pay bills at the opportune time based on the company’s current cash situation.

“Because we’re a small company, we’re always in cash management mode. I like Bill.com because it’s much, much easier for me to see our cash on hand,” said Keeley Tillotson, CEO.

Result: Reduced time spent on bill payments from 15 hours per month to only four or five hours.

Lindsay Leasing

Situation: Lindsay Leasing is a property-management company based in Sarasota, Florida. For each property under management, Lindsay Leasing collects rent from tenants, deducts fees for the various services it offers, and then forwards the rent to property owners. After implementing a full-suite property-management software solution that included a rent-collection feature, Lindsay Leasing determined that the platform was too inflexible and not well-suited for its rent collection and disbursement processes. Next, it tried an electronic-payments provider, but that solution lacked integration with Intuit QuickBooks, which led it to spend hours manually reconciling payments. As the business scaled and transactions became more complex, this made it challenging for Lindsay Leasing to manage cash flow and process payments on time.

Solution: Lindsay Leasing’s search for a system that would scale with its growing business ended when it discovered Bill.com’s accounts payable and accounts receivable software platform. Bill.com has proved to be a key competitive differentiator for Lindsay Leasing, as it is able to pay property owners faster than competing property management firms. Moreover, since Bill.com’s platform syncs seamlessly with Intuit QuickBooks, Lindsay Leasing no longer needs to spend hours

112
manually entering every transaction into the accounting system. With Bill.com’s platform, Lindsay Leasing has more time to develop new business and scale efficiently without having to hire additional accounting staff.

“Bill.com is like an extra partner in the office,” said Mark Lindsay, Managing Director at Lindsay Leasing. “Bill.com is the one who’s looking at all the details and bringing pertinent information to the surface that I need to act on. I wake up every day and the first thing I do is get on the system, because it helps me be more productive.”

**Result:** With Bill.com, Lindsay Leasing provides better services to its customers, allowing it to pay and get paid on a more timely and efficient basis, and providing Mark and his employees with valuable business insights.

**O&M Restaurant Group**

**Situation:** O&M Restaurant Group operates 40 quick service restaurants including 15 Burger King, 18 Taco Bell and 6 Blaze Pizza franchises in Oklahoma and Louisiana. With over 1,000 employees and many vendors in different markets, processing invoices was a time-consuming and tedious task. The process involved scanning each invoice, entering the invoice information into its accounting system, routing for approval, and tracking the invoice status manually. While this approach worked for a while, the company realized that it needed a solution to support the demands of its geographically-distributed and growing business.

**Solution:** Bill.com has enabled O&M to integrate its restaurants onto a single platform for bill payment and invoice processing. While each of the three brands have different accounts, they are integrated and linked to one master account. Moreover, through Bill.com’s digital workflows and intuitive, AI-based platform, O&M has simplified its back-office processes while reducing the training required to execute those processes. O&M’s auditors also use Bill.com to get a complete view of O&M’s financials. The auditors can access the system to read contracts, examine bills and invoices, and ensure accuracy of the data. O&M relies on Bill.com to manage and optimize its cash flow, increase efficiency, save money and free up time to focus on growing the business.

**Result:** Since O&M began using Bill.com in 2012, it has more than doubled its annual revenue (from $30 million to $65 million) without adding headcount in the corporate office or outsourcing its accounts payable service, resulting in an estimated savings of $150,000 a year.

**Acuity**

**Situation:** Acuity provides everything from CFO-level services to bookkeeping for U.S.-based technology companies. The firm has built its client base by bundling innovative third-party technologies to create virtual, paperless, and mobile financial services. Prior to adopting Bill.com, the firm typically turned away bill pay service requests because it meant directly accessing bank accounts on behalf of its clients through bank websites. Acuity was looking for a solution that could provide more control and visibility for its clients.

**Solution:** After successfully deploying Bill.com’s platform, Acuity launched its bill pay management service and only accepted bill payment clients that agreed to use Bill.com. Through the platform, Acuity simplifies its client accounts payable processes, streamlines reconciliation with client accounting software, and enables clients to send cross-border payments. By automating routine workflows, Bill.com empowers Acuity and its employees to provide more value-added services and insights to its clients, without the burden of labor-intensive and error-prone data entry. In addition to providing increased back-office efficiency, Bill.com gives Acuity clients the confidence that only authorized users have access to their sensitive financial data.
“The core of our business is to use best-of-breed software to build the firm and our services. Bill.com is a fundamental part of our business plan. Bill.com has helped us become a firm of the future,” said Matthew May, founder of Acuity.

**Result:** Acuity now has a bill pay business that generates $250,000 a year in revenue.

**Our Data Asset**

The payment activity of our over 81,000 customers as of September 30, 2019, and 1.8 million network members, as of June 30, 2019, paired with more than 180 million documents, bills, and invoices processed through our platform, provides us with a unique data asset. This asset has allowed us to enhance the machine learning algorithms that power our artificial intelligence capabilities. The data provides a view into customer transactions and operational status of various payment processes, which enables us to effectively manage risk exposure. Our system continues to learn with each invoice uploaded and each new member that joins our network. This virtuous cycle of learning powers a network effect that facilitates customer satisfaction, offers intelligent insights, improves trust and safety, and will fuel further growth.

**Our Network**

Through our AI-enabled platform, our customers can easily connect with existing network members. The benefit of being in the network is simple: customers connect with others to pay and be paid electronically, freeing them of the need to solicit or share bank account and routing numbers with each trading partner individually. The process of adding bank account details to our platform is easy and secure. For example, when a supplier of an accounts payable customer receives an invitation to join our network, the supplier can accept and securely share their bank account details once with Bill.com. From that point onward, all payments to that supplier will be electronic.

Once in the network, other Bill.com customers can easily link to that same supplier without the supplier having to repeat this process again. This approach to connecting businesses for accounts payable and accounts receivable has allowed us to build a robust and growing business-to-business payments directory, which includes over 1.8 million network members as of June 30, 2019.

These network effects promote greater adoption of our platform, higher levels of engagement, and increased value across our ecosystem. We believe this is the fundamental power of our network.

**Technology and Architecture**

We have built a modern technology platform that serves as the foundation for a highly scalable and extensible SaaS solution. Our foundation is built upon sophisticated infrastructure, app servers, and databases. Additionally, we have integrated a powerful AI-enabled machine learning engine, payment and risk engine, document management services, and workflow management. Together, these services form our platform, which serves our customers and can be adapted to support new strategic partners and future technology integrations.

Our proprietary technology includes the following:

**Artificial Intelligence Technology**

IVA eliminates most manual data entry from invoices received electronically via email or uploaded by customers. Leveraging our machine-learning capabilities, IVA pre-populates the key fields needed
to process an invoice in accounts payable, including: supplier name, dollar amount, invoice number, invoice date, and due date. We learn from our customers’ prior transactions and suggest the appropriate general ledger code and the appropriate people to include in approval workflows. As a result, invoices are presented to our customers, pre-populated and pre-processed, ready for a quick confirmation review and then routed through the approval process.

IVA reduces a customer’s data entry burden, reduces data entry errors, and delivers additional insights to streamline back-office workflows. By gleaning payment details from the invoice, our intelligent platform can send payments using the most efficient means accepted by their suppliers. Our system continues to learn with each invoice uploaded and each new customer, supplier, or client that joins our network. This virtuous cycle of learning powers a network effect that delivers customer delight, intelligent insights, and business growth.

**Mobile Capabilities**

Integrated, robust mobile functionality is a key requirement for business users as more daily back-office tasks migrate away from the office and the desktop. Our mobile-native app, available in both iOS and Android, is easy to adopt and use. Through our app, our customers can manage their transaction workflows, send an invoice, or make payments on-the-go.

**Partner Integrations**

We provide our financial institution strategic partners a technology platform that enables a simple, white-label integration with their existing business banking services. We deliver single sign-on, multi-factor authentication, integrated provisioning and entitlement of new accounts, as well as integration with required compliance systems. Transactions are synchronized automatically between the financial institution’s platform and ours, keeping the customer’s view current and consistent.

In addition to our white-labeled solution, we support a broad range of partners and customers with our platform APIs. These APIs allow our partners to integrate our platform seamlessly into their solutions, create web or mobile apps that integrate with ours, or leverage our payments capabilities. Through our APIs, developers can:

- interact with business entities, like suppliers and clients;
- obtain summary-level reports, such as payables and receivables reports; and
- interact with accounting details, such as the chart of accounts’ general ledger codes.

**Payment and Risk Management Services**

Our payments engine powers our payment services. Through dedicated connections with banks and payment processors, we issue checks, originate ACH files, and execute wire transfers. We receive incoming files daily that include cleared check information, check images, and ACH returns. Our payments engine handles all aspects of payment file transfers, exception file handling, and required payment status reporting. We have redundancy such that if one of our payment providers is unable to process a file on a given day, we have the option to re-route the file to another provider, preventing any interruption in payment processing services.

Our operations dashboard provides a full view of the current status of all payment processes, such as disbursement/funding, settlement, voids, returns, and ACH status. Notifications, alerts, and exceptions are sent to our network operations center, payment operations, and customer support teams so we can proactively monitor transactions on behalf of our customers throughout the business day and during off-hours. The data provides a view into customer transactions and operational status of various payment processes, enabling us to effectively manage risk exposure.
Through our risk engine, we use both proprietary and third-party tools to assess, detect, and mitigate financial risk associated with the payment volume that we process. Throughout the transaction lifecycle, we monitor customers, users, and payments to ensure that we are safeguarding our customers, their suppliers and clients, and our company. At new account set-up, we verify that the customer exists, that the person who enrolled the customer exists, and that the customer's business is in good standing. When a bank account is added to the platform, we validate that the bank account is held at a United States-domiciled financial institution, is associated with the organization adding the account, and is in good standing.

When customers use our services, we monitor key activities looking for signals that would indicate anomalies that could create risk exposure and need to be investigated. Our risk engine analyzes 95 individual data elements to score transactions. Those that score above our thresholds are routed to trained risk agents for manual review. Agents have the latitude to contact customers to gather further information, or if a financial risk is imminent, to prevent funds from leaving our system until any suspicious activity can be resolved.

Once a payment transaction is processed, we continue to manage our exposure. We have extensive contacts in the banking industry, and we utilize these to reverse payments when possible. If a suspicious or fraudulent payment cannot be reversed, we follow a rigorous collections process to recover funds.

This risk management process gets progressively more accurate and insightful as our dataset gets larger and our AI-enabled risk engine gets smarter. This is an advantage that we expect to continue to grow over time. Our success in managing the risk inherent in moving funds for business customers is proven. As a percentage of our total payment volume, our fraud loss rates were negligible, less than one basis point for each of fiscal 2018 and 2019.

**Infrastructure and Operations**

Our technology architecture supports a distributed deployment footprint across multiple data centers and regions in a public cloud environment. We employ enterprise-grade databases with real-time replication between data centers to ensure minimal data loss and maximum availability. We have purposefully engineered for redundancy and fault tolerance; in the event of a production incident, we can failover between data centers with minimal data loss. Since 2017, we have been performing a full-site failover, where we seamlessly move from our primary production site to our hot back-up site, and run in the back-up site for a full week, before reverting back to our primary location.

We designed our platform with multiple layers of redundancy and fault tolerance to guard against data loss while delivering high availability and low latency. Data is replicated in real-time between databases in our two primary data centers. Incremental backups are performed hourly and full backups are performed daily. These backups are transmitted electronically and hosted in a third data center. No tapes are used for transmission or storage, which eliminates a common source of data loss. Data is encrypted during transmission and at rest when stored in our system.

We have begun transitioning all production infrastructure to Amazon Web Services, which will enhance our ability to scale quickly and efficiently.

**Security, Privacy, and Data Protection**

Trust is important for our relationship with customers and partners, and we take significant measures designed to protect their privacy and the data that they provide to us. Keeping our customers' data safe and secure is a high priority. Our approach to security includes data governance as well as ongoing testing for potential security issues.
We have robust access controls in our production environment with access to data strictly assigned, monitored, and audited. To ensure our controls remain up-to-date, we undergo continuous external testing for vulnerabilities within our software architecture. These efforts have enabled us to certify our platform to SOC1 Type II, SOC2 Type II, and SOC3 standards. Our security program is aligned to the NIST-800-53 standards and is regularly audited and assessed by third parties as well as our strategic partners.

Our security program consists of the following:

• Organizational security—including personnel security, security and privacy training, a team of dedicated security professionals, policies and standards, separation of duties, regular audits, compliance activities, and third-party assessments;

• Secure by design principles—by which we assess the security risk of each software development project according to our secure development lifecycle and create a set of requirements that must be met before the resulting change may be released to production; and

• Public bug bounty program—to facilitate responsible disclosure of potential security vulnerabilities identified by external researchers and reward them for their verified findings.

The focus of our program is working to prevent unauthorized access to the data of our customers and network members. To this end, our team of security practitioners work to identify and mitigate risks, implement best practices, and continue to evaluate ways to improve. These steps include close attention to network security, classifying and inventorying data, limiting and authorizing access controls, and multi-factor authentication for access to systems. We also employ regular system monitoring, logging, and alerting to retain and analyze the security state of our corporate and production infrastructures.

We take steps to help ensure that our security measures are maintained by the third-party suppliers we use, including conducting annual security reviews and audits.

Competition

Our primary competition remains the legacy manual processes that SMBs have relied upon for decades. Other competitors range from large firms that predominantly focus on selling to enterprises, to smaller niche providers of solutions that focus exclusively on document management, workflow management, accounts payable solutions, accounts receivable solutions, or electronic bill presentment and payment.

We differentiate ourselves from our competitors by offering a unified financial back-office solution that handles accounts payable, accounts receivable, and payment services end-to-end. Our extensive investment in building a robust, fully-integrated two-way sync with popular accounting software providers is well-regarded in the industry. With respect to the domestic payments that comprise the bulk of our business, we disburse and collect funds on behalf of our customers through our proprietary payments engine.

We believe that the key competitive factors in our market include:

• Product features, quality, and functionality;

• Data asset size and ability to leverage artificial intelligence to grow faster and smarter;

• Ease of deployment;

• Ease of integration with leading accounting and banking technology infrastructures;
We compare favorably with our competitors on the basis of these factors. We expect the market for SMB back-office financial software and business-to-business payment solutions to continue to evolve and grow, as greater numbers of SMBs and larger businesses digitize their back offices. We believe that we are well-positioned to help them.

Research and Development

We invest substantial time, energy, and resources to ensure we have a deep understanding of our customers' needs, and we continually innovate to deliver value-added products and services through our platform. Our research and development organization consists of engineering, product, and design teams. These teams are responsible for the design, development, and testing of our applications. We focus our efforts on developing new functionality and further enhancing the usability, reliability, and performance of existing applications.

Sales and Marketing

We distribute our platform through direct and indirect sales channels, both of which we leverage to reach our target customers in an efficient manner. Our direct sales are driven by a self-service process and an inside sales team. Our inside sales team augments our direct sales capabilities by targeting potential customers that have engaged with us on their own.

We also reach customers indirectly through our partnerships with accounting firms, financial institutions, and accounting software providers. While these partners sometimes require an initial integration investment, a go-to-market flywheel takes effect as our partners accelerate the delivery of our platform across their customer base with minimal incremental investment from us.

We focus our marketing efforts on generating leads to develop our sales pipeline, building brand and category awareness, enabling our go-to-market partners, and growing our business from within our existing customers. Our sales leads primarily come through word-of-mouth, our accounting firm partners, and website searches. We generate additional leads through digital marketing campaigns, referrals, in-product customer education, brand advertising, public relations, and social media.

Customer Success

SMBs have unique needs and customer support contact expectations. With more than a decade of experience supporting our product, our customer success team has a deep understanding of their needs and has developed our support model accordingly. We recognize and understand patterns that our customers may not, because we see the aggregate—millions of accounts payable and accounts receivable transactions per month. We use what we learn to continuously improve the platform and the customer experience. We have developed an efficient support model. For instance, we offer online
chat support respond to customers within seconds of their initial outreach. We also leverage our machine learning tools to anticipate customer issues and provide in-app, real-time suggestions and support.

We provide onboarding implementation support, as well as ongoing support and training. We periodically contact our customers to discuss their utilization of our platform, highlight additional features that may interest them, and identify any additional tools that may be needed.

**Regulatory Environment**

We operate in a rapidly evolving regulatory environment. Most states in the United States require a license to offer money transmission services such as the payment services that we offer. We have procured and maintain money transmitter licenses in all 49 jurisdictions that currently require them and actively work to comply with new license requirements as they arise. We are also registered as a Money Services Business with the U.S. Department of Treasury’s Financial Crimes Enforcement Network. These licenses and registrations subject us, among other things, to record-keeping requirements, reporting requirements, bonding requirements, limitations on the investment of customer funds, and inspection by state and federal regulatory agencies.

As a Money Services Business and a licensed money transmitter we are subject to U.S. anti-money laundering (AML) laws and regulations. We have implemented and are expanding an AML program designed to prevent our platform from being used to facilitate money laundering, terrorist financing, and other financial crimes. Our program is also designed to prevent our products from being used to facilitate business in certain countries, or with certain persons or entities, including those on designated lists promulgated by the U.S. Department of the Treasury’s Office of Foreign Assets Controls and other foreign authorities. Our AML and sanctions compliance programs include policies, procedures, reporting protocols, and internal controls, including the designation of an AML compliance officer to oversee the programs, and is designed to address these legal and regulatory requirements and to assist in managing risk associated with money laundering and terrorist financing risks.

We collect and use a wide variety of information for various purposes in our business, including to help ensure the integrity of our services and to provide features and functionality to our customers. This aspect of our business, including the collection, use, disclosure, and protection of the information we acquire in connection with our customers’ use of our services, is subject to numerous laws and regulations in the United States. Accordingly, we publish our privacy policies and terms of service, which describes our practices concerning the use, transmission, and disclosure of information.

In addition, several foreign countries and governmental bodies, including the European Union, have laws and regulations dealing with the collection, use, disclosure, and protection of information which are more restrictive than those in the United States. While we believe that the products and services that we currently offer do not subject us to such laws or regulations in foreign jurisdictions, such laws and regulations may be modified or subject to new or different interpretations, new laws and regulations may be enacted, or we may modify our products or services in the future, which may subject us to such laws and regulations.

Various regulatory agencies in the United States and in foreign jurisdictions continue to examine a wide variety of issues which are applicable to us and may impact our business. These issues include identity theft, account management guidelines, privacy, disclosure rules, cybersecurity, and marketing. As our business continues to develop and expand, we continue to monitor the additional rules and regulations that may become relevant.

Any actual or perceived failure to comply with legal and regulatory requirements may result in, among other things, revocation of required licenses or registrations, loss of approved status, private
litigation, regulatory or governmental investigations, administrative enforcement actions, sanctions, civil and criminal liability, and constraints on our ability to continue to operate. For an additional discussion on governmental regulation affecting our business, please see the risk factors related to regulation of our payments business and regulation in the areas of privacy and data use, under the section titled “Risk Factors—Risks Related to our Business and Industry.”

Employees

As of September 30, 2019, we had 544 full-time employees. We also engage temporary employees and consultants as needed to support our operations. None of our employees are represented by a labor union or covered by a collective bargaining agreement. We have not experienced any work stoppages and we consider our relations with our employees to be good.

Facilities

Our corporate headquarters are located in Palo Alto, California, where we occupy facilities totaling approximately 48,200 square feet under a lease that expires in May 2020. We use these facilities for administration, finance, legal, human resources, information technology, sales and marketing, engineering, and customer success. We also lease approximately 25,000 square feet in Houston, Texas for human resources, engineering, customer success, and sales and marketing under a lease that expires in April 2025.

We intend to procure additional space as we add employees and expand geographically. We believe that our facilities are adequate to meet our needs for the immediate future, and that, should it be needed, suitable additional space will be available to accommodate any such expansion of our operations.

Legal Proceedings

From time to time, we may be subject to legal proceedings and claims in the ordinary course of business, including patent, commercial, product liability, employment, class action, whistleblower, and other litigation and claims, as well as governmental and other regulatory investigations and proceedings. In addition, third parties may from time to time assert claims against us in the form of letters and other communications. We are not currently a party to any legal proceedings that we believe to be material to our business or financial condition. The results of any future litigation cannot be predicted with certainty, and regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources, and other factors.

Intellectual Property

We seek to protect our intellectual property rights by relying upon a combination of patent, trademark, copyright, and trade secret laws, as well as contractual measures.

As of September 30, 2019, we had 13 issued patents that expire between 2028 and 2037, and four pending patent applications. These patents and patent applications seek to protect proprietary inventions relevant to our business. While we believe our patents and patent applications in the aggregate are important to our competitive position, no single patent or patent application is material to us as a whole. We intend to pursue additional patent protection to the extent we believe it would be beneficial and cost effective.
As of September 30, 2019, we had one trademark registration covering the Bill.com logo. We will pursue additional trademark registrations to the extent we believe it would be beneficial and cost effective. We also own several domain names, including www.bill.com.

We rely on trade secrets and confidential information to develop and maintain our competitive position. It is our practice to enter into confidentiality and invention assignment agreements (or similar agreements) with our employees, consultants, and contractors involved in the development of intellectual property on our behalf. We also enter into confidentiality agreements with other third parties in order to limit access to, and disclosure and use of, our confidential information and proprietary information. We further control the use of our proprietary technology and intellectual property through provisions in our terms of service.

From time to time we also incorporate certain intellectual property licensed from third parties, including under certain open source licenses. Even if any such third-party technology was not available to us on commercially reasonable terms, we believe that alternative technologies would be available as needed.

Despite our efforts to protect our intellectual property rights, they may not be respected in the future or may be invalidated, circumvented, or challenged. In addition, the laws of various foreign countries where our products are produced may not protect our intellectual property rights to the same extent as laws in the United States. Our industry is characterized by the existence of a large number of patents and frequent claims and related litigation based on allegations of patent infringement or other violations of intellectual property rights. We believe that competitors will try to develop products that are similar to ours and that may infringe our intellectual property rights. Our competitors or other third-parties may also claim that our solutions infringe their intellectual property rights. In particular, some companies in our industry have extensive patent portfolios. From time to time, third parties have in the past and may in the future assert claims of infringement, misappropriation, and other violations of intellectual property rights against us or our customers or partners, with whom our agreements may obligate us to indemnify against these claims. Successful claims of infringement by a third party could prevent us from offering certain products or features, require us to develop alternate, non-infringing technology, which could require significant time and during which we could be unable to continue to offer our affected products, require us to obtain a license, which may not be available on reasonable terms or at all, or force us to pay substantial damages, royalties, or other fees. Moreover, our products incorporate software components licensed to the general public under open source software licenses. Open source licenses grant licensees broad permissions to use, copy, modify, and redistribute our platform. As a result, open source development and license practices can limit the value of our software copyright assets.

For additional information about our intellectual property and associated risks, see the section titled “Risk Factors—Risks Related to our Business and Industry.”
MANAGEMENT

Executive Officers and Directors

The following table provides information regarding our executive officers and directors as of September 30, 2019:

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Position(s)</th>
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<tbody>
<tr>
<td><strong>Executive Officers:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>René Lacerte</td>
<td>52</td>
<td>Chief Executive Officer and Director</td>
</tr>
<tr>
<td>John Rettig</td>
<td>54</td>
<td>Chief Financial Officer and Executive Vice President, Finance and Operations</td>
</tr>
<tr>
<td>Raj Aji</td>
<td>57</td>
<td>General Counsel, Chief Compliance Officer and Secretary</td>
</tr>
<tr>
<td>Bora Chung</td>
<td>47</td>
<td>Senior Vice President, Product</td>
</tr>
<tr>
<td><strong>Non-Employee Directors:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Steven Cakebread</td>
<td>67</td>
<td>Director</td>
</tr>
<tr>
<td>David Chao</td>
<td>52</td>
<td>Director</td>
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<tr>
<td>David Hornik</td>
<td>51</td>
<td>Director</td>
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<tr>
<td>Brian Jacobs</td>
<td>58</td>
<td>Director</td>
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<tr>
<td>Peter Kight</td>
<td>63</td>
<td>Director</td>
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<tr>
<td>Thomas Mawhinney</td>
<td>51</td>
<td>Director</td>
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<tr>
<td>Allison Mnookin</td>
<td>49</td>
<td>Director</td>
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<tr>
<td>Rory O'Driscoll</td>
<td>54</td>
<td>Director</td>
</tr>
<tr>
<td>Steven Piaker</td>
<td>56</td>
<td>Director</td>
</tr>
</tbody>
</table>

(1) Member of the nominating and governance committee.
(2) Member of the audit committee.
(3) Member of the compensation committee.

**Executive Officers**

René Lacerte has served as our Chief Executive Officer and a member of our board of directors since our inception in April 2006. Prior to founding Bill.com, he founded PayCycle, Inc. in 1999, an online payroll solution which was acquired by Intuit, Inc., a software company, in 2009. Mr. Lacerte holds a B.A. in Economics from Stanford University and an M.S. in Industrial Engineering from Stanford University. We believe that Mr. Lacerte is qualified to serve on our board of directors because of his deep industry experience as an SMB owner and as an executive at software companies, and as our founder and Chief Executive Officer.

John Rettig has served as our Chief Financial Officer and Executive Vice President, Finance and Operations since June 2014. Mr. Rettig previously served as the Chief Financial Officer at Exponential Interactive, Inc., an advertising intelligence and digital media solutions company, from May 2005 to June 2014, where he was responsible for the global finance function. Mr. Rettig holds a B.S. in Economics and Business Administration from Saint Mary’s College of California.

Raj Aji has served as our General Counsel, Chief Compliance Officer and Secretary since August 2016. Prior to joining Bill.com, Mr. Aji served as Assistant General Counsel, Financial Services, for Intuit, Inc., a software company, from January 2013 to August 2016. He has previously served as General Counsel at Oobpay, Inc., a mobile payments company, from December 2010 to December 2012, and Xoom.com, Inc., a publicly-listed e-commerce company. From February 2018 to May 2019, Mr. Aji served as a member of the board of directors of IIT Startups, a non-profit organization.
dedicated to educating and mentoring early stage technology companies. Mr. Aji holds a B. Tech in Chemical Engineering, from the Indian Institute of Technology, Bombay, an M.S. in Civil and Environmental Engineering from the University of Iowa, Iowa City and a J.D. from the University of California, Berkeley, School of Law.

Bora Chung has served as our Senior Vice President of Product since December 2018. Prior to joining Bill.com, Ms. Chung served as Chief Product Officer for eBay Korea Co. Ltd., a subsidiary of eBay Inc. and an online marketplace, from September 2016 to November 2018, and as Vice President, Product Management for eBay Inc., a multinational e-commerce corporation, from December 2014 to August 2016. Ms. Chung also previously served as the Director of Worldwide Payments and Financing for Apple Online Stores at Apple Inc., a multinational technology company, from October 2010 to December 2014. Ms. Chung holds an A.B. in Economics from Harvard University and a M.B.A. from the Stanford University Graduate School of Business.

Non-Employee Directors

Steven Cakebread has served as a member of our board of directors since May 2019. Since October 2014, Mr. Cakebread has served as Chief Financial Officer of Yext Inc., a software company. From March 2013 to September 2014, he served as Chief Financial Officer and Chief Accounting Officer of D-Wave Systems, Inc., a quantum computing company. From May 2002 to March 2008, Mr. Cakebread served as Chief Financial Officer of Salesforce.com, Inc., a cloud-based software company. He previously served as a member of the board of directors of ServiceSource International, Inc., a service support provider, from February 2010 to October 2017. Mr. Cakebread holds a B.S. in Accounting from the University of California, Berkeley, and a M.B.A. from Indiana University. We believe Mr. Cakebread is qualified to serve as a member of our board of directors because of his senior leadership experience and responsibility over financial and accounting matters at technology companies.

David Chao has served as a member of our board of directors since September 2016. Mr. Chao has served as Co-Founder and General Partner at DCM, a venture capital firm since December 1996. Mr. Chao also serves as chairman of the board of directors of 51job, Inc., a human resource solutions provider, and currently serves on the boards of directors of several privately held companies. He previously served as a director on the board of Renren Inc., a Chinese social networking service, from March 2006 to July 2018. Mr. Chao holds a B.A. in Economics and East Asian Studies from Brown University and a M.B.A. from the Stanford University Graduate School of Business. We believe Mr. Chao is qualified to serve as a member of our board of directors because of his extensive experience in the venture capital industry and his knowledge of technology companies.

David Hornik has served as a member of our board of directors since May 2016. Mr. Hornik has served as general partner of August Capital, a venture capital firm, since June 2000. Since February 2012, Mr. Hornik has served on the board of directors of Fastly, Inc., a cloud computing company, and currently serves on the boards of directors of several privately held companies. He also served on the board of directors of Splunk, Inc., a provider of machine data analytics software, from August 2004 to September 2017. Mr. Hornik holds an A.B. in Political Science and an A.B. in Computer Music from Stanford University, M. Phil in Criminology from Cambridge University and a J.D. from Harvard Law School. We believe Mr. Hornik is qualified to serve as a member of our board of directors because of his extensive experience in the venture capital industry and his knowledge of technology companies.

Brian Jacobs has served as a member of our board of directors since August 2007. Mr. Jacobs has served as Founder and General Partner of Emergence Capital Partners, a venture capital firm, since January 2003, as well as Founder and Managing Partner of Moai Capital, a seed capital firm, since January 2018. Mr. Jacobs also currently serves on the boards of directors of several privately held companies.
Mr. Jacobs holds a B.S. and an M.S. in Mechanical Engineering from Massachusetts Institute of Technology and an M.B.A. from Stanford Graduate School of Business. We believe Mr. Jacobs is qualified to serve as a member of our board of directors because of his extensive experience in the venture capital industry and his knowledge of technology companies.

Peter Kight has served as a member of our board of directors since May 2019. Mr. Kight is a venture capital investor and previously served as Senior Advisor to Comvest Partners, a private equity firm, from April 2013 to April 2015. He has served on the board of directors of Blackbaud, Inc., a software company, since December 2014, and of Huntington Bancshares, Inc., a holding company, since June 2012, and as chairman of the board of directors of Repay Holdings Corp., a financial technology and payment processing solutions, since July 2019. From September 2017 to July 2019, Mr. Kight served as chairman of the board of directors of Thunder Bridge Acquisition, Ltd., a special acquisition company. We believe Mr. Kight is qualified to serve as a member of our board of directors because of his experience in the technology and payments industry.

Thomas Mawhinney has served as a member of our board of directors since February 2013. Since August 2003, Mr. Mawhinney has served as a general partner of Icon Ventures IV, L.P. He also currently serves on several private company boards. Mr. Mawhinney holds a B.A. in Government from Harvard University and an M.B.A. from the Stanford Graduate School of Business. We believe Mr. Mawhinney is qualified to serve as a member of our board of directors because of his extensive experience in the venture capital industry and his knowledge of technology companies.

Allison Mnookin has served as a member of our board of directors since July 2019. Since July 2017, Ms. Mnookin has served as a senior lecturer of business administration at Harvard Business School. Prior to joining us, she served as CEO of Quick Base, Inc., an online application software company, from April 2016 to November 2016. From July 2010 to March 2016, Ms. Mnookin served as vice president and general manager of the QuickBase business of Intuit, Inc., a software company. Since June 2018 Ms. Mnookin has served on the board of LPL Financial Holdings, Inc., a technology, brokerage and investment advisory services company, and on the board of QuickBase, Inc. since its divestment from Intuit in March 2016 until April 2019. Ms. Mnookin also served on the board of Fleetmatics Group PLC, a SaaS fleet management provider, from March 2014 to November 2016. Ms. Mnookin holds an A.B. in Women’s Studies from Harvard University and an M.B.A. from Harvard Business School. We believe Ms. Mnookin is qualified to serve as a member of our board of directors because of her executive experience and knowledge of technology companies.

Rory O’Driscoll has served as a member of our board of directors since August 2013. Since 2007, Mr. O’Driscoll has been a Managing Partner at Scale Venture Partners, a venture capital firm. Mr. O’Driscoll has served as a member of the board of directors of Box, Inc., a data storage and file management software company, since April 2010. Mr. O’Driscoll previously served on the board of directors of DocuSign, Inc., an eSignature and digital transaction management company, from December 2010 to August 2018, and ExactTarget, Inc., a digital marketing software company, until it was acquired by Salesforce.com, Inc., a cloud-based software company, in July 2013. Mr. O’Driscoll also currently serves on the boards of directors of several privately held companies. Mr. O’Driscoll holds a B.Sc. in Economics from the London School of Economics. We believe Mr. O’Driscoll is qualified to serve as a member of our board of directors because of his extensive experience in the venture capital industry and his knowledge of technology companies.

Steven Piaker has served as a member of our board of directors since December 2011. Since February 2013, Mr. Piaker has served as a partner of Napier Park Global Capital, an alternative asset management firm and as co-head and partner of Napier Park Financial Partners, Napier’s private equity group, and from July 2011 until February 2013 he served in a similar capacity at Napier Park’s predecessor firm. He also currently serves on several private company boards. Mr. Piaker holds a B.A. in Economics from University of Rochester and an M.B.A. from Duke University Fuqua School of Business. We believe Mr. Piaker is qualified to serve as a member of our board of directors because of
his extensive experience in the private equity and venture capital industry and his knowledge of technology companies.

Corporate Governance

Appointment of Officers

Our executive officers are appointed by, and serve at the discretion of, our board of directors. There are no family relationships between any of our directors or executive officers.

Board Composition

Our board of directors currently consists of eleven members, with one vacancy. Pursuant to our amended and restated certificate of incorporation and our amended and restated voting agreement as in effect prior to the completion of this offering, René Lacerte, Alison Mnookin, David Hornik, Brian Jacobs, Peter Kight, Thomas Mawhinney, Steven Cakebread, Steven Piaker, Rory O’Driscoll, and David Chao have been designated to serve as members of our board of directors. Pursuant to our amended and restated certificate of incorporation and amended and restated voting agreement, the seat occupied by Mr. Chao is elected by the holders of our Series A redeemable convertible preferred stock; the seat occupied by Mr. Jacobs is elected by the holders of our Series B redeemable convertible preferred stock; the seat occupied by Mr. Hornik is also elected by the holders of our Series B redeemable convertible preferred stock; the seat occupied by Mr. Mawhinney is elected by the holders of our Series C redeemable convertible preferred stock; the seat occupied by Mr. O’Driscoll is elected by the holders of our Series E redeemable convertible preferred stock; the seats occupied by Mr. Piaker and Mr. Lacerte are elected by the holders of all of our preferred stock and our common stock, voting together as a single class and on an as-converted basis, with Mr. Piaker as the at-large designee of certain investors and Mr. Lacerte as the at-large designee of each of (i) a majority of the then outstanding shares of our redeemable convertible preferred stock, voting together as a single class on an as-converted basis and (ii) a majority of the then outstanding shares of our common stock, voting as a separate class; finally, the seats occupied by Mr. Cakebread, Mr. Kight, and Ms. Mnookin were each elected by the holders of our common and preferred stock, voting together as a single class on an as-converted basis.

The amended and restated voting agreement and the provisions of our amended and restated certificate of incorporation by which all of our current directors were elected will terminate, and no contractual obligations regarding the election of our directors will remain, following the completion of this offering. Each of our current directors will continue to serve until the election and qualification of his or her successor, or his or her earlier death, resignation, or removal.

Classified Board of Directors

Upon the completion of this offering, our board of directors will consist of ten members and be divided into three classes of directors that will serve staggered three-year terms. At each annual meeting of stockholders, a class of directors will be elected for a three-year term to succeed the same class whose term is then expiring. As a result, only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Our directors will be divided among the three classes as follows:

- the Class I directors will be René Lacerte, Thomas Mawhinney and Peter Kight, and their terms will expire at the first annual meeting of stockholders to be held after the completion of this offering;
- the Class II directors will be Alison Mnookin, David Chao, Steven Piaker and Rory O’Driscoll, and their terms will expire at the second annual meeting of stockholders to be held after the completion of this offering; and
the Class III directors will be David Hornik, Brian Jacobs, and Steven Cakebread, and their terms will expire at the third annual meeting of stockholders to be held after the completion of this offering.

Each director’s term continues until the election and qualification of his or her successor, or his or her earlier death, resignation, or removal. Our restated certificate of incorporation and restated bylaws to be in effect upon the completion of this offering will authorize only our board of directors to fill vacancies on our board of directors. Any increase or decrease in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. This classification of our board of directors may have the effect of delaying or preventing changes in control of our company. See the section titled “Description of Capital Stock—Anti-Takeover Provisions.”

**Director Independence**

In connection with this offering, we have applied to list our common stock on the New York Stock Exchange (NYSE). Under the rules of the NYSE, independent directors must comprise a majority of a listed company’s board of directors within a specified period after the completion of this offering. In addition, the rules of the NYSE require that, subject to specified exceptions, each member of a listed company’s audit, compensation, and nominating and governance committees be independent. Under the rules of the NYSE, a director will only qualify as an “independent director” if, in the opinion of that company’s board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Additionally, compensation committee members must not have a relationship with us that is material to the director’s ability to be independent from management in connection with the duties of a compensation committee member.

Audit committee members must also satisfy the independence criteria set forth in Rule 10A-3 under the Exchange Act. In order to be considered independent for purposes of Rule 10A-3, a member of an audit committee of a listed company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee: accept, directly or indirectly, any consulting, advisory, or other compensatory fee from the listed company or any of its subsidiaries; or be an affiliated person of the listed company or any of its subsidiaries. We intend to satisfy the audit committee independence requirements of Rule 10A-3 as of the completion of this offering.

Our board of directors has undertaken a review of the independence of each director and considered whether each director has a material relationship with us that could compromise his or her ability to exercise independent judgment in carrying out his or her responsibilities. As a result of this review, our board of directors determined that Messrs. Cakebread, Chao, Hornik, Jacobs, Kight, Mawhinney, O'Driscoll, and Piaker, and Ms. Mnookin, are “independent directors” as defined under the applicable rules and regulations of the SEC and the listing requirements and rules of the NYSE. In making these determinations, our board of directors reviewed and discussed information provided by the directors and by us with regard to each director’s business and personal activities and relationships as they may relate to us and our management, including the beneficial ownership of our common stock by each non-employee director and the transactions involving them described in the section titled “Certain Relationships and Related Party Transactions.”

**Committees of the Board of Directors**

Our board of directors has an audit committee, a compensation committee, and a nominating and governance committee, each of which, pursuant to its respective charter, will have the composition and
responsibilities described below upon the completion of this offering. Following the completion of this offering, copies of the charters for each committee will be available on the investor relations portion of our website. Members serve on these committees until their resignation or until otherwise determined by our board of directors.

Audit Committee

Our audit committee is composed of Mr. Piaker and Mr. Cakebread. Mr. Cakebread is the chair of our audit committee. The members of our audit committee meet the independence requirements under NYSE and SEC rules. Each member of our audit committee is financially literate. In addition, our board of directors has determined that Mr. Cakebread is an “audit committee financial expert” as that term is defined in Item 407(d)(5)(ii) of Regulation S-K promulgated under the Securities Act. This designation does not, however, impose on him any supplemental duties, obligations, or liabilities beyond those that are generally applicable to the other members of our audit committee and board of directors. Our audit committee’s principal functions are to assist our board of directors in its oversight of:

• selecting a firm to serve as our independent registered public accounting firm to audit our consolidated financial statements;
• ensuring the independence of the independent registered public accounting firm;
• discussing the scope and results of the audit with the independent registered public accounting firm, and reviewing, with management and that firm, our interim and year-end operating results;
• establishing procedures for employees to anonymously submit concerns about questionable accounting or audit matters;
• considering the adequacy of our internal controls and internal audit function;
• reviewing related-party transactions that are material or otherwise implicate disclosure requirements; and
• approving, or as permitted, pre-approving all audit and non-audit services to be performed by the independent registered public accounting firm.

Compensation Committee

Our compensation committee is composed of Mr. Jacobs, Mr. Kight and Ms. Mnookin. Mr. Jacobs is the chair of our compensation committee. The members of our compensation committee meet the independence requirements under NYSE and SEC rules. Each member of this committee is also a “non-employee director” within the meaning of Rule 16b-3 under the Exchange Act. Our compensation committee is responsible for, among other things:

• reviewing and approving, or recommending that our board of directors approve, the compensation of our executive officers;
• reviewing and approving, or recommending that our board of directors approve, the terms of any compensatory agreements with our executive officers;
• reviewing and recommending to our board of directors the compensation of our directors;
• administering our stock and equity incentive plans;
• reviewing and approving, or making recommendations to our board of directors with respect to, incentive compensation and equity plans; and
• establishing our overall compensation philosophy.
Nominating and Governance Committee

Our nominating and governance committee is composed of Mr. Hornik and Mr. O’Driscoll. Mr. Hornik is the chair of our nominating and governance committee. The members of our nominating and governance committee meet the independence requirements under NYSE and SEC rules. Our nominating and governance committee’s principal functions include:

- identifying and recommending candidates for membership on our board of directors;
- recommending directors to serve on board committees;
- reviewing and recommending to our board of directors any changes to our corporate governance principles;
- reviewing proposed waivers of the code of conduct for directors and executive officers;
- overseeing the process of evaluating the performance of our board of directors; and
- advising our board of directors on corporate governance matters.

Compensation Committee Interlocks and Insider Participation

None of the members of the compensation committee is currently, or has been at any time, one of our officers or employees. None of our executive officers has served as a member of the board of directors, or as a member of the compensation or similar committee, of any entity that has one or more executive officers who served on our board or compensation committee during fiscal 2019.

Non-Employee Director Compensation

In fiscal 2019, no cash compensation was paid to the non-employee members of our board of directors. All compensation paid to Mr. Lacerte, our only employee director, is set forth below in the section titled “Executive Compensation—2019 Summary Compensation Table.” The following table provides information regarding compensation of our non-employee directors for director service, for fiscal 2019. Other than as set forth in the table and described more fully below, during fiscal 2019, we did not pay any fees to, make any equity awards or non-equity awards to, or pay any other compensation to the non-employee members of our board of directors.

<table>
<thead>
<tr>
<th>Name</th>
<th>Option Awards ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steven Cakebread</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>David Chao</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>David Hornik</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Brian Jacobs</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Peter Kight</td>
<td>573,368(2)</td>
<td>573,368</td>
</tr>
<tr>
<td>Thomas Mawhinney</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Allison Mnookin</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Rory O’Driscoll</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Steven Piaker</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

(1) The amounts reported in the Option Awards column represent the grant date fair value of the stock options granted to our non-employee directors during fiscal 2019 as computed in accordance with FASB Accounting Standards Codification Topic 718. The assumptions used in calculating the grant date fair value of the stock options reported in the Option Awards column are set forth in Note 8 of the notes to our consolidated financial statements included in this prospectus. Note that the amounts reported in this column reflect the accounting cost for these stock options and do not correspond to the actual economic value that may be received by our non-employee directors from the stock options.

(2) As of September 30, 2019, Mr. Kight held a nonstatutory stock option to purchase 200,000 shares, with a right to early exercise, vesting at a rate of 1/3rd annually on the anniversary of the vesting start date of May 15, 2019, subject to
continuous service on each such date, plus acceleration of 100% of the then-unvested options in the event of a change in control. Any unvested shares acquired upon early exercise are subject to a repurchase right held by us at the original purchase price.

In July 2019, we granted each of Mr. Cakebread and Ms. Mnookin nonstatutory stock options to purchase 200,000 shares of our common stock, with a right to early exercise, that vest at a rate of 1/3rd annually on the first three anniversaries of the vesting start dates of May 28, 2019, and July 3, 2019, respectively, subject to continuous service of such director on each applicable vesting date, plus acceleration of 100% of the then-unvested stock options in the event of a change in control. Any unvested shares acquired upon early exercise are subject to a repurchase right held by us at the original purchase price.

Before this offering, we did not have a formal policy to provide any cash or equity compensation to our non-employee directors for their service on our board of directors or committees of our board of directors. In connection with this offering, our board of directors expects to approve a non-employee director compensation policy, which will take effect following the completion of this offering.
EXECUTIVE COMPENSATION

The following tables and accompanying narrative set forth information about the fiscal 2019 compensation provided to our principal executive officer and the two most highly compensated executive officers (other than our principal executive officer) who were serving as executive officers as of June 30, 2019. These executive officers were René Lacerte, our Chief Executive Officer, John Rettig, our Chief Financial Officer and Executive Vice President, Finance and Operations, and Bora Chung, our Senior Vice President, Product, and we refer to them in this section as our “named executive officers.”

2019 Summary Compensation Table

The following table presents summary information regarding the total compensation for services rendered in all capacities that was awarded to, earned by, or paid to our named executive officers for fiscal 2019.

<table>
<thead>
<tr>
<th>Name and Principal Position</th>
<th>Salary ($)</th>
<th>Bonus ($)</th>
<th>Option Awards ($)</th>
<th>Non-Equity Incentive Plan Compensation ($)</th>
<th>All Other Compensation ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>René Lacerte, Chief Executive Officer</td>
<td>$350,000</td>
<td>$10,000(3)</td>
<td>$4,814,801</td>
<td>$231,763</td>
<td>-</td>
<td>$5,406,564</td>
</tr>
<tr>
<td>John Rettig, Chief Financial Officer and Executive Vice President, Finance and Operations</td>
<td>$300,000</td>
<td>$54,024(4)</td>
<td>$2,212,485</td>
<td>$161,830</td>
<td>$5,980(5)</td>
<td>$2,734,319</td>
</tr>
<tr>
<td>Bora Chung, Senior Vice President, Product(6)</td>
<td>$154,247(7)</td>
<td>$25,000(8)</td>
<td>$1,988,114</td>
<td>$62,735</td>
<td>-</td>
<td>$2,230,096</td>
</tr>
</tbody>
</table>

(1) Amounts represent the aggregate grant date fair value of the stock options awarded to the named executive officer during fiscal 2019 in accordance with FASB Accounting Standards Codification Topic 718. The assumptions used in calculating the grant date fair value of the stock options reported in the Option Awards column are set forth in Note 8 of the notes to our consolidated financial statements included in this prospectus. Such grant-date fair market value does not take into account any forfeitures related to service-based vesting conditions that may occur. Note that the amounts reported in this column reflect the accounting cost for these stock options and do not correspond to the actual economic value that may be received by our named executive officers from the stock options.

(2) The amounts reported represent payments made under our 2019 Executive Bonus Plan in respect of service in fiscal 2019, as described below in “—Non-Equity Incentive Plan Awards.”

(3) This amount represents a $10,000 spot bonus paid in February 2019.

(4) This amount represents (i) a $10,000 spot bonus paid in August 2018, (ii) a $3,000 spot bonus paid in November 2018, (iii) a $40,000 spot bonus paid in February 2019, and (iv) a $1,024 bonus for 5 years of service paid in June 2019.

(5) This amount reported represents Mr. Rettig’s transportation allowance.

(6) Ms. Chung commenced employment with us in December 2018 and therefore her base salary and non-equity incentive plan compensation set forth in the table above reflect amounts actually paid with respect to the portion of fiscal 2019 in which she was employed with us.

(7) Ms. Chung commenced employment in December 2018 at an initial base salary of $275,000.

(8) This amount represents a cash sign-on bonus.

Non-Equity Incentive Plan Awards

Our named executive officers participated in our 2019 Executive Bonus Plan, under which semi-annual bonuses are determined based on the achievement of corporate and individual performance objectives. For fiscal 2019, performance objectives included metrics related to our revenue. We made
payments based on individual and corporate performance in February 2019 and August 2019 in respect of service in fiscal 2019.

**Equity Compensation**

From time to time, we grant equity awards in the form of stock options to our named executive officers, which are generally subject to vesting based on each named executive officer’s continued service with us. Each of our named executive officers currently holds outstanding options to purchase shares of our common stock that were granted under our 2006 Plan and 2016 Plan, as set forth in the table below titled “Outstanding Equity Awards at 2019 Fiscal Year-End.”

**Outstanding Equity Awards at 2019 Fiscal Year-End**

The following table presents, for each of our named executive officers, information regarding outstanding stock options as of June 30, 2019.

<table>
<thead>
<tr>
<th>Name</th>
<th>Grant Date</th>
<th>Number of Securities Underlying Unexercised Options</th>
<th>Exercise Price ($)</th>
<th>Expiration Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Exercisable (#)</td>
<td>Unexercisable (#)</td>
<td></td>
</tr>
<tr>
<td>René Lacerte</td>
<td>2/4/2015(2)</td>
<td>655,000</td>
<td>0</td>
<td>$1.19</td>
</tr>
<tr>
<td></td>
<td>8/2/2018(3)</td>
<td>0</td>
<td>750,000</td>
<td>$2.63</td>
</tr>
<tr>
<td></td>
<td>2/13/2019(4)</td>
<td>0</td>
<td>1,700,000</td>
<td>$4.38</td>
</tr>
<tr>
<td>John Rettig</td>
<td>6/10/2014(5)</td>
<td>818,721</td>
<td>0</td>
<td>$0.86</td>
</tr>
<tr>
<td></td>
<td>7/28/2016(6)</td>
<td>72,916</td>
<td>27,084</td>
<td>$1.24</td>
</tr>
<tr>
<td></td>
<td>8/2/2018(3)</td>
<td>0</td>
<td>400,000</td>
<td>$2.63</td>
</tr>
<tr>
<td></td>
<td>2/13/2019(4)</td>
<td>0</td>
<td>400,000</td>
<td>$4.38</td>
</tr>
<tr>
<td></td>
<td>2/13/2019(7)</td>
<td>43,750</td>
<td>306,250</td>
<td>$4.38</td>
</tr>
<tr>
<td>Bora Chung</td>
<td>2/13/2019(8)</td>
<td>0</td>
<td>750,000</td>
<td>$4.38</td>
</tr>
<tr>
<td></td>
<td>5/15/2019(9)</td>
<td>2,083</td>
<td>97,917</td>
<td>$5.60</td>
</tr>
</tbody>
</table>

(1) All of the outstanding equity awards were granted under the 2016 Plan, unless otherwise indicated.

(2) Granted under our 2006 Plan. The stock option is fully vested.

(3) The stock option vests at a rate of 1/48th of the shares of our common stock underlying the stock option each month following the August 2, 2018 vesting commencement date. This award is subject to double trigger vesting acceleration under certain circumstances.

(4) The stock option vests at a rate of 1/2 of the shares of our common stock underlying the stock option on the two-year anniversary of the December 10, 2018 vesting commencement date and an additional 1/48th of the shares of our common stock underlying the stock option monthly thereafter. This award is subject to double trigger vesting acceleration under certain circumstances.

(5) Granted under the 2006 Plan. The stock option is fully vested.

(6) The stock option vests at a rate of 1/48th of the shares of our common stock underlying the stock option each month following the July 27, 2016 vesting commencement date and an additional 1/48th of the shares of our common stock underlying the stock option monthly thereafter. This award is subject to double trigger vesting acceleration under certain circumstances.

(7) The stock option vests at a rate of 1/48th of the shares of our common stock underlying the stock option each month following the December 10, 2018 vesting commencement date. This award is subject to double trigger vesting acceleration under certain circumstances.

(8) The stock option vests at a rate of 1/48th of the shares of our common stock underlying the stock option on the one-year anniversary of the December 10, 2018 vesting commencement date and an additional 1/48th of the shares of our common stock underlying the stock option monthly thereafter. This award is subject to double trigger vesting acceleration under certain circumstances.

(9) The stock option vests at a rate of 1/48th of the shares of our common stock underlying the stock option each month following the May 15, 2019 vesting commencement date. This award is subject to double trigger vesting acceleration under certain circumstances.
We have entered into amended and restated offer letters with each of our named executive officers. In addition, each of our named executive officers has executed our form of standard employee invention assignment and confidentiality agreement. Any potential payments and benefits due upon a termination of employment or a change of control of us are further described below in the section titled “Potential Payments upon Termination or Change of Control.”

**Rene Lacerte**

On November 18, 2019, we entered into an offer letter with Mr. Lacerte, our Chief Executive Officer and a member of our board. This offer letter provides for an annual base salary of $350,000. Mr. Lacerte is an at-will employee and does not have a fixed employment term. He is eligible to participate in our annual performance bonus plan and employee benefit plans, including health insurance, that we offer to our employees.

**John Rettig**

In May 2014, we entered into an offer letter with Mr. Rettig, our Chief Financial Officer. This offer letter was amended and restated on November 18, 2019. The amended and restated offer letter provides for an annual base salary of $330,000. Mr. Rettig is an at-will employee and does not have a fixed employment term. He is eligible to participate in our annual performance bonus plan and employee benefit plans, including health insurance, that we offer to our employees.

**Bora Chung**

In October 2018, we entered into an offer letter with Ms. Chung, our Senior Vice President, Product. This offer letter was amended and restated on November 18, 2019. The amended and restated offer letter provides for an annual base salary of $265,000. Ms. Chung is an at-will employee and does not have a fixed employment term. She is eligible to participate in our annual performance bonus plan and employee benefit plans, including health insurance, that we offer to our employees.

**Potential Payments upon Termination or Change in Control**

We entered into change in control and severance agreements with each of our executive officers, including our named executive officers, which provide for the following benefits if the executive is terminated by us without cause (as such term is defined in the change in control and severance agreement) outside of a change in control (as such term is defined in the change in control and severance agreement) in exchange for a customary release of claims: (i) a lump sum severance payment of six months base salary for our executive officers (eighteen months for our Chief Executive Officer and twelve months for our Chief Financial Officer), (ii) a lump sum payment equal to the executive officer’s then-current target bonus opportunity on a pro-rated basis, and (iii) payment of premiums for continued medical benefits (or equivalent cash payment if applicable law so requires) for the same period of time as the salary severance.

If the executive officer’s employment is terminated by us without cause or by the executive for good reason within the three months preceding a change in control (but after a legally binding and definitive agreement for a potential change of control has been executed) or within the twelve months following a change in control, the change in control and severance agreements provide the following benefits in exchange for a customary release of claims: (i) a lump sum severance payment of twelve months base salary and 100% of target bonus for our executive officers (eighteen months base
salary and 150% target bonus for our Chief Executive Officer, (ii) a lump sum payment equal to the executive officer’s then-current target bonus opportunity on a pro-rated basis, (iii) 100% acceleration of any then-unvested equity awards, and (iv) payment of premiums for continued medical benefits (or equivalent cash payment if applicable law so requires) for the same period of time as the salary severance. Each change in control and severance agreement is in effect for three years, with automatic renewals unless notice is given by us to the executive officer three months prior to expiration.

The benefits under the change in control and severance agreements supersede all other cash severance and vesting acceleration arrangements.

**Employee Benefit and Stock Plans**

We believe that our ability to grant equity-based awards is a valuable compensation tool that enables us to attract, retain, and motivate our employees, consultants, and directors by aligning their financial interests will those of our stockholders. The principal features of our equity incentive plans are summarized below. These summaries are qualified in their entirety by reference to the actual text of the plans, which are filed as exhibits to the registration statement of which this prospectus is a part.

**2006 Equity Incentive Plan**

Our 2006 Plan was initially adopted by the board of directors and approved by our stockholders in April 2006, and was amended most recently in October 2015. The 2006 Plan was terminated in 2016 when the 2016 Plan was adopted and no new grants under the 2006 Plan were made after such time. Outstanding awards under the 2006 Plan continue to remain subject to the terms of the 2006 Plan and applicable award agreements until such awards are exercised or until they terminate or expire by their terms. The 2006 Plan allowed for the grant of stock options and shares of restricted stock. As of September 30, 2019, 3,100,505 shares of our common stock were reserved for issuance pursuant to outstanding awards under our 2006 Plan.

**Administration.** Our 2006 Plan is administered by our board of directors or a committee appointed by our board of directors referred to herein as the “administrator.” Subject to the terms of the 2006 Plan, the administrator has the authority to, among other things, select the persons to whom awards were granted, construe and interpret our 2006 Plan as well as to prescribe, amend, and rescind rules and regulations relating to the 2006 Plan and awards granted pursuant to the 2006 Plan.

**Eligibility.** Pursuant to the 2006 Plan, we could grant incentive stock options only to our employees or the employees of our parent or subsidiaries, as applicable (including officers and directors who are also employees). We could grant non-statutory stock options, shares of restricted stock, and RSUs to our employees, directors, and consultants or the employees, directors, and consultants of our parent or subsidiaries, as applicable.

**Options.** The 2006 Plan provided for the grant of both (i) incentive stock options, which are intended to qualify for tax treatment as set forth under Section 422 of the Internal Revenue Code of 1986, as amended (Code) and (ii) non-statutory stock options to purchase shares of our common stock, each at a stated exercise price. The exercise price of each stock option to which Section 25102 of the California Corporations Code applied must have been at least equal to 85% of the fair market value of our common stock on the date of grant, except that incentive stock options granted to any individual who owned more than ten percent of the total combined voting power of all classes of our capital stock must have had an exercise price at least equal to 110% of the fair market value of our common stock on the date of grant. The administrator has the authority to determine the vesting schedule applicable to each option. The maximum permitted term of options granted under our 2006 Plan was ten years from the date of grant, except that the maximum permitted term of incentive stock
options granted to an individual who owns more than ten percent of the total combined voting power of all classes of our capital stock is five years from the date of grant. As of September 30, 2019, options under the 2006 Plan to purchase 9,337,005 shares of common stock had been exercised and options under the 2006 Plan to purchase 3,100,505 of shares of common stock remained outstanding, with a weighted-average exercise price of $0.99 per share.

**Restricted Stock Awards.** Awards of restricted stock represent an offer by us to sell shares of our common stock subject to restrictions which may lapse based on terms and conditions determined by the administrator. The purchase price of each restricted stock award to which Section 25102(o) of the California Corporations Code applied must have been at least equal to 85% of the fair market value of our common stock on the date of grant or at the time the purchase was consummated, except that in the case of a sale to any individual who owned more than ten percent of the total combined voting power of all classes of our capital stock, the purchase price must have been 100% of the fair market value of our common stock on the date of grant or at the time the purchase was consummated. Holders of restricted stock are entitled to vote and are entitled to receive all dividends and distributions with respect to such shares. Any dividends or stock distributions paid pursuant to any unvested shares of restricted stock will be subject to the same restrictions on transferability and forfeiture as the restricted stock. As of June 30, 2019, no shares of restricted stock remain outstanding under the 2006 Plan.

**Other Awards.** The 2006 Plan also provided for the grant of stock appreciation rights and RSUs, neither of which were granted prior to the termination of the 2006 Plan.

**Transferability.** Unless otherwise determined by the administrator, awards under the 2006 Plan generally may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will, the laws of descent and distribution and, with respect to non-statutory stock options, by instrument to an inter vivos or testamentary trust in which the non-statutory stock options are to be passed to beneficiaries upon the death of the trustor, or by gift to a qualified family member.

**Change of Control.** In the event of our dissolution or liquidation, a combination transaction (as defined in the 2006 Plan), or a sale of all or substantially all of our assets, the 2006 Plan provides that any then-outstanding awards will be treated in the manner provided for in the applicable transaction document which may provide for (i) the assumption, conversion or replacement of such awards by the successor or acquiring company, which assumption, conversion or replacement will be binding on all participants, (ii) the substitution of equivalent awards or the provision of substantially similar consideration as is provided to our stockholders (after taking into account the existing provisions of the awards), or (iii) the substitution of similar shares or other property subject to repurchase restrictions and other provisions that are no less favorable to the participant than those which applied to such outstanding shares immediately prior to the transaction. In the event the successor or acquiring company refuses to assume, convert, replace or substitute awards as provided above, then any awards that are not so assumed, converted, replaced or substituted will expire with respect to the unissued shares subject to such awards, at such times and on such conditions as the board will determine, but no later than immediately prior to the consummation of the transaction.

**Adjustments.** In the event the number of outstanding shares of our common stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, spin-off or similar change in our capital structure without consideration, the exercise prices and purchase prices of, and number of shares subject to, then-outstanding awards will be proportionately adjusted, subject to any required action by the board or our stockholders.

**Exchange, Repricing and Buyout of Awards.** The repricing of options is permitted under the 2006 Plan without prior stockholder approval. The administrator may, at any time or from time to time,
authorize us, with the consent of the respective participants, to issue new awards in exchange for the surrender and cancellation of any, or all, outstanding awards. The administrator may at any time buy from a participant an award previously granted with payment in cash, shares of our common stock (including restricted stock) or other consideration, based on such terms and conditions as the administrator and the participant may agree.

Any outstanding awards granted under the 2006 Plan will remain outstanding following the offering, subject to the terms of our 2006 Plan and applicable award agreements, until such awards are exercised or until they terminate or expire by their terms.

**2016 Equity Incentive Plan**

In February 2016, we adopted the 2016 Equity Incentive Plan (the 2016 Plan) as most recently amended on July 22, 2019. The purposes of the 2016 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to employees, directors and consultants and to promote the success of our business.

**Share Reserve.** As of September 30, 2019, we had 20,438,730 shares of our common stock reserved for issuance pursuant to grants under our 2016 Plan of which 362,309 shares remained available for grant. As of September 30, 2019, options to purchase 683,333 shares had been exercised and options to purchase 19,393,088 shares remained outstanding, with a weighted-average exercise price of $3.49 per share. As of September 30, 2019, no shares of restricted stock, no stock appreciation rights and no RSUs were granted under the 2016 Plan, and no such awards are expected to be granted prior to the offering; provided that certain options granted under the 2016 Plan are early exercisable and may be exercised for unvested shares of our common stock subject to a repurchase right. No new awards will be granted under the 2016 Plan after the offering.

**Administration.** Our 2016 Plan is administered by our board of directors or a committee appointed by our board of directors, referred to herein as the "administrator." Subject to the terms of the 2016 Plan, the administrator has the authority to, among other things, select the persons to whom awards will be granted, construe and interpret our 2016 Plan as well as to prescribe, amend and rescind rules and regulations relating to the 2016 Plan and awards granted thereunder. The administrator may modify awards subject to the terms of the 2016 Plan.

**Eligibility.** Pursuant to the 2016 Plan, we may grant incentive stock options only to our employees or the employees of our parent or subsidiaries, as applicable (including officers and directors who are also employees). We may grant non-statutory stock options, RSUs, stock appreciation rights and shares of restricted stock to our employees (including officers and directors who are also employees), non-employee directors, and consultants, or the employees, directors, and consultants of our parent and subsidiaries, as applicable.

**Options.** The 2016 Plan provides for the grant of both (i) incentive stock options, which are intended to qualify for tax treatment as set forth under Section 422 of the Code and (ii) non-statutory stock options to purchase shares of our common stock, each at a stated exercise price. The exercise price of each option must be at least equal to the fair market value of our common stock on the date of grant (unless otherwise determined by the administrator). However, the exercise price of any incentive stock option granted to an individual who owns more than ten percent of the total combined voting power of all classes of our capital stock must be at least equal to 110% of the fair market value of our common stock on the date of grant. The administrator will determine the vesting schedule applicable to each option. The maximum permitted term of options granted under our 2016 Plan is ten years from the date of grant, except that the maximum permitted term of incentive stock options granted to an individual who owns more than ten percent of the total combined voting power of all classes of our capital stock is five years from the date of grant.
Restricted Stock, RSUs, Stock Appreciation Rights. In addition, the 2016 Plan allows for the grant of restricted stock awards, RSUs, and stock appreciation rights, with terms as generally determined by the administrator (in accordance with the 2016 Plan) and to be set forth in an award agreement. We have not granted any shares of restricted stock, any RSUs or any stock appreciation rights under the 2016 Plan and no such awards are expected to be granted prior to the offering; provided that certain options granted under the 2016 Plan are early exercisable and may be exercised for unvested shares of our common stock subject to a repurchase right.

Limited Transferability. Unless otherwise determined by the administrator, awards under the 2016 Plan generally may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will, the laws of descent and distribution and, with respect to non-statutory stock options, by instrument to an inter vivos or testamentary trust in which the non-statutory stock options are to be passed to beneficiaries upon the death of the trustor, or by gift to a qualified family member.

Change of Control. In the event that we are subject to an “acquisition” or “other combination” (as defined in the 2016 Plan and generally meaning, collectively, a merger, a sale or transfer of more than 50% of the voting power of all of our outstanding securities, or a sale of all or substantially all of the assets of ours), the 2016 Plan provides that awards will be subject to the agreement evidencing such acquisition or other combination, which agreement need not treat all awards in a similar manner. Such agreement may, without the participant’s consent, provide for the continuation of outstanding awards, the assumption or substitution of awards, the acceleration of vesting of awards, the settlement of awards (whether or not vested) in cash, securities, or other consideration, or the cancellation of such awards for no consideration.

Adjustments. In the event that the number of outstanding shares of our common stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, spin-off, or other change in our capital structure affecting our shares without consideration, then in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the 2016 Plan (i) the number of shares reserved for issuance under the 2016 Plan, (ii) the exercise prices of and number of shares subject to outstanding options and stock appreciation rights, and (iii) the purchase prices of and/or number of shares subject to other outstanding awards will (to the extent appropriate) be proportionately adjusted (subject to required action by the board or our stockholders).

Exchange, repricing and buyout of awards. The administrator may, with the consent of the respective participants, issue new awards in exchange for the surrender and cancelation of any or all outstanding awards. The administrator may also reduce the exercise price of options or stock appreciation rights or buy an award previously granted with payment in cash, shares or other consideration, in each case, subject to the terms of the 2016 Plan.

Amendment; Termination. Our board of directors may amend or terminate the 2016 Plan at any time and may terminate any and all outstanding options, RSUs, or stock appreciation rights upon a dissolution or liquidation of us, provided that certain amendments will require shareholder approval or participant consent. We expect to terminate the 2016 Plan and will cease issuing awards thereunder upon the effective date of our 2019 Equity Incentive Plan (described below), which is the date immediately prior to the date of the effectiveness of the registration statement of which this prospectus forms a part. Any outstanding awards granted under the 2016 Plan will remain outstanding following the offering, subject to the terms of our 2016 Plan and applicable award agreements, until such awards are exercised or until they terminate or expire by their terms.
We intend to adopt our 2019 Plan that will become effective on the date immediately prior to the pricing of this offering and will serve as the successor to our 2016 Plan. Our 2019 Plan authorizes the award of stock options, restricted stock awards, stock appreciation rights, RSUs, performance awards, cash awards, and stock bonus awards. We intend to initially reserve shares of our common stock, plus any reserved shares not issued or subject to outstanding grants under the 2016 Plan on the effective date of the 2019 Plan, for issuance pursuant to awards granted under our 2019 Plan. The number of shares reserved for issuance under our 2019 Plan will increase automatically on July 1 of each of 2020 through 2029 by the number of shares equal to the lesser of % of the total number of outstanding shares of our common stock as of the immediately preceding June 30, or a number as may be determined by our board of directors. In addition, the following shares of our common stock will be available for grant and issuance under our 2019 Plan:

- shares subject to options or SARs granted under our 2019 Plan that cease to be subject to the option or SAR for any reason other than exercise of the option or SAR;
- shares subject to awards granted under our 2019 Plan that are subsequently forfeited or repurchased by us at the original issue price;
- shares subject to awards granted under our 2019 Plan that otherwise terminate without shares being issued;
- shares surrendered, canceled or exchanged for cash or the same type of award or a different award (or combination thereof);
- shares subject to awards under the 2019 Plan that are used to pay the exercise price of an award or withheld to satisfy the tax withholding obligations related to any award;
- shares issuable upon the exercise of options or subject to other awards under our 2016 or our 2006 Plan that cease to be subject to such options or other awards by forfeiture or otherwise after the effective date of the 2019 Plan;
- shares issued pursuant to outstanding awards under our 2016 Plan and 2006 Plan that are forfeited or repurchased by us at the original issue price after the effective date of the 2019 Plan; and
- shares subject to awards under our 2006 Plan or 2016 Plan that are used to pay the exercise price of an option or withheld to satisfy the tax withholding obligations related to any award.

The following is a description of the material terms of the 2019 Plan. The summary below does not contain a complete description of all provisions of the 2019 Plan and is qualified in its entirety by reference to the 2019 Plan, a copy of which will be included as an exhibit to the registration statement to which this prospectus forms a part.

**Administration.** Our 2019 Plan is expected to be administered by our compensation committee or by our board of directors acting in place of our compensation committee. Subject to the terms and conditions of the 2019 Plan, the compensation committee will have the authority, among other things, to select the persons to whom awards may be granted, construe and interpret our 2019 Plan as well as to determine the terms of such awards and prescribes, amend, and rescind the rules and regulations relating to the 2019 Plan or any award granted thereunder. The 2019 Plan provides that the board of directors or compensation committee may delegate its authority, including the authority to grant awards, to one or more officers to the extent permitted by applicable law, provided that awards granted to non-employee directors may only be determined by our board of directors.

**Eligibility.** Our 2019 Plan provides for the grant of awards to our employees, directors, and consultants. No non-employee director may receive awards under our 2019 Plan that, when combined
with cash compensation received for service as a non-employee director, exceed $                in value (measured as of the date of grant) in any fiscal year.

**Options.** The 2019 Plan provides for the grant of both incentive stock options intended to qualify under Section 422 of the Code, and non-statutory stock options to purchase shares of our common stock at a stated exercise price. Incentive stock options may only be granted to employees, including officers and directors who are also employees. The exercise price of stock options granted under the 2019 Plan must be at least equal to the fair market value of our common stock on the date of grant. Incentive stock options granted to an individual who holds, directly or by attribution, more than ten percent of the total combined voting power of all classes of our capital stock must have an exercise price of at least 110% of the fair market value of our common stock on the date of grant. Subject to stock splits, dividends, recapitalizations or similar events, no more than                shares may be issued pursuant to the exercise of incentive stock options granted under the 2019 Plan.

Options may vest based on service or achievement of performance conditions. Our compensation committee may provide for options to be exercised only as they vest or to be immediately exercisable, with any shares issued on exercise being subject to our right of repurchase that lapses as the shares vest. The maximum term of options granted under our 2019 Plan is ten years from the date of grant, except that the maximum permitted term of incentive stock options granted to an individual who holds, directly or by attribution, more than ten percent of the total combined voting power of all classes of our capital stock is five years from the date of grant.

**Restricted Stock Awards.** An award of restricted stock is an offer by us to sell shares of our common stock subject to restrictions that may lapse based on the satisfaction of service or achievement of performance conditions. The price, if any, of an award of restricted stock will be determined by the compensation committee. Unless otherwise determined by the compensation committee, holders of restricted stock will be entitled to vote and to receive any dividends or stock distributions paid pursuant to any unvested shares of restricted stock. If any such dividends or distributions are paid in shares of common stock, the shares will be subject to the same restrictions on transferability and forfeiture as the shares of restricted stock with respect to which they were paid.

**Stock Appreciation Rights.** A SAR provides for a payment, in cash or shares of our common stock, to the holder based upon the difference between the fair market value of our common stock on the date of exercise and a pre-determined exercise price, multiplied by the number of shares with respect to which the SAR is being exercised. The exercise price of a SAR must be at least the fair market value of a share of our common stock on the date of grant. SARs may vest based on service or achievement of performance conditions, and may not have a term that is longer than ten years from the date of grant.

**Restricted Stock Units.** RSUs represent the right to receive shares of our common stock at a specified date in the future, and may be subject to vesting based on service or achievement of performance conditions. Settlement of earned RSUs may be made as soon as practicable after the date determined at the time of grant or on a deferred basis in the discretion of the committee, and may be settled in cash, shares of our common stock or a combination of both. No RSU may have a term that is longer than ten years from the date of grant.

**Performance Awards.** Performance awards granted pursuant to the 2019 Plan may be in the form of a cash bonus, or an award of performance shares or performance units denominated in shares of our common stock, that may be settled in cash, property or by issuance of those shares subject to the satisfaction or achievement of specified performance conditions.

**Stock Bonus Awards.** A stock bonus award provides for payment in the form of cash, shares of our common stock or a combination thereof, based on the fair market value of shares subject to such
award as determined by our compensation committee. The awards may be subject to vesting restrictions based on continued service or performance conditions.

**Cash Awards.** A cash award is an award that is denominated in, or payable to an eligible participant solely in, cash.

**Dividend Equivalent Rights.** Dividend equivalent rights may be granted at the discretion of our compensation committee and represent the right to receive the value of dividends, if any, paid by us in respect of the number of shares of our common stock underlying an award. Dividend equivalent rights will be subject to the same vesting or performance conditions as the underlying award and will be paid only at such time as the underlying award has become fully vested. Dividend equivalent rights may be settled in cash, shares or other property, or a combination of thereof as determined by the compensation committee.

**Change of Control.** In the event of a “corporate transaction” (as defined in the 2019 Plan), awards may be assumed, converted, replaced, or substituted by the successor corporation, which assumption, conversion, replacement or substitution will be binding on all participants. In the event of a substitution, the successor corporation may substitute equivalent awards or provide substantially similar consideration to participants as was provided to stockholders (after taking into account the existing provisions of the awards). In the event such successor or acquiring corporation (if any) refuses to assume, convert, replace, or substitute awards, as provided above, pursuant to a corporate transaction, then immediately prior to the corporate transaction all such awards shall expire on such corporate transaction at such time and on such conditions as our board of directors determine. In addition, in the event such successor or acquiring corporation (if any) refuses to assume, convert, replace, or substitute awards, as provided above, pursuant to a corporate transaction, the committee will notify the participant in writing or electronically that such participant’s award will, if exercisable, be exercisable for a period of time determined by the committee in its sole discretion, and such award will terminate upon the expiration of such period. Awards need not all be treated in the same manner in a corporate transaction, and treatment may vary from award to award and/or from participant to participant. Notwithstanding the foregoing, the vesting of all awards granted to our non-employee directors will accelerate and such awards will become exercisable (to the extent applicable) in full prior to the consummation of a corporate transaction at such times and on such conditions as the committee determines.

**Adjustment.** In the event of a change in the outstanding shares of our common stock without consideration by reason of a stock dividend, extraordinary dividend or distribution, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, spin-off, or similar change in our capital structure, appropriate proportional adjustments will be made to (i) the number and class of shares reserved for issuance under our 2019 Plan and the incentive stock option limit; (ii) the exercise prices of options and SARs; (iii) number and class of shares subject to outstanding awards; and (iv) any applicable maximum award limits pursuant to the 2019 Plan.

**Clawback; Transferability.** All awards will be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the board of directors or required by law to the extent set forth in such policy or applicable agreement. Except in limited circumstances, awards granted under our 2019 Plan may generally not be transferred in any manner prior to vesting other than by will or by the laws of descent and distribution.

**Amendment and Termination; Exchange Program.** Our board of directors may amend our 2019 Plan at any time, subject to stockholder approval as may be required. Our 2019 Plan will terminate ten years from the date our board of directors adopts the plan, unless it is terminated earlier by our board of directors. No termination or amendment of the 2019 Plan may adversely affect any then-outstanding
award without the consent of the affected participant, except as is necessary to comply with applicable laws. Subject to the foregoing, the 
compensation committee may at any time increase or decrease the exercise price applicable to outstanding options or SARs, or pay cash or 
issue new awards in exchange for the surrender and cancellation of any, or all, outstanding awards.

2019 Employee Stock Purchase Plan

We intend to adopt the ESPP that will become effective upon the effectiveness of the registration statement of which this prospectus 
forms a part in order to enable eligible employees to purchase shares of our common stock at a discount with accumulated payroll 
deductions. Our ESPP is intended to qualify under Section 423 of the Code.

The following is a description of the material terms of the ESPP. The summary below does not contain a complete description of all 
provisions of the ESPP and is qualified in its entirety by reference to the ESPP, a copy of which will be included as an exhibit to the 
registration statement to which this prospectus forms a part.

Share Reserve. We intend to initially reserve shares of our common stock for sale under our ESPP. The aggregate number of shares reserved for sale under our ESPP will increase automatically on July 1st of each of 2020 through 2029 by the number of shares equal to the lesser of % of the total outstanding shares of our common stock as of the immediately preceding June 30 or a lower number of shares as may be determined by our board of directors or compensation committee in any particular year. The aggregate number of shares issued over the term of our ESPP, subject to stock splits, recapitalizations, or similar events, may not exceed shares of our common stock.

Administration. Our compensation committee will administer our ESPP subject to the terms and conditions of the ESPP. Among other things, the compensation committee will have the authority to determine eligibility for participation in the ESPP, designate separate offerings under the plan, and construe, interpret, and apply the terms of the plan.

Eligibility. Employees eligible to participate in any offering pursuant to the ESPP generally include any employee that is employed by us at the beginning of the offering period. While our employees generally are eligible to participate in our ESPP, our compensation committee may in its discretion elect to exclude employees who work fewer than 20 hours per week or fewer than five months in a calendar year. In addition, employees who are 5% stockholders, or would become 5% stockholders as a result of their participation in our ESPP are ineligible to participate in our ESPP. We may impose additional restrictions on eligibility within the limits permitted by the Code.

Offering Periods; Enrollment. Under our ESPP, eligible employees will be offered the option to purchase shares of our common stock at a discount over a series of offering periods. Each offering period may itself consist of one or more purchase periods. No offering period may be longer than 27 months and each offering period will be determined by our compensation committee. It is currently expected that when the first offering period commences, our employees who meet the eligibility requirements for participation in that offering period will be eligible to enroll. For subsequent offering periods, new participants will be required to enroll in a timely manner. Once an employee is enrolled, participation will be automatic in subsequent offering periods. An employee’s participation automatically ends upon a termination of employment for any reason.

Offerings; Payroll Deductions; Limitations. Under our ESPP, eligible employees will be offered the option to purchase shares of our common stock at a discount over a series of offering periods by
accumulating funds through payroll deductions of between 1% and 15% of their compensation. The purchase price for shares of our common stock purchased under the ESPP will be 85% of the lesser of the fair market value of our common stock on (i) the first trading day of the applicable offering period and (ii) the date of purchase. However, no participant may purchase more than [number of shares] shares on any one purchase date. Our compensation committee, in its discretion, may set a lower maximum number of shares which may be purchased. In addition, no participant will have the right to purchase our shares in an amount, when aggregated with purchase rights under all our employee stock purchase plans that are also in effect in the same calendar years, that has a fair market value of more than $25,000, determined as of the first day of the applicable offering period, for each calendar year in which that right is outstanding.

Adjustments upon Recapitalization. If the outstanding shares of our common stock is changed by stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, or similar change in our capital structure without consideration, then our compensation committee will proportionately adjust the number and class of common stock that is available under the ESPP, the purchase price and number of shares any participant has elected to purchase as well as the maximum number of shares which may be purchased by participants.

Change of Control. If we experience a corporate transaction (as defined in the ESPP), each outstanding right to purchase shares under our ESPP will be assumed or an equivalent option substituted by the successor corporation. In the event that the successor corporation refuses to assume or substitute for the outstanding purchase rights, any offering period that commenced prior to the closing of the proposed corporate transaction will be shortened and terminated on a new purchase date. The new purchase date will occur on or prior to the consummation of the corporate transaction and our ESPP will terminate on the consummation of the corporate transaction.

Transferability. No participant may assign, transfer, pledge, or otherwise dispose of payroll deductions credited to his or her account, or any rights with regard to an election to purchase shares pursuant to the ESPP other than by will or the laws of descent or distribution.

Amendment; Termination. The compensation committee may amend, suspend, or terminate the ESPP at any time without stockholder consent, except as required by law. Our ESPP will continue until the earliest to occur of (i) termination of the ESPP by the board of directors, (ii) issuance of all of the shares reserved for issuance under the ESPP, and (iii) the tenth anniversary of the effective date under the ESPP.

401(k) Plan

We sponsor a retirement plan intended to qualify for favorable tax treatment under Section 401(a) of the Code, containing a cash or deferred feature that is intended to meet the requirements of Section 401(k) of the Code. With certain exceptions, all employees who have attained at least 21 years of age are eligible to participate in the plan on the first day of the month occurring after the employee satisfies the eligibility requirements. Participants may make pre-tax contributions to the plan from their eligible earnings up to the statutorily prescribed annual limit on contributions under the Code. Participant contributions are held in trust as required by law. No minimum benefit is provided under the plan. An employee’s interest in his or her deferrals contributions is 100% vested when contributed. We may make discretionary matching contributions, which contributions will be subject to vesting conditions.

Limitations on Liability and Indemnification Matters

Our restated certificate of incorporation that will become effective in connection with this offering contains provisions that will limit the liability of our directors for monetary damages to the fullest extent
permitted by the Delaware General Corporation Law (DGCL). Consequently, our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for:

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

Our restated certificate of incorporation and our restated bylaws that will become effective in connection with this offering will require us to indemnify our directors and officers to the maximum extent not prohibited by the DGCL and allow us to indemnify other employees and agents as set forth in the DGCL. Subject to certain limitations, our restated bylaws will also require us to advance expenses incurred by our directors and officers for the defense of any action for which indemnification is required or permitted, subject to very limited exceptions.

We have entered, and intend to continue to enter, into separate indemnification agreements with our directors, officers, and certain of our other employees. These agreements, among other things, require us to indemnify our directors, officers, and key employees for certain expenses, including attorneys’ fees, judgments, fines, and settlement amounts actually and reasonably incurred by such director, officer, or key employee in any action or proceeding arising out of their service to us or any of our subsidiaries or any other company or enterprise to which the person provides services at our request. Subject to certain limitations, our indemnification agreements also require us to advance expenses incurred by our directors, officers, and key employees for the defense of any action for which indemnification is required or permitted.

We believe that these provisions in our restated certificate of incorporation and indemnification agreements are necessary to attract and retain qualified persons such as directors, officers, and key employees. We also maintain directors’ and officers’ liability insurance.

The limitation of liability and indemnification provisions in our restated certificate of incorporation and restated bylaws may discourage stockholders from bringing a lawsuit against our directors and officers for breaches of their fiduciary duties. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder’s investment may be adversely affected to the extent that we pay the costs of settlement and damage awards against directors and officers as required by these indemnification provisions.

At present, we are not aware of any pending litigation or proceeding arising out of any indemnitee’s service to us or any of our subsidiaries or any other company or enterprise to which the person provides services at our request, involving any person who is or was one of our directors, officers, employees, or other agents or is or was serving at our request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, for which indemnification is sought, and we are not aware of any threatened litigation that may result in claims for indemnification.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, executive officers, or persons controlling us, we have been informed that in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.
CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

We describe below transactions since July 1, 2016, to which we were a party or will be a party, in which the amounts involved exceeded or will exceed $120,000 and any of our directors, executive officers, or beneficial holders of more than 5% of any class of our capital stock had or will have a direct or indirect material interest. Other than as described below, there have not been transactions to which we have been a party other than compensation arrangements, which are described under “Executive Compensation.”

Series H Redeemable Convertible Preferred Stock Financing

Between December 2018 and February 2019, we sold an aggregate of 10,606,695 shares of our Series H redeemable convertible preferred stock at a purchase price of approximately $8.3077 per share for an aggregate purchase price of approximately $88.1 million. Each share of our Series H redeemable convertible preferred stock converts automatically into one share of our common stock immediately prior to the completion of this offering.

The purchasers of our Series H redeemable convertible preferred stock are entitled to specified registration rights. For additional information, see “Description of Capital Stock—Registration Rights.” See the section titled “Principal Stockholders” for more details regarding the shares held by certain of these entities.

Ossa Investments Pte. Ltd. (Ossa), a holder of more than 5% of our outstanding capital stock, purchased 648,929 shares of Series H redeemable convertible preferred stock for an aggregate purchase price of $5,391,107.46. In addition, we entered into a side letter agreement with Ossa that provides that for so long as Ossa holds 25% of the shares of Series G redeemable convertible preferred stock and Series H redeemable convertible preferred stock held by Ossa as of the date of the letter agreement, Ossa shall have the right to attend our board meetings in a nonvoting observer capacity, which right terminates upon the closing of this offering.

Series G Redeemable Convertible Preferred Stock Financing

Between June and December 2017, we sold an aggregate of 16,891,894 shares of our Series G redeemable convertible preferred stock at a purchase price of approximately $4.884 per share for an aggregate purchase price of approximately $82.5 million. Each share of our Series G redeemable convertible preferred stock converts automatically into one share of our common stock immediately prior to the completion of this offering.

The purchasers of our Series G redeemable convertible preferred stock are entitled to specified registration rights. For additional information, see “Description of Capital Stock—Registration Rights.” See the section titled “Principal Stockholders” for more details regarding the shares held by certain of these entities.

The following table summarizes the Series G redeemable convertible preferred stock purchased by affiliates of members of our board of directors and holders of more than 5% of our outstanding capital stock:

<table>
<thead>
<tr>
<th>Name of Stockholder</th>
<th>Shares of Series G RedemConvertible Preferred Stock</th>
<th>Total Purchase Price($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entities affiliated with August Capital(1)</td>
<td>1,547,542</td>
<td>7,558,195.14</td>
</tr>
<tr>
<td>Entities affiliated with DCM(2)</td>
<td>716,492</td>
<td>3,499,346.94</td>
</tr>
<tr>
<td>Entities affiliated with Emergence Capital(3)</td>
<td>40,949</td>
<td>199,994.93</td>
</tr>
<tr>
<td>Financial Partners Fund I, L.P.(4)</td>
<td>638,098</td>
<td>4,093,270.64</td>
</tr>
<tr>
<td>Icon Ventures IV, L.P.(5)</td>
<td>102,375</td>
<td>499,999.50</td>
</tr>
<tr>
<td>Ossa Investments Pte. Ltd.(6)</td>
<td>8,886,159</td>
<td>43,400,000.56</td>
</tr>
<tr>
<td>Scale Venture Partners IV, L.P.(7)</td>
<td>767,084</td>
<td>3,746,438.27</td>
</tr>
</tbody>
</table>
Tenth Amended and Restated Investors’ Rights Agreement

We have entered into an amended and restated investors’ rights agreement with certain holders of our redeemable convertible preferred stock, including entities with which certain of our directors are affiliated. These stockholders are entitled to rights with respect to the registration of their shares following this offering. For a description of these registration rights, see the section titled “Description of Capital Stock—Registration Rights.” Other than these registration rights, all other terms of the amended and restated investors’ rights agreement will terminate in connection with this offering.

Corporate Reorganization

In November 2018, we consummated a reorganization by forming BDC Payments Holdings, Inc. (BDC), which was incorporated in Delaware on August 2, 2018, and Bill.com, LLC (Merger Sub) as a wholly owned subsidiary of BDC. We merged Bill.com, Inc. and Merger Sub, with Bill.com, Inc. as the surviving entity, by issuing identical shares of our capital stock to the stockholders of Bill.com, Inc. in exchange for their equity interest in Bill.com, Inc. After the merger, all of the stockholders of Bill.com, Inc. became 100% stockholders of BDC and Bill.com, Inc. became a wholly owned subsidiary of BDC and subsequently converted to Bill.com, LLC. BDC subsequently changed its name to Bill.com Holdings, Inc. in June 2019.

Ossa Investments Pte. Ltd Stock Purchases

In June 2019, we, Ossa, a holder of more than 5% of our outstanding capital stock, and Eric Chan, our Chief Technology Officer, entered into a stock transfer agreement pursuant to which Mr. Chan sold an aggregate of 40,000 shares of Series B redeemable convertible preferred stock to Ossa at a purchase price of $7.48 per share, for an aggregate purchase price of $299,200.00.

Additionally, in June 2019, we, Ossa and René Lacerte and Joyce Chung, Co-Trustees of the Chung Lacerte Trust Under Trust Agreement dated 2/15/2004 (Lacerte Trust) entered into a stock transfer agreement pursuant to which the Lacerte Trust sold an aggregate of 684,931 shares of Series B redeemable convertible preferred stock and 104,324 shares of Series C redeemable convertible preferred stock to Ossa, each at a purchase price of $7.48 per share, for an aggregate purchase price of $5,903,627.40.

Additionally, in September 2019, Ossa and Fifth Third Capital Holdings, LLC (Fifth Third) entered into a stock transfer agreement, pursuant to which Fifth Third sold an aggregate of 747,761 shares of Series E redeemable convertible preferred stock to Ossa at a purchase price of $8.3077 per share, for an aggregate purchase price of $6,212,174.06.
Indemnification Agreements

We will enter into indemnification agreements with each of our directors and executive officers. The indemnification agreements and our restated bylaws will require us to indemnify our directors to the fullest extent not prohibited by DGCL. Subject to very limited exceptions, our restated bylaws will also require us to advance expenses incurred by our directors and officers. For more information regarding these agreements, see the section titled “Executive Compensation—Limitations on Liability and Indemnification Matters.”

Policies and Procedures for Related Party Transactions

Our written related party transactions policy and the charters of our audit committee and nominating and governance committee to be adopted by our board of directors and in effect immediately prior to the completion of this offering require that any transaction with a related person that must be reported under applicable rules of the SEC must be reviewed and approved or ratified by our audit committee. However, if the related party is, or is associated with, a member of the audit committee, the transaction must be reviewed and approved by our nominating and governance committee.

Prior to this offering we had no formal, written policy for the review and approval of related party transactions. However, our practice has been to have all related party transactions reviewed and approved by a majority of the disinterested members of our board of directors, including the transactions described above.
PRINCIPAL STOCKHOLDERS

The following table sets forth certain information with respect to the beneficial ownership of our common stock as of September 30, 2019, and as adjusted to reflect the sale of common stock in this offering, for:

- each of our named executive officers;
- each of our directors;
- all of our current directors and executive officers as a group; and
- each person, or group of affiliated persons, who beneficially owned more than 5% of our common stock.

We have determined beneficial ownership in accordance with the rules of the SEC, and the information is not necessarily indicative of beneficial ownership for any other purpose. Except as indicated by the footnotes below, we believe, based on information furnished to us, that the persons and entities named in the table below have sole voting and sole investment power with respect to all shares of common stock that they beneficially owned, subject to applicable community property laws.
Applicable percentage ownership is based on 121,461,891 shares of our common stock outstanding as of September 30, 2019 and assumes the conversion of all outstanding shares of redeemable convertible preferred stock into an aggregate of 104,869,089 shares of our common stock. For purposes of the table below, we have assumed that shares of common stock will be issued in this offering. In computing the number of shares of common stock beneficially owned by a person and the percentage ownership of that person, we deemed to be outstanding all shares of common stock subject to options held by that person or entity that are currently exercisable or that will become exercisable within 60 days of September 30, 2019. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person. Unless otherwise indicated, the address of each beneficial owner in the table below is c/o Bill.com Holdings, Inc, 1810 Embarcadero Road, Palo Alto, California 94303.

<table>
<thead>
<tr>
<th>Name of Beneficial Owner</th>
<th>Shares Beneficially Owned Before this Offering</th>
<th>Shares Beneficially Owned After this Offering</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Shares</td>
<td>%</td>
</tr>
<tr>
<td><strong>Named Executive Officers and Directors:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>René Lacerte(1)</td>
<td>7,569,375</td>
<td>6.2</td>
</tr>
<tr>
<td>John Rettig(2)</td>
<td>1,223,541</td>
<td>1.0</td>
</tr>
<tr>
<td>Bora Chung(3)</td>
<td>12,500</td>
<td></td>
</tr>
<tr>
<td>Steven Cakebread(4)</td>
<td>200,000</td>
<td></td>
</tr>
<tr>
<td>David Chao(5)</td>
<td>19,754,839</td>
<td>16.3</td>
</tr>
<tr>
<td>David Horink(6)</td>
<td>15,465,532</td>
<td>12.7</td>
</tr>
<tr>
<td>Brian Jacobs(7)</td>
<td>9,892,115</td>
<td>8.1</td>
</tr>
<tr>
<td>Peter Kight(8)</td>
<td>255,279</td>
<td></td>
</tr>
<tr>
<td>Thomas Mawhinney(9)</td>
<td>6,867,227</td>
<td>5.7</td>
</tr>
<tr>
<td>Allison Mnookin(10)</td>
<td>200,000</td>
<td></td>
</tr>
<tr>
<td>Rory O’Driscoll(11)</td>
<td>7,548,366</td>
<td>6.2</td>
</tr>
<tr>
<td>Steven Piaker(12)</td>
<td>9,506,337</td>
<td>7.8</td>
</tr>
<tr>
<td><strong>Total Executive Officers and Directors as a Group (13 people)(13)</strong></td>
<td>78,895,111</td>
<td>64.9</td>
</tr>
<tr>
<td><strong>5% Stockholders:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entities affiliated with DCM(14)</td>
<td>19,754,839</td>
<td>16.3</td>
</tr>
<tr>
<td>Entities affiliated with August Capital(15)</td>
<td>15,465,532</td>
<td>12.7</td>
</tr>
<tr>
<td>Ossa Investments Pte. Ltd.(16)</td>
<td>11,112,104</td>
<td>9.1</td>
</tr>
<tr>
<td>Entities affiliated with Emergence Capital(17)</td>
<td>9,892,115</td>
<td>8.1</td>
</tr>
<tr>
<td>Financial Partners Fund I, L.P.(18)</td>
<td>9,506,337</td>
<td>7.8</td>
</tr>
<tr>
<td>Scale Venture Partners IV, L.P.(19)</td>
<td>7,548,366</td>
<td>6.2</td>
</tr>
<tr>
<td>Icon Ventures IV, L.P.(20)</td>
<td>6,867,227</td>
<td>5.7</td>
</tr>
<tr>
<td><strong>5% Stockholders:</strong></td>
<td></td>
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<tr>
<td>Entities affiliated with DCM(14)</td>
<td>19,754,839</td>
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<td>6,867,227</td>
<td>5.7</td>
</tr>
</tbody>
</table>

* Represents beneficial ownership of less than one percent.

(1) Consists of (i) 630,000 shares of our common stock held by Mr. Lacerte; (ii) 5,510,000 shares of our common stock held by Chung Lacerte Trust; (iii) 540,000 shares of our common stock held in trust by Mr. Lacerte as custodian; and (iv) 889,375 shares of our common stock issuable to Mr. Lacerte upon exercise of stock options within 60 days of September 30, 2019.

(2) Consists of (i) 116,279 shares of our common stock held by Mr. Rettig; and (ii) 1,107,262 shares of our common stock issuable to Mr. Rettig upon exercise of stock options within 60 days of September 30, 2019.

(3) Consists of 12,500 shares of our common stock issuable to Ms. Chung upon exercise of stock options within 60 days of September 30, 2019.

(4) Consists of 200,000 shares of our common stock issuable to Mr. Cakebread upon exercise of stock options that may be exercised early within 60 days of September 30, 2019.

(5) Consists of common stock referenced in footnote (14) below that is held of record by entities affiliated with DCM.

(6) Consists of common stock referenced in footnote (15) below that is held of record by entities affiliated with August Capital.

(7) Consists of common stock referenced in footnote (17) below that is held of record by entities affiliated with Emergence Capital.
Table of Contents

(8) Consists of (i) 55,279 shares of our common stock held by Mr. Kight; and (ii) 200,000 shares of our common stock issuable to Mr. Kight upon exercise of stock options that may be exercised early within 60 days of September 30, 2019.

(9) Consists of common stock referenced in footnote (20) below that is held of record by Icon Ventures IV, L.P.

(10) Consists of 200,000 shares of our common stock issuable to Ms. Mnookin upon exercise of stock options that may be exercised early within 60 days of September 30, 2019.

(11) Consists of common stock referenced in footnote (19) below that is held of record by Scale Venture Partners IV, L.P.

(12) Consists of common stock referenced in footnote (18) below that is held of record by Financial Partners Fund I, L.P.

(13) Consists of (i) 75,885,974 shares of our common stock held directly and indirectly by our executive officers and directors; and (ii) 3,009,137 shares of our common stock issuable to them upon exercise of stock options within 60 days of September 30, 2019.

(14) Consists of (i) 489,920 shares of our common stock held by DCM Affiliates Fund IV, L.P. and (ii) 19,264,919 shares of our common stock held by DCM Investment Management IV, L.P. and related individuals, collectively the DCM entities. DCM Investment Management IV, L.P. is the general partner of the DCM entities. DCM International IV, Ltd. is the general partner of DCM Investment Management IV, L.P. David Chao, the director of DCM International IV, Ltd. and a member of our board of directors, may be deemed to have sole voting and investment power with respect to the shares held by the DCM entities. The address for the DCM entities is 2420 Sand Hill Road, Suite 200, Menlo Park, California 94025.

(15) Consists of (i) 13,917,960 shares of our common stock held by August Capital V, L.P. for itself and as nominee for August Capital Strategic Partners V, L.P. and related individuals and (ii) 1,547,542 shares of our common stock held by August Capital V Special Opportunities, L.P. and as nominee for August Capital Strategic Partners V, L.P. and related individuals, collectively the August Capital entities. August Capital Management V, L.L.C. is the general partner of the August Capital entities and may be deemed to have sole voting power and sole investment power over the shares held by the August Capital entities. David Hornik, a member of our board of directors, and Howard Hartenbaum are the members of August Capital Management V, L.L.C. and may be deemed to have shared voting and investment power with respect to the shares held by the August Capital entities. The address for the August Capital entities is PMB #456, 660 4th Street, San Francisco, California 94107.

(16) Consists of 11,112,104 shares of our common stock held by Ossa Investments Pte. Ltd. Ossa Investments Pte. Ltd. is a direct wholly-owned subsidiary of Holtam Investments Pte Ltd (Hotham), which in turn is a direct wholly-owned subsidiary of Fullerton Management Pte Ltd (Fullerton), which in turn is a direct wholly-owned subsidiary of Temasek Holdings (Private) Limited (Temasek). In such capacities, each of Hotham, Fullerton and Temasek may be deemed to have voting and dispositive power over the shares held by Ossa Investments Pte. Ltd. The address for Ossa Investments Pte. Ltd., Fullerton and Temasek is 60B Orchard Road #06-18 Tower 2, The Atrium@Orchard, Singapore 238891.

(17) Consists of (i) 678,199 shares of our common stock held by Emergence Capital Associates, L.P.; (ii) 6,787,167 shares of our common stock held by Emergence Capital Partners, L.P.; and (iii) 2,426,749 shares of our common stock held by Emergence Capital Partners-P.A., L.P., collectively, the Emergence Capital entities. Emergence GP Partners, LLC is the sole general partner of Emergence Equity Partners, L.P., which is the sole general partner of the Emergence Capital entities. Jason Green and Gordon Ritter are managers of Emergence GP Partners, LLC and share voting and dispositive control over the shares held by the Emergence Capital entities. Brian Jacobs, a member of our board of directors, is a manager of Emergence Equity Partners, L.P. and shares voting and dispositive control with respect to the shares held by the Emergence Capital entities. Each manager disclaims beneficial ownership of the shares except to the extent of his pecuniary interest therein. The address for the Emergence Capital entities is 160 Bovet Road, Suite 300, San Mateo, California 94402.

(18) Consists of 9,506,337 shares of our common stock held by Financial Partners Fund I, L.P. Napier Park Global Capital GP LLC is the general partner of Financial Partners Fund I, L.P., which has delegated management responsibility to Napier Park Global Capital (US), L.P. The Financial Partners team of Napier Park Global Capital (US), L.P., under the authority and supervision of Steven Piaker, a member of our board of directors, and Manu Rana, is deemed to have sole voting and investment power with respect to the shares held by Financial Partners Fund I, L.P. The address for Financial Partners Fund I, L.P. is 280 Park Avenue, 3rd Floor, New York, New York 10017.

(19) Consists of 7,548,366 shares of our common stock held by Scale Venture Partners IV, L.P. Scale Venture Management IV, LLC is the ultimate general partner of Scale Venture Partners IV, L.P. Rory O’Driscoll, a member of our board of directors, Stacey Bishop, and Andrew Vitus are managers of Scale Venture Management IV, LLC and share voting and dispositive power with respect to the shares held by Scale Venture Partners IV, L.P. The address for Scale Venture Partners IV, L.P. is 950 Tower Lane, Suite 1150, Foster City, California 94404.

(20) Consists of 6,867,227 shares of our common stock held by Icon Ventures IV, L.P. Icon Management Associates IV, LLC is the general partner of Icon Ventures IV, L.P. Joseph Horowitz, Thomas Mawhinney, a member of our board of directors, and Jeb Miller are the managing members of Icon Management Associates IV, LLC and share voting and dispositive control with respect to the shares held by Icon Ventures IV, L.P. The address for Icon Ventures IV, L.P. is 505 Hamilton Avenue, Suite 310, Palo Alto, California 94301.
DESCRIPTION OF CAPITAL STOCK

The following description summarizes the most important terms of our capital stock, as they will be in effect following this offering. Because it is only a summary, it does not contain all the information that may be important to you. We expect to adopt a restated certificate of incorporation and restated bylaws that will become effective immediately prior to the completion of this offering, and this description summarizes provisions that are expected to be included in these documents. For a complete description, you should refer to our restated certificate of incorporation and restated bylaws, which are included as exhibits to the registration statement of which this prospectus forms a part, and to the applicable provisions of Delaware law.

Upon the completion of this offering, our authorized capital stock will consist of 500,000,000 shares of common stock, $0.00001 par value per share, and 10,000,000 shares of undesignated preferred stock, $0.00001 par value per share.

Pursuant to the provisions of our current certificate of incorporation, immediately prior to the completion of this offering, each outstanding share of our redeemable convertible preferred stock will automatically convert into common stock at a ratio of 1:1. Assuming the conversion of all outstanding shares of our redeemable convertible preferred stock into 104,869,089 shares of our common stock and the issuance of shares of our common stock based upon an assumed initial public offering price of $ per share, which is the midpoint of the estimated price range set forth on the cover of this prospectus, as of September 30, 2019, there were:

- 16,592,802 shares of our common stock outstanding, held by 220 stockholders of record;
- 22,493,593 shares of our common stock issuable upon exercise of outstanding stock options;
- 125,000 shares of our common stock issuable upon the exercise of outstanding warrants to purchase common stock outstanding as of September 30, 2019, with a weighted-average exercise price of $3.20 per share;
- 102,740 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series B redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $0.73 per share; and
- 25,000 shares of common stock issuable upon the exercise of outstanding warrants to purchase shares of Series D redeemable convertible preferred stock outstanding as of September 30, 2019, with an exercise price of $1.25 per share.

Common Stock

Dividend Rights

Subject to preferences that may apply to any shares of redeemable convertible preferred stock outstanding at the time, the holders of our common stock are entitled to receive dividends out of funds legally available if our board of directors, in its discretion, determines to issue dividends and then only at the times and in the amounts that our board of directors may determine. See the section titled “Dividend Policy.”

Voting Rights

Holders of our common stock are entitled to one vote for each share of common stock held on all matters submitted to a vote of stockholders. We have not provided for cumulative voting for the election of directors in our restated certificate of incorporation. Accordingly, holders of a majority of the
shares of our common stock will be able to elect all of our directors. Our restated certificate of incorporation establishes a classified board of
directors, to be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting
of our stockholders, with the other classes continuing for the remainder of their respective three-year terms.

**No Preemptive or Similar Rights**

Our common stock is not entitled to preemptive rights, and is not subject to redemption or sinking fund provisions.

**Right to Receive Liquidation Distributions**

Upon our liquidation, dissolution, or winding-up, the assets legally available for distribution to our stockholders would be distributable
ratably among the holders of our common stock and any participating redeemable convertible preferred stock outstanding at that time, subject
to prior satisfaction of all outstanding debt and liabilities and the preferential rights of and the payment of liquidation preferences, if any, on
any outstanding shares of redeemable convertible preferred stock.

**Preferred Stock**

Following this offering, our board of directors will be authorized, subject to limitations prescribed by Delaware law, to issue preferred
stock in one or more series, to establish from time to time the number of shares to be included in each series, and to fix the designation,
powers, preferences, and rights of the shares of each series and any of its qualifications, limitations, or restrictions, in each case without
further vote or action by our stockholders. Our board of directors can also increase or decrease the number of shares of any series of
preferred stock, but not below the number of shares of that series then outstanding, without any further vote or action by our stockholders.
Our board of directors may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting
power or other rights of the holders of our common stock. The issuance of preferred stock, while providing flexibility in connection with
possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring, or preventing a change
in our control and might adversely affect the market price of our common stock and the voting and other rights of the holders of our common
stock. We have no current plan to issue any shares of preferred stock.

**Stock Options**

As of September 30, 2019, we had outstanding stock options to purchase an aggregate of 22,493,593 shares of our common stock,
with a weighted-average exercise price of $3.49 per share. Subsequent to September 30, 2019, we granted stock options to purchase
1,924,500 shares of our common stock under the 2016 Plan, with a weighted-average exercise price of $8.13 per share.

**Warrants**

As of September 30, 2019, we had outstanding warrants to purchase an aggregate of 125,000 shares of our common stock, with a
weighted-average exercise price of $3.20 per share. We also had warrants to purchase 102,740 shares of Series B redeemable convertible
preferred stock outstanding, with an exercise price of $0.73 per share, and warrants to purchase 25,000 shares of Series D redeemable
convertible preferred stock outstanding, with an exercise price of $1.25 per share.

In addition, we are party to a warrant issuance agreement pursuant to which we may be required, based upon the achievement of
certain sales volume thresholds with a customer, to issue up to

150
11,264,926 shares of common stock upon the exercise of warrants with an exercise price of $2.25 per share that may be issued in the future. As of September 30, 2019, no such warrants were issuable or outstanding.

Registration Rights

Following the completion of this offering, the holders of 104,869,089 shares of our common stock or their permitted transferees will be entitled to rights with respect to the registration of these shares under the Securities Act. These rights are provided under the terms of an amended and restated investors’ rights agreement between us and the holders of these shares, which was entered into in connection with our redeemable convertible preferred stock financings, and includes demand registration rights, Form S-3 registration rights, and piggyback registration rights. In any registration made pursuant to such amended and restated investors’ rights agreement, all fees, costs, and expenses of underwritten registrations will be borne by us and all selling expenses, including estimated underwriting discounts, selling commissions, and stock transfer taxes, will be borne by the holders of the shares being registered.

The registration rights terminate five years following the completion of this offering or, with respect to any particular stockholder, at the time that stockholder can sell all of its shares during any 90-day period pursuant to Rule 144 of the Securities Act.

Demand Registration Rights

The holders of an aggregate of 104,869,089 shares of our common stock, or their permitted transferees, are entitled to demand registration rights at any time after the earlier of (a) five years after the date of the amended and restated investors rights agreement or (b) 180 days after the effective date of the registration statement for this offering. Under the terms of the amended and restated investors’ rights agreement, we will be required, upon the written request of holders of at least a majority of the shares that are entitled to registration rights under the amended and restated investors’ rights agreement, to file a registration statement on Form S-1 to register, as soon as practicable and in any event within 20 days of the date of the request, all or a portion of these shares for public resale, if the aggregate price to the public of the shares offered is at least $7.5 million, net of selling expenses. We are required to effect only two registrations pursuant to this provision of the amended and restated investors’ rights agreement. We may postpone the filing of a registration statement for up to 120 days in a 12-month period if our board of directors determines that the filing would be materially detrimental to us. We are not required to effect a demand registration under certain additional circumstances specified in the amended and restated investors’ rights agreement, including at any time earlier than 180 days after the effective date of this offering.

Form S-3 Registration Rights

The holders of an aggregate of 104,869,089 shares of our common stock or their permitted transferees are also entitled to Form S-3 registration rights. One or more holders of any outstanding shares having registration rights can request that we register all or part of their shares on Form S-3 if we are eligible to file a registration statement on Form S-3 and if the aggregate price to the public of the shares offered is at least $1.0 million, net of selling expenses. We will be required, as soon as practicable and in any event within 45 days of the request, to file a registration statement on Form S-3 to register these shares for public resale. The holders may only require us to effect at most two registration statements on Form S-3 in any 12-month period. We may postpone the filing of a registration statement for up to 120 days in a 12-month period if our board of directors determines that the filing would be materially detrimental to us. We are not required to effect a demand registration.
under certain additional circumstances specified in the amended and restated investors’ rights agreement.

**Piggyback Registration Rights**

If we register any of our common stock for public sale under the Securities Act and solely for cash, holders of an aggregate of 104,869,089 shares of our common stock or their permitted transferees having registration rights will have the right to include their shares in the registration statement. However, this right does not apply to a registration relating to employee benefit plans, a registration relating to an SEC Rule 145 transaction, a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the common stock, or a registration in which the only common stock being registered is common stock issuable upon conversion of debt securities that are also being registered. The underwriters of any underwritten offering will have the right to limit the number of shares registered by these holders if they determine that marketing factors require limitation, in which case the number of shares to be registered will be apportioned among the holders in such other proportion as shall mutually be agreed to by all such selling holders. However, the number of shares to be registered by these holders cannot be reduced (i) unless all other securities (other than securities to be sold by our company) are first excluded from the offering or (ii) below 30% of the total shares covered by the registration statement, other than in the initial public offering.

**Anti-Takeover Provisions**

The provisions of the DGCL, our restated certificate of incorporation, and our restated bylaws following this offering could have the effect of delaying, deferring, or discouraging another person from acquiring control of our company. These provisions, which are summarized below, are expected to discourage certain types of coercive takeover practices and inadequate takeover bids and encourage persons seeking to acquire control of our company to first negotiate with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with an unfriendly or unsolicited acquirer outweigh the disadvantages of discouraging a proposal to acquire us because negotiation of these proposals could result in an improvement of their terms.

**Section 203 of the DGCL**

We are subject to the provisions of Section 203 of the DGCL regulating corporate takeovers. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a three-year period following the time that this stockholder becomes an interested stockholder, unless the business combination is approved in a prescribed manner. Under Section 203, a business combination between a corporation and an interested stockholder is prohibited unless it satisfies one of the following conditions:

- before the stockholder became interested, our board of directors approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, shares owned by persons who are directors and also officers, and employee stock plans in some instances, but not the outstanding voting stock owned by the interested stockholder; or
Section 203 defines a business combination to include:

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

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation and any entity or person affiliated with or controlling or controlled by the entity or person.

Restated Certificate of Incorporation and Restated Bylaw Provisions

Our restated certificate of incorporation and our restated bylaws will include a number of provisions that may have the effect of deterring hostile takeovers, or delaying or preventing changes in control of our management team or changes in our board of directors or our governance or policy, including the following:

• **Board Vacancies.** Our restated bylaws and certificate of incorporation will authorize generally only our board of directors to fill vacant directorships resulting from any cause or created by the expansion of our board of directors. In addition, the number of directors constituting our board of directors may be set only by resolution adopted by a majority vote of our entire board of directors. These provisions prevent a stockholder from increasing the size of our board of directors and gaining control of our board of directors by filling the resulting vacancies with its own nominees.

• **Classified Board.** Our restated certificate of incorporation and restated bylaws will provide that our board of directors is classified into three classes of directors. The existence of a classified board of directors could delay a successful tender offeror from obtaining majority control of our board of directors, and the prospect of that delay might deter a potential offeror. See the section titled “Management—Executive Officers and Directors—Classified Board of Directors” for additional information.

• **Directors Removed Only for Cause.** Our restated certificate of incorporation will provide that stockholders may remove directors only for cause.

• **Supermajority Requirements for Amendments of Our Restated Certificate of Incorporation and Restated Bylaws.** Our restated certificate of incorporation will further provide that the affirmative vote of holders of at least 66 2/3% of our outstanding common stock will be required to amend certain provisions of our restated certificate of incorporation, including provisions relating to the classified board, the size of the board of directors, removal
of directors, special meetings, actions by written consent, and designation of our preferred stock. The affirmative vote of holders of at least 66 2/3% of our outstanding common stock will be required to amend or repeal our restated bylaws, although our restated bylaws may be amended by a simple majority vote of our board of directors.

**Stockholder Action; Special Meetings of Stockholders.** Our restated certificate of incorporation will provide that our stockholders may not take action by written consent, but may only take action at annual or special meetings of our stockholders. As a result, holders of our capital stock would not be able to amend our restated bylaws or remove directors without holding a meeting of our stockholders called in accordance with our restated bylaws. Our restated certificate of incorporation and our restated bylaws will provide that special meetings of our stockholders may be called only by a majority of our board of directors, the chairman of our board of directors, or our chief executive officer, thus prohibiting a stockholder from calling a special meeting. These provisions might delay the ability of our stockholders to force consideration of a proposal or for stockholders to take any action, including the removal of directors.

**Advance Notice Requirements for Stockholder Proposals and Director Nominations.** Our restated bylaws will provide advance notice procedures for stockholders seeking to bring business before our annual meeting of stockholders or to nominate candidates for election as directors at our annual meeting of stockholders. Our restated bylaws also will specify certain requirements regarding the form and content of a stockholder’s notice. These provisions may preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders. We expect that these provisions might also discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer’s own slate of directors or otherwise attempting to obtain control of our company.

**No Cumulative Voting.** The DGCL provides that stockholders are not entitled to the right to cumulate votes in the election of directors unless a corporation’s certificate of incorporation provides otherwise. Our restated certificate of incorporation and restated bylaws will not provide for cumulative voting.

**Issuance of Undesignated Preferred Stock.** We anticipate that after the filing of our restated certificate of incorporation, our board will have the authority, without further action by the stockholders, to issue up to 10,000,000 shares of undesignated preferred stock with rights and preferences, including voting rights, designated from time to time by our board of directors. The existence of authorized but unissued shares of preferred stock enables our board of directors to render more difficult or to discourage an attempt to obtain control of us by means of a merger, tender offer, proxy contest, or otherwise.

**Choice of Forum.** Our restated certificate of incorporation will provide that, to the fullest extent permitted by law, the Court of Chancery of the State of Delaware will be the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the DGCL, our restated certificate of incorporation or our restated bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. This exclusive forum provision will not apply to claims that are vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery of the State of Delaware, or for which the Court of Chancery of the State of Delaware does not have subject matter jurisdiction. For instance, the provision would not preclude the filing of claims brought to enforce any liability or duty created by the Exchange Act or Securities Act or the rules and regulations thereunder in federal court.
Transfer Agent and Registrar

Upon the completion of this offering, the transfer agent and registrar for our common stock will be Computershare Trust Company, N.A. The transfer agent’s address is 250 Royall Street, Canton, Massachusetts 02021, and its telephone number is (800) 962-4284.

Exchange Listing

We have applied to list our common stock on the New York Stock Exchange under the symbol “BILL.”
SHARES ELIGIBLE FOR FUTURE SALE

Before this offering, there has been no public market for our common stock, and we cannot predict the effect, if any, that market sales of shares of our common stock or the availability of shares of our common stock for sale will have on the market price of our common stock prevailing from time to time.

Nevertheless, sales of substantial amounts of our common stock, including shares issued upon exercise of outstanding stock options, in the public market following this offering could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through the sale of our equity securities.

Upon the completion of this offering, based on the 16,592,802 shares of our common stock outstanding as of September 30, 2019, we will have a total of shares of our common stock outstanding. Of these outstanding shares, all of the shares of common stock sold in this offering will be freely tradable, except that any shares purchased in this offering by our affiliates, as that term is defined in Rule 144 under the Securities Act, only would be able to be sold in compliance with the Rule 144 limitations described below.

The remaining outstanding shares of our common stock will be deemed “restricted securities” as defined in Rule 144. Restricted securities may be sold in the public market only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rule 144 or Rule 701 promulgated under the Securities Act, which rules are summarized below. In addition, each of our directors, executive officers, and the holders of substantially all of our outstanding equity securities have entered into market standoff agreements with us or lock-up agreements with the underwriters under which they have agreed, subject to specific exceptions, not to sell any of our stock for at least 180 days following the date of this prospectus, as described below. Subject to the provisions of Rule 144 or Rule 701, shares will be available for sale in the public market as follows:

- beginning on the date of this prospectus, all of the shares sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus, additional shares will become eligible for sale in the public market, of which shares will be held by affiliates and subject to the volume and other restrictions of Rule 144, as described below.

Lock-Up/Market Standoff Agreements

All of our directors and executive officers and holders of substantially all of our outstanding equity securities are subject to lock-up agreements or market standoff provisions that prohibit them from offering for sale, selling, contracting to sell, granting any option for the sale of, transferring, or otherwise disposing of (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) any shares of our common stock or securities convertible into or exercisable or exchangeable for any shares of our common stock, or establishing or increasing a put equivalent position, or liquidating or decreasing a call equivalent position with respect to such securities, or publicly disclosing the intention to effect any such transaction, for a period of 180 days following the date of this prospectus without the prior written consent of Goldman Sachs & Co. LLC. These agreements are subject to certain customary exceptions. However, if (i) we have publicly released our earnings results for the quarterly period during which this offering occurred, and (ii) the 180-day lock-up period is scheduled to end during a broadly applicable period during which trading in our securities would not be permitted under our insider trading policy, or a blackout period, or within the five trading days prior to a blackout period, then the lock-up period applicable to our directors, officers, and
securityholders will instead end ten trading days prior to the commencement of the blackout period; provided that in no event will the lock-up period end prior to 120 days after the date of this prospectus. In the event that ten trading days prior to the commencement of the blackout period is earlier than 120 days after the date of this prospectus, then the lock-up period shall end 120 days after the date of this prospectus; but only if such 120th day is at least five trading days before the start of such blackout period (and if not, then no such early release will occur and the lock-up period will remain 180 days after the date of this prospectus). We will publicly announce the date of any early release described in this paragraph at least two trading days prior to such early release. The lock-up agreements applicable to our directors, officers, and securityholders, each referred to as a lock-up party, include certain exceptions to the restrictions on transfer, including with respect to certain of our significant stockholders, the pledge of shares of our capital stock in a bona fide transaction to third parties as collateral to secure obligations pursuant to lending or other similar arrangements relating to a financing arrangement for the benefit of the lock-up party and/or its affiliates, provided that the lender agrees to be bound by the lock-up restrictions; and, only after the 120th day after the date of this prospectus, the sale of any such pledged shares to or by such third parties in accordance with the terms of the agreement governing any such lending arrangement. In addition, Goldman Sachs & Co. LLC may, in its sole discretion, release all or some portion of the shares subject to lock-up agreements prior to the expiration of the lock-up period. See the section titled “Underwriting” for additional information.

Rule 144

In general, under Rule 144 as currently in effect, once we have been subject to public company reporting requirements for at least 90 days, a person who is not deemed to have been one of our affiliates for purposes of the Securities Act at any time during the 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least six months, including the holding period of any prior owner other than our affiliates, is entitled to sell those shares without complying with the manner of sale, volume limitation, or notice provisions of Rule 144, subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for at least one year, including the holding period of any prior owner other than our affiliates, then that person would be entitled to sell those shares without complying with any of the requirements of Rule 144.

In general, under Rule 144, as currently in effect, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell upon expiration of the lock-up and market standoff agreements described above, within any three-month period, a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering; or
- the average weekly trading volume of our common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale.

Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 701

Rule 701 generally allows a stockholder who purchased shares of our common stock pursuant to a written compensatory plan or contract and who is not deemed to have been an affiliate of our company during the immediately preceding 90 days to sell these shares in reliance upon Rule 144, but
without being required to comply with the public information, holding period, volume limitation or notice provisions of Rule 144. Rule 701 also permits affiliates of our company to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. All holders of Rule 701 shares, however, are required by that rule to wait until 90 days after the date of this prospectus before selling those shares pursuant to Rule 701.

Stock Options

As soon as practicable after the completion of this offering, we intend to file one or more registration statements on Form S-8 under the Securities Act covering all of the shares of our common stock subject to outstanding options and the shares of common stock reserved for issuance under our equity incentive plans. In addition, we intend to file a registration statement on Form S-8 or such other form as may be required under the Securities Act for the resale of shares of our common stock issued upon the exercise of options that were not granted under Rule 701. We expect to file this registration statement as soon as permitted under the Securities Act. However, the shares registered on Form S-8 may be subject to the volume limitations and the manner of sale, notice, and public information requirements of Rule 144 and will not be eligible for resale until expiration of the lock-up and market standoff agreements to which they are subject.

Registration Rights

We have granted demand, piggyback, and Form S-3 registration rights to certain of our stockholders to sell our common stock. Registration of the sale of these shares under the Securities Act would result in these shares becoming freely tradable without restriction under the Securities Act immediately upon the effectiveness of the registration, except for shares purchased by affiliates. For a further description of these rights, see the section titled “Description of Capital Stock—Registration Rights.”
MATERIAL U.S. FEDERAL TAX CONSEQUENCES TO NON-U.S. HOLDERS OF OUR COMMON STOCK

The following summary describes certain U.S. federal income tax consequences of the ownership and disposition of our common stock acquired in this offering by Non-U.S. Holders (as defined below). This discussion does not address all aspects of U.S. federal income taxes, does not discuss the potential application of the alternative minimum tax or Medicare contribution tax on net investment income, and does not deal with state or local taxes, U.S. federal gift and estate taxes, except to the limited extent provided below, or any non-U.S. tax consequences that may be relevant to Non-U.S. Holders in light of their particular circumstances.

Special rules different from those described below may apply to certain Non-U.S. Holders that are subject to special treatment under the Code, such as:

- insurance companies, banks, and other financial institutions;
- tax-exempt organizations (including private foundations) and tax-qualified retirement plans;
- foreign governments and international organizations;
- broker-dealers and traders in securities;
- U.S. expatriates and certain former citizens or long-term residents of the United States;
- persons that own, or are deemed to own, more than 5% of our capital stock;
- persons required for U.S. federal income tax purposes to conform the timing of income accruals to their financial statements under Section 451(b) of the Code;
- “controlled foreign corporations,” “passive foreign investment companies,” and corporations that accumulate earnings to avoid U.S. federal income tax;
- persons that hold our common stock as part of a “straddle,” “hedge,” “conversion transaction,” “synthetic security,” or integrated investment or other risk reduction strategy;
- persons who do not hold our common stock as a capital asset (generally, an asset held for investment purposes) within the meaning of Section 1221 of the Code; and
- partnerships and other pass-through entities, and investors in such pass-through entities (regardless of their places of organization or formation).

Such Non-U.S. Holders are urged to consult their own tax advisors to determine the U.S. federal, state, local, and other tax consequences that may be relevant to them.

If a partnership, including any entity treated as a partnership for U.S. federal income tax purposes, is a holder of shares of our common stock, the tax treatment of a partner or member in the partnership or entity will generally depend upon the status of the partner, the activities of the partnership, and certain determinations made at the partner level. A holder of shares of our common stock that is a partnership, and partners in such partnership, are urged to consult their own tax advisors regarding the tax consequences of the acquisition, ownership, and disposition of shares of our common stock.

Furthermore, the discussion below is based upon the provisions of the Code, and Treasury Regulations, rulings, and judicial decisions thereunder as of the date hereof, and such authorities may be repealed, revoked, or modified, possibly retroactively, and are subject to differing interpretations which could result in U.S. federal income tax consequences different from those discussed below. We have not requested a ruling from the Internal Revenue Service (IRS) with respect to the statements.
made and the conclusions reached in the following summary, and there can be no assurance that the IRS will agree with such statements and conclusions or will not take a contrary position regarding the tax consequences described herein, or that any such contrary position would not be sustained by a court.


For purposes of this discussion, a “Non-U.S. Holder” is a beneficial owner of our common stock that is not a U.S. Holder or a partnership for U.S. federal income tax purposes. A “U.S. Holder” means a beneficial owner of our common stock that is for U.S. federal income tax purposes (a) an individual who is a citizen or resident of the United States, (b) a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes), created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (c) an estate the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source, or (d) a trust if it (1) is subject to the primary supervision of a court within the United States and one or more U.S. persons (within the meaning of Section 7701(a)(30) of the Code) have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person.

If you are an individual who is not a citizen or resident of the United States, you may, in some cases, be deemed to be a resident alien of the United States by virtue of being present in the United States for at least 31 days in the current calendar year and for an aggregate of at least 183 days during a three-year period ending in the current calendar year. Generally, for this purpose, all the days present in the current year, one-third of the days present in the immediately preceding year, and one-sixth of the days present in the second preceding year, are counted.

Individuals who are uncertain of their status as a resident of the United States for U.S. federal income tax purposes are urged to consult their own tax advisors regarding the U.S. federal income tax consequences of the ownership or disposition of our common stock.

Distributions

As described in the section titled “Dividend Policy,” we do not expect to make any distributions on our common stock in the foreseeable future. If we do make distributions on our common stock, however, such distributions made to a Non-U.S. Holder of our common stock will constitute dividends for U.S. tax purposes to the extent paid out of our current or accumulated earnings and profits (as determined under U.S. federal income tax principles). Distributions in excess of our current or accumulated earnings and profits will constitute a return of capital that is applied against and reduces, but not below zero, a Non-U.S. Holder’s adjusted tax basis in our common stock. Any remaining excess will be treated as gain realized on the sale or exchange of our common stock as described in the section titled “—Gain on Disposition of Our Common Stock.”
Subject to the discussions below regarding backup withholding and FATCA (as defined below), any distribution on our common stock that is treated as a dividend paid to a Non-U.S. Holder that is not effectively connected with the holder’s conduct of a trade or business in the United States will generally be subject to withholding tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty. To obtain a reduced rate of withholding under a treaty, a Non-U.S. Holder generally will be required to provide the applicable withholding agent with a properly executed IRS Form W-8BEN, IRS Form W-8BEN-E or other appropriate form, certifying the Non-U.S. Holder’s entitlement to benefits under that treaty. Such form must be provided prior to the payment of dividends and must be updated periodically. If a Non-U.S. Holder holds stock through a financial institution or other agent acting on the holder’s behalf, the holder will be required to provide appropriate documentation to such agent. The holder’s agent may then be required to provide certification to the applicable withholding agent, either directly or through other intermediaries. If you are eligible for a reduced rate of U.S. withholding tax under an income tax treaty, you should consult with your own tax advisor to determine if you are able to obtain a refund or credit of any excess amounts withheld by timely filing an appropriate claim for a refund with the IRS.

We generally are not required to withhold tax on dividends paid to a Non-U.S. Holder that are effectively connected with the holder’s conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment that the holder maintains in the United States) if a properly executed IRS Form W-8ECI, stating that the dividends are so connected, is furnished to us (or, if our stock is held through a financial institution or other agent, to the applicable withholding agent). In general, such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the same graduated rates applicable to U.S. persons. A corporate Non-U.S. Holder receiving effectively connected dividends may also be subject to an additional “branch profits tax,” which is imposed, under certain circumstances, at a rate of 30% (or such lower rate as may be specified by an applicable treaty) on the corporate Non-U.S. Holder’s effectively connected earnings and profits, subject to certain adjustments.

See also the sections below titled “—Backup Withholding and Information Reporting” and “—Foreign Accounts” for additional withholding rules that may apply to dividends paid to certain foreign financial institutions or non-financial foreign entities and to any recipient that has not properly established its exemption from U.S. backup withholding, respectively.

Gain on Disposition of Our Common Stock

Subject to the discussions below under the sections titled “—Backup Withholding and Information Reporting” and “—Foreign Accounts,” a Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax with respect to gain realized on a sale or other disposition of our common stock unless (a) the gain is effectively connected with a trade or business of the holder in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment that the holder maintains in the United States), (b) the Non-U.S. Holder is a nonresident alien individual and is present in the United States for 183 or more days in the taxable year of the sale or other disposition and certain other conditions are met, or (c) we are or have been a “United States real property holding corporation” within the meaning of Section 897(c)(2) of the Code at any time within the shorter of the five-year period preceding such sale or other disposition or the holder’s holding period in the common stock.

If you are a Non-U.S. Holder described in (a) above, you will be required to pay tax on the net gain derived from the sale at the same graduated U.S. federal income tax rates applicable to U.S. persons. Corporate Non-U.S. Holders described in (a) above may also be subject to the additional branch profits tax at a 30% rate or such lower rate as may be specified by an applicable income tax
If you are an individual Non-U.S. Holder described in (b) above, you will be required to pay a flat 30% tax on the gain derived from the sale, which gain may be offset by certain U.S. source capital losses (even though you are not considered a resident of the United States), provided you have timely filed U.S. federal income tax returns with respect to such losses. With respect to (c) above, in general, we would be a United States real property holding corporation if the fair market value of our U.S. real property interests as defined in the Code and the Treasury Regulations comprised at least half the fair market value of our worldwide real property interests and other assets used or held for use in a trade or business. We believe that we are not, and do not anticipate becoming, a United States real property holding corporation. However, there can be no assurance that we will not become a U.S. real property holding corporation in the future. Even if we are treated as a U.S. real property holding corporation, gain realized by a Non-U.S. Holder on a disposition of our common stock will not be subject to U.S. federal income tax so long as (1) the Non-U.S. Holder owned, directly, indirectly or constructively, no more than five percent of our common stock at all times within the shorter of (i) the five-year period preceding the disposition or (ii) the holder’s holding period and (2) our common stock is regularly traded on an established securities market. There can be no assurance that our common stock will qualify as regularly traded on an established securities market.

U.S. Federal Estate Tax

The estates of nonresident alien individuals generally are subject to U.S. federal estate tax on property with a U.S. situs. Because we are a U.S. corporation, our common stock will be U.S. situs property and, therefore, will be included in the taxable estate of a nonresident alien decedent, unless an applicable estate tax treaty between the United States and the decedent’s country of residence provides otherwise. The terms "resident" and "nonresident" are defined differently for U.S. federal estate tax purposes than for U.S. federal income tax purposes. Investors are urged to consult their own tax advisors regarding the U.S. federal estate tax consequences of the ownership or disposition of our common stock.

Backup Withholding and Information Reporting

Generally, we or certain financial middlemen must report information to the IRS with respect to any dividends we pay on our common stock, including the amount of any such dividends, the name and address of the recipient, and the amount, if any, of tax withheld. A similar report is sent to the holder to whom any such dividends are paid. Pursuant to tax treaties or certain other agreements, the IRS may make its reports available to tax authorities in the recipient’s country of residence.

Dividends paid by us (or our paying agents) to a Non-U.S. Holder may also be subject to U.S. backup withholding. U.S. backup withholding generally will not apply to a Non-U.S. Holder who provides a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E (or other appropriate IRS Form W-8), as applicable, or otherwise establishes an exemption, provided that the applicable withholding agent does not have actual knowledge or reason to know the holder is a U.S. person.

U.S. information reporting and backup withholding requirements generally will apply to the proceeds of a disposition of our common stock effected by or through a U.S. office of any broker, U.S. or non-U.S., unless the Non-U.S. Holder provides a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E (or other appropriate IRS Form W-8), as applicable, or otherwise meets documentary evidence requirements for establishing non-U.S. person status or otherwise establishes an exemption. Generally, U.S. information reporting and backup withholding requirements will not apply to a payment of disposition proceeds to a Non-U.S. Holder where the transaction is effected outside the United States through a non-U.S. office of a non-U.S. broker. Information reporting and backup withholding requirements may, however, apply to a payment of disposition proceeds if the broker has actual
knowledge, or reason to know, that the holder is, in fact, a U.S. person. For information reporting purposes, certain brokers with substantial U.S. ownership or operations will generally be treated in a manner similar to U.S. brokers.

Backup withholding is not an additional tax. If backup withholding is applied to you, you should consult with your own tax advisor to determine whether you have overpaid your U.S. federal income tax, and whether you are able to obtain a tax refund or credit of the overpaid amount.

Foreign Accounts

Sections 1471 through 1474 of the Code, and the regulations thereunder (commonly referred to as FATCA) imposes withholding at a 30% rate on certain types of “withholdable payments” (including dividends paid on, and the gross proceeds from the sale or other disposition of, stock in a U.S. corporation) made to a “foreign financial institution” or to a “non-financial foreign entity” (all as defined in the Code) (whether such foreign financial institution or non-financial foreign entity is the beneficial owner or an intermediary), unless (i) the foreign financial institution undertakes certain diligence and reporting obligations, (ii) the nonfinancial foreign entity either certifies it does not have any “substantial United States owners” (as defined in the Code) or furnishes identifying information regarding each substantial United States owner or (iii) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (i) above, it generally must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain U.S. persons or U.S.-owned foreign entities (as defined in applicable U.S. Treasury Regulations), annually report certain information about such accounts and withhold 30% on payments to noncompliant foreign financial institutions and certain other account holders. Many foreign governments have entered into intergovernmental agreements with the United States to implement FATCA in a different manner. If a dividend payment is both subject to withholding under FATCA and subject to the withholding tax discussed above under the sections titled “—Distributions,” the withholding under FATCA may be credited against, and therefore reduce, such other withholding tax.

FATCA withholding currently applies to payments of dividends on our common stock. Subject to the recently released proposed Treasury Regulations described in this offering memorandum below, FATCA withholding generally will also apply to payments of gross proceeds from the sale or other disposition of our common stock. The U.S. Treasury Department recently released proposed regulations, however, that, if finalized in their present form, would eliminate the federal withholding tax of 30% applicable to gross proceeds from sales or other dispositions of our common stock. In its preamble to such proposed regulations, the U.S. Treasury Department stated that taxpayers may generally rely on the proposed regulations until final regulations are issued.

Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our common stock.

UNDERWRITING

We will enter into an underwriting agreement with the underwriters named below with respect to the shares being offered. Subject to certain conditions, each underwriter has severally agreed to purchase the number of shares indicated in the following table. Goldman Sachs & Co. LLC, BofA Securities, Inc., and Jefferies LLC are acting as the representatives of the underwriters.

<table>
<thead>
<tr>
<th>Underwriters</th>
<th>Number of Shares</th>
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<tbody>
<tr>
<td>Goldman Sachs &amp; Co. LLC</td>
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<tr>
<td>BofA Securities, Inc</td>
<td></td>
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<tr>
<td>Jefferies LLC</td>
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<tr>
<td>KeyBanc Capital Markets Inc.</td>
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<tr>
<td>Canaccord Genuity LLC</td>
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<tr>
<td>Needham &amp; Company, LLC</td>
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<tr>
<td>William Blair &amp; Company, L.L.C.</td>
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<tr>
<td><strong>Total</strong></td>
<td>****</td>
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</tbody>
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The underwriters are committed to take and pay for all of the shares being offered, if any are taken, other than the shares covered by the option described below unless and until this option is exercised.

The underwriters will have an option to purchase up to an additional shares from us to cover sales by the underwriters of a greater number of shares than the total number set forth in the table above. The underwriters may exercise that option for a period of 30 days from the date of this prospectus. If any shares are purchased pursuant to this option, the underwriters will severally purchase shares in approximately the same proportion as set forth in the table above.

The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters by us. Such amounts are shown assuming both no exercise and full exercise of the underwriters’ option to purchase additional shares.

<table>
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<tr>
<th>Per Share</th>
<th>No Exercise</th>
<th>Full Exercise</th>
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<td>Total</td>
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</table>

Shares sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to $ per share from the initial public offering price. After the initial offering of the shares, the representatives may change the offering price and the other selling terms. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters’ right to reject any order in whole or in part.

Our officers, directors, and holders of substantially all of our common stock and securities convertible into or exchangeable for our capital stock have agreed with the underwriters, subject to certain exceptions, not to dispose of or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior written consent of Goldman Sachs & Co. LLC; provided that if (i) we have publicly released our earnings results for the quarterly period during which this offering occurred, and (ii) the 180-day lock-up period is scheduled to end during a broadly applicable period during which trading in our securities would not be
permitted under our insider trading policy, or a blackout period, or within the five trading days prior to a blackout period, then the lock-up period applicable to our directors, officers, and securityholders will instead end ten trading days prior to the commencement of the blackout period; provided that in no event will the lock-up period end prior to 120 days after the date of this prospectus. In the event that ten trading days prior to the commencement of the blackout period is earlier than 120 days after the date of this prospectus, then the lock-up period shall end 120 days after the date of this prospectus; but only if such 120th day is at least five trading days before the start of such blackout period (and if not, then no such early release will occur and the lock-up period will remain 180 days after the date of this prospectus). We will publicly announce the date of an early release described in this paragraph at least two trading days prior to such early release. See “Shares Eligible for Future Sale” for a discussion of certain transfer restrictions.

Prior to this offering, there has been no public market for the shares. The initial public offering price has been negotiated between us and the representatives. Among the factors to be considered in determining the initial public offering price of the shares, in addition to prevailing market conditions, will be our historical performance, estimates of our business potential and earnings prospects, an assessment of our management, and the consideration of the above factors in relation to the market valuation of companies in related businesses.

We have applied to list our common stock on the New York Stock Exchange (NYSE) under the symbol “BILL.”

In connection with this offering, the underwriters may purchase and sell shares of common stock in the open market. These transactions may include short sales, stabilizing transactions, and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in this offering, and a short position represents the amount of such sales that have not been covered by subsequent purchases. A “covered short position” is a short position that is not greater than the number of additional shares for which the underwriters’ option described above may be exercised. The underwriters may cover any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to cover the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase additional shares pursuant to the option described above. “Naked” short sales are any short sales that create a short position greater than the number of additional shares for which the option described above may be exercised. The underwriters must cover any such naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in this offering. Stabilizing transactions consist of various bids for or purchases of common stock made by the underwriters in the open market prior to the closing of this offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short covering transactions.

Purchases to cover a short position and stabilizing transactions, as well as other purchases by the underwriters for their own accounts, may have the effect of preventing or retarding a decline in the market price of our stock, and together with the imposition of the penalty bid, may stabilize, maintain or otherwise affect the market price of the common stock. As a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. The underwriters are not required to engage in these activities and may end any of these activities at any time. These transactions may be effected on the NYSE, in the over-the-counter market, or otherwise.
We estimate that our share of the total expenses of the offering, excluding underwriting discounts and commissions, will be approximately $\text{...} million. We have also agreed to reimburse the underwriters for expenses relating to clearance of this offering with the Financial Industry Regulatory Authority up to $\text{...}.

We will agree to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act of 1933. In addition, we have agreed to reimburse the underwriters for certain expenses in connection with this offering.

**Other Relationships**

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage, and other financial and non-financial activities and services. Certain of the underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to us and to persons and entities with relationships to us, for which they received or will receive customary fees and expenses. In addition, we have entered into agreements with affiliates of BofA Securities, Inc. and KeyBank National Association to offer certain of our products to their clients.

Affiliates of Goldman Sachs & Co. LLC, one of the underwriters, are holders of an aggregate of 70,000 shares, 17,250 shares, 9,695 shares and 511,875 shares of our Series D redeemable convertible preferred stock, Series E redeemable convertible preferred stock, Series F redeemable convertible preferred stock and Series G redeemable convertible preferred stock, respectively, all of such shares will automatically convert into an aggregate of 608,820 shares of our common stock in connection with this offering.

Additionally, affiliates of BofA Securities, Inc., one of the underwriters, are holders of an aggregate of 1,990,050 shares and 272,656 shares of our Series E redeemable convertible preferred stock and Series F redeemable convertible preferred stock, respectively, all of such shares will automatically convert into an aggregate of 2,262,706 shares of our common stock in connection with this offering. In connection with the purchase of our Series E redeemable convertible preferred stock, affiliates of BofA Securities, Inc. received the right to appoint an observer to the meetings of our board of directors and related committees in a non-voting capacity that terminates upon the closing of this offering.

In the ordinary course of their various business activities, the underwriters and their respective affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and/or instruments of the issuer (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the issuer. The underwriters and their respective affiliates may also communicate independent investment recommendations, market color or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

**European Economic Area**

In relation to each Member State of the European Economic Area (each, a “Member State”), no offer of shares may be made to the public in that Member State other than:

(a) to any legal entity which is a qualified investor as defined in the Prospectus Regulation;

(b) to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Regulation), subject to obtaining the prior consent of the representatives; or
(c) in any other circumstances falling within Article 1(4) of the Prospectus Regulation, provided that no such offer of shares shall require us or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation and each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with each of the underwriters and us that it is a "qualified investor" as defined in the Prospectus Regulation.

In the case of any shares being offered to a financial intermediary as that term is used in Article 5 of the Prospectus Regulation, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a nondiscretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public other than their offer or resale in a Member State to qualified investors as so defined or in circumstances in which the prior consent of the underwriters has been obtained to each such proposed offer or resale.

For the purposes of this provision, the expression an "offer of shares to the public" in relation to any shares in any Member State means the communication in any form and by means of sufficient information on the terms of the offer and the shares to be offered so as to enable an investor to decide to purchase shares, and the expression "Prospectus Regulation" means Regulation (EU) 2017/1129 (as amended).

This European Economic Area selling restriction is in addition to any other selling restrictions set out below.

**United Kingdom**

In the United Kingdom, this prospectus is only addressed to and directed at qualified investors who are (i) investment professionals falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the Order); or (ii) high net worth entities and other persons to whom it may lawfully be communicated, falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons"). Any investment or investment activity to which this prospectus relates is available only to relevant persons and will only be engaged with relevant persons. Any person who is not a relevant person should not act or rely on this prospectus or any of its contents.

**Canada**

The securities may be sold in Canada only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions, and Ongoing Registrant Obligations. Any resale of the securities must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this offering memorandum (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province or territory of these rights or consult with a legal advisor.
Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

**Hong Kong**

The shares may not be offered or sold in Hong Kong by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the Laws of Hong Kong) (Companies (Winding Up and Miscellaneous Provisions) Ordinance) or which do not constitute an invitation to the public within the meaning of the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) (Securities and Futures Ordinance), or (ii) to “professional investors” as defined in the Securities and Futures Ordinance and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance, and no advertisement, invitation or document relating to the shares may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” in Hong Kong as defined in the Securities and Futures Ordinance and any rules made thereunder.

**Singapore**

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor (as defined under Section 4A of the Securities and Futures Act, Chapter 289 of Singapore (the SFA) under Section 274 of the SFA, (ii) to a relevant person (as defined in Section 275(2) of the SFA pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA, in each case subject to conditions set forth in the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor, the securities (as defined in Section 239(1) of the SFA) of that corporation shall not be transferable for 6 months after that corporation has acquired the shares under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2) where such transfer arises from an offer in that corporation’s securities pursuant to Section 275(1A) of the SFA, (3) where no consideration is or will be given for the transfer, (4) where the transfer is by operation of law, (5) as specified in Section 276(7) of the SFA, or (6) as specified in Regulation 32 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 of Singapore (Regulation 32).

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is a trust (where the trustee is not an accredited investor (as defined in Section 4A of the SFA))
whose sole purpose is to hold investments and each beneficiary of the trust is an accredited investor, the beneficiaries’ rights and interest
(howsoever described) in that trust shall not be transferable for 6 months after that trust has acquired the shares under Section 275 of the
SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person (as defined in Section 275(2) of the SFA), (2)
where such transfer arises from an offer that is made on terms that such rights or interest are acquired at a consideration of not less than
S$200,000 (or its equivalent in a foreign currency) for each transaction (whether such amount is to be paid for in cash or by exchange of
securities or other assets), (3) where no consideration is or will be given for the transfer, (4) where the transfer is by operation of law, (5) as
specified in Section 276(7) of the SFA or (6) as specified in Regulation 32.

Japan

The securities have not been and will not be registered under the Financial Instruments and Exchange Act of Japan (Act No. 25 of
1948, as amended) (FIEA). The securities may not be offered or sold, directly or indirectly, in Japan or to or for the benefit of any resident of
Japan (including any person resident in Japan or any corporation or other entity organized under the laws of Japan) or to others for reoffering
or resale, directly or indirectly, in Japan or to or for the benefit of any resident of Japan, except pursuant to an exemption from the registration
requirements of the FIEA and otherwise in compliance with any relevant laws and regulations of Japan.

Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange (“SIX”) or on any other stock
exchange or regulated trading facility in Switzerland. This document has been prepared without regard to the disclosure standards for
issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses
under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this
document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made
publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, our company or the shares have been or will
be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be
supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of shares has not been and will not be
authorized under the Swiss Federal Act on Collective Investment Schemes (“CISA”). The investor protection afforded to acquirers of interests
in collective investment schemes under the CISA does not extend to acquirers of shares.

Dubai International Financial Centre

This prospectus relates to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority
(“DFSA”). This prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must
not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection
with Exempt Offers. The DFSA has not approved this prospectus nor taken steps to verify the information set forth herein and has no
responsibility for the prospectus. The shares to which this prospectus relates may be illiquid and/or subject to restrictions on their resale.
Prospective purchasers of the shares offered should conduct their own due diligence on the shares. If you do not understand the contents of
this prospectus you should consult an authorized financial advisor.
LEGAL MATTERS

The validity of the shares of our common stock offered by this prospectus will be passed upon for us by Fenwick & West LLP, Mountain View, California. Wilson Sonsini Goodrich & Rosati, P.C., Palo Alto, California, is acting as counsel to the underwriters. Fenwick & West LLP beneficially owns an aggregate of 182,701 shares of our capital stock.

EXPERTS

The consolidated financial statements of Bill.com Holdings, Inc. as of June 30, 2018 and 2019, and for the years then ended, appearing in this Prospectus and Registration Statement have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report and appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits filed therewith. For further information about us and the common stock offered hereby, reference is made to the registration statement and the exhibits filed therewith. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and in each instance we refer you to the copy of such contract or other document filed as an exhibit to the registration statement. We currently do not file periodic reports with the SEC. Upon completion of this offering, we will be required to file periodic reports, proxy statements, and other information with the SEC pursuant to the Exchange Act. The SEC maintains a website that contains reports, proxy and information statements, and other information regarding registrants that file electronically with the SEC. The address of the website is www.sec.gov. A copy of the registration statement and the exhibits filed therewith may be accessed at the SEC website.

We also maintain a website at www.bill.com. Upon completion of this offering, you may access these materials at our website free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on our website is not a part of this prospectus and the inclusion of our website address in this prospectus is an inactive textual reference only.
# Table of Contents

BILL.COM HOLDINGS, INC.
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report of Independent Registered Public Accounting Firm</td>
<td>F-2</td>
</tr>
<tr>
<td>Consolidated Balance Sheets</td>
<td>F-3</td>
</tr>
<tr>
<td>Consolidated Statements of Operations</td>
<td>F-5</td>
</tr>
<tr>
<td>Consolidated Statements of Comprehensive Loss</td>
<td>F-6</td>
</tr>
<tr>
<td>Consolidated Statements of Redeemable Convertible Preferred Stock and Stockholders’ Deficit</td>
<td>F-7</td>
</tr>
<tr>
<td>Consolidated Statements of Cash Flows</td>
<td>F-8</td>
</tr>
<tr>
<td>Notes to Consolidated Financial Statements</td>
<td>F-9</td>
</tr>
</tbody>
</table>
REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Bill.com Holdings, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Bill.com Holdings, Inc. (the Company) as of June 30, 2018 and 2019, the related consolidated statements of operations, comprehensive loss, redeemable convertible preferred stock and stockholders’ deficit, and cash flows for each of the two years in the period ended June 30, 2019, and the related notes (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at June 30, 2018 and 2019, and the results of its operations and its cash flows for each of the two years in the period ended June 30, 2019, in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Ernst & Young LLP

We have served as the Company’s auditor since 2018.

San Francisco, California

September 5, 2019
# BILL.COM HOLDINGS, INC.
## CONSOLIDATED BALANCE SHEETS
(In thousands, except per share amounts)

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>September 30, 2019</th>
<th>Pro forma September 30, 2019 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$22,401</td>
<td>$90,306</td>
<td>$86,249</td>
</tr>
<tr>
<td>Short-term investments</td>
<td>69,867</td>
<td>71,969</td>
<td>71,393</td>
</tr>
<tr>
<td>Accounts receivable, net</td>
<td>2,300</td>
<td>4,398</td>
<td>3,691</td>
</tr>
<tr>
<td>Unbilled revenue</td>
<td>3,047</td>
<td>4,795</td>
<td>5,416</td>
</tr>
<tr>
<td>Prepaid expenses and other current assets</td>
<td>6,081</td>
<td>12,326</td>
<td>13,911</td>
</tr>
<tr>
<td>Funds held for customers</td>
<td>915,013</td>
<td>1,329,306</td>
<td>1,466,492</td>
</tr>
<tr>
<td><strong>Total current assets</strong></td>
<td>1,018,709</td>
<td>1,513,100</td>
<td>1,647,152</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>5,948</td>
<td>6,557</td>
<td>7,607</td>
</tr>
<tr>
<td>Other assets</td>
<td>4,626</td>
<td>6,641</td>
<td>7,398</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>$1,029,283</td>
<td>$1,526,298</td>
<td>$1,662,157</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>September 30, 2019</th>
<th>Pro forma September 30, 2019 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LIABILITIES, REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' (DEFICIT) EQUITY</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>$1,532</td>
<td>$5,063</td>
<td>$5,686</td>
</tr>
<tr>
<td>Accrued compensation and benefits</td>
<td>3,425</td>
<td>4,333</td>
<td>4,409</td>
</tr>
<tr>
<td>Other accrued and current liabilities</td>
<td>3,001</td>
<td>6,556</td>
<td>7,731</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock warrant liabilities</td>
<td>663</td>
<td>688</td>
<td>653</td>
</tr>
<tr>
<td>Deferred revenue, current portion</td>
<td>3,277</td>
<td>3,469</td>
<td>3,437</td>
</tr>
<tr>
<td>Current portion of bank borrowings</td>
<td>3,667</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Customer fund deposits</td>
<td>915,013</td>
<td>1,329,306</td>
<td>1,466,492</td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>930,578</td>
<td>1,349,415</td>
<td>1,488,608</td>
</tr>
<tr>
<td>Deferred revenue, net of current portion</td>
<td>1,931</td>
<td>1,786</td>
<td>1,811</td>
</tr>
<tr>
<td>Long-term portion of bank borrowings</td>
<td>5,833</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>1,698</td>
<td>1,447</td>
<td>1,412</td>
</tr>
<tr>
<td><strong>Total liabilities</strong></td>
<td>940,040</td>
<td>1,352,648</td>
<td>1,491,831</td>
</tr>
</tbody>
</table>

**Commitments and contingencies (Note 11)**
Redeemable convertible preferred stock: 96,601, 106,090 and 106,090 shares authorized; 94,262, 104,869 and 104,869 shares issued and outstanding at June 30, 2018, June 30, 2019 and September 30, 2019 (unaudited), respectively; no shares authorized, issued and outstanding at September 30, 2019 pro forma (unaudited); liquidation preference of $192,396, $280,513 and $280,513 at June 30, 2018, June 30, 2019 and September 30, 2019 (unaudited), respectively

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>September 30, 2019</th>
<th>October 30, 2019 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redeemable convertible preferred stock liability</td>
<td>191,147</td>
<td>276,307</td>
<td>276,307</td>
</tr>
</tbody>
</table>
## Stockholders’ (deficit) equity:

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
<th>September 30, 2018</th>
<th>September 30, 2019</th>
<th>Pro forma September 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(unaudited)</td>
<td>(unaudited)</td>
<td>(unaudited)</td>
<td>(unaudited)</td>
<td>(unaudited)</td>
</tr>
<tr>
<td>Common stock; $0.00001 par value per share; 160,000, 169,300 and 169,300 shares authorized; 14,690, 16,307 and 16,593 shares issued and outstanding at June 30, 2018, June 30, 2019 and September 30, 2019 (unaudited), respectively; 121,462 shares issued and outstanding at September 30, 2019 pro forma (unaudited)</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Non-voting common stock; $0.00001 par value per share; 14,000 shares authorized; no shares issued and outstanding at June 30, 2018, June 30, 2019 and September 30, 2019 (unaudited); no shares authorized, issued and outstanding at September 30, 2019 pro forma (unaudited)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Additional paid-in capital</td>
<td>8,614</td>
<td>14,672</td>
<td>17,242</td>
<td>294,401</td>
<td></td>
</tr>
<tr>
<td>Accumulated other comprehensive (loss) income</td>
<td>(177)</td>
<td>326</td>
<td>128</td>
<td>128</td>
<td></td>
</tr>
<tr>
<td>Accumulated deficit</td>
<td>(110,342)</td>
<td>(117,656)</td>
<td>(123,352)</td>
<td>(123,352)</td>
<td></td>
</tr>
<tr>
<td>Total stockholders’ (deficit) equity</td>
<td>(101,904)</td>
<td>(102,657)</td>
<td>(105,981)</td>
<td>$171,179</td>
<td></td>
</tr>
<tr>
<td>Total liabilities, redeemable convertible preferred stock and stockholders’ deficit</td>
<td>$1,029,283</td>
<td>$1,526,298</td>
<td>$1,662,157</td>
<td>$1,662,157</td>
<td></td>
</tr>
</tbody>
</table>

See accompanying notes to consolidated financial statements.

F-4
## BILL.COM HOLDINGS, INC.
### CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td></td>
<td>(unaudited)</td>
<td></td>
</tr>
<tr>
<td>Revenue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subscription and transaction fees</td>
<td>$56,992</td>
<td>$85,951</td>
</tr>
<tr>
<td>Interest on funds held for customers</td>
<td>7,873</td>
<td>22,400</td>
</tr>
<tr>
<td>Total revenue</td>
<td>64,865</td>
<td>108,351</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>19,372</td>
<td>29,918</td>
</tr>
<tr>
<td>Gross profit</td>
<td>45,493</td>
<td>78,433</td>
</tr>
<tr>
<td>Operating expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research and development</td>
<td>17,986</td>
<td>28,924</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>19,290</td>
<td>30,114</td>
</tr>
<tr>
<td>General and administrative</td>
<td>16,034</td>
<td>29,198</td>
</tr>
<tr>
<td>Total operating expenses</td>
<td>53,310</td>
<td>88,236</td>
</tr>
<tr>
<td>Loss from operations</td>
<td>(7,817)</td>
<td>(9,803)</td>
</tr>
<tr>
<td>Other income, net</td>
<td>632</td>
<td>2,333</td>
</tr>
<tr>
<td>Loss before provision for (benefit from) income taxes</td>
<td>(7,185)</td>
<td>(7,470)</td>
</tr>
<tr>
<td>Provision for (benefit from) income taxes</td>
<td>10</td>
<td>(156)</td>
</tr>
<tr>
<td>Net loss</td>
<td>$(7,195)</td>
<td>$(7,314)</td>
</tr>
</tbody>
</table>

### Net loss per share attributable to common stockholders:
- Basic and diluted

### Weighted-average number of common shares used to compute net loss per share attributable to common stockholders:
- Basic and diluted

### Pro forma net loss per share attributable to common stockholders (unaudited):
- Basic and diluted

### Weighted-average number of common shares used to compute pro forma net loss per share attributable to common stockholders (unaudited):
- Basic and diluted

---

See accompanying notes to consolidated financial statements.

F-5
<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Net loss</td>
<td>$(7,195)</td>
<td>$(7,314)</td>
</tr>
<tr>
<td>Other comprehensive (loss) income:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net unrealized (loss) gain on investments in available-for-sale securities, net of tax of $0, $176, $0 and $0 during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited), respectively</td>
<td>(177)</td>
<td>503</td>
</tr>
<tr>
<td>Comprehensive loss</td>
<td>$(7,372)</td>
<td>$(6,811)</td>
</tr>
</tbody>
</table>
**BILL.COM HOLDINGS, INC.**  
**CONSOLIDATED STATEMENTS OF REDEEMABLE CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS’ DEFICIT**  
(In thousands)

<table>
<thead>
<tr>
<th>Shares</th>
<th>Amount</th>
<th>Shares</th>
<th>Amount</th>
<th>Additional paid-in capital</th>
<th>Accumulated other comprehensive (loss) income</th>
<th>Accumulated deficit</th>
<th>Total stockholders’ deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redeemable convertible preferred stock</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance at June 30, 2017</td>
<td>82,817</td>
<td>$135,342</td>
<td>13,937</td>
<td>$1</td>
<td>6,314</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td>Issuance of Series G redeemable convertible preferred stock, net of issuance costs</td>
<td>11,445</td>
<td>55,805</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Exercise of stock options and vesting of early-exercised stock options</td>
<td>-</td>
<td>-</td>
<td>753</td>
<td>-</td>
<td>755</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Employee stock-based compensation</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,545</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other comprehensive loss</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(177)</td>
<td>-</td>
</tr>
<tr>
<td>Net loss</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(7,195)</td>
</tr>
<tr>
<td>Balance at June 30, 2018</td>
<td>94,262</td>
<td>191,147</td>
<td>14,690</td>
<td>1</td>
<td>8,614</td>
<td>(177)</td>
<td>(110,342)</td>
</tr>
<tr>
<td>Issuance of Series H redeemable convertible preferred stock, net of issuance costs</td>
<td>10,607</td>
<td>85,160</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Exercise of stock options and vesting of early-exercised stock options</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Employee stock-based compensation</td>
<td>-</td>
<td>-</td>
<td>1,617</td>
<td>-</td>
<td>1,702</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Issuance of stock warrants</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4,082</td>
</tr>
<tr>
<td>Other comprehensive income, net of tax</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>503</td>
</tr>
<tr>
<td>Net loss</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(7,314)</td>
</tr>
<tr>
<td>Balance at June 30, 2019</td>
<td>104,869</td>
<td>276,307</td>
<td>16,307</td>
<td>1</td>
<td>14,672</td>
<td>326</td>
<td>(117,656)</td>
</tr>
<tr>
<td>Exercise of stock options (unaudited)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Employee stock-based compensation (unaudited)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,276</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other comprehensive loss, net of tax (unaudited)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(198)</td>
<td>-</td>
</tr>
<tr>
<td>Net loss (unaudited)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(5,696)</td>
</tr>
<tr>
<td>Balance at September 30, 2019 (unaudited)</td>
<td>104,869</td>
<td>$276,307</td>
<td>16,593</td>
<td>$1</td>
<td>17,242</td>
<td>$128</td>
<td>$ (123,352)</td>
</tr>
</tbody>
</table>

See accompanying notes to consolidated financial statements.

F-7
### BILL.COM HOLDINGS, INC.

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(In thousands)

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30, 2018</th>
<th>Year ended June 30, 2019</th>
<th>Three months ended September 30, 2018</th>
<th>Three months ended September 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CASH FLOWS FROM OPERATING ACTIVITIES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss</td>
<td>$7,195</td>
<td>$7,314</td>
<td>$884</td>
<td>$5,696</td>
</tr>
<tr>
<td>Adjustments to reconcile net loss to net cash used in operating activities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>2,314</td>
<td>3,154</td>
<td>765</td>
<td>985</td>
</tr>
<tr>
<td>Stock-based compensation</td>
<td>1,545</td>
<td>4,082</td>
<td>607</td>
<td>2,276</td>
</tr>
<tr>
<td>Accretion of discount on investment in marketable debt securities</td>
<td>-</td>
<td>(1,319)</td>
<td>(165)</td>
<td>(730)</td>
</tr>
<tr>
<td>Revaluation of warrants liabilities and forfeiture of warrants</td>
<td>182</td>
<td>25</td>
<td>(11)</td>
<td>165</td>
</tr>
<tr>
<td>Issuance of warrants</td>
<td>-</td>
<td>274</td>
<td>52</td>
<td>-</td>
</tr>
<tr>
<td>Deferred income taxes</td>
<td>-</td>
<td>(176)</td>
<td>(37)</td>
<td>-</td>
</tr>
<tr>
<td>Changes in assets and liabilities:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>(279)</td>
<td>(2,098)</td>
<td>(1,096)</td>
<td>707</td>
</tr>
<tr>
<td>Unbilled revenue</td>
<td>(503)</td>
<td>(1,748)</td>
<td>(518)</td>
<td>(621)</td>
</tr>
<tr>
<td>Prepaid expenses and other current assets</td>
<td>(3,477)</td>
<td>(5,890)</td>
<td>(1,121)</td>
<td>(1,142)</td>
</tr>
<tr>
<td>Other assets</td>
<td>(2,526)</td>
<td>(996)</td>
<td>(550)</td>
<td>(50)</td>
</tr>
<tr>
<td>Accounts payable</td>
<td>(563)</td>
<td>3,171</td>
<td>1,048</td>
<td>508</td>
</tr>
<tr>
<td>Accrued and other current liabilities</td>
<td>1,642</td>
<td>4,336</td>
<td>153</td>
<td>1,132</td>
</tr>
<tr>
<td>Other long-term liabilities</td>
<td>35</td>
<td>302</td>
<td>(85)</td>
<td>93</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>771</td>
<td>47</td>
<td>(113)</td>
<td>(7)</td>
</tr>
<tr>
<td><strong>Net cash used in operating activities</strong></td>
<td>(8,356)</td>
<td>(3,949)</td>
<td>(2,255)</td>
<td>(2,380)</td>
</tr>
<tr>
<td><strong>CASH FLOWS FROM INVESTING ACTIVITIES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchases of corporate and customer fund short-term investments</td>
<td>(726,788)</td>
<td>(830,622)</td>
<td>(191,198)</td>
<td>(189,204)</td>
</tr>
<tr>
<td>Proceeds from maturities of corporate and customer fund short-term investments</td>
<td>290,828</td>
<td>694,303</td>
<td>206,434</td>
<td>256,171</td>
</tr>
<tr>
<td>Proceeds from sale of corporate and customer fund short-term investments</td>
<td>16,498</td>
<td>54,715</td>
<td>-</td>
<td>10,761</td>
</tr>
<tr>
<td>Decrease (increase) in restricted cash and cash equivalents and other receivables included in funds held for customers</td>
<td>85,876</td>
<td>(333,348)</td>
<td>(118,000)</td>
<td>(213,249)</td>
</tr>
<tr>
<td>Decrease (increase) in restricted cash</td>
<td>(1,313)</td>
<td>(2,743)</td>
<td>(634)</td>
<td>(1,946)</td>
</tr>
<tr>
<td><strong>Net cash used in investing activities</strong></td>
<td>(335,421)</td>
<td>(419,801)</td>
<td>(104,019)</td>
<td>(138,132)</td>
</tr>
<tr>
<td><strong>CASH FLOWS FROM FINANCING ACTIVITIES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase in customer fund deposits liability</td>
<td>263,671</td>
<td>414,293</td>
<td>98,723</td>
<td>137,186</td>
</tr>
<tr>
<td>Proceeds from issuance of redeemable convertible preferred stock, net of issuance costs</td>
<td>55,805</td>
<td>85,160</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Proceeds from maturities of corporate and customer fund short-term investments</td>
<td>290,828</td>
<td>694,303</td>
<td>206,434</td>
<td>256,171</td>
</tr>
<tr>
<td>Decrease in customer fund deposits liability</td>
<td>263,671</td>
<td>414,293</td>
<td>98,723</td>
<td>137,186</td>
</tr>
<tr>
<td>Decrease in customer fund deposits liability</td>
<td>263,671</td>
<td>414,293</td>
<td>98,723</td>
<td>137,186</td>
</tr>
<tr>
<td>Payments on bank borrowings</td>
<td>(3,387)</td>
<td>(9,500)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Proceeds from exercise of stock options</td>
<td>693</td>
<td>1,702</td>
<td>458</td>
<td>294</td>
</tr>
<tr>
<td>Payments of deferred financing costs</td>
<td>-</td>
<td>-</td>
<td>(674)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Net cash provided by financing activities</strong></td>
<td>326,282</td>
<td>491,655</td>
<td>99,181</td>
<td>136,455</td>
</tr>
<tr>
<td><strong>NET (DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS</strong></td>
<td>(17,495)</td>
<td>67,905</td>
<td>(7,093)</td>
<td>(4,057)</td>
</tr>
<tr>
<td><strong>CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD</strong></td>
<td>39,896</td>
<td>22,401</td>
<td>22,401</td>
<td>90,306</td>
</tr>
<tr>
<td><strong>CASH AND CASH EQUIVALENTS, END OF PERIOD</strong></td>
<td>$22,401</td>
<td>$90,306</td>
<td>$15,308</td>
<td>$86,249</td>
</tr>
<tr>
<td><strong>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash paid for interest</td>
<td>$436</td>
<td>$872</td>
<td>$121</td>
<td>$137</td>
</tr>
<tr>
<td><strong>NONCASH INVESTING AND FINANCING ACTIVITIES:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accrued purchases of property and equipment</td>
<td>$1,908</td>
<td>-</td>
<td>$1,908</td>
<td>-</td>
</tr>
<tr>
<td>Accrued deferred offering and debt issuance costs</td>
<td>$-</td>
<td>$470</td>
<td>-</td>
<td>$342</td>
</tr>
</tbody>
</table>

See accompanying notes to consolidated financial statements.

F-8
NOTE 1—THE COMPANY AND ITS SIGNIFICANT ACCOUNTING POLICIES

Bill.com, Inc. (the Company), a Delaware company incorporated on April 7, 2006, is a provider of software-as-a-service, cloud-based payments products, which allow users to automate accounts payable and accounts receivable transactions and enable users to easily connect with their suppliers and/or customers to do business, manage cash flows and improve back office efficiency.

In November 2018, the Company consummated a reorganization by interposing a holding company between Bill.com, Inc. and its stockholders. To accomplish the reorganization, the Company formed BDC Payments Holdings, Inc. (BDC), which was incorporated in Delaware on August 2, 2018, and Bill.com, LLC (Merger Sub) as a wholly owned subsidiary of BDC. The Company merged Bill.com, Inc. and Merger Sub, with Bill.com, Inc. as the surviving entity, by issuing identical shares of stock of BDC to the stockholders of Bill.com, Inc. in exchange for their equity interest in Bill.com, Inc. After the merger, all of the stockholders of Bill.com, Inc. became 100% stockholders of BDC, and Bill.com, Inc. became a wholly owned subsidiary of BDC. Concurrent with the merger, Bill.com, Inc. (a C-corporation entity) was converted into a limited liability company and renamed into Bill.com, LLC, with BDC as the sole member.

The merger was considered a transaction between entities under common control. Accordingly, BDC recognized the assets and liabilities of Bill.com, Inc. at their carrying values and the accompanying consolidated financial statements present comparative information for prior periods on a consolidated basis, as if both BDC and Bill.com, LLC (formerly Bill.com, Inc.) were under common control for all periods presented. On June 27, 2019, BDC changed its name to Bill.com Holdings, Inc.

Bill.com Holdings, Inc. and Bill.com, LLC are collectively referred to as the “Company” in the accompanying consolidated financial statements after the reorganization.

Basis of Presentation and Principles of Consolidation—The accompanying consolidated financial statements include the accounts of the Company and were prepared in conformity with U.S. generally accepted accounting principles (GAAP). Intercompany accounts and transactions have been eliminated.

Unaudited Interim Financial Information—The accompanying interim consolidated balance sheet as of September 30, 2019, the consolidated statements of operations, comprehensive loss, and cash flows for the three months ended September 30, 2018 and 2019, the consolidated statement of redeemable convertible preferred stock and stockholders’ deficit for the three months ended September 30, 2019, and the related footnote disclosures are unaudited. These unaudited interim financial statements have been prepared on the same basis as the annual consolidated financial statements and reflect all normal and recurring adjustments that are, in the opinion of management, necessary to present fairly our financial position, results of operations, comprehensive loss, changes in redeemable convertible preferred stock and stockholders’ deficit, and cash flows for the periods presented.

The results of operations for the three months ended September 30, 2019 are not necessarily indicative of the results to be expected for the year ending June 30, 2020 or for any other future annual or interim period.

Unaudited Pro Forma Balance Sheet Information—The unaudited pro forma balance sheet information at September 30, 2019 has been prepared to give effect to the automatic conversion of all of the Company’s outstanding redeemable convertible preferred stock into an equivalent number of
shares of common stock upon (a) the closing of an underwritten public offering (IPO) in which the public offering price is at least the original issue price of Series H redeemable convertible preferred stock (Qualified IPO) or (b) the written consent of the holders of a majority of the then outstanding shares of redeemable convertible preferred stock excluding the holders of Series E-1 and Series F-1 redeemable convertible preferred stock. The unaudited pro forma balance sheet information also assumes the reclassification of the redeemable convertible preferred stock warrant liabilities to consolidated stockholders’ deficit as the warrants would be converted into warrants to purchase common stock upon the completion of the IPO. The shares of common stock issuable and the proceeds expected to be received in the Qualified IPO are excluded from the unaudited pro forma balance sheet information.

Segment Reporting—The Company operates as one operating segment because its chief operating decision maker, who is its Chief Executive Officer, reviews its financial information on a consolidated basis for purposes of making decisions regarding allocating resources and assessing performance. All long-lived assets are located in the United States and all revenue is generated in the United States.

Use of Estimates—The preparation of consolidated financial statements in conformity with GAAP requires management to make various estimates and assumptions that affect the amounts reported and disclosed in the consolidated financial statements and the accompanying notes. Management regularly assesses these estimates, including those related to fair value of common stock and stock-based compensation, fair value of redeemable convertible preferred stock warrant liabilities, the attribution method used to recognize revenue on annual contracts, useful lives of property and equipment, reserve for sales tax obligations, reserve for losses on funds held for customers and income taxes. Actual results could differ from those estimates, and such differences may be material to the consolidated financial statements.

Funds held for customers and customer fund deposits—Funds held for customers and the corresponding liability on customer fund deposits represent funds that are collected from customers for payments to their suppliers and funds that are collected on behalf of customers. Generally, these funds held for customers are initially deposited in separate bank accounts until remitted to the customers’ suppliers or to the customers. The funds held for customers are restricted for the purpose of satisfying the customers’ fund obligations and are not available for general business use by the Company. The Company partially invests funds held for customers in highly liquid investments with maturities of three months or less and in marketable debt securities with maturities of more than three months to one year at the time of purchase. Funds held for customers that are invested in marketable debt securities are classified as available-for-sale. These investments are carried at fair value, with unrealized gains or losses included in accumulated other comprehensive (loss) income on the consolidated balance sheets and as a component of the consolidated statements of comprehensive loss. The Company contractually earns interest on funds held for customers with associated counterparties.

Cash, cash equivalents and restricted cash—Cash and cash equivalents consist of cash in banks and highly liquid investments with maturities of three months or less at the time of purchase. Restricted cash consists of cash collateral required by a bank in connection with the Company’s money transmission activities and cash in bank deposits required by the Company’s lessors to satisfy letter of credit requirements under its lease agreements. The current portion of restricted cash is included in prepaid expenses and other current assets, and the non-current portion of restricted cash is included in other assets in the accompanying consolidated balance sheets.

Short-term investments—The Company invests excess cash in marketable debt securities with maturities of more than three months and less than one year. These securities are classified as available-for-sale and recorded at fair value. Unrealized gains or losses are included in accumulated
other comprehensive (loss) income on the consolidated balance sheets and as a component of the consolidated statements of comprehensive loss. An impairment loss is recognized when the decline in fair value of the marketable debt securities is determined to be other than temporary. The Company periodically evaluates its investments to determine if impairment charges are required. The Company determined that there was no other-than-temporary impairment on short-term investments during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited).

Concentrations of credit risk—Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and cash equivalents, short-term investments, and accounts receivable. The Company maintains its cash and cash equivalents and short-term investments with major financial institutions that may at times exceed federally insured limits. Management believes that these financial institutions are financially sound and the Company has not experienced any losses. There were no customers that exceeded 10% of the Company’s total revenue for the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited).

Accounts receivable, unbilled revenue and allowance for doubtful accounts—Accounts receivable are recorded at the invoiced amount, net of an allowance for doubtful accounts. Unbilled revenue is recorded based on amounts that the Company expects to invoice to customers in the subsequent period. The allowance for doubtful accounts is based on the Company’s assessment of the collectability of the accounts receivable. The Company regularly reviews the adequacy of the allowance for doubtful accounts by considering the age of each outstanding invoice and the collection history of each customer to determine whether a specific allowance is appropriate. Accounts receivable deemed uncollectable are charged against the allowance for doubtful accounts when identified. For all periods presented, the allowance for doubtful accounts was not significant.

Property and equipment—Property and equipment are stated at cost, less accumulated depreciation and amortization. Depreciation and amortization are computed using the straight-line method over the estimated useful lives of the respective assets, generally one to five years. Leasehold improvements are amortized over the shorter of estimated useful lives of the assets or the lease term. Expenditures for repairs and maintenance are charged to expense as incurred. Upon disposition, the cost and related accumulated depreciation and amortization are removed from the accounts and the resulting gain or loss is reflected in the consolidated statements of operations.

Capitalized internal-use software—The Company capitalizes internal and external direct costs incurred related to obtaining or developing internal-use software. Costs incurred during the application development stage are capitalized and are amortized using the straight-line method over the estimated useful lives of the software, generally three years commencing on the first day of the month following when the software is ready for its intended use. Costs related to planning and post-implementation activities are expensed as incurred. During the years ended June 30, 2018 and 2019, the Company capitalized $0.7 million and $1.6 million, respectively, in software development costs. During the three months ended September 30, 2018 and 2019 (unaudited), the Company capitalized $0.4 million and $0.2 million, respectively, in software development costs. As of June 30, 2018 and 2019 and September 30, 2019 (unaudited), the unamortized internal-use software was $1.3 million, $2.3 million and $2.2 million, respectively.

Impairment of long-lived assets—Long-lived assets, such as property and equipment and capitalized internal-use software, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. Recoverability of an asset to be held and used is measured by a comparison of the carrying amount of the asset to the estimated undiscounted future cash flows expected to be generated by the asset or
asset group. If the carrying value of an asset or asset group exceeds its estimated future cash flows, an impairment charge is recognized to the extent that the carrying value exceeds its fair value. There were no impairment charges recognized during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited).

Deferred offering costs—Deferred offering costs consist primarily of legal and other fees related to the proposed IPO. The deferred offering costs will be offset against IPO proceeds upon the consummation of the IPO. If the IPO is aborted, deferred offering costs will be expensed. As of June 30, 2018, the Company had no deferred offering costs that were capitalized. As of June 30, 2019 and September 30, 2019 (unaudited), the Company capitalized $0.4 million and $1.6 million of deferred offering costs, respectively, which are included in other assets in the accompanying consolidated balance sheets.

Redeemable convertible preferred stock warrants—Freestanding warrants to purchase shares of the Company’s redeemable convertible preferred stock are accounted for as liabilities on the consolidated balance sheets at their estimated fair value because the shares underlying the warrants contain contingent redemption features outside the Company’s control. Fair value is measured using the Black-Scholes option-pricing model. The warrants are remeasured to fair value at the end of each reporting period with changes in fair value recorded in general and administrative expenses in the consolidated statements of operations.

Revenue recognition—The Company generates revenue from two primary sources: (1) subscription and transaction fees and (2) interest on funds held for customers. The Company’s customers include small and midsize businesses (SMB), accounting firms and financial institutions.

Subscription and transaction fees by customer category are comprised of the following for the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited) (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>SMB and accounting firm customers</td>
<td>$50,138</td>
<td>$76,292</td>
</tr>
<tr>
<td>Financial institution customers</td>
<td>6,854</td>
<td>9,659</td>
</tr>
<tr>
<td>Total subscription and transaction fees</td>
<td>$56,992</td>
<td>$85,951</td>
</tr>
</tbody>
</table>

**Subscription and Transaction Fees**

The Company enters into contracts with SMB and accounting firm customers to provide access to the functionality of the Company’s cloud-based payments platform to process transactions. These contracts are either cancelable arrangements paid monthly in arrears that can be terminated by either party without a penalty at any time or non-cancelable annual arrangements paid upfront. In July 2019, the Company updated its terms of service for cancelable contracts, whereby cancellations become effective at the end of the monthly subscription period in which the last transaction is processed. The Company charges its SMB and accounting firm customers subscription fees for access to its platform based on the number of users and level of service. The Company also charges these customers transaction fees based on actual transaction volume and the category of transaction. The contractual price for subscription and transaction activities is based on either the negotiated fees or the rates published on the Company’s website.
The Company’s contracts with SMB and accounting firm customers are generally comprised of a single performance obligation to provide access to the functionality of the Company’s platform to process transactions. The Company accounts for open-ended cancelable contracts as a daily service. Subscription revenue for such contracts is recognized ratably over the period that the customers have access to the platform. Transaction revenue is recognized on the date the transactions are processed by the Company.

The Company accounts for its annual and monthly contracts as a series of distinct services satisfied over time. The Company determines the transaction price for such contracts by estimating the total consideration to be received over the contract term from subscription and transaction fees. The Company recognizes the transaction price from annual contracts as a single performance obligation based on the proportion of transactions processed to the total estimated transactions to be processed over the contract period.

Arrangements with Financial Institutions

The Company enters into multi-year contracts with financial institution customers that typically include fees for initial implementation services that are paid during the period the implementation services are provided as well as fees for subscription and transaction processing services, which are subject to guaranteed monthly minimum fees that are paid monthly over the contract term. These contracts enable the financial institutions to provide their customers with access to online bill pay services through the financial institutions’ online platforms. Implementation services are required up-front to establish an infrastructure that allows the financial institutions’ online platforms to communicate with the Company’s online platform. A financial institution’s customers cannot access online bill pay services until implementation is complete and the financial institution has provided acceptance of the implementation services. As such, initial implementation services and transaction processing services are not capable of being distinct from the subscription for online bill pay services and are combined into a single performance obligation. The consideration in these contracts varies based on the number of users and transactions processed. The Company has determined it meets the variable consideration allocation exception and therefore recognizes guaranteed monthly payments and any overages as revenue in the month they are earned. Implementation fees are recognized based on the proportion of transactions processed to the total estimated transactions to be processed over the contract period. The ability of the financial institution customers to renew their contracts without having to pay up-front implementation fees again provides them a material right. Material rights, which have not been significant to date, are treated as separate performance obligations and are recognized over the expected period of benefit. For such arrangements, the Company allocates revenue to each performance obligation based on its relative standalone selling price.

Remaining Performance Obligations with Financial Institutions

As of June 30, 2019, the aggregate amount of transaction price allocated to performance obligations that are unsatisfied (or partially unsatisfied) was $34.0 million. Of this amount, the Company expects to recognize $8.7 million within one year and $25.3 million between one and five years. As of September 30, 2019 (unaudited), the aggregate amount of transaction price allocated to performance obligations that are unsatisfied (or partially unsatisfied) was $41.5 million. Of this amount, the Company expects to recognize $9.5 million within one year and $32.0 million thereafter.

Deferred revenue

Subscription and transaction fees from customers with which the Company has annual or multi-year contracts are generally billed in advance. These fees are initially recorded as deferred revenue and subsequently recognized as revenue as the performance obligation is satisfied. Deferred revenue is shown as current or non-current in the consolidated balance sheets. The current portion of the
Deferred revenue was $3.3 million and $3.5 million as of June 30, 2018 and 2019, respectively. The non-current portion of the deferred revenue was $1.9 million and $1.8 million as of June 30, 2018 and 2019, respectively. The current and non-current portion of the deferred revenue was $3.4 million and $1.8 million, respectively, as of September 30, 2019 (unaudited). Fees for monthly subscription and transaction fees are billed in arrears on a monthly basis. During the year ended June 30, 2019, the Company recognized $3.4 million of revenue that was included in the deferred revenue balance as of June 30, 2018. During the three months ended September 30, 2019 (unaudited), the Company recognized $1.3 million of revenue that was included in the deferred revenue balance as of June 30, 2019.

**Interest on Funds Held for Customers**

The Company also earns revenue from interest earned on funds held for customers that are initially deposited into the Company’s bank accounts that are separate from the Company’s operating cash accounts until remitted to the customers or their suppliers. The Company partially invests funds held for customers in highly liquid investments with maturities of three months or less and in marketable debt securities with maturities of three months to one year at the time of purchase. Interest and fees earned are recognized based on the effective interest method and also include the accretion of discounts and the amortization of premiums on marketable debt securities.

**Deferred costs**—Deferred costs consist of (i) deferred sales commissions that are incremental costs of obtaining customer contracts and (ii) deferred service costs, primarily direct payroll costs, for implementation services provided to customers prior to the launching of the Company’s products for general availability (go-live) to the users. Sales commissions paid on renewals are not material and not commensurate with sales commissions paid on the initial contract. Deferred sales commissions are amortized ratably over four to six years, taking into consideration the initial contract term and expected renewal periods. Deferred service costs are amortized ratably over the estimated benefit period of the capitalized costs starting on the go-live date of the service. The current portion of the deferred sales commissions, which is included in prepaid expenses and other current assets, was $1.1 million, $1.7 million, and $1.9 million as of June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively. The non-current portion of the deferred sales commissions, which is included in other assets, was $2.1 million, $3.1 million and $3.4 million as of June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively. The current portion of the deferred service costs, which is included in prepaid expenses and other current assets, was $0.8 million, $0.8 million, and $0.7 million as of June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively. The non-current portion of the deferred service costs, which is included in other assets, was $2.3 million, $2.2 million, and $2.0 million as of June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively. The amortization of deferred sales commissions was $1.0 million, $1.4 million, $0.3 million, and $0.5 million during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited), respectively. The amortization of deferred service costs was $0.4 million, $1.1 million, $0.1 million, and $0.2 million during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited), respectively.

**Cost of revenue**—Cost of revenue consists primarily of personnel-related costs, including stock-based compensation expenses, for the Company’s customer success and payment operations teams, certain costs that are directly attributed to processing customers’ transactions (such as the cost of printing checks, postage for mailing checks, and expenses for processing payments), direct and amortized costs for implementing and integrating the Company’s platform into the customers’ systems, costs for maintaining, optimizing, and securing the Company’s cloud payments infrastructure, amortization of capitalized internal-use software, fees on the investment of customer funds, and allocation of overhead costs.
**Research and development**—Costs incurred in research and development, excluding development costs eligible for capitalization as internal-use software, are expensed as incurred.

**Stock-based compensation**—The Company uses the grant-date fair-value-based measurements for stock-based compensation using the Black-Scholes option-pricing model. The Company recognizes these compensation costs on a straight-line basis over the requisite service period of the award, which is generally the option vesting term of four years, reduced for the estimated forfeitures at the date of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. The Company estimates the forfeiture rate based on its historical experience for annual grant years where the majority of the vesting terms have been satisfied.

**Advertising**—The Company expenses the costs of advertising, including promotional expenses, as incurred. Advertising expenses during the years ended June 30, 2018 and 2019 were $0.8 million and $3.7 million, respectively.

**Other income, net**—Other income, net consisted of the following during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited) (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Interest income</td>
<td>$ 1,058</td>
<td>$ 3,207</td>
</tr>
<tr>
<td>Interest expense</td>
<td>(427)</td>
<td>(825)</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>(49)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 632</strong></td>
<td><strong>$ 2,333</strong></td>
</tr>
</tbody>
</table>

**Income taxes**—The Company accounts for income taxes using the asset and liability method. Under this method, deferred tax liabilities and assets are recognized for the expected future tax consequences of temporary differences between financial statement carrying amounts and the tax basis of assets and liabilities and net operating loss (NOL) and tax credit carryforwards. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized.

The Company accounts for uncertainty in income taxes using a two-step approach to recognizing and measuring uncertain tax positions. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates that it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount that is more than 50% likely of being realized upon settlement. The Company classifies any liabilities for unrecognized tax benefits as current to the extent that the Company anticipates payment (or receipt) of cash within one year. Interest and penalties related to uncertain tax positions are recognized in the provision for income taxes.

**Net loss per share attributable to common stockholders**—Basic net loss per share attributable to common stockholders is calculated by dividing the net loss attributable to common stockholders by the weighted-average number of shares of common stock outstanding during the period, without consideration of potentially dilutive securities. Diluted net loss per share attributable to common stockholders is the same as basic net loss per share attributable to common stockholders for all periods presented since the effect of potentially dilutive securities is anti-dilutive given the net loss of the Company.
**Unaudited pro forma net loss per share attributable to common stockholders**—The unaudited pro forma basic and diluted net loss per share attributable to common stockholders has been computed to give effect to the conversion of the shares of redeemable convertible preferred stock into common stock as if such conversion had occurred at the earlier of the beginning of the period or the date of issuance, if later. In addition, the numerator in the pro forma basic and diluted net loss per share calculation has been adjusted to remove gains or losses resulting from the remeasurement of the redeemable convertible preferred stock warrant liabilities and expiration of preferred stock warrants as the warrants will be reclassified to additional paid-in capital upon conversion of the redeemable convertible preferred stock into common stock. The unaudited pro forma net loss per share attributable to common stockholders does not include the shares to be sold and related proceeds to be received from the Qualified IPO.

**Emerging growth company status**—The Company is an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012 (the JOBS Act). Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until those standards apply to private companies. The Company has elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that it is (i) no longer an emerging growth company or (ii) affirmatively and irrevocably opts out of the extended transition period provided in the JOBS Act. As a result, the consolidated financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates.

The JOBS Act does not preclude an emerging growth company from early adopting new or revised accounting standards. The Company early adopted ASU 2014-09, *Revenue from Contracts with Customers (ASC 606)* during the year ended June 30, 2018 effective July 1, 2017 utilizing the full retrospective transition method. The Company expects to use the extended transition period for any other new or revised accounting standards during the period which the Company remains an emerging growth company.

**New accounting pronouncements:**

**Adopted**

In May 2017, the Financial Accounting Standards Board (FASB) issued ASU 2017-09, *Compensation—Stock Compensation (Topic 718): Scope of Modification Accounting*, which clarifies which changes to the terms or conditions of a share-based payment award are subject to the guidance on modification accounting. Entities would apply the modification accounting guidance unless the value, vesting requirements and classification of a share-based payment award are the same immediately before and after a change to the terms or conditions of the award. The Company adopted ASC 2017-09 on July 1, 2018 and it did not have a material impact on its consolidated financial statements.

In March 2016, the FASB issued ASU 2016-09, *Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting*, which simplifies the accounting for share-based payment transactions, including the income tax consequences and classification of awards as either equity or liabilities. The Company adopted ASC 2016-09 on July 1, 2018 and it did not have a material impact on its consolidated financial statements.

**Not Yet Adopted**

In August 2018, the FASB issued ASU 2018-15, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud*
In August 2018, the FASB issued ASU 2018-13—Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement. ASU 2018-13 removes, modifies and adds certain disclosure requirements under Topic 820, such as the removal of disclosure of valuation process for Level 3 fair value measurements and removal of disclosure of changes in unrealized gains and losses for recurring Level 3 fair value measurements. ASU 2018-13 is effective for all entities in fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted. The Company is still evaluating the impact of this amendment on its consolidated financial statements.

In June 2018, the FASB Issued ASU 2018-07, Compensation—Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting, which expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from nonemployees. ASU 2018-07 is effective for nonpublic business entities in fiscal years beginning after December 15, 2019, and interim periods within annual periods beginning December 15, 2020. Early adoption is permitted. The Company is still evaluating the impact of this amendment on its consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, Statement of Cash Flows (Topic 230): Restricted Cash, which provides guidance on the presentation of restricted cash or restricted cash equivalents in the statement of cash flows. Accordingly, restricted cash or restricted cash equivalents should be included with cash and cash equivalents when reconciling the total amounts shown on the statement of cash flows at the beginning and at the end of period. ASU 2016-18 is effective for nonpublic business entities in fiscal years beginning after December 15, 2018, and interim periods within annual periods beginning after December 15, 2019. Early adoption is permitted. The Company plans to retrospectively adopt this ASU in its annual financial statements for the year ending June 30, 2020. The adoption of this ASU will change the presentation and classification of corporate restricted cash and restricted cash and cash equivalents included in funds held for customers on its consolidated statements of cash flows.

In August 2016, the FASB issued ASU No. 2016-15, Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments which addresses the classification of certain specific cash flow issues including debt prepayment or extinguishment costs, settlement of certain debt instruments, contingent consideration payments made after a business combination, proceeds from the settlement of certain insurance claims, distributions received from equity method investees, beneficial interests in securitization transactions and the application of the predominance principle on separately identifiable cash flows. ASU 2016-15 is effective for nonpublic business entities in fiscal years beginning after December 15, 2018, and interim periods within annual periods beginning after December 15, 2019. Early adoption is permitted. The Company plans to retrospectively adopt this ASU in its annual financial statements for the year ending June 30, 2020. The Company has not yet determined the impact the adoption of this ASU will have on its consolidated statements of cash flows.

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842), which requires lessees to recognize leases on-balance sheet and disclose key information about leasing arrangements. Topic 842 was subsequently amended by ASU 2018-10, Codification Improvements to Topic 842, Leases and ASU 2018-11, Leases (Topic 842): Targeted Improvements. The new standard establishes a
right-of-use model that requires a lessee to recognize a right-of-use (ROU) asset and lease liability on the balance sheet for all leases with a term longer than 12 months. Leases will be classified as finance or operating, with classification affecting the pattern and classification of expense recognition in the income statement. ASU 2016-02 is effective for nonpublic business entities in fiscal years beginning after December 15, 2019, and interim periods within annual periods beginning after December 15, 2020. Early adoption is permitted. The Company is still evaluating the impact of this amendment on its consolidated financial statements.

Prior period adjustments—During the year ended June 30, 2018, the Company recorded an adjustment of $1.5 million (decrease in accumulated deficit at June 30, 2017) to reflect the impact of adopting ASC 606.

Reclassification Within Consolidated Statements of Cash Flows—Customer fund deposits represent the Company’s obligation to remit funds collected from customers for payments to their suppliers and funds collected on behalf of customers. The Company has reclassified the net change in customer fund deposits liability in the consolidated statements of cash flows from investing activities to financing activities for all periods presented. The impact of the reclassification during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited) was as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td></td>
<td>(unaudited)</td>
<td></td>
</tr>
<tr>
<td>Net cash used in investing activities - as previously reported</td>
<td>$(71,750)</td>
<td>$(5,508)</td>
</tr>
<tr>
<td>Impact of reclassification - net change in customer fund deposits liability</td>
<td>$(263,671)</td>
<td>$(414,293)</td>
</tr>
<tr>
<td>Net cash used in investing activities - as reclassified</td>
<td>$(335,421)</td>
<td>$(419,801)</td>
</tr>
<tr>
<td>Net cash provided by (used in) financing activities - as previously reported</td>
<td>$62,611</td>
<td>$77,362</td>
</tr>
<tr>
<td>Impact of reclassification - net change in customer fund deposits liability</td>
<td>$263,671</td>
<td>$414,293</td>
</tr>
<tr>
<td>Net cash provided by financing activities - as reclassified</td>
<td>$326,282</td>
<td>$491,655</td>
</tr>
</tbody>
</table>

NOTE 2—FAIR VALUE MEASUREMENT

The Company measures and reports its cash equivalents, short-term investments, funds held for customers that are invested in money market funds and marketable debt securities, and redeemable convertible preferred stock warrant liabilities at fair value. Fair value is defined as the exchange price that would be received for an asset or an exit price paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs.
The fair value hierarchy defines a three-level valuation hierarchy for disclosure of fair value measurements as follows:

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

Level 2—Inputs other than quoted prices included within Level 1 that are observable, unadjusted quoted prices in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity for the related assets or liabilities and typically reflect management's estimate of assumptions that market participants would use in pricing the assets or liabilities.

In determining fair value, the Company utilizes quoted market prices, or valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible, and also considers counterparty credit risk in its assessment of fair value.
The following tables set forth the fair value of assets and liabilities that were measured at fair value on a recurring basis based on the three-tier fair value hierarchy (in thousands):  

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
<td>Level 2</td>
<td>Level 3</td>
<td>Total</td>
</tr>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash equivalents:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Money market funds</td>
<td>$ 14,836</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 14,836</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>-</td>
<td>7,175</td>
<td>-</td>
<td>7,175</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 14,836</td>
<td>7,175</td>
<td>-</td>
<td>22,011</td>
</tr>
<tr>
<td>Short-term investments:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$ 7,175</td>
<td>-</td>
<td>-</td>
<td>7,175</td>
</tr>
<tr>
<td>U.S. treasury securities</td>
<td>-</td>
<td>12,955</td>
<td>-</td>
<td>12,955</td>
</tr>
<tr>
<td>Asset-backed securities</td>
<td>-</td>
<td>9,216</td>
<td>-</td>
<td>9,216</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 7,175</td>
<td>56,912</td>
<td>-</td>
<td>69,867</td>
</tr>
<tr>
<td>Funds held for customers:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Money market funds</td>
<td>303,650</td>
<td>-</td>
<td>-</td>
<td>303,650</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>-</td>
<td>185,360</td>
<td>-</td>
<td>185,360</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>-</td>
<td>166,570</td>
<td>-</td>
<td>166,570</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 303,650</td>
<td>351,930</td>
<td>-</td>
<td>655,580</td>
</tr>
<tr>
<td><strong>Total assets measured at fair value</strong></td>
<td>$331,441</td>
<td>$416,017</td>
<td>-</td>
<td>$747,458</td>
</tr>
<tr>
<td><strong>Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redeemable convertible preferred stock warrant liabilities</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 663</td>
<td>$ 663</td>
</tr>
<tr>
<td><strong>Total liabilities measured at fair value</strong></td>
<td>$ -</td>
<td>$ -</td>
<td>$ 663</td>
<td>$ 663</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2019</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Level 1</td>
<td>Level 2</td>
<td>Level 3</td>
<td>Total</td>
</tr>
<tr>
<td><strong>Assets</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash equivalents:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Money market funds</td>
<td>$ 13,718</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 13,718</td>
</tr>
<tr>
<td>U.S. treasury securities</td>
<td>64,758</td>
<td>-</td>
<td>-</td>
<td>64,758</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>-</td>
<td>4,787</td>
<td>-</td>
<td>4,787</td>
</tr>
<tr>
<td>Asset-backed securities</td>
<td>-</td>
<td>2,424</td>
<td>-</td>
<td>2,424</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 64,758</td>
<td>7,211</td>
<td>-</td>
<td>71,969</td>
</tr>
<tr>
<td>Funds held for customers:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Money market funds</td>
<td>424,219</td>
<td>-</td>
<td>-</td>
<td>424,219</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>-</td>
<td>302,070</td>
<td>-</td>
<td>302,070</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>-</td>
<td>105,377</td>
<td>-</td>
<td>105,377</td>
</tr>
<tr>
<td>U.S. Treasury securities</td>
<td>30,960</td>
<td>-</td>
<td>-</td>
<td>30,960</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 455,179</td>
<td>407,447</td>
<td>-</td>
<td>862,626</td>
</tr>
<tr>
<td><strong>Total assets measured at fair value</strong></td>
<td>$533,655</td>
<td>$414,658</td>
<td>-</td>
<td>$948,313</td>
</tr>
<tr>
<td><strong>Liabilities</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redeemable convertible preferred stock warrant liabilities</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 688</td>
<td>$ 688</td>
</tr>
<tr>
<td><strong>Total liabilities measured at fair value</strong></td>
<td>$ -</td>
<td>$ -</td>
<td>$ 688</td>
<td>$ 688</td>
</tr>
</tbody>
</table>

F-20
### Assets

<table>
<thead>
<tr>
<th>Cash equivalents:</th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money market funds</td>
<td>$7,009</td>
<td>$ -</td>
<td>$ -</td>
<td>$7,009</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>-</td>
<td>2,000</td>
<td>-</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>7,009</td>
<td>2,000</td>
<td>-</td>
<td>9,009</td>
</tr>
</tbody>
</table>

| Short-term investments:   |         |         |         |        |
| U.S. treasury securities  | 64,963  | -       | -       | 64,963 |
| Corporate bonds           | - 6,430 | - 6,430 | -       | 71,393 |

| Funds held for customers: |         |         |         |        |
| Restricted cash equivalents| 575,020 | 63,220  | -       | 638,240|
| Corporate bonds           | - 284,275 | - 284,275 |         | 284,275|
| Certificates of deposit   | - 70,012 | - 70,012 | -       | 70,012 |
| U.S. treasury securities  | 8,503   | - 8,503 | -       | 8,503  |

Total assets measured at fair value $655,495 $425,937 $ - $1,081,432

### Liabilities

<table>
<thead>
<tr>
<th>Redeemable convertible preferred stock warrant liabilities</th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair value, beginning of period</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 853</td>
<td>$ 853</td>
</tr>
</tbody>
</table>

Total liabilities measured at fair value $ - $ - $ 853 $ 853

There were no transfers of financial instruments between Level 1, Level 2, and Level 3 during the periods presented.

The fair values of the Company’s Level 1 instruments were derived from quoted market prices and active markets for these specific instruments.

The valuation techniques used to measure the fair values of Level 2 instruments were derived from non-binding market consensus prices that were corroborated with observable market data, quoted market prices for similar instruments, or pricing models.

The fair value measurement of the redeemable convertible preferred stock warrant liabilities is based on significant inputs not observed in the market and thus represents a Level 3 measurement. The Company estimated the fair value of the liability using the Black-Scholes option-pricing model and any change in fair value is recognized as a gain or loss in the consolidated statements of operations. The following table sets forth a summary of the changes in the fair value of Level 3 financial liabilities (in thousands):

<table>
<thead>
<tr>
<th>Liabilities</th>
<th>June 30, 2018</th>
<th>September 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair value, beginning of period</td>
<td>$481</td>
<td>$663</td>
</tr>
<tr>
<td>Change in fair value</td>
<td>182</td>
<td>319</td>
</tr>
<tr>
<td>Forfeiture of warrants</td>
<td>-</td>
<td>(294)</td>
</tr>
<tr>
<td>Fair value, end of period</td>
<td>$663</td>
<td>$688</td>
</tr>
</tbody>
</table>

F-21
NOTE 3—SHORT-TERM INVESTMENTS

Short-term investments consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amortized cost</td>
<td>Gross unrealized</td>
<td>Fair value</td>
</tr>
<tr>
<td></td>
<td></td>
<td>losses</td>
<td></td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$47,722</td>
<td>$(26)</td>
<td>$47,696</td>
</tr>
<tr>
<td>U.S. treasury securities</td>
<td>12,965</td>
<td>(10)</td>
<td>12,955</td>
</tr>
<tr>
<td>Asset-backed securities</td>
<td>9,228</td>
<td>(12)</td>
<td>9,216</td>
</tr>
<tr>
<td></td>
<td>$69,915</td>
<td>$(48)</td>
<td>$69,867</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2019</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amortized cost</td>
<td>Gross unrealized gains</td>
<td>Fair value</td>
</tr>
<tr>
<td>U.S. treasury securities</td>
<td>$64,683</td>
<td>$75</td>
<td>$64,758</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>4,787</td>
<td>-</td>
<td>4,787</td>
</tr>
<tr>
<td>Asset-backed securities</td>
<td>2,424</td>
<td>-</td>
<td>2,424</td>
</tr>
<tr>
<td></td>
<td>$71,894</td>
<td>$75</td>
<td>$71,969</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>September 30, 2019</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amortized cost</td>
<td>Gross unrealized gains</td>
<td>Gross unrealized losses</td>
</tr>
<tr>
<td></td>
<td>(unaudited)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>U.S. treasury securities</td>
<td>$64,913</td>
<td>$56</td>
<td>$(6)</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>6,428</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>$71,341</td>
<td>$58</td>
<td>$(6)</td>
</tr>
</tbody>
</table>

The amortized cost and fair value amounts include accrued interest receivable of $0.2 million, $0.2 million and $0.2 million at June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively. There have been no significant realized gains or losses on the short-term investments for the periods presented.

The following table presents gross unrealized losses and fair values for those investments that were in an unrealized loss position as of June 30, 2018 (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fair value</td>
<td>Unrealized Losses</td>
<td></td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$21,396</td>
<td>$(26)</td>
<td></td>
</tr>
<tr>
<td>U.S. treasury securities</td>
<td>7,977</td>
<td>(10)</td>
<td></td>
</tr>
<tr>
<td>Asset-backed securities</td>
<td>9,216</td>
<td>(12)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$38,589</td>
<td>$(46)</td>
<td></td>
</tr>
</tbody>
</table>

Investments with unrealized losses as of June 30, 2018 had been in a continuous unrealized loss position for less than 12 months. The Company did not consider those unrealized investment losses as an other-than-temporary impairment of the investments.
The fair value of the investments in U.S. treasury securities with unrealized losses as of September 30, 2019 (unaudited) totaled $7.0 million. Investments with unrealized losses as of September 30, 2019 have been in a continuous unrealized loss position for less than 12 months. The Company does not intend to sell the investments and it is not likely that the Company will be required to sell the investments before recovery of their amortized cost bases, which may be at maturity. Therefore, the Company does not consider those unrealized investment losses as other-than-temporary impairment of the investments.

NOTE 4—FUNDS HELD FOR CUSTOMERS

Funds held for customers consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
<th>September 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restricted cash and other receivables</td>
<td>$261,555</td>
<td>$470,971</td>
<td>$470,268</td>
</tr>
<tr>
<td>Restricted cash equivalents</td>
<td>303,650</td>
<td>424,219</td>
<td>638,240</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>166,570</td>
<td>302,070</td>
<td>284,275</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>185,360</td>
<td>105,377</td>
<td>70,012</td>
</tr>
<tr>
<td>U.S. Treasury securities</td>
<td>-</td>
<td>30,960</td>
<td>8,503</td>
</tr>
<tr>
<td><strong>Total funds held for customers</strong></td>
<td>$917,135</td>
<td>$1,333,597</td>
<td>$1,471,298</td>
</tr>
</tbody>
</table>

Less—income earned by the Company included in other current assets | (2,122) | (4,291) | (4,806) |

**Total funds held for customers, net of income earned by the Company** | $915,013 | $1,329,306 | $1,466,492 |

Income earned by the Company that is included in other current assets represents interest income, accretion of discount (offset by amortization of premium), and net unrealized gains on customer funds that were invested in money market funds and short-term marketable debt securities. Earnings from these investments are contractually earned by the Company and are expected to be transferred into the Company’s corporate deposit account upon sale or settlement of the associated investment.

Below is a summary of the fair value of funds held for customers that were invested in short-term marketable debt securities (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amortized cost basis</td>
<td>Gross unrealized gains</td>
<td>Gross unrealized losses</td>
<td>Fair value</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$166,641</td>
<td>$11</td>
<td>$(82)</td>
<td>$166,570</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>185,418</td>
<td>19</td>
<td>$(77)</td>
<td>185,360</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$352,059</td>
<td>$30</td>
<td>$(159)</td>
<td>$351,930</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2019</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amortized cost basis</td>
<td>Gross unrealized gains</td>
<td>Gross unrealized losses</td>
<td>Fair value</td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$301,755</td>
<td>$327</td>
<td>$(12)</td>
<td>$302,070</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>105,297</td>
<td>81</td>
<td>(1)</td>
<td>105,377</td>
</tr>
<tr>
<td>U.S. Treasury securities</td>
<td>30,927</td>
<td>33</td>
<td>-</td>
<td>30,960</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$437,979</td>
<td>$441</td>
<td>$(13)</td>
<td>$438,407</td>
</tr>
</tbody>
</table>
The amortized cost and estimated fair value amounts include accrued interest receivable of $1.0 million, $1.9 million and $1.4 million at June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively.

The following tables present gross unrealized losses and fair values for those investments that were in an unrealized loss position as of June 30, 2018 and 2019 and September 30, 2019 (unaudited) (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fair value</td>
<td>Unrealized Losses</td>
<td></td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$ 67,013</td>
<td>(82)</td>
<td></td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>80,515</td>
<td>(77)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$147,528</td>
<td>(159)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>June 30, 2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fair value</td>
<td>Unrealized Losses</td>
<td></td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>$ 46,065</td>
<td>(12)</td>
<td></td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>12,027</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$ 58,092</td>
<td>(13)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>September 30, 2019</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fair value</td>
<td>Unrealized Losses</td>
<td></td>
</tr>
<tr>
<td>Corporate bonds</td>
<td>(unaudited)</td>
<td>(19)</td>
<td></td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>19,015</td>
<td>(8)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$ 95,216</td>
<td>(27)</td>
<td></td>
</tr>
</tbody>
</table>

Investments with unrealized losses have been in a continuous unrealized loss position for less than 12 months. The Company does not intend to sell the investments and it is not likely that the Company will be required to sell the investments before recovery of their amortized cost bases, which may be at maturity. Therefore, the Company does not consider those unrealized investment losses as other-than-temporary impairment of the investments. There have been no significant realized gains or losses on the short-term investments for the periods presented.
NOTE 5—SIGNIFICANT BALANCE SHEET COMPONENTS

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

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
<th>September 30, 2019 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computers, software and equipment</td>
<td>$9,046</td>
<td>$10,341</td>
<td>$10,381</td>
</tr>
<tr>
<td>Capitalized software</td>
<td>1,831</td>
<td>3,387</td>
<td>3,602</td>
</tr>
<tr>
<td>Furniture and fixtures</td>
<td>1,535</td>
<td>1,859</td>
<td>2,821</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>2,011</td>
<td>2,435</td>
<td>3,253</td>
</tr>
<tr>
<td></td>
<td>14,423</td>
<td>18,022</td>
<td>20,057</td>
</tr>
<tr>
<td>Less: accumulated depreciation and amortization</td>
<td>(8,475)</td>
<td>(11,465)</td>
<td>(12,450)</td>
</tr>
<tr>
<td>Property and equipment, net</td>
<td>$5,948</td>
<td>$6,557</td>
<td>$7,607</td>
</tr>
</tbody>
</table>

Depreciation and amortization expense during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited) was $2.3 million, $3.2 million, $0.8 million and $1.0 million, respectively.

Other accrued and current liabilities—Other accrued and current liabilities consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
<th>September 30, 2019 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accrued sales and use tax</td>
<td>$935</td>
<td>$2,881</td>
<td>$3,469</td>
</tr>
<tr>
<td>Current portion of a long-term payable for a purchase of software</td>
<td>494</td>
<td>512</td>
<td>514</td>
</tr>
<tr>
<td>Deferred rent and lease incentives</td>
<td>193</td>
<td>494</td>
<td>417</td>
</tr>
<tr>
<td>Non-sufficient funds reserve</td>
<td>91</td>
<td>147</td>
<td>313</td>
</tr>
<tr>
<td>Accrued license fees</td>
<td>85</td>
<td>131</td>
<td>259</td>
</tr>
<tr>
<td>Other</td>
<td>1,203</td>
<td>2,391</td>
<td>2,759</td>
</tr>
<tr>
<td></td>
<td>$3,001</td>
<td>$6,556</td>
<td>$7,731</td>
</tr>
</tbody>
</table>

NOTE 6—BANK BORROWINGS

Senior Secured Credit Facilities

On June 28, 2019, the Company entered into a Senior Secured Credit Facilities Credit Agreement (Senior Facilities Agreement) with Silicon Valley Bank, an affiliate of an investor of the Company, for a revolving credit facility of up to $50.0 million, which amount may be increased by up to $25.0 million upon request and subject to conditions. Under the Senior Facilities Agreement, Bill.com, LLC is the borrower and Bill.com Holdings, Inc. is the guarantor. The Senior Facilities Agreement expires on June 28, 2022. Concurrent with the closing of the Senior Facilities Agreement on June 28, 2019, the Amended and Restated Loan and Security Agreement entered into in October 2017 with the same bank was terminated.
Borrowings under the Senior Facilities Agreement are subject to a borrowing base. In addition, borrowings under the Senior Facilities Agreement are subject to interest at a rate per annum determined as follows: (a) Eurodollar loans shall bear interest at a rate per annum equal to the Eurodollar rate, plus the applicable margin of 1.75% or 2.75% depending on the Company’s cash balance (Eurodollar rate is calculated based on the ratio of Eurodollar Base Rate, which is determined by reference to ICE Benchmark Administration London Interbank Offered Rate over the Eurocurrency Reserve Requirements, but not less than 0%), or (b) Alternate Base Rate (ABR) loans shall bear interest at a rate per annum equal to the ABR, minus the applicable margin of -0.25% or -1.25%, depending on the Company’s cash balance (ABR is equal to the highest of the (i) prime rate, (ii) Federal Funds effective rate plus 0.50%, and (iii) Eurodollar rate plus 1.25%).

The Senior Facilities Agreement requires the Company to comply with certain restricted covenants. As of June 30, 2019 and September 30, 2019 (unaudited), the Company was in compliance with the loan covenants. Borrowings under the Senior Facilities are secured by substantially all of the Company’s assets, and are fully and unconditionally guaranteed by Bill.com Holdings, Inc.

The Company had no outstanding borrowings under the Senior Facilities Agreement as of June 30, 2019 and September 30, 2019 (unaudited).

Amended and Restated Loan and Security Agreement

In October 2017, the Company entered into an Amended and Restated Loan and Security Agreement (Loan Agreement) with Silicon Valley Bank, an affiliate of an investor of the Company, that provided for a term loan of up to $10.0 million and a revolving line of credit of up to $15.0 million.

The term loan under the Loan Agreement allowed the Company to take term advances in two tranches of $7.5 million and $2.5 million, respectively. The Company borrowed $7.5 million under the first tranche in October 2017, which was used to repay in full all outstanding obligations under the old loan and security agreement with the same bank. The Company had no borrowings from the second tranche. The term loan bore interest at a floating rate per annum equal to 0.25% below the prime rate. The term loan, which had a 4-year term, was terminated upon the closing of the Senior Facilities Agreement with the same bank on June 28, 2019. All outstanding principal balances and accrued interest, including $0.2 million of a final balloon interest payment, were paid in full as of June 30, 2019. As of June 30, 2018, the outstanding principal balance of the term loan was $7.5 million and the interest rate was 4.75%.

The revolving line of credit under the Loan Agreement provided for borrowings of up to a total of $15.0 million. Borrowings under the revolving line of credit bore interest at a floating rate per annum equal to the prime rate. The revolving line of credit, which had a three-year term, was terminated upon the closing of the Senior Facilities Agreement with the same bank on June 28, 2019. All outstanding principal balances and accrued interest under the revolving line of credit were paid in full as of June 30, 2019. As of June 30, 2018, the outstanding borrowing from the revolving line of credit was $2.0 million and the interest rate was 5.00%.

F-26
### NOTE 7—REDEEMABLE CONVERTIBLE PREFERRED STOCK

At June 30, 2019 and September 30, 2019 (unaudited), redeemable convertible preferred stock consisted of the following (in thousands):

<table>
<thead>
<tr>
<th>Series</th>
<th>Shares authorized</th>
<th>Shares issued and outstanding</th>
<th>Liquidation preference</th>
<th>Gross proceeds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Series A</td>
<td>5,400</td>
<td>5,400</td>
<td>$2,106</td>
<td>$2,106</td>
</tr>
<tr>
<td>Series B</td>
<td>21,733</td>
<td>21,630</td>
<td>15,790</td>
<td>15,790</td>
</tr>
<tr>
<td>Series C</td>
<td>9,197</td>
<td>9,197</td>
<td>8,500</td>
<td>8,500</td>
</tr>
<tr>
<td>Series D</td>
<td>12,425</td>
<td>12,400</td>
<td>15,500</td>
<td>15,500</td>
</tr>
<tr>
<td>Series E</td>
<td>17,512</td>
<td>17,512</td>
<td>35,200</td>
<td>35,200</td>
</tr>
<tr>
<td>Series E-1</td>
<td>1,393</td>
<td>1,393</td>
<td>2,800</td>
<td>2,800</td>
</tr>
<tr>
<td>Series F</td>
<td>9,756</td>
<td>9,756</td>
<td>29,750</td>
<td>29,750</td>
</tr>
<tr>
<td>Series F-1</td>
<td>82</td>
<td>82</td>
<td>250</td>
<td>250</td>
</tr>
<tr>
<td>Series G</td>
<td>16,892</td>
<td>16,892</td>
<td>82,500</td>
<td>82,500</td>
</tr>
<tr>
<td>Series H</td>
<td>11,700</td>
<td>10,607</td>
<td>88,117</td>
<td>88,117</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>106,090</strong></td>
<td><strong>104,869</strong></td>
<td><strong>$280,513</strong></td>
<td><strong>$280,513</strong></td>
</tr>
</tbody>
</table>

The significant features of the Company’s redeemable convertible preferred stock are as follows:

**Dividend rights**—Holders of Series A, Series B, Series C, Series D, Series E, Series E-1, Series F, Series F-1, Series G, and Series H preferred stock are entitled to receive noncumulative dividends, prior and in preference to the payment of any dividends to holders of common stock, of $0.03, $0.06, $0.074, $0.10, $0.1608, $0.1608, $0.2440, $0.2440, $0.3907, and $0.6646 per share, respectively, if and when declared by the Board of Directors. After the payment of such dividends to the holders of preferred stock in any calendar year, any additional dividends declared by the Board of Directors shall be payable to the holders of preferred stock and common stock ratably based on the number of common shares into which the then outstanding shares of preferred stock could be converted. No dividends have been declared as of June 30, 2019 and September 30, 2019 (unaudited).

**Liquidation rights**—Prior to any payment to holders of common stock, the holders of Series A, Series B, Series C, Series D, Series E, Series E-1, Series F, Series F-1, Series G, and Series H preferred stock are entitled to receive, upon liquidation, winding-up, or dissolution of the Company, an amount equal to the original issue price per share, plus all declared and unpaid dividends on such shares of preferred stock. Thereafter, the remaining assets and funds, if any, shall be distributed pro rata among the common stockholders. If the assets or property are not sufficient to allow full payment to the holders of preferred stock as set forth above, the available assets shall be distributed ratably to the holders of preferred stock in proportion to the full preferential amount each holder is otherwise entitled to receive.

**Conversion rights**—Each share of preferred stock is convertible, at the option of the holder, into one share of common stock, subject to adjustment for events of issuance of stock dividends, a subdivision of preferred stock, a combination of preferred stock, or the conversion of preferred stock. The preferred stock shall automatically be converted into common stock on the earlier of (i) immediately prior to the closing of a Qualified IPO in which the public offering price is at least the original issue price of Series H preferred stock or (ii) the Company’s receipt of the written consent of the holders of the majority of the then outstanding shares of preferred stock (voting together as a single class on an as converted to common stock basis).

If the Series E, F, G and H preferred stock are automatically converted into shares of common stock in conjunction with a sale of the Company (Special Conversion), and upon such conversion, the
proceeds payable to a holder of the shares of common stock issued (Special Common Share) are less than the proceeds such holder would have received on account of the Series E, F, G and H preferred stock shares in such sale of the Company had the Special Conversion not taken place, the Company shall issue to each holder of Special Common Shares such additional number of shares of common stock as necessary, when taken together with the proceeds payable in such sale of the Company on account of the Special Common Shares, to entitle each holder to receive aggregate proceeds in the Sale of the Company equal to the proceeds such holder would have received on account of holding the Series E, F, G and H preferred stock if the Special Conversion had not occurred.

Redemption rights—The preferred stock is not redeemable at the option of the holder thereof. Although not mandatorily redeemable or redeemable at any point during which the shares were outstanding, the preferred stock would become redeemable at the option of the holders in the event of certain “liquidation events” that are not solely within the control of the Company (including a merger, the sale of all of the Company’s assets, etc.). Therefore, all shares of preferred stock were presented outside of permanent equity. The Company did not adjust the carrying values of the redeemable convertible preferred stock to the deemed liquidation values of such shares since a liquidation event was not probable at either of the reporting dates. Subsequent adjustments to increase or decrease the carrying values to the ultimate liquidation values will be made only if and when it becomes probable that such a liquidation event will occur.

Voting rights—The holders of each share of preferred stock are entitled to the number of votes equal to the number of shares of common stock into which such share is convertible.

NOTE 8—STOCK-BASED COMPENSATION

In 2006 and 2016, the Company’s Board of Directors approved the adoption of the 2006 Equity Incentive Plan and the 2016 Equity Incentive Plan (together the “Option Plans”). The 2016 Equity Incentive Plan was adopted when the 2006 Equity Incentive Plan reached its ten-year term and was terminated. The Option Plans permit the Company to issue up to 12,675,572, 22,740,147 and 24,022,147 shares of the Company’s common stock as of June 30, 2018 and 2019 and September 30, 2019 (unaudited), respectively. The Option Plans provide for the grant of incentive and non-statutory stock options to employees, nonemployee directors, and consultants of the Company. Options granted under the Option Plans generally become exercisable ratably over a four-year period following the date of grant and expire ten years from the date of grant. Other than options with early exercise provisions, all options are exercisable only to the extent vested. Unvested shares of options granted with double trigger vesting acceleration will vest 50% in the event of a sale of the Company and the termination of the option holder. There were no outstanding unvested shares that had been early exercised as of June 30, 2018 and September 30, 2019 (unaudited). The total number of outstanding unvested shares that had been early exercised as of June 30, 2019 was not significant.

The exercise price of incentive stock options granted under the Option Plans must be at least equal to 100% of the fair value of the Company’s common stock at the date of grant, as determined by the Board of Directors. The exercise price of non-statutory options granted under the Option Plans must be at least equal to 85% of the fair value of the Company’s common stock at the date of grant, as determined by the Board of Directors.
Stock option activity during the years ended June 30, 2018 and 2019 was as follows:

<table>
<thead>
<tr>
<th>Number of Shares Outstanding (in thousands)</th>
<th>Weighted average price per share</th>
<th>Weighted average remaining contractual term (in years)</th>
<th>Aggregate intrinsic value (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at June 30, 2017</td>
<td>9,107</td>
<td>$1.14</td>
<td>7.95</td>
</tr>
<tr>
<td>Options granted</td>
<td>3,484</td>
<td>$2.08</td>
<td></td>
</tr>
<tr>
<td>Options exercised</td>
<td>(682)</td>
<td>$1.02</td>
<td></td>
</tr>
<tr>
<td>Options cancelled/forfeited/expired</td>
<td>(677)</td>
<td>$1.49</td>
<td></td>
</tr>
<tr>
<td>Balance at June 30, 2018</td>
<td>11,232</td>
<td>$1.42</td>
<td>7.75</td>
</tr>
<tr>
<td>Options granted</td>
<td>11,142</td>
<td>$4.15</td>
<td></td>
</tr>
<tr>
<td>Options exercised</td>
<td>(1,617)</td>
<td>$1.05</td>
<td></td>
</tr>
<tr>
<td>Options cancelled/forfeited/expired</td>
<td>(973)</td>
<td>$2.46</td>
<td></td>
</tr>
<tr>
<td>Balance at June 30, 2019</td>
<td>20,054</td>
<td>$2.95</td>
<td>8.37</td>
</tr>
<tr>
<td>Vested and expected to vest at June 30, 2019(1)</td>
<td>17,340</td>
<td>$2.83</td>
<td>8.23</td>
</tr>
<tr>
<td>Vested at June 30, 2019</td>
<td>6,483</td>
<td>$1.34</td>
<td>6.46</td>
</tr>
</tbody>
</table>

(1) The expected-to-vest options are the result of applying the pre-vesting forfeiture rate assumptions to total outstanding options.

The total intrinsic value of options exercised during the years ended June 30, 2018 and 2019 was $0.7 million and $3.8 million, respectively. The intrinsic value was calculated as the difference between the estimated fair value of the Company’s common stock at exercise, as determined by the Board of Directors, and the exercise price of the in-the-money options. The weighted-average grant date fair value of options granted during the years ended June 30, 2018 and 2019 was $1.01 and $2.12 per share, respectively.

Stock-based compensation expense during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited) was included in the following line items in the accompanying consolidated statements of operations (in thousands):

<table>
<thead>
<tr>
<th>Year ended June 30,</th>
<th>Three Months Ended September 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>Cost of revenue</td>
<td>$ 78</td>
</tr>
<tr>
<td>Research and development</td>
<td>429</td>
</tr>
<tr>
<td>Sales and marketing</td>
<td>508</td>
</tr>
<tr>
<td>General and administrative</td>
<td>530</td>
</tr>
<tr>
<td></td>
<td>$1,545</td>
</tr>
</tbody>
</table>

As of June 30, 2019, there was $18.5 million of unamortized stock-based compensation cost related to unvested stock options which is expected to be recognized over a weighted-average period of 3.4 years. As of September 30, 2019 (unaudited), there was $24.4 million of unamortized stock-based compensation cost related to unvested stock options which is expected to be recognized over a weighted-average period of 3.3 years. The Company received $0.7 million and $1.7 million from options exercised during the years ended June 30, 2018 and 2019, respectively.
The fair value of options granted during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and 2019 (unaudited) was estimated at the date of grant using the Black-Scholes option-pricing model with the following assumptions:

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th></th>
<th>Three months ended September 30</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
<td></td>
<td>(unaudited)</td>
</tr>
<tr>
<td>Expected term (in years)</td>
<td>6.25</td>
<td>6.25</td>
<td>6.25</td>
<td>6.25</td>
</tr>
<tr>
<td>Expected volatility</td>
<td>45.0% to 55.1%</td>
<td>46.0% to 51.0%</td>
<td>46.0%</td>
<td>50.0%</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>2.05% to 2.89%</td>
<td>2.19% to 2.89%</td>
<td>2.89%</td>
<td>1.59% to 1.88%</td>
</tr>
<tr>
<td>Expected dividend yield</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

The fair value of the shares of common stock underlying stock options has historically been determined by the Company’s Board of Directors. Because there has been no public market for the Company’s common stock, the Board of Directors has determined fair value of the common stock at the time of grant of the option by considering a number of objective and subjective factors including important developments in the Company’s operations, valuations performed by an independent third party, sales of preferred stock, actual operating results and financial performance, the conditions in the industry and the economy in general, the stock price performance and volatility of comparable public companies, and the lack of liquidity of the Company’s common stock, among other factors.

The Black-Scholes option-pricing model requires the use of highly subjective assumptions which determine the fair value of stock-based awards. These assumptions include:

**Expected term**—The expected term represents the period that stock-based awards are expected to be outstanding. The expected term for option grants is determined using the simplified method. The simplified method deems the term to be the average of the time-to-vesting and the contractual life of the stock-based awards.

**Expected volatility**—Since the Company is privately held and does not have any trading history for its common stock, the expected volatility was estimated based on the average volatility for comparable publicly traded companies over a period equal to the expected term of the stock option grants. The comparable companies were chosen based on their similar size, stage in the life cycle or area of specialty.

**Risk-free interest rate**—The risk-free interest rate is based on the U.S. Treasury zero coupon issues in effect at the time of grant for periods corresponding with the expected term of option.

**Expected dividend yield**—The Company has never paid dividends on its common stock and has no plans to pay dividends on its common stock. Therefore, the Company used an expected dividend yield of zero.

F-30
NOTE 9—STOCK WARRANTS

As of June 30, 2018 and 2019 and September 30, 2019 (unaudited), the following warrants were issued and outstanding (in thousands except per share amounts):

<table>
<thead>
<tr>
<th>Series</th>
<th>Number of Warrants Issued and Outstanding</th>
<th>Weighted average exercise price per share</th>
<th>Expiration date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>June 30, 2018</td>
<td>June 30, 2019</td>
<td>September 30, 2019</td>
</tr>
<tr>
<td>Series B redeemable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>convertible preferred stock</td>
<td>205</td>
<td>103</td>
<td>103</td>
</tr>
<tr>
<td>warrants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Series D redeemable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>convertible preferred stock</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>warrants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common stock warrants</td>
<td>-</td>
<td>125</td>
<td>125</td>
</tr>
<tr>
<td>Total</td>
<td>230</td>
<td>253</td>
<td>253</td>
</tr>
</tbody>
</table>

The Company re-measures its outstanding redeemable convertible preferred stock warrant liabilities to fair value using the Black-Scholes option-pricing model. The key inputs used in the valuation were as follows:

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
<th>September 30, 2019 (unaudited)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expected term (in years)</td>
<td>1.04</td>
<td>0.58</td>
<td>0.32</td>
</tr>
<tr>
<td>Expected volatility</td>
<td>46.0%</td>
<td>51.0%</td>
<td>50.0%</td>
</tr>
<tr>
<td>Risk-free interest rate</td>
<td>2.3%</td>
<td>2.0%</td>
<td>- 1.9%</td>
</tr>
<tr>
<td>Expected dividend yield</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Estimates of expected term were based on the remaining contractual period of the warrant. Estimates of the volatility for the option-pricing model were based on the volatility of respective preferred stock. The risk-free interest rate was based on the U.S. Treasury yield for a term consistent with the estimated expected term.

The Company has an agreement with a customer to issue warrants for up to 11.3 million shares of the Company’s common stock and non-voting common stock at an exercise price of $2.25 per share over a period of five years. Issuance of the warrants is contingent upon certain performance conditions and subject to certain limits. As of June 30, 2018 and 2019 and September 30, 2019 (unaudited), there were no warrants issued or issuable under this agreement. The Company has concluded that the performance conditions for the issuance of this warrant are not probable of being met.

NOTE 10—INCOME TAXES

The components of loss before the provision for (benefit from) income taxes were as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>Domestic</td>
<td>$(7,185)</td>
</tr>
<tr>
<td>Foreign</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$(7,185)</td>
</tr>
</tbody>
</table>
The components of provision for (benefit from) income taxes were as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td><strong>Current:</strong></td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>$ -</td>
</tr>
<tr>
<td>State</td>
<td>10</td>
</tr>
<tr>
<td>Foreign</td>
<td></td>
</tr>
<tr>
<td><strong>Total current</strong></td>
<td>10</td>
</tr>
<tr>
<td><strong>Deferred:</strong></td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td></td>
</tr>
<tr>
<td>Foreign</td>
<td></td>
</tr>
<tr>
<td><strong>Total deferred</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Provision for (benefit from) income taxes</strong></td>
<td>$ 10</td>
</tr>
</tbody>
</table>

On December 22, 2017, the 2017 Tax Cuts and Jobs Act (Tax Act) was enacted into law making significant changes to the Internal Revenue Code. Changes include, but are not limited to, a federal corporate tax rate decrease from 35% to 21% for tax years beginning after December 31, 2017, the transition of U.S. international taxation from a worldwide tax system to a territorial system and a one-time transition tax on the mandatory deemed repatriation of foreign earnings. The Company is required to recognize the effect of the tax law changes in the period of enactment, such as re-measuring its U.S. deferred tax assets and liabilities as well as reassessing the net realizability of its deferred tax assets and liabilities. The Tax Act did not have material impact on the Company’s consolidated financial statements due to its historical loss position and the full valuation allowance on its deferred tax assets.

As of June 30, 2019, pursuant to SEC Staff Accounting Bulletin (SAB) 118 (regarding the application of ASC 740 associated with the enactment of the Tax Act), the Company had considered SAB 118 and concluded its accounting under ASC 740 for the provisions of the Tax Act was complete. There were no adjustments deemed necessary during the year ended June 30, 2019.

The items accounting for the difference between the income taxes computed at the federal statutory rate and the provision for (benefit from) income taxes consisted of the following (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30,</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
</tr>
<tr>
<td>Expected benefit at U.S. Federal statutory rate</td>
<td>$(1,976)</td>
</tr>
<tr>
<td>Stock-based compensation</td>
<td>297</td>
</tr>
<tr>
<td>Federal and state R&amp;D credits</td>
<td>(909)</td>
</tr>
<tr>
<td>Deferred tax asset re-measurement due to Tax Reform</td>
<td>12,227</td>
</tr>
<tr>
<td>Change in valuation allowance</td>
<td>(9,753)</td>
</tr>
<tr>
<td>Other</td>
<td>124</td>
</tr>
<tr>
<td><strong>Provision for income tax expense (benefit)</strong></td>
<td>$ 10</td>
</tr>
</tbody>
</table>

The Company’s provision for (benefit from) income taxes during the three months ended September 30, 2018 and 2019 (unaudited) was determined using an estimate of the Company’s annual effective tax rate, which is adjusted for certain discrete tax items during the interim period. The
Company’s effective tax rate differs from the Federal statutory rate primarily due to the change in valuation allowance related mainly to our net operating loss carryforwards and research and development credits.

The components of deferred tax assets and liabilities were as follows as of June 30, 2018 and 2019, (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deferred tax assets:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accruals and reserves</td>
<td>$916</td>
<td>$1,631</td>
</tr>
<tr>
<td>Deferred revenue</td>
<td>33</td>
<td>84</td>
</tr>
<tr>
<td>Property and equipment</td>
<td>73</td>
<td>-</td>
</tr>
<tr>
<td>Stock-based compensation</td>
<td>285</td>
<td>700</td>
</tr>
<tr>
<td>Net operating loss carryforwards</td>
<td>26,027</td>
<td>26,690</td>
</tr>
<tr>
<td>Research and development credits</td>
<td>3,056</td>
<td>5,649</td>
</tr>
<tr>
<td><strong>Total deferred tax assets before valuation allowance</strong></td>
<td>30,390</td>
<td>34,754</td>
</tr>
<tr>
<td><strong>Valuation allowance</strong></td>
<td>(29,590)</td>
<td>(33,253)</td>
</tr>
<tr>
<td><strong>Deferred tax assets</strong></td>
<td>$800</td>
<td>$1,501</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deferred tax liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deferred contract costs</td>
<td>$(800)</td>
<td>$(1,229)</td>
</tr>
<tr>
<td>Property and equipment</td>
<td>-</td>
<td>(143)</td>
</tr>
<tr>
<td>Other</td>
<td>-</td>
<td>(129)</td>
</tr>
<tr>
<td><strong>Total deferred tax liabilities</strong></td>
<td>$(800)</td>
<td>$(1,501)</td>
</tr>
<tr>
<td><strong>Net deferred tax assets (liabilities)</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ASC 740 requires that the tax benefit of net operating losses, temporary differences, and credit carryforwards be recorded as an asset to the extent that management assesses that realization is “more likely than not.” Realization of the future tax benefits is dependent on the Company’s ability to generate sufficient taxable income within the carryforward period. Because of the Company’s recent history of operating losses, management believes that recognition of the deferred tax assets arising from the above-mentioned future tax benefits is currently not likely to be realized and, accordingly, has provided a valuation allowance. The change in valuation allowance was approximately $10.0 million and $3.7 million during the years ended June 30, 2018 and 2019, respectively, including a decrease in valuation allowance of $0.7 million related to the adoption of ASC 606 during the year ended June 30, 2018.

As of June 30, 2019, the Company had net operating loss carryforwards for federal and state tax purposes of $104.2 million and $71.3 million respectively, available to reduce future taxable income. If not utilized, the federal and state net operating loss carryforwards will begin to expire in 2026. As of June 30, 2019, the Company also has federal and state research and development tax credit carryforwards of $4.7 million and $4.3 million, respectively. If not utilized, the federal tax credits will expire at various dates beginning in 2027. The state tax credits do not expire and will carry forward indefinitely until utilized.

Utilization of the net operating loss and tax credit carryforwards may be subject to a substantial annual limitation due to the ownership change limitations provided by the Internal Revenue Code and other similar state provisions. The annual limitation may result in the expiration of net operating losses and tax credits before utilization.
As of June 30, 2018 and 2019, the Company had $1.5 million and $2.7 million, respectively, of unrecognized tax benefits related to federal and California R&D credits. Below is the reconciliation of the unrecognized tax benefits (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>June 30, 2018</th>
<th>June 30, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance at the beginnning of the year</td>
<td>$835</td>
<td>$1,457</td>
</tr>
<tr>
<td>Additions based upon tax positions related to the current year</td>
<td>-</td>
<td>1,028</td>
</tr>
<tr>
<td>Additions based upon tax positions related to the prior year</td>
<td>622</td>
<td>207</td>
</tr>
<tr>
<td>Balance at the end of the year</td>
<td>$1,457</td>
<td>$2,692</td>
</tr>
</tbody>
</table>

The Company files United States federal, California, and other various state income tax returns. All net operating losses and tax credits generated to date are subject to adjustment for U.S. federal and state income tax purposes. The Company does not anticipate any material change to its unrecognized tax benefits over the next twelve months. A number of the Company’s tax returns remain subject to examination by taxing authorities. These include U.S. federal and state tax returns. The tax years from 2006 to 2018 remain open as a result of unused tax attributes being carried forward.

NOTE 11—COMMITMENTS AND CONTINGENCIES

Operating leases—The Company leases office space under non-cancelable operating leases that expire through March 2025. Rent expense is recognized on a straight-line basis over the lease term. Rent expense, net of sublease income, was $1.5 million and $2.3 million during the years ended June 30, 2018 and 2019, respectively, and $0.5 million and $0.7 million during the three months ended September 30, 2018 and 2019 (unaudited), respectively.

Future minimum lease payments under non-cancelable operating leases as of June 30, 2019 are as follows (in thousands):

<table>
<thead>
<tr>
<th>Fiscal years ending June 30</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$2,611</td>
</tr>
<tr>
<td>2021</td>
<td>615</td>
</tr>
<tr>
<td>2022</td>
<td>631</td>
</tr>
<tr>
<td>2023</td>
<td>647</td>
</tr>
<tr>
<td>2024</td>
<td>663</td>
</tr>
<tr>
<td>Thereafter</td>
<td>510</td>
</tr>
<tr>
<td>Total</td>
<td>$5,677</td>
</tr>
</tbody>
</table>

Other agreements—The Company has a ten-year strategic partnership agreement with a third party to market and promote the Company’s online bill payment products that expires in June 2027. Expense recognized under this agreement, which was included in sales and marketing expenses, was $2.3 million and $2.3 million during the years ended June 30, 2018 and 2019, respectively, and $0.6 million and $0.5 million during the three months ended September 30, 2018 and 2019 (unaudited), respectively.

The Company purchased a software license and maintenance and support services from a vendor that are payable on an installment basis through August 2021 under a non-cancellable service agreement.
Future payments under these other agreements as of June 30, 2019 are as follows (in thousands).

<table>
<thead>
<tr>
<th>Fiscal years ending June 30:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$ 3,250</td>
</tr>
<tr>
<td>2021</td>
<td>3,000</td>
</tr>
<tr>
<td>2022</td>
<td>2,000</td>
</tr>
<tr>
<td>2023</td>
<td>2,000</td>
</tr>
<tr>
<td>2024</td>
<td>2,000</td>
</tr>
<tr>
<td>Thereafter</td>
<td>5,500</td>
</tr>
<tr>
<td>Total</td>
<td>$17,750</td>
</tr>
</tbody>
</table>

Litigation—From time to time, the Company is involved in lawsuits, claims, investigations, and proceedings that arise in the ordinary course of business. The Company records a provision for a liability when management believes that it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. As of June 30, 2018 and 2019 and September 30, 2019 (unaudited), the estimate of the provision for litigation liability is immaterial. The Company reviews these provisions periodically and adjusts these provisions to reflect the impact of negotiations, settlements, rulings, advice of legal counsel, and other information and events pertaining to a particular case. Litigation is inherently unpredictable.

NOTE 12—NET LOSS PER SHARE ATTRIBUTABLE TO COMMON STOCKHOLDERS

The following table presents the calculation of basic and diluted net loss per share attributable to common stockholders during the years ended June 30, 2018 and 2019 and the three months ended September 30, 2018 and September 30, 2019 (in thousands, except per share amounts):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30,</th>
<th>Three months ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>(unaudited)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Numerator</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net loss attributable to common stockholders</td>
<td>$ (7,195)</td>
<td>$ (7,314)</td>
</tr>
<tr>
<td>Denominator</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted-average number of common shares used to compute net loss per share attributable to common stockholders:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic and diluted</td>
<td>14,310</td>
<td>15,594</td>
</tr>
<tr>
<td>Net loss per share attributable to common stockholders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basic and diluted</td>
<td>$ (0.50)</td>
<td>$ (0.47)</td>
</tr>
</tbody>
</table>
Potentially dilutive securities, which were excluded from the diluted net loss per share calculations because they would have been antidilutive, are as follows (in thousands):

<table>
<thead>
<tr>
<th></th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2018</td>
<td>2019</td>
</tr>
<tr>
<td>Redeemable convertible preferred stock as-converted</td>
<td>94,262</td>
<td>104,869</td>
</tr>
<tr>
<td>Stock options</td>
<td>11,232</td>
<td>20,054</td>
</tr>
<tr>
<td>Warrants to purchase redeemable convertible preferred stock</td>
<td>230</td>
<td>128</td>
</tr>
<tr>
<td>Warrants to purchase common stock</td>
<td>-</td>
<td>125</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>105,724</strong></td>
<td><strong>125,176</strong></td>
</tr>
</tbody>
</table>

**NOTE 13—PRO-FORMA NET LOSS PER SHARE ATTRIBUTABLE TO COMMON STOCKHOLDERS (Unaudited)**

The following table presents the calculation of pro forma basic and diluted net loss per share attributable to common stockholders for the year ended June 30, 2019 and the three months ended September 30, 2019 (in thousands, except per share amounts):

<table>
<thead>
<tr>
<th>Numerator</th>
<th>Year ended June 30</th>
<th>Three months ended September 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net loss attributable to common stockholders</td>
<td>$(7,314)</td>
<td>$(5,696)</td>
</tr>
<tr>
<td>Pro forma adjustment on revaluation of redeemable convertible preferred stock warrant liabilities</td>
<td>25</td>
<td>165</td>
</tr>
<tr>
<td><strong>Pro forma net loss attributable to common stockholders, basic and diluted</strong></td>
<td>$(7,289)</td>
<td>$(5,531)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Denominator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weighted-average number of common shares used to compute net loss per share attributable to common stockholders</td>
</tr>
<tr>
<td>Pro forma adjustment to reflect assumed conversion of redeemable convertible preferred stock into common stock</td>
</tr>
<tr>
<td>Weighted-average number of common shares used to compute pro forma net loss per share attributable to common stockholders, basic and diluted</td>
</tr>
<tr>
<td><strong>Pro forma net loss per share attributable to common stockholders, basic and diluted</strong></td>
</tr>
</tbody>
</table>
NOTE 14—SUBSEQUENT EVENTS

The Company evaluated its consolidated financial statements for subsequent events through September 5, 2019, the date the consolidated financial statements were available to be issued.

In July 2019, the Company’s board of directors granted options to purchase 1,932,000 shares of common stock at an exercise price of $6.70 per share under the 2016 Equity Incentive Plan.

In August 2019, the Company’s board of directors granted options to purchase 1,151,500 shares of common stock at an exercise price of $6.70 per share under the 2016 Equity Incentive Plan.

NOTE 15—SUBSEQUENT EVENTS (UNAUDITED)

The Company evaluated its unaudited interim consolidated financial statements for subsequent events through November 15, 2019, the date the unaudited interim consolidated financial statements were available to be issued.

In October 2019, the Company’s board of directors granted options to purchase 1,305,500 shares of common stock at an exercise price of $7.81 per share under the 2016 Equity Incentive Plan.

On November 13, 2019, the Company’s board of directors granted options to purchase 619,000 shares of common stock at an exercise price of $8.82 per share under the 2016 Equity Incentive Plan.
ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The following table sets forth all costs and expenses to be paid by us, other than underwriting discounts and commissions, in connection with the sale of the common stock being registered hereby. All amounts shown are estimates except for the Securities Exchange Commission (SEC), registration fee, the Financial Industry Regulatory Authority (FINRA), filing fee, and the New York Stock Exchange (NYSE) listing fee:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Paid or to be Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEC registration fee</td>
<td>$12,980</td>
</tr>
<tr>
<td>FINRA filing fee</td>
<td>15,500</td>
</tr>
<tr>
<td>NYSE listing fee</td>
<td>25,000</td>
</tr>
<tr>
<td>Printing and engraving expenses</td>
<td>*</td>
</tr>
<tr>
<td>Legal fees and expenses</td>
<td>*</td>
</tr>
<tr>
<td>Accounting fees and expenses</td>
<td>*</td>
</tr>
<tr>
<td>Transfer agent and registrar fees and expenses</td>
<td>*</td>
</tr>
<tr>
<td>Miscellaneous expenses</td>
<td>*</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>*<em>$</em></td>
</tr>
</tbody>
</table>

* To be completed by amendment.

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 145 of the Delaware General Corporation Law (DGCL), authorizes a court to award, or a corporation's board of directors to grant, indemnity to directors and officers under certain circumstances and subject to certain limitations. The terms of Section 145 of the DGCL are sufficiently broad to permit indemnification under certain circumstances for liabilities, including reimbursement of expenses incurred, arising under the Securities Act of 1933, as amended (the Securities Act).

As permitted by the DGCL, the Registrant's restated certificate of incorporation to be effective upon the completion of this offering contains provisions that eliminate the personal liability of its directors for monetary damages for any breach of fiduciary duties as a director, except liability for the following:

- any breach of the director's duty of loyalty to the Registrant or its stockholders;
- acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- under Section 174 of the DGCL (regarding unlawful dividends and stock purchases); or
- any transaction from which the director derived an improper personal benefit.

As permitted by the DGCL, the Registrant's restated bylaws to be effective upon the completion of this offering, provide that:

- the Registrant is required to indemnify its directors and executive officers to the fullest extent permitted by the DGCL, subject to very limited exceptions;
- the Registrant may indemnify its other employees and agents as set forth in the DGCL;
the Registrant is required to advance expenses, as incurred, to its directors and executive officers in connection with a legal proceeding to the fullest extent permitted by the DGCL, subject to very limited exceptions; and

the rights conferred in the restated bylaws are not exclusive.

Prior to completion of this offering, the Registrant has entered into indemnification agreements with each of its current directors and executive officers to provide these directors and executive officers additional contractual assurances regarding the scope of the indemnification set forth in the Registrant’s restated certificate of incorporation and restated bylaws, and to provide additional procedural protections. There is no pending litigation or proceeding involving a director or executive officer of the Registrant for which indemnification is sought. The indemnification provisions in the Registrant’s restated certificate of incorporation, restated bylaws, and the indemnification agreements entered into or to be entered into between the Registrant and each of its directors and executive officers may be sufficiently broad to permit indemnification of the Registrant’s directors and executive officers for liabilities arising under the Securities Act.

The Registrant currently carries liability insurance for its directors and officers.

Certain of the Registrant’s directors are also indemnified by their employers with regard to service on the Registrant’s board of directors.

In addition, the underwriting agreement filed as Exhibit 1.1 to this registration statement provides for indemnification by the underwriters of us and our officers and directors for certain liabilities arising under the Securities Act, or otherwise.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES.

From November 15, 2016 through November 15, 2019, the Registrant has issued and sold the following securities:

1. The Registrant granted stock options to employees, directors, and other service providers to purchase an aggregate of 20,975,358 shares of common stock under its 2016 Equity Incentive Plan, with per share exercise prices ranging from $1.87 to $8.82, and has issued 706,562 shares of common stock upon exercise of stock options under its 2016 Plan.

2. The Registrant has issued 2,037,830 shares of common stock upon exercise of stock options under its 2006 Equity Incentive Plan.

3. Between December 2018 and February 2019, the Registrant issued an aggregate of 10,606,695 shares of the Registrant’s Series H redeemable convertible preferred stock at a purchase price of approximately $8.3077 per share for an aggregate purchase price of approximately $88.1 million to 19 purchasers that each represented to the Registrant that it was an accredited investor.

4. Between June and December 2017, the Registrant issued an aggregate of 16,891,894 shares of the Registrant’s Series G redeemable convertible preferred stock at a purchase price of approximately $4.884 per share for an aggregate purchase price of approximately $82.5 million to 23 purchasers that each represented to the Registrant that it was an accredited investor.

5. In April 2019, the Registrant issued a warrant to purchase up to an aggregate of 50,000 shares of common stock at an exercise price of $4.38 per share.

6. In March 2019, the Registrant issued a warrant to purchase up to an aggregate of 30,000 shares of common stock at an exercise price of $2.09 per share.

7. In August 2018, the Registrant issued a warrant to purchase up to an aggregate of 45,000 shares of common stock at an exercise price of $2.63 per share.
Unless otherwise stated, the sales of the above securities were deemed to be exempt from registration under the Securities Act in reliance upon Section 4(a)(2) of the Securities Act (or Regulation D or Regulation S promulgated thereunder), or Rule 701 promulgated under Section 3(b) of the Securities Act as transactions by an issuer not involving any public offering or pursuant to benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the stock certificates issued in these transactions.

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.

(a) Exhibits.

<table>
<thead>
<tr>
<th>Exhibit Number</th>
<th>Description of Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1*</td>
<td>Form of Underwriting Agreement.</td>
</tr>
<tr>
<td>3.1</td>
<td>Amended and Restated Certificate of Incorporation of the Registrant, as currently in effect.</td>
</tr>
<tr>
<td>3.2</td>
<td>Form of Restated Certificate of Incorporation, to be effective immediately prior to the completion of this offering.</td>
</tr>
<tr>
<td>3.3</td>
<td>Bylaws of the Registrant, as currently in effect.</td>
</tr>
<tr>
<td>3.4</td>
<td>Form of Restated Bylaws, to be effective immediately prior to the completion of this offering.</td>
</tr>
<tr>
<td>4.1*</td>
<td>Form of Common Stock certificate.</td>
</tr>
<tr>
<td>4.2</td>
<td>Tenth Amended and Restated Investors’ Rights Agreement, dated December 21, 2018, by and among the Registrant and certain security holders of the Registrant, as amended.</td>
</tr>
<tr>
<td>4.3</td>
<td>Warrant to Purchase Common Stock, dated August 2, 2018, by and between the Registrant and Kindred Partners, LLC.</td>
</tr>
<tr>
<td>4.4</td>
<td>Warrant to Purchase Common Stock, dated March 4, 2019, by and between the Registrant and Cole Capital, LLC.</td>
</tr>
<tr>
<td>4.6</td>
<td>Warrant to Purchase Stock, dated May 3, 2013, by and between the Registrant and City National Bank.</td>
</tr>
<tr>
<td>4.7</td>
<td>Warrant to Purchase Common Stock, dated April 4, 2019, by and between the Registrant and Riviera Partners Investments LLC.</td>
</tr>
<tr>
<td>5.1*</td>
<td>Opinion of Fenwick &amp; West LLP.</td>
</tr>
<tr>
<td>10.1†</td>
<td>Form of Indemnification Agreement.</td>
</tr>
<tr>
<td>10.2†</td>
<td>2006 Equity Incentive Plan, as amended, and forms of equity agreements thereunder.</td>
</tr>
<tr>
<td>10.3†</td>
<td>2016 Equity Incentive Plan, as amended, and forms of equity agreements thereunder.</td>
</tr>
<tr>
<td>10.4†*</td>
<td>2019 Equity Incentive Plan, to become effective on the day immediately before the date of this prospectus, and forms of equity agreements thereunder.</td>
</tr>
<tr>
<td>10.5†*</td>
<td>2019 Employee Stock Purchase Plan, to be effective on the effective date of this registration statement, and form of subscription agreement.</td>
</tr>
<tr>
<td>10.6†*</td>
<td>Form of Change in Control and Severance Agreement for executive officers.</td>
</tr>
</tbody>
</table>
| 10.7†*         | Employment Agreement, effective as of , by and between the Registrant and René Lacerte.
Table of Contents

Exhibit Number | Description of Document
--- | ---
10.8†* | Employment Agreement, effective as of , by and between the Registrant and John Rettig.
10.9†* | Employment Agreement, effective as of , by and between the Registrant and Bora Chung.
10.10 | Senior Secured Credit Facilities Agreement, dated June 28, 2019, by and between the Registrant and Silicon Valley Bank.
10.11 | Office Lease, dated December 2, 2013, as amended by that certain First Amendment to Office Lease dated February 29, 2016, that certain Second Amendment to Office Lease dated November 29, 2016 and that certain Third Amendment to Office Lease dated May 21, 2018, by and between the Registrant and EOSII Palo Alto Technology Center, LLC.
21.1 | List of Subsidiaries of the Registrant.
23.1 | Consent of Ernst & Young LLP, independent registered public accounting firm.
23.2* | Consent of Fenwick & West LLP (included in Exhibit 5.1).
24.1 | Power of Attorney (included in the signature page to this Registration Statement on Form S-1).

* To be filed by amendment.
† Indicates management contract or compensatory plan.

(b) Financial Statement Schedules.

All financial statement schedules are omitted because the information called for is not required or is shown either in the consolidated financial statements or in the notes thereto.

ITEM 17. UNDERTAKINGS.

The undersigned Registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.
The undersigned Registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant has duly caused this registration statement on Form S-1 to be signed on its behalf by the undersigned, thereunto duly authorized, in Palo Alto, California, on the 15th day of November, 2019.

BILL.COM HOLDINGS, INC.

By: /s/ René Lacerte

René Lacerte
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints René Lacerte and John Rettig, and each of them, as his true and lawful attorneys-in-fact, proxies, and agents, each with full power of substitution, for him in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments or any abbreviated registration statement and any amendments thereto filed pursuant to Rule 462(b) increasing the number of securities for which registration is sought), and to file the same, with all exhibits thereto and other documents in connection therewith, with the SEC, granting unto said attorneys-in-fact, proxies, and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact, proxies, and agents, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this registration statement on Form S-1 has been signed by the following persons in the capacities and on the dates indicated.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>/s/ René Lacerte</td>
<td>Chief Executive Officer and Director (Principal Executive Officer)</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>John Rettig</td>
<td>Chief Financial Officer and Executive Vice President, Finance and Operations (Principal Financial and Accounting Officer)</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>/s/ Steven Cakebread</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>/s/ David Chao</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>/s/ David Hornik</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>/s/ Brian Jacobs</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>/s/ Peter Kight</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>Signature</td>
<td>Title</td>
<td>Date</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>/s/ Thomas Mawhinney</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>Thomas Mawhinney</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Allison Mnookin</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>Allison Mnookin</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Rory O'Driscoll</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>Rory O'Driscoll</td>
<td></td>
<td></td>
</tr>
<tr>
<td>/s/ Steven Piaker</td>
<td>Director</td>
<td>November 15, 2019</td>
</tr>
<tr>
<td>Steven Piaker</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
BDC PAYMENTS HOLDINGS, INC.

BDC Payments Holdings, Inc., a Delaware corporation, hereby certifies that:

1. The name of the corporation is BDC Payments Holdings, Inc. The date of filing its original Certificate of Incorporation with the Secretary of State was August 2, 2018 under the name BDC Payments Holdings, Inc.

2. This Amended and Restated Certificate of Incorporation of the corporation attached hereto as Exhibit “1”, which is incorporated herein by this reference, and which restates, integrates and further amends the provisions of the Amended and Restated Certificate of Incorporation of this corporation as previously amended or supplemented, has been duly adopted by the corporation’s Board of Directors and the requisite stockholders in accordance with Sections 242 and 245 of the Delaware General Corporation Law, with the approval of the corporation’s stockholders having been given by written consent without a meeting in accordance with Section 228 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, said corporation has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer and the foregoing facts stated herein are true and correct.

Dated: December 21, 2018

BDC PAYMENTS HOLDINGS, INC.

By: /s/ René Lacerte

René Lacerte, CEO
EXHIBIT “1”

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

OF

BDC PAYMENTS HOLDINGS, INC.

ARTICLE I

The name of the corporation is BDC Payments Holdings, Inc.

ARTICLE II

The address of the registered office of the corporation in the State of Delaware is 3500 South Dupont Highway, City of Dover, County of Kent, DE 19901. The name of its registered agent at that address is Incorporating Services, Ltd.

ARTICLE III

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law of the State of Delaware.

ARTICLE IV

This corporation is authorized to issue three classes of shares, designated “Common Stock,” “Nonvoting Common Stock” and “Preferred Stock,” respectively, each of which shall have par value of $0.00001 per share. The total number of shares authorized to be issued is Two Hundred Eighty-Nine Million Three Hundred Ninety Thousand One Hundred Thirty-Four (289,390,134) consisting of (i) One Hundred Sixty-Nine Million Three Hundred Thousand (169,300,000) shares of Common Stock, (ii) Fourteen Million (14,000,000) shares of Nonvoting Common Stock and (iii) One Hundred Six Million Ninety Thousand One Hundred Thirty-Four (106,090,134) shares of Preferred Stock, of which Five Million Four Hundred Thousand (5,400,000) are designated as “Series A Preferred Stock,” Twenty One Million Seven Hundred Thirty-Two Thousand Seven Hundred Eighty-Four (21,732,784) are designated as “Series B Preferred Stock,” Nine Million One Hundred Ninety-Three Thousand Thirty-Five (9,193,035) are designated as “Series E-1 Preferred Stock,” Nine Million Seven Hundred Fifty-Six Thousand (9,756,017) are designated as “Series F-1 Preferred Stock,” Sixteen Million Eight Hundred Ninety-One Thousand Eight Hundred Ninety-Four (16,891,894) are designated as “Series G Preferred Stock,” and Eleven Million Seven Hundred Thousand (11,700,000) are designated as “Series H Preferred Stock.”
ARTICLE V

The rights, preferences, privileges and restrictions granted to and imposed on the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series E-1 Preferred Stock, Series F Preferred Stock, Series F-1 Preferred Stock, Series G Preferred Stock, Series H Preferred Stock, Common Stock, and Nonvoting Common Stock are as hereinafter set forth in this Article V and, with respect to certain matters relating to the Series E-1 Preferred Stock and Series F-1 Preferred Stock, Article VI.

1. DEFINITIONS. For purposes of this Article V and Article VI, the following definitions apply:

1.1 “Board” shall mean the Board of Directors of the Company.

1.2 “Company” shall mean this corporation.

1.3 “Common Stock” shall mean the Common Stock, $0.00001 par value per share, of the Company.

1.4 “Common Stock Dividend” shall mean a stock dividend declared and paid on the Common Stock and Nonvoting Common Stock that is payable in shares of Common Stock and Nonvoting Common Stock, respectively.

1.5 “Filing Date” shall mean the date on which this Amended and Restated Certificate of Incorporation is accepted for filing by the Secretary of State of the State of Delaware.

1.6 “Nonvoting Common Stock” shall mean the Nonvoting Common Stock, $0.00001 par value per share, of the Company.

1.7 “Original Issue Price” shall mean Thirty Nine Cents ($0.39) per share for the Series A Preferred Stock, Seventy Three Cents ($0.73) per share for the Series B Preferred Stock, Ninety Two Cents and Forty Two Ten Thousandths ($0.9242) per share for the Series C Preferred Stock, One Dollar Twenty Five Cents ($1.25) per share for the Series D Preferred Stock, Two Dollars One Cent ($2.01) per share for each of the Series E Preferred Stock and Series E-1 Preferred Stock, Three Dollars Four Cents and Ninety-Four Ten Thousandths ($3.0494) per share for each of the Series F Preferred Stock and Series F-1 Preferred Stock, Four Dollars Eighty-Eight Cents and Forty Ten Thousandths ($4.8840) per share for the Series G Preferred Stock and Eight Dollars Thirty Cents and Seventy-Seven Ten Thousandths ($8.3077) per share for the Series H Preferred Stock (in each case as adjusted to the extent necessary to reflect any Preferred Stock Event (as defined below)).

1.8 “Permitted Repurchases” shall mean the repurchase by the Company of shares of Common Stock held by employees, officers, directors, consultants, independent contractors, advisors, or other persons performing services for the Company or any Subsidiary that
are subject to restricted stock purchase agreements, vesting agreements, stock option exercise agreements, or similar agreements under which the Company has the option to repurchase such shares: (i) at cost, upon the occurrence of certain events, such as the termination of employment or services; or (ii) at any price pursuant to the Company’s exercise of a right of first refusal to repurchase such shares, as applicable.

1.9 “Preferred Dividend Rate” shall mean Three Cents ($0.03) per share per annum for the Series A Preferred Stock, Six Cents ($0.06) per share per annum for the Series B Preferred Stock, Seven Cents and Four Thousandths ($0.074) per share per annum for the Series C Preferred Stock, Ten Cents ($0.10) per share per annum for the Series D Preferred Stock, Sixteen Cents and Eight Ten Thousandths ($0.1608) per share per annum for each of the Series E Preferred Stock and Series E-1 Preferred Stock, Twenty-Four Cents and Forty Ten Thousandths ($0.2440) per share per annum for each of the Series F Preferred Stock and Series F-1 Preferred Stock, Thirty-Nine Cents and Seven Ten Thousandths ($0.3907) per share per annum for the Series G Preferred Stock and Sixty-Six Cents and Forty-Six Ten Thousandths ($0.6646) per share per annum for the Series H Preferred Stock (as adjusted to the extent necessary to reflect any Preferred Stock Event (as defined below)).

1.10 “Preferred Stock” shall mean the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock, the Series D Preferred Stock, the Series E Preferred Stock, the Series E-1 Preferred Stock, the Series F Preferred Stock, the Series F-1 Preferred Stock, the Series G Preferred Stock and the Series H Preferred Stock of the Company.

1.11 “Preferred Stock Event” shall mean any of the following events occurring after the Filing Date with respect to a series of Preferred Stock: (i) the issuance by the Company of additional shares of such series of Preferred Stock as a dividend or other distribution on the outstanding shares of such series of Preferred Stock, (ii) a subdivision of the outstanding shares of Preferred Stock into a greater number of shares of such Preferred Stock, (iii) a combination of the outstanding shares of such series of Preferred Stock into a smaller number of shares of such series of Preferred Stock, or (iv) the conversion or change of the outstanding shares of such series of Preferred Stock into a different number of shares of some other class or classes of stock whether by recapitalization, recategorization or otherwise, provided, however, that in no event shall a Preferred Stock Event be deemed to include, a liquidation, dissolution or winding up of the Company provided for in Section 3, or any conversion, recapitalization, recategorization or other event for which adjustment is made under Section 5.

1.12 “Series A Preferred Stock” shall mean the Series A Preferred Stock, $0.00001 par value per share, of the Company.

1.13 “Series B Preferred Stock” shall mean the Series B Preferred Stock, $0.00001 par value per share, of the Company.

1.14 “Series C Preferred Stock” shall mean the Series C Preferred Stock, $0.00001 par value per share, of the Company.

1.15 “Series D Preferred Stock” shall mean the Series D Preferred Stock, $0.00001 par value per share, of the Company.
1.16 “Series E Preferred Stock” shall mean the Series E Preferred Stock, $0.00001 par value per share, of the Company.

1.17 “Series E-1 Preferred Stock” shall mean the Series E-1 Preferred Stock, $0.00001 par value per share, of the Company.

1.18 “Series F Preferred Stock” shall mean the Series F Preferred Stock, $0.00001 par value per share, of the Company.

1.19 “Series F-1 Preferred Stock” shall mean the Series F-1 Preferred Stock, $0.00001 par value per share, of the Company.

1.20 “Series G Preferred Stock” shall mean the Series G Preferred Stock, $0.00001 par value per share, of the Company.

1.21 “Series H Preferred Stock” shall mean the Series H Preferred Stock, $0.00001 par value per share, of the Company.

1.22 “Subsidiary” shall mean any corporation, limited liability company, partnership or other entity of which at least fifty percent (50%) of the outstanding voting stock or other ownership interests having ordinary voting power is at the time owned directly or indirectly by the Company or by one or more of such subsidiary corporations, limited liability companies, partnerships or other entities.

2. DIVIDEND RIGHTS

2.1 Preferred Stock Dividend Preference. In each calendar year, the holders of each series of the then outstanding Preferred Stock shall be entitled to receive, when, as and if declared by the Board, out of any funds and assets of the Company legally available therefor, noncumulative dividends at the applicable Preferred Dividend Rate for such series, prior and in preference to the payment of any dividend on the Common Stock and Nonvoting Common Stock in such calendar year. No dividends shall be paid with respect to the Common Stock or Nonvoting Common Stock during any calendar year unless dividends in the total amount of the applicable Preferred Dividend Rate shall have first been paid or declared and set apart for payment to the holders of each series of the Preferred Stock during that calendar year. Payments of any dividends to the holders of Preferred Stock shall be paid pro rata, on an equal priority, pari passu basis according to their respective dividend preferences as set forth herein. Dividends on the Preferred Stock shall not be mandatory or cumulative, and no rights or interest shall accrue to the holders of the Preferred Stock by reason of the fact that the Company shall fail to declare or pay dividends on the Preferred Stock in the amount of the Preferred Dividend Rate for the Preferred Stock or in any other amount in any calendar year or any fiscal year of the Company, whether or not the earnings of the Company in any calendar year or fiscal year were sufficient to pay such dividends in whole or in part. Notwithstanding anything to the contrary herein, the provisions of Sections 2.1, 2.2 and 2.3 shall not apply to any Common Stock Dividend, any Permitted Repurchase, or any dividend for which an adjustment is made pursuant to Section 5.5.
2.2 Participation Rights. If, after dividends in the full preferential amount specified in Section 2.1 for the Preferred Stock have been paid or declared and set apart in any calendar year of the Company, the Board shall declare additional dividends out of funds legally available therefor in that calendar year, then such additional dividends shall be declared pro rata on the Common Stock, Nonvoting Common Stock, and the Preferred Stock according to the number of shares of Common Stock and Nonvoting Common Stock held by such holders, where each holder of shares of Preferred Stock is to be treated for this purpose as holding the greatest whole number of shares of Common Stock or Nonvoting Common Stock then issuable upon conversion of all shares of Preferred Stock, at the then effective and applicable conversion rate, held by such holder pursuant to Section 5 (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate). The “Series E Conversion Rate” means the quotient obtained by dividing the Original Issue Price for the Series E Preferred Stock by the Conversion Price for the Series E Preferred Stock as in effect on the effective date of the conversion (or deemed conversion) of such shares of Series E-1 Preferred Stock. The “Series F Conversion Rate” means the quotient obtained by dividing the Original Issue Price for the Series F Preferred Stock by the Conversion Price for the Series F Preferred Stock as in effect on the effective date of the conversion (or deemed conversion) of such shares of Series F-1 Preferred Stock.

2.3 Non-Cash Dividends. Subject to Article VI, Section 2.2, whenever a dividend provided for in this Section 2 shall be payable in property other than cash, the value of such dividend shall be deemed to be the fair market value of such property as determined in good faith by the Board.

3. LIQUIDATION RIGHTS. In the event of any Sale of the Company (as defined below), the proceeds, funds and assets that may be legally distributed to the Company’s stockholders (the “Available Funds and Assets”) shall be distributed to stockholders in the following manner:

3.1 Preferred Stock Liquidation Preference. Subject to the rights of holders of any new series of preferred stock of the Company that may be authorized after the Filing Date, the holder of each share of each series of Preferred Stock then outstanding shall be entitled to be paid, out of the Available Funds and Assets and prior and in preference to any payment or distribution (or any setting apart of any payment or distribution) of any Available Funds and Assets on any share of Common Stock or Nonvoting Common Stock, an amount per share equal to the applicable Original Issue Price plus all declared and unpaid dividends on such series of the Preferred Stock. If upon any Sale of the Company, the Available Funds and Assets to be distributed to the holders of the Preferred Stock shall be insufficient to permit the payment to such holders of their full preferential amount described in this Section 3.1, then all of the Available Funds and Assets available to be distributed pursuant to this Section 3.1 shall be distributed among the holders of the then outstanding Preferred Stock pro rata, on an equal priority, pari passu basis, according to their full respective liquidation preferences as set forth herein.

3.2 No Participation Rights. If there are any Available Funds and Assets remaining after the payment or distribution (or the setting aside for payment or distribution) to the holders of the Preferred Stock of their full preferential amounts described above in Section 3.1, then, subject to Section 3.5, all such remaining Available Funds and Assets shall be distributed on a pro rata basis among the holders of the then outstanding Common Stock and Nonvoting Common Stock according to the number of shares of Common Stock and Nonvoting Common Stock held by such holders.
3.3 Merger or Sale of Assets; Liquidation. The (i) reorganization, consolidation or merger of the Company with or into any other entity or entities in which the holders of the Company’s outstanding shares immediately before such reorganization, consolidation or merger do not, immediately after such reorganization, consolidation or merger retain stock (or other ownership interests) representing a majority of the voting power of the surviving entity or entities of such reorganization, consolidation or merger in substantially the same proportion as their ownership immediately prior to the reorganization, consolidation or merger as a result of their shareholdings in the Company immediately prior to the reorganization, consolidation or merger; (ii) sale, transfer or other disposition of all or substantially all of the assets of the Company and its subsidiaries, taken as a whole or the sale or disposition (whether by merger, consolidation or otherwise) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Company; (iii) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of the Company’s securities), of the Company’s securities if, after such closing, such person or group of affiliated persons would hold fifty percent (50%) or more of the outstanding voting stock of the Company (or the surviving or acquiring entity); or (iv) liquidation, dissolution or winding up of the Company (whether voluntary or involuntary), shall each be deemed to be a “Sale of the Company”. The treatment of any particular transaction or series of related transactions as a Sale of the Company may be waived by the vote or written consent of the holders of a majority of the outstanding Preferred Stock (voting together as a single class on an as converted to Common Stock basis) with the Series E-1 Preferred Stock being treated as convertible (without actual conversion) at the Series E Conversion Rate for this purpose and the Series F-1 Preferred Stock being treated as convertible (without actual conversion) at the Series F Conversion Rate for this purpose (the “Requisite Majority”). For the avoidance of doubt, the Series E-1 Preferred Stock and the Series F-1 Preferred Stock shall not be subject to the Regulatory Voting Restriction (as defined below) for purposes of the specific vote referenced in the immediately preceding sentence.

3.4 Non-Cash Consideration. Subject to Article VI, Section 2.2, if any assets of the Company distributed to stockholders in connection with any Sale of the Company are other than cash, then the value of such assets shall be their fair market value as determined in good faith by the Board, except that any securities to be distributed to stockholders in a Sale of the Company shall be valued as follows:

(a) The method of valuation of securities not subject to investment letter or other similar restrictions on free marketability shall be as follows:

(i) if the securities are then traded on a national securities exchange (or a similar national quotation system), then the value shall be deemed to be the average of the closing prices of the securities on such exchange or system over the 30-day period ending three (3) days prior to the distribution; and
(ii) if actively traded over-the-counter, then the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the 30-day period ending three (3) days prior to the distribution; and

(iii) if there is no active public market, then the value shall be the fair market value thereof, as determined in good faith by the Board.

(b) The method of valuation of securities subject to investment letter or other restrictions on free marketability shall be to make an appropriate discount from the market value determined as above in subparagraphs (a)(i), (ii) or (iii) of this Section 3.4 to reflect the approximate fair market value thereof, as determined in good faith by the Board.

3.5 Alternative Liquidation Rights. Notwithstanding the foregoing provisions, if in the event of a Sale of the Company a holder of shares of any series of Preferred Stock would be entitled to receive, pursuant to Section 3.1, an amount that is less than the amount that such holder would receive in such Sale of the Company if such shares were converted into Common Stock pursuant to Section 5 (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate) as of immediately prior to such Sale of the Company (the “Alternative Amount”), then in lieu of receiving any amounts under Section 3.1 on account of such shares, such holder shall instead receive the Alternative Amount on account of such shares.

3.6 Allocation of Escrow and Contingent Consideration. In the event of a Sale of the Company pursuant to this Article V, Section 3, if any portion of the consideration payable to the stockholders of the Company is payable only upon satisfaction of contingencies (the “Additional Consideration”), then the acquisition or similar agreement shall provide that (a) the portion of such consideration that is not Additional Consideration (such portion, the “Initial Consideration”) shall be allocated among the holders of capital stock of the Company in accordance with Sections 3.1 and 3.2 or, if applicable, Section 3.5, as if the Initial Consideration were the only consideration payable in connection with such Sale of the Company; and (b) any Additional Consideration which becomes payable to the stockholders of the Company upon satisfaction of such contingencies shall be allocated among the holders of capital stock of the Company in accordance with Sections 3.1 and 3.2 or, if applicable, Section 3.5, after taking into account the previous payment of the Initial Consideration as part of the same transaction. For the purposes of this Section 3.6, consideration placed into escrow or retained as holdback to be available for satisfaction of indemnification or similar obligations in connection with such Sale of the Company shall be deemed to be Additional Consideration.
4. VOTING RIGHTS.

4.1 Common Stock and Nonvoting Common Stock.

(a) Common Stock. Each holder of shares of Common Stock shall be entitled to one (1) vote for each share thereof held. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of the Company entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

(b) Nonvoting Common Stock. The Nonvoting Common Stock shall have no voting rights. The number of authorized shares of Nonvoting Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the stock of the Company entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

4.2 Preferred Stock. Each holder of shares of Preferred Stock shall be entitled to the number of votes equal to the number of whole shares of Common Stock into which such shares of Preferred Stock could be converted pursuant to the provisions of Section 5 below at the record date for the determination of the stockholders entitled to vote on such matters or, if no such record date is established, the date such vote is taken or any written consent of stockholders is solicited (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate.

4.3 General Voting Matters.

(a) General. Subject to the foregoing provisions of this Section 4 and the Regulatory Voting Restriction, each holder of Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled to notice of any stockholders’ meeting in accordance with the Company’s Bylaws (as in effect at the time in question) and applicable law, and shall be entitled to vote, together with the holders of Common Stock, with respect to any question upon which holders of Common Stock have the right to vote, except as may be otherwise provided herein or by applicable law. Except as otherwise expressly provided herein or as required by law, the holders of the Preferred Stock and the holders of Common Stock shall vote together and not as separate classes.

Any references in this Amended and Restated Certificate of Incorporation or the bylaws of the Company to a majority or other proportion of stock or shares, including with respect to the percentage of stock or shares required to approve a matter, shall refer to such majority or other proportion of the voting power of such stock or shares, based on the votes that the holders of such outstanding stock or shares (including the Series E-1 Preferred Stock and the Series F-1 Preferred Stock, as subject to the Regulatory Voting Restriction, as applicable) are entitled to cast as of the record date for voting on (or taking action by consent with respect to) such matter.
(b) **Regulatory Voting Restriction.** Notwithstanding the stated or statutory voting rights of holders of shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, in no event shall a Regulated Holder (as defined below) and its Transferees (as defined below), collectively, be entitled to cast a number of votes representing more than 4.99% of the voting power of any “class” of “voting securities” of the Company entitled to vote on any matter (including matters with respect to which such holders are entitled or required to provide their approval or consent) (as such terms are interpreted, and as such percentage is calculated, under the BHCA (as defined below)), including matters with respect to which (i) the Preferred Stock votes together as a single class and (ii) the Preferred Stock votes with shares of Common Stock as a single class on an as converted to Common Stock basis (such voting rights to be allocated pro rata among the Regulated Holder and its Transferees based on the number of shares of Series E-1 Preferred Stock and Series F-1 Preferred Stock held by each such holder), provided however, that if there are no shares of Preferred Stock outstanding other than the Series E-1 Preferred Stock and/or Series F-1 Preferred Stock, the ownership of shares of Series E-1 Preferred Stock and/or Series F-1 Preferred Stock will not convey to the holder thereof any right to vote for matters on which shares of Preferred Stock are entitled to vote as a single class; provided further, that the Regulatory Voting Restriction shall not apply to matters requiring approval of the holders of shares of Series E-1 Preferred Stock pursuant to Section 7(d) below or to matters requiring approval of the holders of shares of Series F-1 Preferred Stock pursuant to Section 7(f) below, or as otherwise provided expressly herein. The restrictions described in this Section 4.3(b) are referred to herein as the “Regulatory Voting Restriction”. Notwithstanding anything to the contrary in this Amended and Restated Certificate of Incorporation, this Section 4.3(b) shall automatically terminate and be of no further force or effect at such time that no shares of the Company’s capital stock are held by any Regulated Holder or Transferee (as those terms are defined in Article VI).

4.4 **Board of Directors Election and Removal.**

(a) **Election.**

(i) So long as at least 2,000,000 shares of Series A Preferred Stock are outstanding, the holders of the Series A Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Company (such minimum share number to be adjusted to the extent necessary to reflect any Preferred Stock Event) (the “Series A Director”).

(ii) So long as at least 2,000,000 shares of Series B Preferred Stock are outstanding, the holders of the Series B Preferred Stock, voting as a separate series, shall be entitled to elect two (2) directors of the Company (such minimum share number to be adjusted to the extent necessary to reflect any Preferred Stock Event) (the “Series B Directors”).

(iii) So long as at least 2,000,000 shares of Series C Preferred Stock are outstanding, the holders of the Series C Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Company (such minimum share number to be adjusted to the extent necessary to reflect any Preferred Stock Event) (the “Series C Director”).
So long as at least 2,000,000 shares of Series E Preferred Stock are outstanding, the holders of the Series E Preferred Stock, voting as a separate series, shall be entitled to elect one (1) director of the Company (such minimum share number to be adjusted to the extent necessary to reflect any Preferred Stock Event) (the “Series E Director”). The term “Preferred Stock Directors” used herein shall mean those directors elected as a “Preferred Stock Designee” pursuant to that certain Tenth Amended and Restated Voting Agreement by and among the Company and the Holders named therein, dated on or about the Filing Date, as it may be amended from time to time thereafter.

One (1) director of the Company shall be elected by the holders of the outstanding Common Stock, voting as a separate class.

Any remaining directors of the Company shall be elected by the holders of the outstanding shares of Common Stock and Preferred Stock voting together as a single class (on an as converted to Common Stock basis) including the holders of the Series E-1 Preferred Stock, whose shares shall be subject to the Regulatory Voting Restriction and treated as being convertible into Common Stock (without actual conversion) at the Series E Conversion Rate and the holders of the Series F-1 Preferred Stock whose shares shall be subject to the Regulatory Voting Restriction and treated as being convertible into Common Stock (without actual conversion) at the Series F Conversion Rate.

Quorum; Required Vote.

At any meeting held for the purpose of electing directors, the presence in person or by proxy of the holders of a majority of the shares of the (u) Series A Preferred Stock, (v) Series B Preferred Stock, (w) Series C Preferred Stock, (x) Series E Preferred Stock, (y) Common Stock, or (z) the Common Stock and Preferred Stock entitled to vote thereon (voting together as a single class and on an as converted to Common Stock basis (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate)), respectively, shall constitute a quorum of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series E Preferred Stock, Common Stock, or the Common Stock and Preferred Stock, voting together, as the case may be, for the election of directors to be elected solely by the holders of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series E Preferred Stock, Common Stock, or Common Stock and Preferred Stock, voting together as a single class and on an as converted to Common Stock basis (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate, respectively.
(ii) **Required Vote.** With respect to the election of any director or directors by the holders of the outstanding shares of the specified series, class or classes of stock given the right to elect such director or directors pursuant to Section 4.4(a) above (the “Specified Stock”), that candidate or those candidates (as applicable) shall be elected who either: (x) in the case of any such vote conducted at a meeting of the holders of such Specified Stock, receive the highest number of affirmative votes of the outstanding shares of such Specified Stock entitled to vote thereon, up to the number of directors to be elected by such Specified Stock; or (y) in the case of any such vote taken by written consent without a meeting, are elected by the written consent of the holders of a majority of outstanding shares of such Specified Stock entitled to vote thereon, calculated on an as converted to Common Stock basis (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate).

(c) **Vacancy.** If there shall be any vacancy in the office of a director elected by the holders of any Specified Stock pursuant to Section 4.4(a), then a successor to hold office for the unexpired term of such director may be elected by the required vote of holders of the shares of such Specified Stock specified in Section 4.4(b)(ii) above that are entitled to elect such director under Section 4.4(a), or as otherwise permitted by applicable law.

(d) **Removal.** Subject to Section 141(k) of the Delaware General Corporation Law, any director who shall have been elected to the Board by the holders of any Specified Stock pursuant to Section 4.4(a), or as otherwise provided in Section 4.4(c), may be removed during his or her term of office, either with or without cause, by the affirmative vote of shares representing a majority of the voting power of all the outstanding shares of such Specified Stock entitled to vote to elect such director under Section 4.4(a), given either at a meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders without a meeting, or as otherwise permitted by applicable law, and any vacancy created by such removal may be filled only in the manner provided in Section 4.4(c).

(e) **Procedures.** Any meeting of the holders of any Specified Stock, and any action taken by the holders of any Specified Stock by written consent without a meeting, in order to elect or remove a director under this Section 4.4, shall be held in accordance with the procedures and provisions of the Company’s Bylaws, the Delaware General Corporation Law and applicable law regarding stockholder meetings and stockholder actions by written consent, as such are then in effect (including but not limited to procedures and provisions for determining the record date for shares entitled to vote).

4.5 **Certain Non-Series E-1 and Series F-1 BHCA Matters.** Notwithstanding the foregoing, or anything to the contrary in this Amended and Restated Certificate of Incorporation, any shares of Preferred Stock (but excluding any shares of Series E-1 Preferred Stock and Series F-1 Preferred Stock) or Common Stock held by any holder of record thereof that delivers written notice to the Company stating that such holder’s ownership of such shares of Preferred Stock or Common Stock is subject to the ownership limitations under the Bank Holding Company Act of 1956, as amended, and the regulations promulgated thereunder and requesting that such shares be deemed non-voting Shares pursuant to the terms and conditions of this paragraph (such notice, a “BHCA Notice” and such shares “Regulated Shares”), shall until and unless such holder thereafter delivers written notice to the Company withdrawing the BHCA Notice, be deemed and considered non-voting shares for all purposes of this Amended and
5. CONVERSION RIGHTS OF THE PREFERRED STOCK. The outstanding shares of Preferred Stock shall be convertible into Common Stock as follows:

5.1 Optional Conversion.

(a) Non-Regulated Preferred Stock. At the option of the holder thereof, each share of Preferred Stock, other than the Series E-1 Preferred Stock and Series F-1 Preferred Stock, (collectively, the “Non-Regulated Preferred Stock”) shall be convertible, at any time, into fully paid and nonassessable shares of Common Stock as provided herein.

(b) Non-Regulated Preferred Stock held by a BHCA Holder. Notwithstanding anything to the contrary in Section 5.1(a) or 5.2(a), if a BHCA Holder (as defined below) holding Non-Regulated Preferred Stock owns or controls, or may be deemed to own or control greater than 4.99% of the voting power of any class of voting securities of the Company (as such terms are defined and used, and as such percentage is calculated, under the BHCA (as defined in Article VI)) (the “BHCA Voting Threshold”), on an as-converted basis, then the Non-Regulated Preferred Stock held by such BHCA Holder shall be convertible into fully paid and nonassessable shares of Common Stock only to the extent that the BHCA Voting Threshold would not be exceeded, and the remaining shares of Non-Regulated Preferred Stock held by such BHCA Holder shall instead be convertible into fully paid and nonassessable shares of Nonvoting Common Stock; provided that prior to the actual conversion of Non-Regulated Preferred Stock held by a BHCA Holder, for purposes of determining whether and to what extent such BHCA Holder’s shares of Non-Regulated Preferred Stock exceed the BHCA Voting Threshold for a particular vote or consent of a given class of voting securities of the Company, the voting power of such BHCA Holder shall be calculated with respect to such class of voting securities of the Company, and for purposes of such vote or consent, the Non-Regulated Preferred Stock held by such BHCA Holder shall be deemed to be convertible into fully paid and nonassessable shares of Common Stock to the extent that the BHCA Voting Threshold would not be exceeded for such vote or consent, and the remaining shares of Non-Regulated Preferred Stock held by such BHCA Holder shall be deemed to be convertible into fully paid and nonassessable shares of Nonvoting Common Stock for purposes of such vote or consent. A “BHCA Holder” means (i) a bank holding company subject to the BHCA, that together with its...
affiliates (as defined in Regulation Y (12 C.F.R. Part 225)), holds any shares of capital stock of the Company (such capital stock of the Company held by a BHCA Holder, the “BHCA Stock”) and (ii) any party to whom a party identified in clause (i) transfers shares of BHCA Stock and the transferees of such party (in each case, other than Permitted BHCA Transferees (as defined in Section 6)).

(c) Series E-1 Preferred Stock and Series F-1 Preferred Stock. Shares of Series E-1 Preferred Stock and Series F-1 Preferred Stock shall not be convertible into Common Stock pursuant to this Section 5.1 in the hands of a Regulated Holder or its Transferees. Instead, upon notice to the Company from such a holder of shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock that it intends to exercise the rights granted pursuant to the remainder of this sentence (a “Deemed Conversion Notice”), (i) such holder’s shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, as applicable, shall no longer be entitled to any rights of the Series E-1 Preferred Stock or Series F-1 Preferred Stock, as applicable, that are not also applicable to shares of Common Stock (or any shares into which such shares of Common Stock may be converted or exchanged), including without limitation the right to receive the amounts payable to holders of Series E-1 Preferred Stock or Series F-1 Preferred Stock, as applicable, pursuant to Sections 2 and 3 above, and such holders of Series E-1 Preferred Stock or Series F-1 Preferred Stock shall be deemed to have forever and finally waived all such rights; provided, however, that the rights set forth in Sections 4.2, 4.3, 7(d) and 7(f) and Article VI, as well as the Regulatory Voting Restriction, shall continue to apply to shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, and (ii) such holder of Series E-1 Preferred Stock or Series F-1 Preferred Stock thereafter shall be entitled to receive, in lieu of any amounts otherwise payable on the Series E-1 Preferred Stock or Series F-1 Preferred Stock hereunder (including any amounts payable pursuant to Section 3 above), only an amount per share equal to the amounts that may become payable to holders of Common Stock hereunder (as such securities are adjusted from time to time under this Amended and Restated Certificate of Incorporation, including, without limitation, pursuant to any stock split, stock dividend, combination, subdivision, recapitalization or the like with respect to the Common Stock occurring after the Deemed Conversion Notice is given) as if such Series E-1 Preferred Stock or Series F-1 Preferred Stock had been converted (but without actual conversion) into shares of Common Stock at the same time that the Deemed Conversion Notice was given at the Series E Conversion Rate or Series F Conversion Rate, respectively (a “Deemed Optional Conversion”); and provided further, however, that in the event that any property other than cash is payable to the holders of Common Stock, then the provisions of Article VI, Section 2.2 shall apply with regard to assets to be received by such holder of Series E-1 Preferred Stock or Series F-1 Preferred Stock following a Deemed Optional Conversion. For the avoidance of doubt, shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock that have been subject to a Deemed Optional Conversion pursuant to this Section 5.1 shall not be entitled to vote on any matters for which shares of Common Stock, and not shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, as applicable, were entitled to vote.

(d) Each holder of Non-Regulated Preferred Stock who elects to convert the same into shares of Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Preferred Stock or Common Stock, and shall give written notice to the Company at such office that such
holder elects to convert the same and shall state therein the number of shares of Non-Regulated Preferred Stock being converted. Thereupon the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled upon such conversion. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the certificate or certificates representing the shares of Non-Regulated Preferred Stock to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date.

(e) If the conversion is in connection with an IPO (as defined below), the conversion may, at the option of any holder tendering Non-Regulated Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the persons entitled to receive the Common Stock upon conversion of the Non-Regulated Preferred Stock shall not be deemed to have converted such Non-Regulated Preferred Stock until immediately prior to the closing of such sale of securities. If a conversion of Preferred Stock is in connection with automatic conversion provisions of Section 5.2(a)(2) below, such conversion shall be deemed to have been made on the conversion date described in the stockholder consent approving such conversion, and the persons entitled to receive shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holders of such shares of Common Stock as of such date.

5.2 Automatic Conversion.

(a) Preferred Stock. Subject to Section 5.1(b), each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Common Stock, as provided herein, on the earlier to occur of (1) immediately prior to the closing of an underwritten public offering pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company (an "IPO") at a price to the public (before deduction of underwriters discounts or commissions) of at least the Original Issue Price of the Series H Preferred Stock (such IPO, a "Qualified IPO"), and (2) the Company’s receipt of the written consent of the Requisite Majority (excluding for this specific purpose the holders of the Series E-1 Preferred Stock and Series F-1 Preferred Stock); provided, however, that shares of Series E-1 Preferred Stock and Series F-1 Preferred Stock shall only be converted into shares of Common Stock pursuant to this Section 5.2(a) if such conversion would not result in a Regulated Holder and its Transferees owning or controlling, or being deemed to own or control, collectively, greater than (x) 4.99% of the voting power of any class of voting securities of the Company or (y) 9.99% of the total equity of the Company (in each case, as such terms are defined and used, and as such percentages are calculated, under the BHCA (as defined in Article VI)).

(i) If shares of Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock or Series H Preferred Stock are automatically converted into Common Stock as part of a conversion of Preferred Stock pursuant to clause (2) of the first sentence of this Section 5.2(a) in conjunction with a Sale of the Company (such shares of Series E Preferred Stock, Series F Preferred Stock, Series G Preferred Stock or Series H Preferred Stock,
the “Converted Certain Series Shares” and such conversion, a “Special Conversion”) and the proceeds payable to a holder of the shares of Common Stock issued upon such conversion of Converted Certain Series Shares (the “Special Common Shares”) in such Sale of the Company are less than the proceeds that such holder would have received on account of the Converted Certain Series Shares in such Sale of the Company pursuant to Article V, Section 3 of this Amended and Restated Certificate of Incorporation (as such Section 3 was in effect immediately prior to the Special Conversion) had the Special Conversion not taken place, then notwithstanding anything to the contrary herein, effective immediately prior to the closing of such Sale of the Company, the Company shall issue to each holder of Special Common Shares such additional number of shares of Common Stock (“Additional Shares”) as are necessary, when taken together with the proceeds payable in such Sale of the Company on account of the Special Common Shares, to entitle such holder to receive aggregate proceeds in the Sale of the Company equal to the proceeds such holder would have received on account of holding the Converted Certain Series Shares upon whose conversion such Special Common Shares were issued as if the Special Conversion had not occurred. A conversion of Preferred Stock pursuant to clause (2) of the first sentence of this Section 5.2(a) shall not be deemed to be effected “in conjunction with” a Sale of the Company and shall not constitute a Special Conversion if the consent of the holders of Preferred Stock necessary to effect such conversion is delivered to the Company more than three (3) months prior to the date on which definitive agreements for such Sale of the Company are entered into by the parties thereto.

(b) Series E-1 Preferred Stock and Series F-1 Preferred Stock.

(i) Notwithstanding anything to the contrary contained herein, no shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock shall be convertible into shares of Common Stock pursuant to this Section 5.2 (unless such conversion is in connection with a Permitted Regulatory Transfer or complies with the proviso at the end of the first sentence of Section 5.2(a)), but instead, upon any such conversion of the Non-Regulated Preferred Stock that does not also cause the conversion of the Series E-1 Preferred Stock or Series F-1 Preferred Stock, (x) the Series E-1 Preferred Stock and Series F-1 Preferred Stock shall no longer be entitled to any rights of the Series E-1 Preferred Stock or Series F-1 Preferred Stock, as applicable, that are not also applicable to shares of Common Stock or any shares into which such shares of Common Stock may be converted or exchanged, including without limitation the right to receive the amounts payable to holders of Series E-1 Preferred Stock or Series F-1 Preferred Stock pursuant to Section 2 and Section 3 above, and such holder of Series E-1 Preferred Stock or Series F-1 Preferred Stock shall be deemed to have forever and finally waived all such rights; provided, however, that the rights set forth in Sections 4.2, 4.3, 7(d) and 7(f) and Article VI, as well as the Regulatory Voting Restriction, shall continue to apply to shares of Series E-1 Preferred Stock and Series F-1 Preferred Stock, and (y) each holder of Series E-1 Preferred Stock and Series F-1 Preferred Stock thereafter shall be entitled to receive in lieu of any amounts otherwise payable on the Series E-1 Preferred Stock or Series F-1 Preferred Stock hereunder (including any amounts payable pursuant to Section 3 above), only an amount per share equal to the amounts that may become payable to holders of Common Stock hereunder (as such securities are adjusted from time to time under this Amended and Restated Certificate of Incorporation, including, without limitation, pursuant to any stock split, stock dividend, combination, subdivision, recapitalization or the like with respect to the Common Stock occurring after such Deemed Automatic Conversion).
as if such Series E-1 Preferred Stock or Series F-1 Preferred Stock had been converted (but without actual conversion) into shares of Common Stock at the same time and at the same conversion ratio that all shares of Series E Preferred Stock or Series F Preferred Stock, respectively, have been automatically converted pursuant to Section 5.2(a) and as if Additional Shares, if any, had been issued to such holder of Series E-1 Preferred Stock or Series F-1 Preferred Stock (such number of Additional Shares being calculated in the same manner as is calculated for the Series E Preferred Stock or Series F Preferred Stock, respectively, pursuant to Section 5.2(a)) (a “Deemed Automatic Conversion”); and provided further, however, that in the event that any property other than cash is payable to the holders of Common Stock, then the provisions of Article VI, Section 2.2 shall apply with regard to assets to be received by holders of Series E-1 Preferred Stock and Series F-1 Preferred Stock. For the avoidance of doubt, shares of Series E-1 Preferred Stock and Series F-1 Preferred Stock that have been subject to a Deemed Automatic Conversion pursuant to this Section 5.2 shall not be entitled to vote on any matters for which shares of Common Stock, and not shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, as applicable, were entitled to vote.

(ii) In addition, unless otherwise converted into Common Stock pursuant to Section 5.2(a), upon consummation of a Permitted Regulatory Transfer, each share of Series E-1 Preferred Stock or Series F-1 Preferred Stock so transferred in such a Permitted Regulatory Transfer shall automatically be converted into (A) one (1) fully paid and nonassessable share of Series E Preferred Stock or Series F Preferred Stock, respectively, as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like with respect to the Series E Preferred Stock or Series F Preferred Stock, respectively, if such Permitted Regulatory Transfer occurs prior to a Deemed Optional Conversion or Deemed Automatic Conversion, or (B) such number of fully paid and nonassessable shares of Common Stock determined as if such shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock were deemed converted pursuant to a Deemed Automatic Conversion, as adjusted for any stock splits, stock dividends, combinations, subdivisions, recapitalizations or the like with respect to such Common Stock, if such Permitted Regulatory Transfer occurs on or subsequent to a Deemed Optional Conversion or Deemed Automatic Conversion. Any shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock that are convertible (or deemed convertible) into Common Stock pursuant to this Section 5.2 shall be convertible (or deemed convertible) into such number of fully paid and nonassessable shares of Common Stock at the Series E Conversion Rate or Series F Conversion Rate, respectively. Automatic conversion of the Series E-1 Preferred Stock and Series F-1 Preferred Stock pursuant to this Section 5.2 shall be effective without any further action on the part of the holders of such shares and shall be effective whether or not the certificates for such shares are surrendered to the Company or its transfer agent.

5.3 Conversion Price. Each share of each series of Non-Regulated Preferred Stock shall be convertible in accordance with Section 5.1 or Section 5.2 above into the number of shares of Common Stock or Nonvoting Common Stock, as applicable (calculated as to each conversion to the nearest 1/100th of a share), which results from dividing the applicable Original Issue Price for such series by the applicable Conversion Price (as defined below) for such series of Preferred Stock that is in effect at the time of conversion. The initial Conversion Price per share for the Series A Preferred Stock shall be equal to the Original Issue Price for the Series A Preferred Stock, the initial Conversion Price for the Series B Preferred Stock shall be equal to the Original
5.4 **Adjustment Upon Common Stock Event.** Upon the happening of any Common Stock Event (as defined below) after the Filing Date, each Conversion Price shall, simultaneously with the happening of such Common Stock Event, be adjusted by multiplying such Conversion Price in effect immediately prior to such Common Stock Event by a fraction, (i) the numerator of which shall be the number of shares of Common Stock and Nonvoting Common Stock issued and outstanding immediately prior to such Common Stock Event, and (ii) the denominator of which shall be the number of shares of Common Stock and Nonvoting Common Stock issued and outstanding immediately after such Common Stock Event, and the product so obtained shall thereafter be the Conversion Price. Each Conversion Price shall be readjusted in the same manner upon the happening of each subsequent Common Stock Event. As used herein, the term “Common Stock Event” shall mean (i) the issuance by the Company of additional shares of Common Stock or Nonvoting Common Stock as a dividend or other distribution on outstanding Common Stock or Nonvoting Common Stock, as applicable, (ii) a subdivision of the outstanding shares of Common Stock or Nonvoting Common Stock into a greater number of shares of Common Stock or Nonvoting Common Stock, as applicable, or (iii) a combination of the outstanding shares of Common Stock or Nonvoting Common Stock into a smaller number of shares of Common Stock or Nonvoting Common Stock, as applicable.

5.5 **Adjustments for Other Dividends and Distributions.** If at any time or from time to time after the Filing Date the Company pays a dividend or makes another distribution to the holders of the Common Stock payable in securities of the Company other than shares of Common Stock, then in each such event provision shall be made so that the holders of Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Common Stock receivable upon conversion thereof, and subject to Article VI, Section 2.2, the amount of securities of the Company which they would have received had their Preferred Stock been converted into Common Stock on the date of such event (or such record date, as applicable) and had they thereafter, during the period from the date of such event (or such record date, as applicable) to and including the conversion date, retained such securities receivable by them as aforesaid during such period, subject to all other adjustments called for during such period under this Section 5 with respect to the rights of the holders of Preferred Stock or with respect to such other securities by their terms (with the Series E-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series F Conversion Rate).
5.6 **Adjustment for Reclassification, Exchange and Substitution.** If at any time or from time to time after the Filing Date the Common Stock issuable upon the conversion of the Preferred Stock is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, recapitulation, exchange or otherwise (other than by a Common Stock Event or a stock dividend, reorganization, merger, or consolidation provided for elsewhere in this Section 5), then in any such event each holder of Preferred Stock shall have the right thereafter to convert such Preferred Stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification, exchange or other change by holders of the number of shares of Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification, exchange or other change, all subject to further adjustment as provided herein or with respect to such other securities or property by the terms thereof (with the Series E-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series F Conversion Rate).

5.7 **Reorganizations, Mergers and Consolidations.** If at any time or from time to time after the Filing Date there is a reorganization of the Company (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 5) or a merger or consolidation of the Company with or into another entity (except a Sale of the Company which is governed by Section 3), then, as a part of such reorganization, merger or consolidation, provision shall be made so that the holders of Preferred Stock thereafter shall be entitled to receive, upon conversion of the Preferred Stock, the number of shares of stock or other securities or property (subject to Article VI, Section 2.2) of the Company, or of such successor entity resulting from such reorganization, merger or consolidation, to which a holder of Common Stock deliverable upon conversion would have been entitled on such reorganization, merger or consolidation (with the Series E-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series F Conversion Rate). In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 5 with respect to the rights of the holders of Preferred Stock after the reorganization, merger or consolidation to the end that the provisions of this Section 5 (including adjustment of the Conversion Price then in effect and number of shares issuable upon conversion of the Preferred Stock) shall be applicable after that event and be as nearly equivalent to the provisions hereof as may be practicable. This Section 5.7 shall similarly apply to successive reorganizations, mergers and consolidations.

5.8 **Price-Based Anti-Dilution Protection for the Preferred Stock.**

(a) **Adjustment Formula.** If at any time after the Filing Date the Company issues or sells, or is deemed by the provisions of this Section 5.8 to have issued or sold, Additional Shares of Common Stock (as hereinafter defined), otherwise than in connection with a Common Stock Event as provided in Section 5.4, a dividend or distribution as provided in Section 5.5 or a recapitalization or other change or transaction as provided in Sections 5.6 or 5.7 for an Effective Price (as hereinafter defined) that is less than a Conversion Price in effect immediately prior to such issue or sale, then, and in each such case, such Conversion Price shall be reduced, as of the close of business on the date of such issue or sale, to the price obtained by multiplying such Conversion Price by a fraction:
(A) The numerator of which shall be the sum of (x) the number of Common Stock Equivalents Outstanding (as hereinafter defined) immediately prior to such issue or sale of Additional Shares of Common Stock plus (y) the quotient obtained by dividing the Aggregate Consideration Received (as hereinafter defined) by the Company for the total number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold) by the Conversion Price in effect immediately prior to such issue or sale; and

(B) The denominator of which shall be the sum of (x) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus (y) the number of Additional Shares of Common Stock so issued or sold (or deemed so issued and sold).

(b) Certain Definitions. For the purpose of making any adjustment required under this Section 5.8:

(i) “Additional Shares of Common Stock” shall mean all shares of Common Stock or Nonvoting Common Stock issued, or deemed by the provisions of this Section 5.8 to be issued, by the Company, whether or not subsequently reacquired or retired by the Company, other than:

(a) shares of Common Stock issued or deemed issued to employees, officers, directors, contractors, consultants or advisers to the Company or any Subsidiary pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other incentive arrangements that are approved by the Board;

(b) shares of Common Stock and/or Nonvoting Common Stock issued or deemed issued (i) in connection with joint ventures, manufacturing, marketing, distribution, licensing or other commercial arrangements with the Company that in each case are approved by the Board including at least three (3) of the Preferred Stock Directors, and entered into primarily for other than capital raising purposes or (ii) to parties that are providing the Company with equipment leases, real property leases, loans, credit lines, or guaranties of indebtedness, in each case pursuant to arrangements that are approved by the Board (including at least three (3) of the Preferred Stock Directors) and that are primarily for other than equity financing purposes;

(c) shares of Common Stock issued or deemed issued pursuant to the acquisition of another corporation or entity by the Company by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Company acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such other corporation or entity or fifty percent (50%) or more of the voting power of such other corporation or entity or fifty percent (50%) or more of the equity ownership of such other entity, in each case pursuant to arrangements that are approved by the Board;
(d) shares of Common Stock or Nonvoting Common Stock issued or deemed issued pursuant to the conversion or exercise of convertible or exercisable securities outstanding on the Filing Date or shares of Series H Preferred Stock or pursuant to any warrant issued pursuant to that certain warrant issuance agreement entered into on June 21, 2017 by the Company in connection with the Series G Preferred Stock Purchase Agreement dated June 21, 2017 (as the same may be amended from time to time) (the “2017 Warrant Agreement”);

(e) shares of Series H Preferred Stock;

(f) shares of Common Stock issued or deemed issued pursuant to Section 5.8(c) as a result of a decrease in a Conversion Price resulting from the operation of this Section 5.8; and

(g) shares of Common Stock issued or deemed issued pursuant to a transaction described in Section 5.4, 5.5, 5.6 or 5.7 hereof.

(ii) The “Aggregate Consideration Received” by the Company for any issue or sale (or deemed issue or sale) of securities shall (A) to the extent it consists of cash, be computed at the gross amount of cash received by the Company before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Company in connection with such issue or sale and without deduction of any expenses payable by the Company; (B) to the extent it consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board; and (C) if Additional Shares of Common Stock, Convertible Securities or Rights or Options to purchase either Additional Shares of Common Stock or Convertible Securities are issued or sold together with other stock or securities or other assets of the Company for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board to be allocable to such Additional Shares of Common Stock, Convertible Securities or Rights or Options.

(iii) “Common Stock Equivalents Outstanding” shall mean the number of shares of Common Stock that is equal to the sum of (A) all shares of Common Stock and Nonvoting Common Stock of the Company that are outstanding at the time in question, plus (B) all shares of Common Stock of the Company issuable upon conversion of all shares of Preferred Stock (with the Series E-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being then convertible (without actual conversion) into Common Stock at the Series F Conversion Rate) or other Convertible Securities that are outstanding at the time in question, plus (C) all shares of Common Stock and Nonvoting Common Stock of the Company that are issuable upon the exercise of Rights or Options that are outstanding at the time in question assuming the full conversion or exchange into Common Stock or Nonvoting Common Stock, as applicable, of all such Rights or Options that are Rights or Options to purchase or acquire Convertible Securities into or for Common Stock or Nonvoting Common Stock, as applicable.
(iv) “Convertible Securities” shall mean stock or other securities convertible into or exchangeable for shares of Common Stock or Nonvoting Common Stock.

(v) The “Effective Price” of Additional Shares of Common Stock shall mean the quotient determined by dividing the total number of Additional Shares of Common Stock issued or sold, or deemed to have been issued or sold, by the Company under this Section 5.8, into the Aggregate Consideration Received, or deemed to have been received, by the Company under this Section 5.8, for the issue of such Additional Shares of Common Stock.

(vi) “Rights or Options” shall mean warrants, options or other rights to purchase or acquire shares of Common Stock, Nonvoting Common Stock or Convertible Securities.

(c) Deemed Issuances. For the purpose of making any adjustment to a Conversion Price required under this Section 5.8, if the Company issues or sells any Rights or Options or Convertible Securities and if the Effective Price of the shares of Common Stock or Nonvoting Common Stock issuable upon exercise of such Rights or Options and/or the conversion or exchange of Convertible Securities (computed without reference to any additional or similar protective or antidilution clauses) is less than a Conversion Price then in effect, then the Company shall be deemed to have issued, at the time of the issuance of such Rights, Options or Convertible Securities, that number of Additional Shares of Common Stock that is equal to the maximum number of shares of Common Stock or Nonvoting Common Stock, as applicable, issuable upon exercise, conversion or exchange of such Rights, Options or Convertible Securities upon their issuance and to have received, as the Aggregate Consideration Received for the issuance of such shares, an amount equal to the total amount of the consideration, if any, received by the Company for the issuance of such Rights or Options or Convertible Securities, plus, in the case of such Rights or Options, the minimum amounts of consideration, if any, payable to the Company upon the exercise in full of such Rights or Options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Company (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) upon the conversion or exchange thereof; provided that:

(i) if the minimum amount of consideration payable to the Company upon the exercise of Rights or Options or the conversion or exchange of Convertible Securities is reduced over time or upon the occurrence or non-occurrence of specified events, then the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; and

(ii) if the minimum amount of consideration payable to the Company upon the exercise of such Rights or Options or the conversion or exchange of Convertible Securities is subsequently increased, then the Effective Price shall again be recalculated using the increased minimum amount of consideration payable to the Company upon the exercise of such Rights or Options or the conversion or exchange of such Convertible Securities.
No further adjustment of a Conversion Price, adjusted upon the issuance of such Rights or Options or Convertible Securities, shall be made as a result of the actual issuance of shares of Common Stock or Nonvoting Common Stock, as applicable, on the exercise of any such Rights or Options or the conversion or exchange of any such Convertible Securities. If any such Rights or Options or the conversion rights represented by any such Convertible Securities shall expire without having been fully exercised, then the Conversion Price as adjusted upon the issuance of such Rights or Options or Convertible Securities shall be readjusted to the Conversion Price which would have been in effect had an adjustment been made on the basis that the only shares of Common Stock or Nonvoting Common Stock so issued were the shares of Common Stock or Nonvoting Common Stock, if any, that were actually issued or sold on the exercise of such Rights or Options or rights of conversion or exchange of such Convertible Securities, and such shares of Common Stock or Nonvoting Common Stock, if any, were issued or sold for the consideration actually received by the Company upon such exercise, plus the consideration, if any, actually received by the Company for the granting of all such Rights or Options, whether or not exercised, plus the consideration received for issuing or selling all such Convertible Securities actually converted or exchanged, plus the consideration, if any, actually received by the Company (other than by cancellation of liabilities or obligations evidenced by such Convertible Securities) on the conversion or exchange of such Convertible Securities, provided that such readjustment shall not apply to prior conversions of Preferred Stock.

5.9 Certificate of Adjustment. In each case of an adjustment or readjustment of a Conversion Price, the Company, at its expense, shall cause its Chief Financial Officer or other duly authorized officer to compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and shall mail such certificate, by first class mail, postage prepaid, to each registered holder of each applicable series of Preferred Stock at the holder’s address as shown in the Company’s books.

5.10 Fractional Shares. No fractional shares of Common Stock shall be issued upon any conversion of Preferred Stock. In lieu of any fractional share to which the holder would otherwise be entitled, the Company shall pay the holder cash equal to the product of such fraction multiplied by the Common Stock’s fair market value as determined in good faith by the Board as of the date of conversion. All shares of Preferred Stock to be converted by a holder of such Preferred Stock on any date shall be aggregated for purposes of determining whether any fractional shares are to be issued.

5.11 Reservation of Stock Issuable Upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of the shares of the Preferred Stock and Nonvoting Common Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Preferred Stock and Nonvoting Common Stock; and if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock and Nonvoting Common Stock, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.
5.12 Notices. Any notice required by the provisions of this Amended and Restated Certificate of Incorporation to be given to the holders of shares of the Preferred Stock shall be deemed given upon the earlier of (i) actual receipt (whether by physical delivery or facsimile transmission), (ii) one (1) business day after deposit with a nationally recognized express courier (delivery fees prepaid) for deliveries within the United States (with instructions to deliver such notice on an expedited basis), (iii) three (3) business days after deposit with an internationally recognized express courier service (delivery fees prepaid) for deliveries across international borders (with instructions to deliver such notice on an expedited basis); or (iv) for deliveries inside the United States only, three (3) calendar days after deposit in the United States mail, by certified or registered mail, return receipt requested, postage prepaid, addressed to each holder of record at the address of such holder appearing on the books of the Company.

5.13 Waiver of Adjustment to Conversion Price. Notwithstanding anything herein to the contrary, any downward adjustment of the Conversion Price of any series of the Preferred Stock may be waived, either prospectively or retroactively and either generally or in a particular instance, by the consent or vote of the holders of a majority of the outstanding shares of such series of Preferred Stock voting as separate series (with the Series E-1 Preferred Stock and Series F-1 Preferred Stock not subject to the Regulatory Voting Requirement for purposes of this specific consent or vote); provided, however, no such waiver shall be effective against the Series D Preferred Stock without the consent or vote of the holders of at least sixty percent (60%) of the outstanding Series D Preferred Stock. Any such waiver shall bind all future holders of shares of the applicable series of Preferred Stock.

6. CONVERSION RIGHTS OF THE NONVOTING COMMON STOCK. Any holder of shares of Nonvoting Common Stock may transfer shares of Nonvoting Common Stock to a Permitted BHCA Transferee (as defined below), and any shares of Nonvoting Common Stock transferred to a Permitted BHCA Transferee shall be convertible into an equal number of shares of Common Stock at the election of the Permitted BHCA Transferee. Shares of Nonvoting Common Stock held by a BHCA Holder are not convertible into Common Stock other than in connection with a Permitted BHCA Transfer. Each Permitted BHCA Transferee who elects to convert shares of Nonvoting Common Stock into shares of Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or any transfer agent for the Common Stock, and shall give written notice to the Company at such office that such holder elects to convert the same and shall state therein the number of shares of Nonvoting Common Stock being converted. Thereupon the Company shall promptly issue and deliver at such office to such holder a certificate or certificates for the number of shares of Common Stock to which such holder is entitled upon such conversion. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the certificate or certificates representing the shares of Nonvoting Common Stock to be converted, and the person entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Common Stock on such date. If the conversion is in connection with an IPO, the conversion may, at the option of any Permitted BHCA Transferee, be conditioned upon the closing with the underwriters of the sale of securities pursuant to such offering, in which event the persons entitled to receive the Common Stock upon conversion of the
Nonvoting Common Stock shall not be deemed to have converted such Nonvoting Common Stock until immediately prior to the closing of such sale of securities. A “Permitted BHCA Transferee” shall mean a person or entity who acquires shares of BHCA Stock from a BHCA Holder in any of the following transfers (each a “Permitted BHCA Transfer”) that has been identified as a “Permitted BHCA Transfer” hereunder in a writing delivered to the Company by the BHCA Holder making the transfer: (i) a widespread public distribution; (ii) private placement in which no one party acquires the right to purchase 2% or more of any class of voting securities (as such term is used for purposes of the BHCA), of the Company; (iii) an assignment to a single party (e.g., a broker or investment banker) for the purpose of conducting a widespread public distribution on behalf of a BHCA Holder; or (iv) to a party who would control more than 50% of the voting securities (as such term is used for purposes of the BHCA) of the Company without giving effect to the BHCA Stock transferred by a BHCA Holder.

7. PROTECTIVE PROVISIONS.

(a) Preferred Stock Protective Provisions. Subject to the Regulatory Voting Restriction, for so long as at least One Million Five Hundred Thousand (1,500,000) shares of Preferred Stock remain outstanding (as adjusted to the extent necessary to reflect any Preferred Stock Event), the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of the holders of a majority of the Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series E Conversion Rate and the Series F-1 Preferred Stock treated as being convertible (without actual conversion) into shares of Common Stock at the Series F Conversion Rate):

(i) alter, change or repeal any provision of this Amended and Restated Certificate of Incorporation or the Company’s Bylaws (including, without limitation, by way of merger, consolidation or otherwise);

(ii) alter, waive or change the rights, preferences or privileges of the Preferred Stock;

(iii) authorize (whether by reclassification or otherwise), or obligate itself to issue, shares of any class or series of stock (including any other security convertible into or exercisable for any such shares) having rights, preferences or privileges senior to or on a parity with any series of the Preferred Stock as to dividend rights, redemption, liquidation, voting or other rights;

(iv) redeem or repurchase (other than Permitted Repurchases or pursuant to Article VI) any shares of Common Stock, Nonvoting Common Stock or Preferred Stock;

(v) declare or pay any dividends on, or declare or make any other distribution (other than Permitted Repurchases or pursuant to Article VI) directly or indirectly, on account of any shares of Common Stock, Nonvoting Common Stock or Preferred Stock;
(vi) consummate any Sale of the Company;

(vii) change the number of directors authorized to serve on the Board;

(viii) increase or decrease (other than by redemption or conversion) the total number of authorized shares of Common Stock, Nonvoting Common Stock or Preferred Stock (or any series thereof) of the Company or any authorized shares or interests of its subsidiaries, but in each case, not below the number of shares thereof then outstanding; or

(ix) increase the number of shares authorized under any Company equity incentive plan or create any new equity incentive plan.

(b) Series D Preferred Stock Protective Provisions. For so long as at least One Million Five Hundred Thousand (1,500,000) shares of Series D Preferred Stock remain outstanding (as adjusted to the extent necessary to reflect any Preferred Stock Event), the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the Series D Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis:

(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation or the Company’s Bylaws (including, without limitation, by way of merger, consolidation or otherwise) so as to adversely alter or change the powers, preferences or special rights of the shares of the Series D Preferred Stock in a manner that shall not so affect the entire class;

(ii) increase the total number of authorized shares of Series D Preferred Stock; or

(iii) redeem or repurchase any shares of Series D Preferred Stock in which the Company does not offer to repurchase from each holder of Series D Preferred Stock such holders’ pro-rata portion (calculated on an as converted to Common Stock basis) of the aggregate shares of stock being redeemed or repurchased by the Company.

(c) Series E Preferred Stock Protective Provisions. For so long as at least One Million Five Hundred Thousand (1,500,000) shares of Series E Preferred Stock remain outstanding (as adjusted to the extent necessary to reflect any Preferred Stock Event), the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of holders of at least sixty percent (60%) of the Series E Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis:
(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation or the Company’s Bylaws (including, without limitation, by way of merger, consolidation or otherwise) so as to adversely alter or change the powers, preferences or special rights of the shares of the Series E Preferred Stock in a manner that shall not so affect the entire class;

(ii) reduce the Original Issue Price of the Series E Preferred Stock, or adversely amend or waive the express rights of the Series E Preferred Stock set forth in Section 3.1 or Section 5.2(a)(i);

(iii) increase or decrease the total number of authorized shares of Series E Preferred Stock; or

(iv) redeem or repurchase any shares of Series E Preferred Stock in which the Company does not offer to repurchase from each holder of Series E Preferred Stock such holders’ pro-rata portion (calculated on an as converted to Common Stock basis) of the aggregate shares of stock being redeemed or repurchased by the Company.

(d) Series E-1 Preferred Stock Protective Provisions. For so long as any shares of Series E-1 Preferred Stock remain outstanding, the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of holders of at least sixty percent (60%) of the Series E-1 Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis (with the Series E-1 Preferred Stock treated as being convertible (without actual conversion) at the Series E Conversion Rate and with the Series E-1 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of such vote or written consent):

(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation so as to adversely alter or change the powers, preferences or special rights of the Series E-1 Preferred Stock set forth in this Amended and Restated Certificate of Incorporation in a manner that shall not so affect the entire class;

(ii) reclassify, convert (except as expressly provided for in this Amended and Restated Certificate of Incorporation) or exchange the Series E-1 Preferred Stock for any other security other than at the closing of a Sale of the Company in which the proceeds of such Sale of the Company are distributed to stockholders in accordance with the terms and conditions of Section 3;

(iii) increase or decrease the total number of authorized shares of Series E-1 Preferred Stock; or
(iv) amend, modify or waive any of the terms set forth in Article VI below or Sections 4.3(b), 5.1(c), 5.2(b), the proviso at the end of the first sentence of Section 5.2(a), this Section 7(d) or any other express reference in this Amended and Restated Certificate of Incorporation to any shares of Series E-1 Preferred Stock.

In no event shall the Series E-1 Preferred Stock be entitled to vote, or act by written consent, on any matter as a single “class” of “voting securities” as such terms are interpreted under the BHCA. For the avoidance of doubt, the foregoing provisions in this Section 7(d) shall continue to apply with respect to the Series E-1 Preferred Stock after a Deemed Optional Conversion or Deemed Automatic Conversion.

(e) Series F Preferred Stock Protective Provisions. For so long as at least One Million Five Hundred Thousand (1,500,000) shares of Series F Preferred Stock remain outstanding (as adjusted to the extent necessary to reflect any Preferred Stock Event), the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of holders of at least sixty percent (60%) of the Series F Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis:

(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation or the Company’s Bylaws (including, without limitation, by way of merger, consolidation or otherwise) so as to adversely alter or change the powers, preferences or special rights of the shares of the Series F Preferred Stock in a manner that shall not so affect the entire class;

(ii) reduce the Original Issue Price of the Series F Preferred Stock; directly or indirectly reduce or eliminate the liquidation preference of the Series F Preferred Stock as expressly set forth in Section 3.1; adversely amend, alter or waive the express rights of the Series F Preferred Stock set forth in Section 5.2(a)(i); or amend this Section 7(e);

(iii) increase or decrease the total number of authorized shares of Series F Preferred Stock; or

(iv) redeem or repurchase any shares of Series F Preferred Stock in which the Company does not offer to repurchase from each holder of Series F Preferred Stock such holder’s pro rata portion (calculated on an as-converted to Common Stock basis) of the aggregate shares of stock being redeemed or repurchased by the Company.

(f) Series F-1 Preferred Stock Protective Provisions. For so long as any shares of Series F-1 Preferred Stock remain outstanding, the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of holders of at least sixty percent (60%) of the Series F-1 Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis (with the Series F-1 Preferred Stock treated as being convertible (without actual conversion) at the Series F Conversion Rate and with the Series F-1 Preferred Stock not subject to the Regulatory Voting Restriction for purposes of such vote or written consent):
(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation so as to adversely alter or change the powers, preferences or special rights of the Series F-1 Preferred Stock set forth in this Amended and Restated Certificate of Incorporation in a manner that shall not so affect the entire class;

(ii) reclassify, convert (except as expressly provided for in this Amended and Restated Certificate of Incorporation) or exchange the Series F-1 Preferred for any other security other than at the closing of a Sale of the Company in which the proceeds of such Sale of the Company are distributed to stockholders in accordance with the terms and conditions of Section 3;

(iii) increase or decrease the total number of authorized shares of Series F-1 Preferred Stock; or

(iv) amend, modify or waive any of the terms set forth in Article VI below or Sections 4.3(b), 5.1(c), 5.2(b), the proviso at the end of the first sentence of Section 5.2(a), this Section 7(f) or any other express reference in this Amended and Restated Certificate of Incorporation to any shares of Series F-1 Preferred Stock.

In no event shall the Series F-1 Preferred Stock be entitled to vote, or act by written consent, on any matter as a single “class” of “voting securities” as such terms are interpreted under the BHCA. For the avoidance of doubt, the foregoing provisions in this Section 7(f) shall continue to apply with respect to the Series F-1 Preferred Stock after a Deemed Optional Conversion or Deemed Automatic Conversion.

(g) Series G Preferred Stock Protective Provisions. For so long as at least One Million Five Hundred Thousand (1,500,000) shares of Series G Preferred Stock remain outstanding (as adjusted to the extent necessary to reflect any Preferred Stock Event), the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the Series G Preferred Stock then outstanding, voting together as a single class on an as converted to Common Stock basis:

(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation or the Company’s Bylaws (including, without limitation, by way of merger, consolidation or otherwise) so as to adversely alter or change the powers, preferences or special rights of the shares of the Series G Preferred Stock in a manner that shall not so affect the entire class;

(ii) reduce the Original Issue Price of the Series G Preferred Stock; directly or indirectly reduce or eliminate the liquidation preference of the Series G Preferred Stock as expressly set forth in Section 3.1; adversely amend, alter or waive the express rights of the Series G Preferred Stock set forth in Section 5.2(a)(i); or amend this Section 7(g);
(iii) increase or decrease the total number of authorized shares of Series G Preferred Stock; or

(iv) redeem or repurchase any shares of Series G Preferred Stock in which the Company does not offer to repurchase from each holder of Series G Preferred Stock such holder’s pro-rata portion (calculated on an as converted to Common Stock basis) of the aggregate shares of stock being redeemed or repurchased by the Company.

(h) Series H Preferred Stock Protective Provisions. For so long as at least One Million Five Hundred Thousand (1,500,000) shares of Series H Preferred Stock remain outstanding (as adjusted to the extent necessary to reflect any Preferred Stock Event), the Company shall not (by amendment of this Amended and Restated Certificate of Incorporation, merger, consolidation, reorganization or otherwise), without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the Series H Preferred Stock then outstanding, voting together on an as converted to Common Stock basis:

(i) amend or waive any provision of this Amended and Restated Certificate of Incorporation or the Company’s Bylaws (including, without limitation, by way of merger, consolidation or otherwise) so as to adversely alter or change the powers, preferences or special rights of the shares of the Series H Preferred Stock in a manner that shall not so affect the entire class of Preferred Stock;

(ii) reduce the Original Issue Price of the Series H Preferred Stock; directly or indirectly reduce or eliminate the liquidation preference of the Series H Preferred Stock as expressly set forth in Section 3.1; adversely amend, alter or waive the express rights of the Series H Preferred Stock set forth in Section 5.2(a)(i); or amend this Section 7(h);

(iii) increase or decrease the total number of authorized shares of Series H Preferred Stock; or

(iv) redeem or repurchase any shares of Series H Preferred Stock in which the Company does not offer to repurchase from each holder of Series H Preferred Stock such holder’s pro-rata portion (calculated on an as converted to Common Stock basis) of the aggregate shares of stock being redeemed or repurchased by the Company.

8. REDEMPTION. Except as otherwise provided in Article VI, the Preferred Stock is not redeemable at the option of the holder thereof.

9. MISCELLANEOUS.

9.1 No Reissuance of Preferred Stock. No share or shares of Preferred Stock acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be canceled, retired and eliminated from the shares which the Company shall be authorized to issue.
9.2 Consent to Certain Transactions. Each holder of shares of Preferred Stock shall, by virtue of its acceptance of a stock certificate evidencing Preferred Stock, be deemed to have consented, for purposes of Sections 502 and 503 of the California Corporations Code, to all Permitted Repurchases.

ARTICLE VI

1. DEFINITIONS. As used herein, the following terms will have the meanings set forth below:

1.1 “Regulated Holder” means a bank holding company subject to the provisions of the Bank Holding Company Act of 1956, as amended, and as implemented by the Board of Governors of the Federal Reserve System, whether pursuant to regulation or interpretation (the “BHCA”), together with its affiliates (as defined in Regulation Y (12 C.F.R. Part 225)) that holds any shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock issued by the Company pursuant to that certain Series E-1 Preferred Stock Purchase Agreement, dated November 8, 2013, by and between the Company and the “Investors” thereunder, that certain Series F-1 Preferred Stock Purchase Agreement, dated February 12, 2015, by and between the Company and the “Investors” thereunder, respectively, or any shares of capital stock of the Company issued as a dividend or distribution upon, or upon any conversion of, such shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock (collectively, “Article VI Stock”).

1.2 A “Transferee” means a party to whom a Regulated Holder transfers shares of Article VI Stock and the transferees of such party (in each case, other than Permitted Regulatory Transferees).

1.3 A “Permitted Regulatory Transferee” shall mean a person or entity who acquires shares of Article VI Stock from a Regulated Holder or its Transferees in any of the following transfers (each a “Permitted Regulatory Transfer”) that has been identified as a “Permitted Regulatory Transfer” hereunder in a writing delivered to the Company by the Regulated Holder or Transferees making the transfer:

(a) a widespread public distribution;

(b) private placement in which no one party acquires the right to purchase 2% or more of any class of voting securities (as such term is used for purposes of the BHCA), of the Company;

(c) an assignment to a single party (e.g., a broker or investment banker) for the purpose of conducting a widespread public distribution on behalf of a Regulated Holder and its Transferees; or
(d) to a party who would control more than 50% of the voting securities (as such term is used for purposes of the BHCA) of the Company without giving effect to the shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock transferred by a Regulated Holder and its Transferees.

2. The Company shall be bound by the following restrictions (each, a “BHCA Regulatory Restriction”):

2.1 The Company shall not directly or indirectly, repurchase, redeem, retire or otherwise acquire any of the Company’s capital securities, or take any other action, if, as a result, a Regulated Holder and its Transferees would own or control, or be deemed to own or control, collectively, greater than (i) 4.99% of the voting power of any class of voting securities of the Company or (ii) 9.99% of the total equity of the Company (in each case, as such terms used in the preceding sentence are defined and used, and as such percentages are calculated, under the BHCA).

2.2 In the event of any distribution by the Company to its stockholders, Sale of the Company, or other transaction for which provision is made in Sections 5.4, 5.5, 5.6 or 5.7 of Article V in which any voting securities or other equity securities of the Company (as defined and used under the BHCA) are payable to a Regulated Holder or its Transferees where, as result of such transaction, a Regulated Holder and its Transferees would own or control, or be deemed to own or control, collectively, greater than (i) 4.99% of the voting power of any class of voting securities of the Company or (ii) 9.99% of the total equity of the Company (in each case, as such terms are defined and used, and as such percentages are calculated, under the BHCA), then each such Regulated Holder and its Transferees shall be entitled to receive, at its election, in lieu of its pro rata share (based on its percentage of the aggregate voting securities or equity securities, as applicable, held by such Regulated Holder and its Transferees) of such voting securities or other equity securities, as applicable, that would cause the foregoing percentage thresholds to be exceeded (as to each, its “Excess Shares”), a cash payment equal to the fair market value of such Excess Shares as reasonably determined by the Board in good faith. In the event of any distribution by the Company to its stockholders, Sale of the Company, or other transaction for which provision is made in Sections 5.4, 5.5, 5.6 or 5.7 of Article V in which any form of property other than in cash, voting securities, or other equity securities of the Company is payable to a Regulated Holder or its Transferees and counsel for such Regulated Holder or its Transferees advises it in writing that such holder is prohibited from holding such property under the BHCA, then such Regulated Holder or its Transferees, as applicable, shall be entitled to receive, at its election, in lieu of such property, a cash payment equal to the fair market value of the property that such holder would have been entitled to receive upon such distribution or other transaction as reasonably determined by the Board in good faith.

3. In the event of a breach of any BHCA Regulatory Restriction or Section 4 of this Article VI or if a Regulated Holder is unable to transfer pursuant to Section 4 of this Article VI all or any part of the shares of the Company’s stock then-held by it because such transfer is not permitted pursuant to applicable securities laws, a Regulated Holder may, subject to applicable law regarding dividends, distributions or redemptions, exercise any remedies available to it against the Company, including requiring the Company to repurchase the relevant portion of the shares held by such Regulated Holder necessary to give effect to Sections 2 or 4, as applicable, at a per share price equal to the then current fair market value of: (a) with respect to the shares of Series
E-1 Preferred Stock, (i) if shares of Series E Preferred Stock are then outstanding, a share of Series E Preferred Stock (and not the fair market value of a share of Series E-1 Preferred Stock), as reasonably determined by the Board in good faith, or (ii) if no shares of Series E Preferred Stock are then outstanding, a share of Series E-1 Preferred Stock as reasonably determined by the Board in good faith with such determination being made assuming that the rights, preferences and privileges applicable to the Series E Preferred Stock (and not the Series E-1 Preferred Stock) that are set forth herein, as in effect as of the Filing Date, are the rights, preferences and privileges of the Series E-1 Preferred Stock and (b) with respect to the shares of Series F-1 Preferred Stock, (i) if shares of Series F Preferred Stock are then outstanding, a share of Series F Preferred Stock (and not the fair market value of a share of Series F-1 Preferred Stock), as reasonably determined by the Board in good faith, or (ii) if no shares of Series F Preferred Stock are then outstanding, a share of Series F-1 Preferred Stock as reasonably determined by the Board in good faith with such determination being made assuming that the rights, preferences and privileges applicable to the Series F Preferred Stock (and not the Series F-1 Preferred Stock) that are set forth herein, as in effect as of the Filing Date, are the rights, preferences and privileges of the Series F-1 Preferred Stock. The Company shall, subject to applicable law regarding dividends, distributions or redemptions, effect such repurchase within thirty (30) days following written notice to the Company by such Regulated Holder requiring such repurchase.

4. If (w) a Regulated Holder is deemed to be in control of the Company (as “control” is used for purposes of the BHCA), (x) a Regulated Holder believes in good faith, based upon the advice of its legal counsel that it is reasonably likely that it is, or would be deemed to be in control of the Company (as “control” is used for purposes of the BHCA) or that it is not permitted to hold all or part of its shares of the Company's stock or, if applicable, its other securities of the Company under the relevant banking laws, regulations and agency interpretations and guidance, (y) all of the shares of Series E Preferred Stock and/or Series F Preferred Stock, as applicable, have been converted into Common Stock pursuant to this Amended and Restated Certificate of Incorporation and the Investors (as defined in that certain Tenth Amended and Restated Investors’ Rights Agreement, dated on or around the Filing Date (the “Rights Agreement”)), other than such Regulated Holder, collectively hold less than 75% of the Registrable Securities (as defined in the Rights Agreement) that such Investors held on the effective date of the Rights Agreement (as adjusted for any stock splits or combinations, stock dividends, reclassifications, exchanges, recapitalizations or the like), or (z) the Regulated Holder learns of any activities directly or indirectly by or on behalf of the Company, its affiliates or any of their respective officers, directors or employees, or anyone for whose acts or defaults any of the foregoing may be liable, that would reasonably be expected to constitute or give rise to a violation of applicable anti-bribery or anti-corruption laws by the Company, then (i) the Company will cooperate in good faith to provide the Regulated Holder with information relevant to its determination under clause (w), (x), (y) or (z), (ii) subject to the transferee agreeing in writing reasonably satisfactory to the Company to be bound with respect to such shares by all agreements between the Company and the Registered Holder, the Regulated Holder shall be permitted to sell or otherwise transfer its shares of Series E-1 Preferred Stock and/or Series F-1 Preferred Stock or any other securities of the Company then-held by the Regulated Holder (subject to applicable securities laws) and (iii) the Company will use its commercially reasonable efforts to facilitate such sale or transfer in good faith (which shall include, without limitation, making management available to prospective buyers and providing customary due diligence material, subject to a customary confidentiality agreement).
5. To the extent further required, the Company will (i) cooperate in good faith with a Regulated Holder in order to avoid a Regulated Holder being deemed to control the Company or any successor or acquiring corporation or entity (as “control” is used for purposes of the BHCA) as a result of any arrangements with any Regulated Holder (ii) to avoid any circumstances under which the Regulated Holder would not be permitted to hold all or a portion of its shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, any shares of capital stock of the Company issuable upon conversion thereof, or any security of (w) the Company, (x) any successor thereto, (y) any acquiring corporation or (z) any entity the securities of which have been issued in respect of or exchange for any such shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock or such capital stock, then-held by Regulated Holder, under the relevant banking laws, regulations and agency interpretations and guidance and (iii) take commercially reasonable efforts to provide that any security of the Company or of any successor or acquiring corporation or entity issued to a Regulated Holder in any transaction to which the Company is a party contains terms and characteristics that provide comparable assurance of compliance with any regulatory requirements applicable to the Regulated Holder as are provided by the Series E-1 Preferred Stock or Series F-1 Preferred Stock.

6. In the event of any conflict with any provision of this Amended and Restated Certificate of Incorporation, the terms of this Article VI shall prevail.

7. Notwithstanding anything to the contrary with in this Amended and Restated Certificate of Incorporation, any of the provisions of this Article VI (other than Section 1), and Sections 7(d) and 7(f) of Article V may be waived, either prospectively or retroactively, with the written consent of the Regulated Holders and Transferees then holding a majority of the shares of capital stock of the Company then held by all Regulated Holders and Transferees (calculated on an as-converted to Common Stock basis (with the Series E-1 Preferred Stock and Series F-1 Preferred Stock treated as being convertible (without actual conversion))).

8. Notwithstanding anything to the contrary in this Amended and Restated Certificate of Incorporation, this Article VI shall automatically terminate and be of no further force or effect at such time that no shares of the Company’s capital stock are held by any Regulated Holder or Transferee.

ARTICLE VII

The Board shall have the power to adopt, amend or repeal the Company’s Bylaws.

ARTICLE VIII

Election of directors need not be by written ballot unless the Company’s Bylaws shall so provide.

ARTICLE IX

To the fullest extent permitted by law, no director of the Company shall be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the
preceding sentence, if the Delaware General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the Company shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Neither any amendment nor repeal of this Article IX, nor the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article IX, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the Company existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

To the fullest extent permitted by applicable law, the Company is authorized to provide indemnification of (and advancement of expenses to) agents of the Company (and any other persons to which Delaware General Corporation Law permits the Company to provide indemnification) through the Company’s Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the Delaware General Corporation Law, subject only to limits created by applicable Delaware General Corporation Law (statutory or non-statutory), with respect to actions for breach of duty to the Company, its stockholders, and others.

Any amendment, repeal or modification of the foregoing provisions of this Article IX shall not adversely affect any right or protection of a director, officer, agent, or other person existing at the time of, or increase the liability of any director of the Company with respect to any acts or omissions of such director, officer or agent occurring prior to, such amendment, repeal or modification.
STATE OF DELAWARE
CERTIFICATE OF AMENDMENT
OF AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF BDC PAYMENTS HOLDINGS, INC.

The corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware does hereby certify:

FIRST: That at a meeting of the Board of Directors of BDC Payments Holdings, Inc. held June 27, 2019, resolutions were duly adopted setting forth a proposed amendment of the Amended and Restated Certificate of Incorporation of said corporation, declaring said amendment to be advisable. The resolution setting forth the proposed amendment is as follows:

RESOLVED, that Article 1 of the Amended and Restated Certificate of Incorporation be amended and replaced in its entirety to read as follows:

Article 1

The name of the corporation is Bill.com Holdings, Inc.

SECOND: That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this certificate to be signed this 27th day of June, 2019.

By: /s/ John Rettig

John Rettig, Chief Financial Officer
Bill.com Holdings, Inc., a Delaware corporation, hereby certifies that:

1. The name of the corporation is Bill.com Holdings, Inc. The date of filing its original Certificate of Incorporation with the Secretary of State was August 2, 2018 under the name BDC Payments Holdings, Inc.

2. This Restated Certificate of Incorporation of the corporation attached hereto as Exhibit “A”, which is incorporated herein by this reference, and which restates, integrates and further amends the provisions of the Restated Certificate of Incorporation of this corporation as previously amended or supplemented, has been duly adopted by this corporation’s Board of Directors and the requisite stockholders in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, with the approval of the corporation’s stockholders having been given by written consent without a meeting in accordance with Section 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said corporation has caused this Restated Certificate of Incorporation to be signed by its duly authorized officer and the foregoing facts stated herein are true and correct.

Dated: [●], 2019

BILL.COM HOLDINGS, INC.

By:

René Lacerte
Chief Executive Officer
EXHIBIT “A”
BILL.COM HOLDINGS, INC.

RESTATED CERTIFICATE OF INCORPORATION

ARTICLE I: NAME

The name of the corporation is Bill.com Holdings, Inc. (the “Corporation”).

ARTICLE II: AGENT FOR SERVICE OF PROCESS

The address of the Corporation’s registered office in the State of Delaware is 3500 South Dupont Highway, City of Dover, County of Kent, DE 19901. The name of its registered agent at such address is Incorporating Services, Ltd.

ARTICLE III: PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the “General Corporation Law”).

ARTICLE IV: AUTHORIZED STOCK

1. **Total Authorized.** The total number of shares of all classes of stock that the Corporation has authority to issue is 510,000,000 shares, consisting of two classes: 500,000,000 shares of Common Stock, $0.00001 par value per share (“Common Stock”), and 10,000,000 shares of Preferred Stock, $0.00001 par value per share (“Preferred Stock”).

2. **Designation of Additional Series.**

   2.1. The Board of Directors of the Corporation (the “Board”) is authorized, subject to any limitations prescribed by the law of the State of Delaware, to provide for the issuance of the shares of Preferred Stock in one or more series, and, by filing a Certificate of Designation pursuant to the applicable law of the State of Delaware (“Certificate of Designation”), to establish from time to time the number of shares to be included in each such series, to fix the designation, powers (including voting powers), preferences and relative, participating, optional or other special rights, if any, of the shares of each such series and any qualifications, limitations or restrictions thereof, and, except where otherwise provided in the applicable Certificate of Designation, to thereafter increase (but not above the total number of authorized shares of the Preferred Stock) or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series. The number of authorized shares of Preferred Stock may also be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of two-thirds of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote thereon, without a separate vote of the holders of the
Preferred Stock, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law, unless a separate vote of the holders of one or more series is required pursuant to the terms of any Certificate of Designation; provided, however, that if two-thirds of the Whole Board (as defined below) has approved such increase or decrease of the number of authorized shares of Preferred Stock, then only the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, without a separate vote of the holders of the Preferred Stock (unless a separate vote of the holders of one or more series is required pursuant to the terms of any Certificate of Designation), shall be required to effect such increase or decrease. For purposes of this Restated Certificate of Incorporation (as the same may be amended and/or restated from time to time, including pursuant the terms of any Certificate of Designation designating a series of Preferred Stock, this “Certificate of Incorporation”), the term “Whole Board” shall mean the total number of authorized directors whether or not there exist any vacancies in previously authorized directorships.

2.2 Except as otherwise expressly provided in any Certificate of Designation designating any series of Preferred Stock pursuant to the foregoing provisions of this Article IV, any new series of Preferred Stock may be designated, fixed and determined as provided herein by the Board without approval of the holders of Common Stock or the holders of Preferred Stock, or any series thereof, and any such new series may have powers, preferences and rights, including, without limitation, voting powers, dividend rights, liquidation rights, redemption rights and conversion rights, senior to, junior to or pari passu with the rights of the Common Stock, any series of Preferred Stock or any future class or series of capital stock of the Corporation.

2.3 Each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Certificate of Incorporation that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation.

ARTICLE V: AMENDMENT OF BYLAWS

The Board shall have the power to adopt, amend or repeal the Bylaws of the Corporation (as the same may be amended and/or restated from time to time, the “Bylaws”). Any adoption, amendment or repeal of the Bylaws by the Board shall require the approval of a majority of the Whole Board. The stockholders shall also have power to adopt, amend or repeal the Bylaws; provided, however, that notwithstanding any other provision of this Certificate of Incorporation or any provision of law that might otherwise permit a lesser or no vote, but in addition to any vote of the holders of any class or series of stock of the Corporation required by applicable law or by this Certificate of Incorporation, the affirmative vote of the holders of at least two-thirds of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, amend or repeal any provision of the Bylaws; provided further, that, in the case of any proposed adoption, amendment or repeal of any provisions of the Bylaws that is approved by the Board and submitted to the stockholders for adoption thereby, if two-thirds of the Whole Board has approved such adoption, amendment or repeal of any provisions of the Bylaws,
then only the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws.

ARTICLE VI: MATTERS RELATING TO THE BOARD OF DIRECTORS

1. **Director Powers.** Except as otherwise provided by the General Corporation Law or this Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board.

2. **Number of Directors.** Subject to the special rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the total number of directors constituting the Whole Board shall be fixed from time to time exclusively by resolution adopted by a majority of the Whole Board.

3. **Classified Board.** Subject to the special rights of the holders of one or more series of Preferred Stock to elect additional directors under specified circumstances, the directors shall be divided, with respect to the time for which they severally hold office, into three classes designated as Class I, Class II and Class III, respectively (the “Classified Board”). The Board may assign members of the Board already in office to the Classified Board. The number of directors in each class shall be as nearly equal as is practicable. The initial term of office of the Class I directors shall expire at the Corporation’s first annual meeting of stockholders following the closing of the Corporation’s initial public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, relating to the offer and sale of Common Stock to the public (the “Initial Public Offering”), the initial term of office of the Class II directors shall expire at the Corporation’s second annual meeting of stockholders following the closing of the Initial Public Offering and the initial term of office of the Class III directors shall expire at the Corporation’s third annual meeting of stockholders following the closing of the Initial Public Offering. At each annual meeting of stockholders following the closing of the Initial Public Offering, directors elected to succeed those directors of the class whose terms then expire shall be elected for a term of office expiring at the third succeeding annual meeting of stockholders after their election.

4. **Term and Removal.** Each director shall hold office until the annual meeting at which such director’s term expires and until such director’s successor is duly elected and qualified, or until such director’s earlier death, resignation, disqualification or removal. Any director may resign by delivering a resignation in writing or by electronic transmission to the Corporation at its principal office or to the Chairperson of the Board, the Chief Executive Officer, or the Secretary. Subject to the special rights of the holders of any series of Preferred Stock, no director may be removed from the Board except for cause and only by the affirmative vote of the holders of at least two-thirds of the voting power of the then-outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class. In the event of any increase or decrease in the authorized number of directors, (a) each director then serving as such shall nevertheless continue as a director of the class of which he or she is a member and (b) the newly created or eliminated directorships resulting from such increase or decrease shall be apportioned by the Board among the classes of directors so as to make all classes as nearly equal in number as is practicable, provided that no decrease in the number of directors constituting the Board shall shorten the term of any director.
5. **Board Vacancies and Newly Created Directorships.** Subject to the special rights of the holders of any series of Preferred Stock, any vacancy occurring in the Board for any cause, and any newly created directorship resulting from any increase in the authorized number of directors, shall be filled only by the affirmative vote of a majority of the directors then in office, even if less than a quorum, or by a sole remaining director, and shall not be filled by the stockholders. Any director elected in accordance with the preceding sentence shall hold office for a term expiring at the annual meeting of stockholders at which the term of office of the class to which the director has been assigned expires and until such director’s successor shall have been duly elected and qualified, or until such director’s earlier death, resignation, disqualification or removal.

6. **Vote by Ballot.** Election of directors need not be by written ballot unless the Bylaws shall so provide.

7. **Preferred Directors.** If and for so long as the holders of any series of Preferred Stock have the special right to elect additional directors, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of directors of the Corporation shall automatically be increased by such specified number of directors, and the holders of such Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions, and (ii) each such additional director shall serve until such director’s successor shall have been duly elected and qualified, or until such director’s right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, retirement, disqualification or removal. Except as otherwise provided by the Board in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate and the total authorized number of directors of the Corporation shall be reduced accordingly.

### ARTICLE VII: DIRECTOR LIABILITY

1. **Limitation of Liability.** To the fullest extent permitted by law, no director of the Corporation shall be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended.

2. **Change in Rights.** Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article VII, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.
ARTICLE VIII: MATTERS RELATING TO STOCKHOLDERS

1. **No Action by Written Consent of Stockholders.** Subject to the rights of any series of Preferred Stock then outstanding, no action shall be taken by the stockholders of the Corporation except at a duly called annual or special meeting of stockholders and no action shall be taken by the stockholders of the Corporation by written consent in lieu of a meeting.

2. **Special Meeting of Stockholders.** Special meetings of the stockholders of the Corporation may be called only by the Chairperson of the Board, the Chief Executive Officer, the Lead Independent Director (as defined in the Bylaws), the President, or the Board acting pursuant to a resolution adopted by a majority of the Whole Board and may not be called by the stockholders or any other person or persons.

3. **Advance Notice of Stockholder Nominations and Business Transacted at Special Meetings.** Advance notice of stockholder nominations for the election of directors of the Corporation and of business to be brought by stockholders before any meeting of stockholders of the Corporation shall be given in the manner provided in the Bylaws. Business transacted at special meetings of stockholders shall be limited to the purpose or purposes stated in the notice of meeting.

ARTICLE IX: CHOICE OF FORUM

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware, to the fullest extent permitted by law, shall be the sole and exclusive forum for: (a) any derivative action or proceeding brought on behalf of the Corporation; (b) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any director, officer, stockholder, employee or agent of the Corporation to the Corporation or the Corporation’s stockholders; (c) any action asserting a claim against the Corporation arising pursuant to any provision of the General Corporation Law, this Certificate of Incorporation or the Bylaws or as to which the General Corporation Law confers jurisdiction on the Court of Chancery of the State of Delaware; (d) any action to interpret, apply, enforce or determine the validity of this Certificate of Incorporation or the Bylaws; or (e) any action asserting a claim against the Corporation governed by the internal affairs doctrine.

Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Article IX.

ARTICLE X: AMENDMENT OF CERTIFICATE OF INCORPORATION

If any provision of this Certificate of Incorporation shall be held to be invalid, illegal, or unenforceable, then such provision shall nonetheless be enforced to the maximum extent possible consistent with such holding and the remaining provisions of this Certificate of Incorporation (including without limitation, all portions of any section of this Certificate of Incorporation containing any such provision held to be invalid, illegal, or unenforceable, which is not invalid, illegal, or unenforceable) shall remain in full force and effect.
The Corporation reserves the right to amend or repeal any provision contained in this Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation; provided, however, that, notwithstanding any provision of this Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote or no vote (but subject to Section 2 of Article IV hereof), but in addition to any vote of the holders of any class or series of the stock of the Corporation required by law or by this Certificate of Incorporation, the affirmative vote of the holders of at least two-thirds of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend or repeal any provision of this Certificate of Incorporation; provided, further, that if two-thirds of the Whole Board has approved such amendment or repeal of any provisions of this Certificate of Incorporation, then only the affirmative vote of the holders of at least a majority of the voting power of all of the then-outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class (in addition to any other vote of the holders of any class or series of stock of the Corporation required by law of by this Certificate of Incorporation), shall be required to amend or repeal such provisions of this Certificate of Incorporation.

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7
BYLAWS

OF

BILL.COM HOLDINGS, INC.

A Delaware Corporation

As Adopted August 2, 2018 and amended as of June 27, 2019
TABLE OF CONTENTS

Article I - STOCKHOLDERS

Section 1.1: Annual Meetings
Section 1.2: Special Meetings
Section 1.3: Notice of Meetings
Section 1.4: Adjournments
Section 1.5: Quorum
Section 1.6: Organization
Section 1.7: Voting; Proxies
Section 1.8: Fixing Date for Determination of Stockholders of Record
Section 1.9: List of Stockholders Entitled to Vote
Section 1.10: Action by Written Consent of Stockholders
Section 1.11: Inspectors of Elections

Article II - BOARD OF DIRECTORS

Section 2.1: Number; Qualifications
Section 2.2: Election; Resignation; Removal; Vacancies
Section 2.3: Regular Meetings
Section 2.4: Special Meetings
Section 2.5: Remote Meetings Permitted
Section 2.6: Quorum; Vote Required for Action
Section 2.7: Organization
Section 2.8: Written Action by Directors
Section 2.9: Powers
Section 2.10: Compensation of Directors

Article III - COMMITTEES

Section 3.1: Committees
Section 3.2: Committee Rules

Article IV - OFFICERS

Section 4.1: Generally
Section 4.2: Chief Executive Officer
Section 4.3: Chairperson of the Board
ARTICLE I: STOCKHOLDERS

Section 1.1: Annual Meetings. Unless directors are elected by written consent in lieu of an annual meeting, as permitted by Section 211 of the Delaware General Corporation Law, an annual meeting of stockholders shall be held for the election of directors at such date and time as the Board of Directors shall each year fix. The meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board of Directors in its sole discretion may determine. Any other proper business may be transacted at the annual meeting.

Section 1.2: Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, the Chairperson of the Board of Directors, the Chief Executive Officer, the President, the holders of shares of the Corporation that are entitled to cast not less than ten percent (10%) of the total number of votes entitled to be cast by all stockholders at such meeting, or by a majority of the members of the Board of Directors. Special meetings may not be called by any other person or persons. The special meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board of Directors in its sole discretion may determine.

Section 1.3: Notice of Meetings. Notice of all meetings of stockholders shall be given in writing or by electronic transmission in the manner provided by law (including, without limitation, as set forth in Section 7.1.1 of these Bylaws) stating the date, time and place, if any, of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise required by applicable law or the Certificate of Incorporation of the Corporation, such notice shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder of record entitled to vote at such meeting.

Section 1.4: Adjournments. The chair of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seems to him or her to be in order. The chair shall have the power to adjourn the meeting to another time, date and place (if any). Any meeting of stockholders may adjourn from time to time, and notice need not be given of any such adjourned meeting if the time, date and place (if any) thereof are announced at the meeting at which the adjournment is taken; provided, however, that if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, then a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. At the adjourned meeting the Corporation may transact any business that might have been transacted at the original meeting.
Section 1.5: Quorum. At each meeting of stockholders the holders of a majority of the shares of stock entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business, except if otherwise required by applicable law. If a quorum shall fail to attend any meeting, the chairperson of the meeting or the holders of a majority of the shares entitled to vote who are present, in person or by proxy, at the meeting may adjourn the meeting. Shares of the Corporation’s stock belonging to the Corporation (or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation are held, directly or indirectly, by the Corporation), shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any other corporation to vote any shares of the Corporation’s stock held by it in a fiduciary capacity and to count such shares for purposes of determining a quorum.

Section 1.6: Organization. Meetings of stockholders shall be presided over by such person as the Board of Directors may designate, or, in the absence of such a person, the Chairperson of the Board of Directors, or, in the absence of such person, the President of the Corporation, or, in the absence of such person, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, at the meeting. Such person shall be chairperson of the meeting and, subject to Section 1.11 hereof, shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seems to him or her to be in order. The Secretary of the Corporation shall act as secretary of the meeting, but in such person’s absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 1.7: Voting; Proxies. Unless otherwise provided by law or the Certificate of Incorporation, and subject to the provisions of Section 1.8 of these Bylaws, each stockholder shall be entitled to one (1) vote for each share of stock held by such stockholder. Each stockholder entitled to vote at a meeting of stockholders, or to take corporate action by written consent without a meeting, may authorize another person or persons to act for such stockholder by proxy. Such a proxy may be prepared, transmitted and delivered in any manner permitted by applicable law. Voting at meetings of stockholders need not be by written ballot unless such is demanded at the meeting before voting begins by a stockholder or stockholders holding shares representing at least one percent (1%) of the votes entitled to vote at such meeting, or by such stockholder’s or stockholders’ proxy; provided, however, that an election of directors shall be by written ballot if demand is so made by any stockholder at the meeting before voting begins. If a vote is to be taken by written ballot, then each such ballot shall state the name of the stockholder or proxy voting and such other information as the chairperson of the meeting deems appropriate and, if authorized by the Board of Directors, the ballot may be submitted by electronic transmission in the manner provided by law. Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Unless otherwise provided by applicable law, the Certificate of Incorporation or these Bylaws, every matter other than the election of directors shall be decided by the affirmative vote of the holders of a majority of the shares of stock entitled to vote thereon that are present in person or represented by proxy at the meeting and are voted for or against the matter.
Section 1.8: Fixing Date for Determination of Stockholders of Record. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to take corporate action by written consent without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. If no record date is fixed by the Board of Directors, then the record date shall be as provided by applicable law. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 1.9: List of Stockholders Entitled to Vote. A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either on a reasonably accessible electronic network as permitted by law (provided that the information required to gain access to the list is provided with the notice of the meeting) or during ordinary business hours at the principal place of business of the Corporation. If the meeting is held at a place, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present at the meeting. If the meeting is held solely by means of remote communication, then the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting.

Section 1.10: Action by Written Consent of Stockholders.

1.10.1 Procedure. Unless otherwise provided by the Certificate of Incorporation, any action required or permitted to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed in the manner permitted by law by the holders of outstanding stock having not less than the number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Written stockholder consents shall bear the date of signature of each stockholder who signs the consent in the manner permitted by law and shall be delivered to the Corporation as provided in Section 1.10.2 below. No written consent shall be effective to take the action set forth therein unless, within sixty (60) days of the earliest dated consent delivered to the Corporation in the manner provided above, written consents signed by a sufficient number of stockholders to take the action set forth therein are delivered to the Corporation in the manner provided above.
1.10.2 A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the Corporation can determine (a) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder and (b) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a Corporation’s registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the Corporation or to an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the Board of Directors of the Corporation.

1.10.3 Notice of Consent. Prompt notice of the taking of corporate action by stockholders without a meeting by less than unanimous written consent of the stockholders shall be given to those stockholders who have not consented thereto in writing and, who, if the action had been taken at a meeting, would have been entitled to notice of the meeting, if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation as required by law. In the case of a Certificate of Action (as defined below), if the Delaware General Corporation Law so requires, such notice shall be given prior to filing of the certificate in question. If the action which is consented to requires the filing of a certificate under the Delaware General Corporation Law (the “Certificate of Action”), then if the Delaware General Corporation Law so requires, the certificate so filed shall state that written stockholder consent has been given in accordance with Section 228 of the Delaware General Corporation Law and that written notice of the taking of corporate action by stockholders without a meeting as described herein has been given as provided in such section.

Section 1.11: Inspectors of Elections.

1.11.1 Applicability. Unless otherwise provided in the Corporation’s Certificate of Incorporation or required by the Delaware General Corporation Law, the following provisions of this Section 1.11 shall apply only if and when the Corporation has a class of voting stock that is: (a) listed on a national securities exchange; (b) authorized for quotation on an automated interdealer quotation system of a registered national securities association; or (c) held of record by more than two thousand (2,000) stockholders. In all other cases, observance of the provisions of this Section 1.11 shall be optional, and at the discretion of the Board of Directors of the Corporation.
1.11.2 Appointment. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting.

1.11.3 Inspector’s Oath. Each inspector of election, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector’s ability.

1.11.4 Duties of Inspectors. At a meeting of stockholders, the inspectors of election shall (a) ascertain the number of shares outstanding and the voting power of each share, (b) determine the shares represented at a meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period of time a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

1.11.5 Opening and Closing of Polls. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced by the inspectors at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery upon application by a stockholder shall determine otherwise.

1.11.6 Determinations. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in connection with proxies in accordance with Section 212(c)(2) of the Delaware General Corporation Law, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification of their determinations pursuant to this Section 1.11 shall specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors’ belief that such information is accurate and reliable.

ARTICLE II: BOARD OF DIRECTORS

Section 2.1: Number; Qualifications. The Board of Directors shall consist of one or more members. The initial number of directors shall be eight (8), and thereafter shall be fixed from time to time by resolution of the Board of Directors or the stockholders. No decrease in the authorized number of directors constituting the Board of Directors shall shorten the term of any incumbent director. Directors need not be stockholders of the Corporation.
Section 2.2: Election; Resignation; Removal; Vacancies. The Board of Directors shall initially consist of the person or persons elected by the incorporator or named in the Corporation’s initial Certificate of Incorporation. Each director shall hold office until the next annual meeting of stockholders and until such director’s successor is elected and qualified, or until such director’s earlier death, resignation or removal. Any director may resign at any time upon written notice to the Corporation. Subject to the rights of any holders of Preferred Stock then outstanding: (a) any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors and (b) any vacancy occurring in the Board of Directors for any cause, and any newly created directorship resulting from any increase in the authorized number of directors to be elected by all stockholders having the right to vote as a single class, may be filled by the stockholders, by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

Section 2.3: Regular Meetings. Regular meetings of the Board of Directors may be held at such places, within or without the State of Delaware, and at such times as the Board of Directors may from time to time determine. Notice of regular meetings need not be given if the date, times and places thereof are fixed by resolution of the Board of Directors.

Section 2.4: Special Meetings. Special meetings of the Board of Directors may be called by the Chairperson of the Board of Directors, the President or a majority of the members of the Board of Directors then in office and may be held at any time, date or place, within or without the State of Delaware, as the person or persons calling the meeting shall fix. Notice of the time, date and place of such meeting shall be given, orally, in writing or by electronic transmission (including electronic mail), by the person or persons calling the meeting to all directors at least four (4) days before the meeting if the notice is mailed, or at least twenty-four (24) hours before the meeting if such notice is given by telephone, hand delivery, telegram, telex, mailgram, facsimile, electronic mail or other means of electronic transmission. Unless otherwise indicated in the notice, any and all business may be transacted at a special meeting.

Section 2.5: Remote Meetings Permitted. Members of the Board of Directors, or any committee of the Board, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to conference telephone or other communications equipment shall constitute presence in person at such meeting.

Section 2.6: Quorum; Vote Required for Action. At all meetings of the Board of Directors a majority of the total number of authorized directors shall constitute a quorum for the transaction of business, provided, however, that if the authorized number of directors is six (6) and only three (3) directors are then serving on the Board of Directors, then at all meetings of the Board of Directors the number of directors necessary to constitute a quorum for the transaction of business shall be three (3). Except as otherwise provided herein or in the Certificate of Incorporation, or required by law, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.
Section 2.7: Organization. Meetings of the Board of Directors shall be presided over by the Chairperson of the Board of Directors, or in such person’s absence by the President, or in such person’s absence by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in such person’s absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8: Written Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee, respectively. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 2.9: Powers. The Board of Directors may, except as otherwise required by law or the Certificate of Incorporation, exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

Section 2.10: Compensation of Directors. Directors, as such, may receive, pursuant to a resolution of the Board of Directors, fees and other compensation for their services as directors, including without limitation their services as members of committees of the Board of Directors.

ARTICLE III: COMMITTEES

Section 3.1: Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting of such committee who are not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent provided in a resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving, adopting, or recommending to the stockholders any action or matter expressly required by the Delaware General Corporation Law to be submitted to stockholders for approval or (b) adopting, amending or repealing any bylaw of the Corporation.

Section 3.2: Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article II of these Bylaws.
ARTICLE IV: OFFICERS

Section 4.1: Generally. The officers of the Corporation shall consist of a Chief Executive Officer and/or a President, one or more Vice Presidents, a Secretary, a Treasurer and such other officers, including a Chairperson of the Board of Directors and/or Chief Financial Officer and/or Assistant Secretary, as may from time to time be appointed by the Board of Directors. All officers shall be elected by the Board of Directors. Each officer shall hold office until such person’s successor is elected and qualified or until such person’s earlier resignation or removal. Any number of offices may be held by the same person. Any officer may resign at any time upon written notice to the Corporation. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board of Directors.

Section 4.2: Chief Executive Officer. Subject to the control of the Board of Directors and such supervisory powers, if any, as may be given by the Board of Directors, the powers and duties of the Chief Executive Officer of the Corporation are:

(a) To act as the general manager and, subject to the control of the Board of Directors, to have general supervision, direction and control of the business and affairs of the Corporation;

(b) To preside at all meetings of the stockholders;

(c) To call meetings of the stockholders to be held at such times and, subject to the limitations prescribed by law or by these Bylaws, at such places as he or she shall deem proper; and

(d) To affix the signature of the Corporation to all deeds, conveyances, mortgages, guarantees, leases, obligations, bonds, certificates and other papers and instruments in writing which have been authorized by the Board of Directors or which, in the judgment of the Chief Executive Officer, should be executed on behalf of the Corporation; to sign certificates for shares of stock of the Corporation; and, subject to the direction of the Board of Directors, to have general charge of the property of the Corporation and to supervise and control all officers, agents and employees of the Corporation.

The President shall be the Chief Executive Officer of the Corporation unless the Board of Directors shall designate another officer to be the Chief Executive Officer. If there is no President, and the Board of Directors has not designated any other officer to be the Chief Executive Officer, then the Chairperson of the Board of Directors shall be the Chief Executive Officer.

Section 4.3: Chairperson of the Board. The Chairperson of the Board of Directors shall have the power to preside at all meetings of the Board of Directors and shall have such other powers and duties as provided in these Bylaws and as the Board of Directors may from time to time prescribe.

Section 4.4: President. The President shall be the Chief Executive Officer of the Corporation unless the Board of Directors shall have designated another officer as the Chief Executive Officer of the Corporation. Subject to the provisions of these Bylaws and to the direction of the Board of Directors, and subject to the supervisory powers of the Chief Executive Officer (if the Chief Executive Officer is an officer other than the President), and subject to such supervisory
powers and authority as may be given by the Board of Directors to the Chairperson of the Board of Directors, and/or to any other officer, the President shall have the responsibility for the general management the control of the business and affairs of the Corporation and the general supervision and direction of all of the officers, employees and agents of the Corporation (other than the Chief Executive Officer, if the Chief Executive Officer is an officer other than the President) and shall perform all duties and have all powers that are commonly incident to the office of President or that are delegated to the President by the Board of Directors.

Section 4.5: Vice President. Each Vice President shall have all such powers and duties as are commonly incident to the office of Vice President, or that are delegated to him or her by the Board of Directors or the Chief Executive Officer. A Vice President may be designated by the Board of Directors to perform the duties and exercise the powers of the Chief Executive Officer in the event of the Chief Executive Officer’s absence or disability.

Section 4.6: Chief Financial Officer. The Chief Financial Officer shall be the Treasurer of the Corporation unless the Board of Directors shall have designated another officer as the Treasurer of the Corporation. Subject to the direction of the Board of Directors and the Chief Executive Officer, the Chief Financial Officer shall perform all duties and have all powers that are commonly incident to the office of Chief Financial Officer.

Section 4.7: Treasurer. The Treasurer shall have custody of all moneys and securities of the Corporation. The Treasurer shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions. The Treasurer shall also perform such other duties and have such other powers as are commonly incident to the office of Treasurer, or as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

Section 4.8: Chief Technology Officer. The Chief Technology Officer shall have responsibility for the general research and development activities of the Corporation, for supervision of the Corporation’s research and development personnel, for new product development and product improvements, for overseeing the development and direction of the Corporation’s intellectual property development and such other responsibilities as may be given to the Chief Technology Officer by the Board of Directors, subject to: (a) the provisions of these Bylaws; (b) the direction of the Board of Directors; (c) the supervisory powers of the Chief Executive Officer or Chief Operating Officer of the Corporation; and (d) those supervisory powers that may be given by the Board of Directors of the Corporation to the Chairperson or Vice Chairperson of the Board of Directors.

Section 4.9: Secretary. The Secretary shall issue or cause to be issued all authorized notices for, and shall keep, or cause to be kept, minutes of all meetings of the stockholders and the Board of Directors. The Secretary shall have charge of the corporate minute books and similar records and shall perform such other duties and have such other powers as are commonly incident to the office of Secretary, or as the Board of Directors or the Chief Executive Officer may from time to time prescribe.

Section 4.10: Delegation of Authority. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any provision hereof.
Section 4.11: Removal. Any officer of the Corporation shall serve at the pleasure of the Board of Directors and may be removed at any time, with or without cause, by the Board of Directors. Such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation.

ARTICLE V: STOCK

Section 5.1: Certificates. Every holder of stock shall be entitled to have a certificate signed by or in the name of the Corporation by the Chairperson or Vice-Chairperson of the Board of Directors, or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary, of the Corporation, certifying the number of shares owned by such stockholder in the Corporation. Any or all of the signatures on the certificate may be a facsimile.

Section 5.2: Lost, Stolen or Destroyed Stock Certificates: Issuance of New Certificates. The Corporation may issue a new certificate of stock in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner’s legal representative, to agree to indemnify the Corporation and/or to give the Corporation a bond sufficient to indemnify it, against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 5.3: Other Regulations. The issue, transfer, conversion and registration of stock certificates shall be governed by such other regulations as the Board of Directors may establish.

ARTICLE VI: INDEMNIFICATION

Section 6.1: Indemnification of Officers and Directors. Each person who was or is made a party to, or is threatened to be made a party to, or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (the “Proceeding”), by reason of the fact that such person (or a person of whom such person is the legal representative), is or was a director or officer of the Corporation or a Reincorporated Predecessor (as defined below) or is or was serving at the request of the Corporation or a Reincorporated Predecessor (as defined below) as a director or officer of another corporation, or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the Delaware General Corporation Law, against all expenses, liability and loss (including attorneys’ fees, judgments, fines, ERISA excise taxes and penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith, provided such person acted in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or Proceeding, had no reasonable cause to believe the person’s conduct was unlawful. Such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of such person’s heirs, executors and administrators. Notwithstanding the foregoing, the Corporation shall indemnify any such person seeking indemnity in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. As used herein, the term the “Reincorporated
Predecessor" means a corporation that is merged with and into the Corporation in a statutory merger where (a) the Corporation is the surviving corporation of such merger; (b) the primary purpose of such merger is to change the corporate domicile of the Reincorporated Predecessor to Delaware.

Section 6.2: Advance of Expenses. The Corporation shall pay all expenses (including attorneys’ fees) incurred by such a director or officer in defending any such Proceeding as they are incurred in advance of its final disposition; provided, however, that (a) if the Delaware General Corporation Law then so requires, the payment of such expenses incurred by such a director or officer in advance of the final disposition of such Proceeding shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it should be determined ultimately that such director or officer is not entitled to be indemnified under this Article VI or otherwise; and (b) the Corporation shall not be required to advance any expenses to a person against whom the Corporation directly brings a claim, in a Proceeding, alleging that such person has breached such person’s duty of loyalty to the Corporation, committed an act or omission not in good faith or that involves intentional misconduct or a knowing violation of law, or derived an improper personal benefit from a transaction.

Section 6.3: Non-Exclusivity of Rights. The rights conferred on any person in this Article VI shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaw, agreement, vote or consent of stockholders or disinterested directors, or otherwise. Additionally, nothing in this Article VI shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article VI.

Section 6.4: Indemnification Contracts. The Board of Directors is authorized to cause the Corporation to enter into indemnification contracts with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing indemnification rights to such person. Such rights may be greater than those provided in this Article VI.

Section 6.5: Effect of Amendment. Any amendment, repeal or modification of any provision of this Article VI shall be prospective only, and shall not adversely affect any right or protection conferred on a person pursuant to this Article VI and existing at the time of such amendment, repeal or modification.

ARTICLE VII: NOTICES

Section 7.1: Notice.

7.1.1 Form and Delivery. Except as otherwise specifically provided in these Bylaws (including, without limitation, Section 7.1.2 below) or required by law, all notices required to be given pursuant to these Bylaws shall be in writing and may in every instance be effectively given by hand delivery (including use of a delivery service), by depositing such notice in the mail, postage prepaid, or by sending such notice by prepaid telegram, telex, overnight express courier,
mailgram or facsimile. Any such notice shall be addressed to the person to whom notice is to be given at such person’s address as it appears on the records of the Corporation. The notice shall be deemed given (a) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (b) in the case of delivery by mail, upon deposit in the mail, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via telegram, telex, mailgram, or facsimile, when dispatched.

7.1.2 Electronic Transmission. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the Delaware General Corporation Law, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (a) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (b) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Notice given pursuant to this Section 7.1.2 shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder.

7.1.3 Affidavit of Giving Notice. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 7.2: Waiver of Notice. Whenever notice is required to be given under any provision of these Bylaws, a written waiver of notice, signed by the person entitled to notice, or waiver by electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any waiver of notice.

ARTICLE VIII: INTERESTED DIRECTORS

Section 8.1: Interested Directors; Quorum. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or
voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose, if: (a) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; (b) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof, or the stockholders. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE IX: MISCELLANEOUS

Section 9.1: Fiscal Year. The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

Section 9.2: Seal. The Board of Directors may provide for a corporate seal, which shall have the name of the Corporation inscribed thereon and shall otherwise be in such form as may be approved from time to time by the Board of Directors.

Section 9.3: Form of Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on or by means of, or be in the form of, diskettes, or any other information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the Delaware General Corporation Law.

Section 9.4: Reliance Upon Books and Records. A member of the Board of Directors, or a member of any committee designated by the Board of Directors shall, in the performance of such person’s duties, be fully protected in relying in good faith upon records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation’s officers or employees, or committees of the Board of Directors, or by any other person as to matters the member reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 9.5: Certificate of Incorporation Governs. In the event of any conflict between the provisions of the Corporation’s Certificate of Incorporation and Bylaws, the provisions of the Certificate of Incorporation shall govern.

Section 9.6: Severability. If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Corporation’s Certificate of Incorporation, then such provision shall nonetheless be enforced to the maximum extent possible
consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

ARTICLE X: AMENDMENT

Section 10.1: Amendments. Stockholders of the Corporation holding a majority of the Corporation’s outstanding voting stock shall have the power to adopt, amend or repeal Bylaws. To the extent provided in the Corporation’s Certificate of Incorporation, the Board of Directors of the Corporation shall also have the power to adopt, amend or repeal Bylaws of the Corporation, except insofar as Bylaws adopted by the stockholders shall otherwise provide.
CERTIFICATION OF BYLAWS
OF
BDC PAYMENTS HOLDINGS, INC.

a Delaware Corporation

I, Raj Aji, certify that I am Corporate Secretary of BDC Payments Holdings, Inc., a Delaware corporation (the “Corporation”), that I am duly authorized to make and deliver this certification, that the attached Bylaws are a true and complete copy of the Bylaws of the Corporation in effect as of the date of this certificate.

Dated: August 2, 2018

/s/ Raj Aji
Raj Aji, Corporate Secretary
BILL.COM HOLDINGS, INC.
(a Delaware corporation)

RESTATED BYLAWS

As Adopted November 15, 2019 and

As Effective [   ], 2019
# BILL.COM HOLDINGS, INC.
(a Delaware corporation)

## RESTATED BYLAWS

### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Article I: STOCKHOLDERS</th>
<th>Section 1.1: Annual Meetings</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Section 1.2: Special Meetings</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Section 1.3: Notice of Meetings</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Section 1.4: Adjournments</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Section 1.5: Quorum</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Section 1.6: Organization</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Section 1.7: Voting; Proxies</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Section 1.8: Fixing Date for Determination of Stockholders of Record</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Section 1.9: List of Stockholders Entitled to Vote</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Section 1.10: Inspectors of Elections</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Section 1.11: Conduct of Meetings</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Section 1.12: Notice of Stockholder Business; Nominations</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article II: BOARD OF DIRECTORS</th>
<th>Section 2.1: Number; Qualifications</th>
<th>13</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Section 2.2: Election; Resignation; Removal; Vacancies</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>Section 2.3: Regular Meetings</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Section 2.4: Special Meetings</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Section 2.5: Remote Meetings Permitted</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Section 2.6: Quorum; Vote Required for Action</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Section 2.7: Organization</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Section 2.8: Unanimous Action by Directors in Lieu of a Meeting</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Section 2.9: Powers</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Section 2.10: Compensation of Directors</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Section 2.11: Confidentiality</td>
<td>15</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article III: COMMITTEES</th>
<th>Section 3.1: Committees</th>
<th>15</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Section 3.2: Committee Rules</td>
<td>16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article IV: OFFICERS; CHAIRPERSON; LEAD INDEPENDENT DIRECTOR</th>
<th>Section 4.1: Generally</th>
<th>16</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Section 4.2: Chief Executive Officer</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Section 4.3: Chairperson of the Board</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Section 4.4: Lead Independent Director</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Section 4.5: President</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Section 4.6: Chief Financial Officer</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Section 4.7: Treasurer</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Section 4.8: Vice President</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Section 4.9: Secretary</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Section 4.10: Delegation of Authority</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Section 4.11: Removal</td>
<td>18</td>
</tr>
<tr>
<td>Article</td>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>V</td>
<td>STOCK</td>
<td></td>
</tr>
<tr>
<td>5.1</td>
<td>Certificates; Uncertificated Shares</td>
<td>18</td>
</tr>
<tr>
<td>5.2</td>
<td>Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates or Uncertificated Shares</td>
<td>19</td>
</tr>
<tr>
<td>5.3</td>
<td>Other Regulations</td>
<td>19</td>
</tr>
<tr>
<td>VI</td>
<td>INDEMNIFICATION</td>
<td></td>
</tr>
<tr>
<td>6.1</td>
<td>Indemnification of Officers and Directors</td>
<td>19</td>
</tr>
<tr>
<td>6.2</td>
<td>Advance of Expenses</td>
<td>20</td>
</tr>
<tr>
<td>6.3</td>
<td>Non-Exclusivity of Rights</td>
<td>20</td>
</tr>
<tr>
<td>6.4</td>
<td>Indemnification Contracts</td>
<td>20</td>
</tr>
<tr>
<td>6.5</td>
<td>Right of Indemnitee to Bring Suit</td>
<td>20</td>
</tr>
<tr>
<td>6.6</td>
<td>Nature of Rights</td>
<td>21</td>
</tr>
<tr>
<td>6.7</td>
<td>Insurance</td>
<td>21</td>
</tr>
<tr>
<td>VII</td>
<td>NOTICES</td>
<td></td>
</tr>
<tr>
<td>7.1</td>
<td>Notice</td>
<td>21</td>
</tr>
<tr>
<td>7.2</td>
<td>Waiver of Notice</td>
<td>22</td>
</tr>
<tr>
<td>VIII</td>
<td>INTERESTED DIRECTORS</td>
<td></td>
</tr>
<tr>
<td>8.1</td>
<td>Interested Directors</td>
<td>22</td>
</tr>
<tr>
<td>8.2</td>
<td>Quorum</td>
<td>22</td>
</tr>
<tr>
<td>IX</td>
<td>MISCELLANEOUS</td>
<td></td>
</tr>
<tr>
<td>9.1</td>
<td>Fiscal Year</td>
<td>23</td>
</tr>
<tr>
<td>9.2</td>
<td>Seal</td>
<td>23</td>
</tr>
<tr>
<td>9.3</td>
<td>Form of Records</td>
<td>23</td>
</tr>
<tr>
<td>9.4</td>
<td>Reliance Upon Books and Records</td>
<td>23</td>
</tr>
<tr>
<td>9.5</td>
<td>Certificate of Incorporation Governs</td>
<td>23</td>
</tr>
<tr>
<td>9.6</td>
<td>Severability</td>
<td>23</td>
</tr>
<tr>
<td>9.7</td>
<td>Time Periods</td>
<td>23</td>
</tr>
<tr>
<td>X</td>
<td>AMENDMENT</td>
<td>23</td>
</tr>
</tbody>
</table>
ARTICLE I: STOCKHOLDERS

Section 1.1: Annual Meetings. If required by applicable law, an annual meeting of stockholders shall be held for the election of directors at such date and time as the Board of Directors (the “Board”) of Bill.com Holdings, Inc. (the “Corporation”) shall each year fix. The meeting may be held either at a place, within or without the State of Delaware as permitted by the Delaware General Corporation Law (the “DGCL”), or by means of remote communication as the Board in its sole discretion may determine. Any proper business may be transacted at the annual meeting.

Section 1.2: Special Meetings. Special meetings of stockholders for any purpose or purposes shall be called in the manner set forth in the Restated Certificate of Incorporation of the Corporation (as the same may be amended and/or restated from time to time, the “Certificate of Incorporation”). The special meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board in its sole discretion may determine. Business transacted at any special meeting of stockholders shall be limited to matters relating to the purpose or purposes stated in the notice of the meeting.

Section 1.3: Notice of Meetings. Notice of all meetings of stockholders shall be given in writing or by electronic transmission in the manner provided by applicable law (including, without limitation, as set forth in Section 7.1.1 of these Bylaws) stating the date, time and place, if any, of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting). In the case of a special meeting, such notice shall also set forth the purpose or purposes for which the meeting is called. Unless otherwise required by applicable law or the Certificate of Incorporation, notice of any meeting of stockholders shall be given not less than ten (10), nor more than sixty (60), days before the date of the meeting to each stockholder of record entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting.

Section 1.4: Adjournments. Notwithstanding Section 1.5 of these Bylaws, the chairperson of the meeting shall have the power to adjourn the meeting to another time, date and place (if any), regardless of whether quorum is present, at any time and for any reason. Any meeting of stockholders, annual or special, may be adjourned from time to time, and notice need not be given of any such adjourned meeting if the time, date and place (if any) thereof and the means of remote communication (if any) by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken; provided, however, that if the adjournment is for more than thirty (30)
days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting. If a quorum is present at the original meeting, it shall also be deemed present at the adjourned meeting. To the fullest extent permitted by law, the Board may postpone, reschedule or cancel at any time and for any reason any previously scheduled special or annual meeting of stockholders before it is to be held, regardless of whether any notice or public disclosure with respect to any such meeting has been sent or made pursuant to Section 1.3 hereof or otherwise, in which case notice shall be provided to the stockholders of the new date, time and place, if any, of the meeting as provided in Section 1.3 above.

Section 1.5: Quorum. Except as otherwise provided by applicable law, the Certificate of Incorporation or these Bylaws, at each meeting of stockholders the holders of a majority of the voting power of the shares of stock issued and outstanding and entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of stock is required by applicable law or the Certificate of Incorporation, the holders of a majority of the voting power of the shares of such class or classes or series of the stock issued and outstanding and entitled to vote on such matter, present in person or represented by proxy at the meeting, shall constitute a quorum entitled to take action with respect to the vote on such matter. If a quorum shall fail to attend any meeting, the chairperson of the meeting or, if directed to be voted on by the chairperson of the meeting, the holders of a majority of the voting power of the shares entitled to vote who are present in person or represented by proxy at the meeting may adjourn the meeting. Shares of the Corporation’s stock belonging to the Corporation (or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation are held, directly or indirectly, by the Corporation), shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any other corporation to vote any shares of the Corporation’s stock held by it in a fiduciary capacity and to count such shares for purposes of determining a quorum. A quorum, once established at a meeting, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

Section 1.6: Organization. Meetings of stockholders shall be presided over by (a) such person as the Board may designate, or (b) in the absence of such a person, the Chairperson of the Board, or (c) in the absence of such person, the Lead Independent Director, or, (d) in the absence of such person, the Chief Executive Officer of the Corporation, or (e) in the absence of such person, the President of the Corporation, or (f) in the absence of such person, by a Vice President. The Secretary of the Corporation shall act as secretary of the meeting, but in such person’s absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 1.7: Voting; Proxies. Each stockholder of record entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy. Such a proxy may be prepared, transmitted and delivered in any manner permitted by applicable law. Except as may be required in the Certificate of Incorporation, directors shall be elected by a
plurality of the votes cast by the holders of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. At all meetings of stockholders at which a quorum is present, unless a different or minimum vote is required by applicable law, rule or regulation applicable to the Corporation or its securities, the rules or regulations of any stock exchange applicable to the Corporation, the Certificate of Incorporation or these Bylaws, in which case such different or minimum vote shall be the applicable vote on the matter, every matter other than the election of directors shall be decided by the affirmative vote of the holders of a majority of the voting power of the shares of stock entitled to vote on such matter that are present in person or represented by proxy at the meeting and are voted for or against the matter (or if there are two or more classes or series of stock entitled to vote as separate classes, then in the case of each class or series, the holders of a majority of the voting power of the shares of stock of that class or series present in person or represented by proxy at the meeting voting for or against such matter).

Section 1.8: Fixing Date for Determination of Stockholders of Record. In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be 5:00 p.m. Eastern Time on the day next preceding the day on which notice is given, or, if notice is waived, at 5:00 p.m. Eastern Time on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which shall not be more than sixty (60) days prior to such action. If no such record date is fixed by the Board, then the record date for determining stockholders for any such purpose shall be at 5:00 p.m. Eastern Time on the day on which the Board adopts the resolution relating thereto.

Section 1.9: List of Stockholders Entitled to Vote. The Corporation shall prepare, at least ten (10) days before every meeting of stockholders, a complete list of stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth (10th) day before the meeting date), arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for
any purpose germane to the meeting, for a period of at least ten (10) days prior to the meeting, (a) on a reasonably accessible electronic network as permitted by applicable law (provided that the information required to gain access to the list is provided with the notice of the meeting), or (b) during ordinary business hours, at the principal place of business of the Corporation. If the meeting is held at a location where stockholders may attend in person, a list of stockholders entitled to vote at the meeting shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present at the meeting. If the meeting is held solely by means of remote communication, then the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 1.9 or to vote in person or by proxy at any meeting of stockholders.

Section 1.10: Inspectors of Elections

1.10.1 Applicability. Unless otherwise required by the Certificate of Incorporation or by applicable law, the following provisions of this Section 1.10 shall apply only if and when the Corporation has a class of voting stock that is: (a) listed on a national securities exchange; (b) authorized for quotation on an interdealer quotation system of a registered national securities association; or (c) held of record by more than two thousand (2,000) stockholders. In all other cases, observance of the provisions of this Section 1.10 shall be optional, and at the discretion of the Board.

1.10.2 Appointment. The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting.

1.10.3 Inspector’s Oath. Each inspector of election, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector’s ability.

1.10.4 Duties of Inspectors. At a meeting of stockholders, the inspectors of election shall (a) ascertain the number of shares outstanding and the voting power of each share, (b) determine the shares represented at a meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period of time a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

1.10.5 Opening and Closing of Polls. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced by the chairperson of the meeting at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery upon application by a stockholder shall determine otherwise.

- 4 -
1.10.6 Determinations. In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in connection with proxies pursuant to Section 211(a)(2)b.(i) of the DGCL, or in accordance with Sections 211(e) or 212(c)(2) of the DGCL, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification of their determinations pursuant to this Section 1.10 shall specify the precise information considered by them, including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors’ belief that such information is accurate and reliable.

Section 1.11: Conduct of Meetings. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the person presiding over any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the presiding person of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the presiding person of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; (v) limitations on the time allotted to questions or comments by participants; (vi) restricting the use of audio/video recording devices and cell phones; and (vii) complying with any state and local laws and regulations concerning safety and security. The presiding person at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding person should so determine, such presiding person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 1.12: Notice of Stockholder Business; Nominations.

1.12.1 Annual Meeting of Stockholders.

(a) Nominations of persons for election to the Board and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders only: (i) pursuant to the Corporation’s notice of such meeting (or any supplement thereto), (ii) by or at the direction of the Board or any committee thereof or (iii) by any stockholder of the Corporation who
was a stockholder of record at the time of giving of the notice provided for in this Section 1.12 (the “Record Stockholder”), who is entitled to vote at such meeting and who complies with the notice and other procedures set forth in this Section 1.12 in all applicable respects. For the avoidance of doubt, the foregoing clause (iii) shall be the exclusive means for a stockholder to make nominations or propose business (other than business included in the Corporation’s proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the “Exchange Act”)), at an annual meeting of stockholders, and such stockholder must fully comply with the notice and other procedures set forth in this Section 1.12 to make such nominations or propose business before an annual meeting.

(b) For nominations or other business to be properly brought before an annual meeting by a Record Stockholder pursuant to Section 1.12.1(a) of these Bylaws:

(i) the Record Stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and provide any updates or supplements to such notice at the times and in the forms required by this Section 1.12;

(ii) such other business (other than the nomination of persons for election to the Board) must otherwise be a proper matter for stockholder action;

(iii) if the Proposing Person (as defined below) has provided the Corporation with a Solicitation Notice (as defined below), such Proposing Person must, in the case of a proposal other than the nomination of persons for election to the Board, have delivered a proxy statement and form of proxy to holders of at least the percentage of the Corporation’s voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the Corporation’s voting shares reasonably believed by such Proposing Person to be sufficient to elect the nominee or nominees proposed to be nominated by such Record Stockholder, and must, in either case, have included in such materials the Solicitation Notice; and

(iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section 1.12, the Proposing Person proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section 1.12.

To be timely, a Record Stockholder’s notice must be delivered to the Secretary at the principal executive offices of the Corporation not later than 5:00 p.m. Eastern Time on the ninetieth (90th) day nor earlier than 5:00 p.m. Eastern Time on the one hundred and twentieth (120th) day prior to the first anniversary of the preceding year’s annual meeting (except in the case of the Corporation’s first annual meeting following its initial public offering, for which such notice shall be timely if delivered in the same time period as if such meeting were a special meeting governed by Section 1.12.2 of these Bylaws); provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by the Record Stockholder to be timely must be so delivered (A) no earlier than 5:00 p.m. Eastern Time on the one hundred and twentieth (120th) day prior to such annual meeting and (B) no later than 5:00 p.m. Eastern Time on the later of the ninetieth (90th) day prior to such annual meeting or 5:00 p.m. Eastern Time on the tenth (10th) day following the day on which Public
Announcement (as defined below) of the date of such meeting is first made by the Corporation. In no event shall an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for providing the Record Stockholder’s notice.

(c) As to each person whom the Record Stockholder proposes to nominate for election or reelection as a director, in addition to the matters set forth in paragraph (e) below, such Record Stockholder’s notice shall set forth:

(i) the name, age, business address and residence address of such person;

(ii) the principal occupation or employment of such nominee;

(iii) the class, series and number of any shares of stock of the Corporation that are beneficially owned or owned of record by such person or any Associated Person (as defined in Section 1.12.4(c));

(iv) the date or dates such shares were acquired and the investment intent of such acquisition;

(v) all other information relating to such person that would be required to be disclosed in solicitations of proxies for election of directors in an election contest (even if an election contest is not involved), or would be otherwise required, in each case pursuant to and in accordance with Section 14(a) (or any successor provision) under the Exchange Act and the rules and regulations thereunder;

(vi) such person’s written consent to being named in the Corporation’s proxy statement as a nominee, to the public disclosure of information regarding or related to such person provided to the Corporation by such person or otherwise pursuant to this Section 1.12 and to serving as a director if elected;

(vii) whether such person meets the independence requirements of the stock exchange upon which the Corporation’s Common Stock is primarily traded;

(viii) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three (3) years, and any other material relationships, between or among such Proposing Person or any of its respective affiliates and associates, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, on the other hand, including all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K if the Proposing Person or any of its respective affiliates and associates were the “registrant” for purposes of such rule and the nominee were a director or executive officer of such registrant; and

(ix) a completed and signed questionnaire, representation and agreement required by Section 1.12.2 of these Bylaws.
(d) As to any business other than the nomination of a director or directors that the Record Stockholder proposes to bring before the meeting, in addition to the matters set forth in paragraph (e) below, such Record Stockholder’s notice shall set forth:

(i) a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws, the text of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such Proposing Person, including any anticipated benefit to any Proposing Person therefrom; and

(ii) a description of all agreements, arrangements and understandings between or among any such Proposing Person and any of its respective affiliates or associates, on the one hand, and any other person or persons, on the other hand, (including their names) in connection with the proposal of such business by such Proposing Person;

(e) As to each Proposing Person giving the notice, such Record Stockholder’s notice shall set forth:

(i) the current name and address of such Proposing Person, including, if applicable, their name and address as they appear on the Corporation’s stock ledger, if different;

(ii) the class or series and number of shares of stock of the Corporation that are directly or indirectly owned of record or beneficially owned by such Proposing Person, including any shares of any class or series of the Corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future;

(iii) whether and the extent to which any derivative interest in the Corporation’s equity securities (including without limitation any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of shares of the Corporation or otherwise, and any cash-settled equity swap, total return swap, synthetic equity position or similar derivative arrangement (any of the foregoing, a “Derivative Instrument”), as well as any rights to dividends on the shares of any class or series of shares of the Corporation that are separated or separable from the underlying shares of the Corporation) or any short interest in any security of the Corporation (for purposes of this Bylaw a person shall be deemed to have a short interest in a security if such person directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has the opportunity to profit or share in any profit derived from any increase or decrease in the value of the subject security, including through performance-related fees) is held directly or indirectly by or for the benefit of such Proposing Person, including without limitation whether and the extent to which any ongoing hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including without limitation any short position or any borrowing or lending of shares) has been made, the effect or intent of which is to mitigate loss to or manage risk or benefit of share price changes for, or to increase or decrease the voting power of, such Proposing Person with respect to any share of stock of the Corporation (any of the foregoing, a “Short Interest”);
(iv) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such Proposing Person or any of its respective affiliates or associates is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership;

(v) any direct or indirect material interest in any material contract or agreement with the Corporation, any affiliate of the Corporation or any Competitor (as defined below) (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement);

(vi) any significant equity interests or any Derivative Instruments or Short Interests in any Competitor held by such Proposing Person and/or any of its respective affiliates or associates;

(vii) any other material relationship between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any Competitor, on the other hand;

(viii) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment pursuant to Rule 13d-2(a) if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such Proposing Person and/or any of its respective affiliates or associates;

(ix) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) (or any successor provision) under the Exchange Act and the rules and regulations thereunder;

(x) such Proposing Person’s written consent to the public disclosure of information provided to the Corporation pursuant to this Section 1.12;

(xi) a complete written description of any agreement, arrangement or understanding (whether oral or in writing) (including any knowledge that another person or entity is Acting in Concert (as defined in Section 1.12.4(c)) with such Proposing Person) between or among such Proposing Person, any of its respective affiliates or associates and any other person Acting in Concert with any of the foregoing persons;

(xii) a representation that the Record Stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination;

(xiii) a representation whether such Proposing Person intends (or is part of a group that intends) to deliver a proxy statement or form of proxy to holders of, in the case of a proposal, at least the percentage of the Corporation’s voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Corporation’s voting shares to elect such nominee or nominees (an affirmative statement of such intent being a “Solicitation Notice’’); and
any proxy, contract, arrangement, or relationship pursuant to which the Proposing Person has a right to vote, directly or indirectly, any shares of any security of the Corporation.

The disclosures to be made pursuant to the foregoing clauses (ii), (iii), (iv) and (vi) shall not include any information with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner.

(f) A stockholder providing written notice required by this Section 1.12 shall update such notice in writing, if necessary, so that the information provided or required to be provided in such notice is true and correct in all material respects as of (i) the record date for determining the stockholders entitled to notice of the meeting and (ii) 5:00 p.m. Eastern Time on the tenth (10th) business day prior to the meeting or any adjournment or postponement thereof. In the case of an update pursuant to clause (i) of the foregoing sentence, such update shall be received by the Secretary of the Corporation at the principal executive office of the Corporation not later than five (5) business days after the record date for determining the stockholders entitled to notice of the meeting, and in the case of an update and supplement pursuant to clause (ii) of the foregoing sentence, such update and supplement shall be received by the Secretary of the Corporation at the principal executive office of the Corporation not later than eight (8) business days prior to the date for the meeting and, if practicable, any adjournment or postponement thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been adjourned or postponed). For the avoidance of doubt, the obligation to update as set forth in this paragraph shall not limit the Corporation’s rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder to amend or update any proposal or nomination or to submit any new proposal, including by changing or adding nominees, matters, business and/or resolutions proposed to be brought before a meeting of the stockholders.

(g) Notwithstanding anything in Section 1.12 or any other provision of the Bylaws to the contrary, any person who has been determined by a majority of the Whole Board to have violated Section 2.11 of these Bylaws or a Board Confidentiality Policy (as defined below) while serving as a director of the Corporation in the preceding five (5) years shall be ineligible to be nominated or be qualified to serve as a member of the Board, absent a prior waiver for such nomination or qualification approved by two-thirds of the Whole Board.

1.12.2 Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee of any stockholder for election or reelection as a director of the Corporation, the person proposed to be nominated must deliver (in accordance with the time periods prescribed for delivery of notice under Section 1.12 of these Bylaws) to the Secretary at the principal executive offices of the Corporation a completed and signed questionnaire in the form required by the Corporation (which form the stockholder shall request in writing from the Secretary of the Corporation and which the Secretary shall provide to such stockholder within ten days of receiving such request) with respect to the background and qualification of such person to serve as a director of the Corporation and the background of any other person or entity on whose behalf, directly or indirectly, the nomination is being made and a signed representation and agreement (in the form available from the Secretary upon written request) that such person: (a) is not and will not become a party to (i)
any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the Corporation or (ii) any Voting Commitment that could limit or interfere with such person’s ability to comply, if elected as a director of the Corporation, with such person’s fiduciary duties under applicable law, (b) is not and will not become a party to any Compensation Arrangement (as defined below) that has not been disclosed therein, (c) if elected as a director of the Corporation, will comply with all informational and similar requirements of applicable insurance policies and laws and regulations in connection with service or action as a director of the Corporation, (d) if elected as a director of the Corporation, will comply with all corporate governance, conflict of interest, stock ownership requirements, confidentiality and trading policies and guidelines of the Corporation publicly disclosed from time to time, (e) if elected as a director of the Corporation, will act in the best interests of the Corporation and its stockholders and not in the interests of individual constituencies, (f) consents to being named as a nominee in the Corporation’s proxy statement pursuant to Rule 14a-4(d) under the Exchange Act and any associated proxy card of the Corporation and agrees to serve if elected as a director and (g) intends to serve as a director for the full term for which such individual is to stand for election.

1.12.3 Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation’s notice of such meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation’s notice of such meeting (a) by or at the direction of the Board or any committee thereof or (b) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice of the special meeting, who shall be entitled to vote at the meeting and who complies with the notice and other procedures set forth in this Section 1.12 in all applicable respects. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any such stockholder may nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation’s notice of meeting, if the stockholder’s notice required by Section 1.12.1(b) of these Bylaws shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation (i) no earlier than the one hundred and twentieth (120th) day prior to such special meeting and (ii) no later than 5:00 p.m. Eastern Time on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which Public Announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. In no event shall an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for providing such notice.

1.12.4 General.

(a) Except as otherwise expressly provided in any applicable rule or regulation promulgated under the Exchange Act, only such persons who are nominated in accordance with the procedures set forth in this Section 1.12 shall be eligible to be elected at a meeting of stockholders and serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.12. Except as otherwise provided by law or these Bylaws, the chairperson of the meeting shall have the power and duty to determine whether a nomination or any other
business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 1.12 and, if any proposed nomination or business is not in compliance herewith, to declare that such defective proposal or nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 1.12, unless otherwise required by law, if the stockholder (or a Qualified Representative of the stockholder (as defined below)) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(b) Notwithstanding the foregoing provisions of this Section 1.12, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 1.12 shall be deemed to affect any rights of (a) stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 under the Exchange Act or (b) the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

(c) For purposes of these Bylaws the following definitions shall apply:

(A) a person shall be deemed to be “Acting in Concert” with another person if such person knowingly acts (whether or not pursuant to an express agreement, arrangement or understanding) in concert with, or toward a common goal relating to the management, governance or control of the Corporation in substantial parallel with, such other person where (1) each person is conscious of the other person’s conduct or intent and this awareness is an element in their decision-making processes and (2) at least one additional factor suggests that such persons intend to act in concert or in substantial parallel, which such additional factors may include, without limitation, exchanging information (whether publicly or privately), attending meetings, conducting discussions or making or soliciting invitations to act in concert or in substantial parallel; provided that a person shall not be deemed to be Acting in Concert with any other person solely as a result of the solicitation or receipt of revocable proxies or consents from such other person in response to a solicitation made pursuant to, and in accordance with, Section 14(a) (or any successor provision) of the Exchange Act by way of a proxy or consent solicitation statement filed on Schedule 14A. A person Acting in Concert with another person shall be deemed to be Acting in Concert with any third party who is also Acting in Concert with such other person;

(B) “affiliate” and “associate” shall have the meanings ascribed thereto in Rule 405 under the Securities Act of 1933, as amended (the “Securities Act”), provided, however, that the term “partner” as used in the definition of “associate” shall not include any limited partner that is not involved in the management of the relevant partnership;

(C) “Associated Person” shall mean with respect to any subject stockholder or other person (including any proposed nominee) (1) any person directly or indirectly controlling, controlled by or under common control with such
stockholder or other person, (2) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder or other person, (3) any associate of such stockholder or other person, and (4) any person directly or indirectly controlling, controlled by or under common control or Acting in Concert with any such Associated Person;

(D) “Compensation Arrangement” shall mean any direct or indirect compensatory payment or other financial agreement, arrangement or understanding with any person or entity other than the Corporation, including any agreement, arrangement or understanding with respect to any direct or indirect compensation, reimbursement or indemnification in connection with candidacy, nomination, service or action as a nominee or as a director of the Corporation;

(E) “Competitor” shall mean any entity that provides products or services that compete with or are alternatives to the principal products produced or services provided by the Corporation or its affiliates;

(F) “Proposing Person” shall mean (1) the Record Stockholder providing the notice of business proposed to be brought before an annual meeting or nomination of persons for election to the Board at a stockholder meeting, (2) the beneficial owner or beneficial owners, if different, on whose behalf the notice of business proposed to be brought before the annual meeting or nomination of persons for election to the Board at a stockholder meeting is made, and (3) any Associated Person on whose behalf the notice of business proposed to be brought before the annual meeting or nomination of persons for election to the Board at a stockholder meeting is made;

(G) “Public Announcement” shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act; and

(H) to be considered a “Qualified Representative” of a stockholder, a person must be a duly authorized officer, manager, trustee or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as a proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction thereof, at the meeting. The Secretary of the Corporation, or any other person who shall be appointed to serve as secretary of the meeting, may require, on behalf of the Corporation, reasonable and appropriate documentation to verify the status of a person purporting to be a “Qualified Representative” for purposes hereof.

ARTICLE II: BOARD OF DIRECTORS

Section 2.1: Number; Qualifications. The total number of directors constituting the Whole Board shall be fixed from time to time in the manner set forth in the Certificate of Incorporation and the term “Whole Board” shall have the meaning specified in the Certificate of
Incorporation. No decrease in the authorized number of directors constituting the Whole Board shall shorten the term of any incumbent director. Directors need not be stockholders of the Corporation.

Section 2.2: Election; Resignation; Removal; Vacancies. Election of directors need not be by written ballot. Each director shall hold office until the annual meeting at which such director’s term expires and until such director’s successor is elected and qualified or until such director’s earlier death, resignation, disqualification or removal. Any director may resign by delivering a resignation in writing or by electronic transmission to the Corporation at its principal office or to the Chairperson of the Board, the Chief Executive Officer, or the Secretary. Such resignation shall be effective upon delivery unless it is specified to be effective at a later time or upon the happening of an event. Subject to the special rights of holders of any series of Preferred Stock to elect directors, directors may be removed only as provided by the Certificate of Incorporation and applicable law. All vacancies occurring in the Board and any newly created directorships resulting from any increase in the authorized number of directors shall be filled in the manner set forth in the Certificate of Incorporation.

Section 2.3: Regular Meetings. Regular meetings of the Board may be held at such places, within or without the State of Delaware, and at such times as the Board may from time to time determine. Notice of regular meetings need not be given if the date, times and places thereof are fixed by resolution of the Board.

Section 2.4: Special Meetings. Special meetings of the Board may be called by the Chairperson of the Board, the Chief Executive Officer, the Lead Independent Director or a majority of the members of the Board then in office and may be held at any time, date or place, within or without the State of Delaware, as the person or persons calling the meeting shall fix. Notice of the time, date and place of such meeting shall be given, orally, in writing or by electronic transmission (including electronic mail), by the person or persons calling the meeting to all directors at least four (4) days before the meeting if the notice is mailed, or at least twenty-four (24) hours before the meeting if such notice is given by telephone, hand delivery, telegram, telex, mailgram, facsimile, electronic mail or other means of electronic transmission; provided, however, that if, under the circumstances, the Chairperson of the Board, the Lead Independent Director or the Chief Executive Officer calling a special meeting deems that more immediate action is necessary or appropriate, notice may be delivered on the day of such special meeting. Unless otherwise indicated in the notice, any and all business may be transacted at a special meeting.

Section 2.5: Remote Meetings Permitted. Members of the Board, or any committee of the Board, may participate in a meeting of the Board or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to conference telephone or other communications equipment shall constitute presence in person at such meeting.

Section 2.6: Quorum; Vote Required for Action. At all meetings of the Board, a majority of the Whole Board shall constitute a quorum for the transaction of business. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date or time. Except as otherwise provided herein or in the Certificate of Incorporation, or required by law, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board.
Section 2.7: **Organization.** Meetings of the Board shall be presided over by (a) the Chairperson of the Board, or (b) in the absence of such person, the Lead Independent Director, or (c) in such person’s absence, by the Chief Executive Officer, or (d) in such person’s absence, by a chairperson chosen by the Board at the meeting. The Secretary shall act as secretary of the meeting, but in such person’s absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8: **Unanimous Action by Directors in Lieu of a Meeting.** Any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee, as applicable. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 2.9: **Powers.** Except as otherwise provided by the Certificate of Incorporation or the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board.

Section 2.10: **Compensation of Directors.** Members of the Board, as such, may receive, pursuant to a resolution of the Board, fees and other compensation for their services as directors, including without limitation their services as members of committees of the Board.

Section 2.11: **Confidentiality.** Each director shall maintain the confidentiality of, and shall not share with any third-party person or entity (including third parties that originally sponsored, nominated or designated such director (the “Sponsoring Party”)), any non-public information learned in their capacities as directors, including communications among Board members in their capacities as directors. The Board may adopt a board confidentiality policy further implementing and interpreting this bylaw (a “Board Confidentiality Policy”). All directors are required to comply with this bylaw and any such Board Confidentiality Policy unless such director or the Sponsoring Party for such director has entered into a specific written agreement with the Corporation, in either case as approved by the Board, providing otherwise with respect to such confidential information.

**ARTICLE III: COMMITTEES**

Section 3.1: **Committees.** The Board may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting of such committee who are not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent provided in a resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving, adopting, or
Section 3.2: **Committee Rules.** Each committee shall keep records of its proceedings and make such reports as the Board may from time to time request. Unless the Board otherwise provides, each committee designated by the Board may make, alter and repeal rules for the conduct of its business. In the absence of such rules, each committee shall conduct its business in the same manner as the Board conducts its business pursuant to Article II of these Bylaws. Except as otherwise provided in the Certificate of Incorporation, these Bylaws or the resolution of the Board designating the committee, any committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and may delegate to any such subcommittee any or all of the powers and authority of the committee.

**ARTICLE IV: OFFICERS; CHAIRPERSON; LEAD INDEPENDENT DIRECTOR**

Section 4.1: **Generally.** The officers of the Corporation shall consist of a Chief Executive Officer (who may be the Chairperson of the Board or the President), a President, a Secretary and a Treasurer and may consist of such other officers, including, without limitation, a Chief Financial Officer, and one or more Vice Presidents, as may from time to time be appointed by the Board. All officers shall be elected by the Board; provided, however, that the Board may empower the Chief Executive Officer of the Corporation to appoint any officer other than the Chief Executive Officer, the President, the Chief Financial Officer or the Treasurer. Except as otherwise provided by law, by the Certificate of Incorporation or these Bylaws, each officer shall hold office until such officer’s successor is duly elected and qualified or until such officer’s earlier resignation, death, disqualification or removal. Any number of offices may be held by the same person. Any officer may resign by delivering a resignation in writing or by electronic transmission to the Corporation at its principal office or to the Chairperson of the Board, the Chief Executive Officer, or the Secretary. Such resignation shall be effective upon delivery unless it is specified to be effective at some later time or upon the happening of some later event. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise may be filled by the Board and the Board may, in its discretion, leave unfilled, for such period as it may determine, any offices. Each such successor shall hold office for the unexpired term of such officer’s predecessor and until a successor is duly elected and qualified or until such officer’s earlier resignation, death, disqualification or removal.

Section 4.2: **Chief Executive Officer.** Subject to the control of the Board and such supervisory powers, if any, as may be given by the Board, the powers and duties of the Chief Executive Officer of the Corporation are:

(a) to act as the general manager and, subject to the control of the Board, to have general supervision, direction and control of the business and affairs of the Corporation;

(b) subject to Section 1.6 of these Bylaws, to preside at all meetings of the stockholders;
subject to Section 1.2 of these Bylaws, to call special meetings of the stockholders to be held at such times and, subject to the limitations prescribed by law or by these Bylaws, at such places as he or she shall deem proper; and

to affix the signature of the Corporation to all deeds, conveyances, mortgages, guarantees, leases, obligations, bonds, certificates and other papers and instruments in writing which have been authorized by the Board or which, in the judgment of the Chief Executive Officer, should be executed on behalf of the Corporation; to sign certificates for shares of stock of the Corporation (if any); and, subject to the direction of the Board, to have general charge of the property of the Corporation and to supervise and control all officers, agents and employees of the Corporation.

The person holding the office of President shall be the Chief Executive Officer of the Corporation unless the Board shall designate another officer to be the Chief Executive Officer.

Section 4.3: Chairperson of the Board. Subject to the provisions of Section 2.7 of these Bylaws, the Chairperson of the Board shall have the power to preside at all meetings of the Board and shall have such other powers and duties as provided in these Bylaws and as the Board may from time to time prescribe. The Chairperson of the Board may or may not be an officer of the Corporation.

Section 4.4: Lead Independent Director. The Board may, in its discretion, elect a lead independent director from among its members that are Independent Directors (as defined below) (such director, the “Lead Independent Director”). The Lead Independent Director shall preside at all meetings at which the Chairperson of the Board is not present and shall exercise such other powers and duties as may from time to time be assigned to him or her by the Board or as prescribed by these Bylaws. For purposes of these Bylaws, “Independent Director” has the meaning ascribed to such term under the rules of the exchange upon which the Corporation’s Common Stock is primarily traded.

Section 4.5: President. The person holding the office of Chief Executive Officer shall be the President of the Corporation unless the Board shall have designated one individual as the President and a different individual as the Chief Executive Officer of the Corporation. Subject to the provisions of these Bylaws and to the direction of the Board, and subject to the supervisory powers of the Chief Executive Officer (if the Chief Executive Officer is an officer other than the President), and subject to such supervisory powers and authority as may be given by the Board to the Chairperson of the Board, and/or to any other officer, the President shall have the responsibility for the general management and control of the business and affairs of the Corporation and the general supervision and direction of all of the officers, employees and agents of the Corporation (other than the Chief Executive Officer, if the Chief Executive Officer is an officer other than the President) and shall perform all duties and have all powers that are commonly incident to the office of President or that are delegated to the President by the Board.

Section 4.6: Chief Financial Officer. The person holding the office of Chief Financial Officer shall be the Treasurer of the Corporation unless the Board shall have designated another officer as the Treasurer of the Corporation. Subject to the direction of the Board and the Chief Executive Officer, the Chief Financial Officer shall perform all duties and have all powers that are commonly incident to the office of Chief Financial Officer, or as the Board or the Chief Executive Officer may from time to time prescribe.
Section 4.7: Treasurer. The person holding the office of Treasurer shall have custody of all monies and securities of the Corporation. The Treasurer shall make such disbursements of the funds of the Corporation as are authorized and shall render from time to time an account of all such transactions. The Treasurer shall also perform such other duties and have such other powers as are commonly incident to the office of Treasurer, or as the Board or the Chief Executive Officer may from time to time prescribe.

Section 4.8: Vice President. Each Vice President shall have all such powers and duties as are commonly incident to the office of Vice President or that are delegated to him or her by the Board or the Chief Executive Officer. A Vice President may be designated by the Board to perform the duties and exercise the powers of the Chief Executive Officer or President in the event of the Chief Executive Officer’s or President’s absence or disability.

Section 4.9: Secretary. The Secretary shall issue or cause to be issued all authorized notices for, and shall keep, or cause to be kept, minutes of all meetings of the stockholders and the Board. The Secretary shall have charge of the corporate minute books and similar records and shall perform such other duties and have such other powers as are commonly incident to the office of Secretary, or as the Board or the Chief Executive Officer may from time to time prescribe.

Section 4.10: Delegation of Authority. The Board may from time to time delegate the powers or duties of any officer of the Corporation to any other officers or agents of the Corporation, notwithstanding any provision hereof.

Section 4.11: Removal. Any officer of the Corporation shall serve at the pleasure of the Board and may be removed at any time, with or without cause, by the Board; provided that if the Board has empowered the Chief Executive Officer to appoint any officer of the Corporation, then such officer may also be removed by the Chief Executive Officer. Such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation.

ARTICLE V: STOCK

Section 5.1: Certificates; Uncertificated Shares. The shares of capital stock of the Corporation shall be uncertificated shares; provided, however, that the resolution of the Board that the shares of capital stock of the Corporation shall be uncertificated shares shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation (or the transfer agent or registrar, as the case may be). Notwithstanding the foregoing, the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be certificated shares. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Corporation, by any two authorized officers of the Corporation (it being understood that each of the Chairperson of the Board, the Vice-Chairperson of the Board, the Chief Executive Officer, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary and any Assistant Secretary shall be an authorized officer for such purpose), representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were an officer, transfer agent or registrar at the date of issue.

- 18 -
Section 5.2: Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates or Uncertificated Shares. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner’s legal representative, to agree to indemnify the Corporation and/or to give the Corporation a bond sufficient to indemnify it, against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

Section 5.3: Other Regulations. Subject to applicable law, the Certificate of Incorporation and these Bylaws, the issue, transfer, conversion and registration of shares represented by certificates and of uncertificated shares shall be governed by such other regulations as the Board may establish.

ARTICLE VI: INDEMNIFICATION

Section 6.1: Indemnification of Officers and Directors. Each person who was or is made a party to, or is threatened to be made a party to, or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, legislative or any other type whatsoever (a “Proceeding”), by reason of the fact that such person (or a person of whom such person is the legal representative), is or was a director or officer of the Corporation or, while serving as a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, agent or trustee of another corporation, or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans (for purposes of this Article VI, an “Indemnitee”), shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expenses, liability and loss (including attorneys’ fees, judgments, fines, ERISA excise taxes and penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith, provided such Indemnitee acted in good faith and in a manner that the Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal Proceeding, had no reasonable cause to believe the Indemnitee’s conduct was unlawful. Such indemnification shall continue as to an Indemnitee who has ceased to be a director or officer of the Corporation and shall inure to the benefit of such Indemnitees’ heirs, executors and administrators. Notwithstanding the foregoing, subject to Section 6.5 of these Bylaws, the Corporation shall indemnify any such Indemnitee seeking indemnity in connection with a Proceeding (or part thereof) initiated by such Indemnitee only if such Proceeding (or part thereof) was authorized by the Board or such indemnification is authorized by an agreement approved by the Board.
Section 6.2: **Advance of Expenses.** The Corporation shall pay all expenses (including attorneys’ fees) incurred by an Indemnitee in defending any Proceeding in advance of its final disposition; provided, however, that if the DGCL then so requires, the advancement of such expenses shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Indemnitee, to repay such amounts if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified under this Article VI or otherwise.

Section 6.3: **Non-Exclusivity of Rights.** The rights conferred on any person in this Article VI shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote or consent of stockholders or disinterested directors, or otherwise. Additionally, nothing in this Article VI shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article VI.

Section 6.4: **Indemnification Contracts.** The Board is authorized to cause the Corporation to enter into indemnification contracts with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee, agent or trustee of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing indemnification or advancement rights to such person. Such rights may be greater than those provided in this Article VI.

Section 6.5: **Right of Indemnitee to Bring Suit.** The following shall apply to the extent not in conflict with any indemnification contract provided for in Section 6.4 of these Bylaws.

6.5.1 **Right to Bring Suit.** If a claim under Section 6.1 or 6.2 of these Bylaws is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee shall be entitled to be paid, to the fullest extent permitted by law, the expense of prosecuting or defending such suit. In any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnitee to enforce a right to an advancement of expenses) it shall be a defense that the Indemnitee has not met any applicable standard of conduct which makes it permissible under the DGCL (or other applicable law) for the Corporation to indemnify the Indemnitee for the amount claimed.

6.5.2 **Effect of Determination.** The absence of a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in applicable law shall not create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, be a defense to such suit.

6.5.3 **Burden of Proof.** In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VI, or otherwise, shall be on the Corporation.
Section 6.6: Nature of Rights. The rights conferred upon Indemnitees in this Article VI shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director, officer or trustee and shall inure to the benefit of the Indemnitee’s heirs, executors and administrators. Any amendment, repeal or modification of any provision of this Article VI that adversely affects any right of an Indemnitee or an Indemnitee’s successors shall be prospective only, and shall not adversely affect any right or protection conferred on a person pursuant to this Article VI with respect to any Proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment, repeal or modification.

Section 6.7: Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

ARTICLE VII: NOTICES

Section 7.1: Notice.

7.1.1 Form and Delivery. Except as otherwise specifically required in these Bylaws (including, without limitation, Section 7.1.2 of these Bylaws) or by applicable law, all notices required to be given pursuant to these Bylaws may (a) in every instance in connection with any delivery to a member of the Board, be effectively given by hand delivery (including use of a delivery service), by depositing such notice in the mail, postage prepaid, or by sending such notice by overnight express courier, facsimile, electronic mail or other form of electronic transmission and (b) be effectively delivered to a stockholder when given by hand delivery, by depositing such notice in the mail, postage prepaid or, if specifically consented to by the stockholder as described in Section 7.1.2 of these Bylaws, by sending such notice by facsimile, electronic mail or other form of electronic transmission. Any such notice shall be addressed to the person to whom notice is to be given at such person’s address as it appears on the records of the Corporation. The notice shall be deemed given (a) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (b) in the case of delivery by mail, upon deposit in the mail, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via facsimile, electronic mail or other form of electronic transmission, at the time provided in Section 7.1.2 of these Bylaws.

7.1.2 Electronic Transmission. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given in accordance with Section 232 of the DGCL. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (a) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (b) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the
transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Notice given pursuant to this Section 7.1.2 shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of such posting and the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder.

7.1.3 Affidavit of Giving Notice. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 7.2: Waiver of Notice. Whenever notice is required to be given under any provision of the DGCL, the Certificate of Incorporation or these Bylaws, a written waiver of notice, signed by the person entitled to notice, or waiver by electronic transmission by such person, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any waiver of notice.

ARTICLE VIII: INTERESTED DIRECTORS

Section 8.1: Interested Directors. No contract or transaction between the Corporation and one or more of its members of the Board or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are members of the board of directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board or committee thereof that authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose, if: (a) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; (b) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board, a committee thereof, or the stockholders.

Section 8.2: Quorum. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes the contract or transaction.
ARTICLE IX: MISCELLANEOUS

Section 9.1: Fiscal Year. The fiscal year of the Corporation shall be determined by resolution of the Board.

Section 9.2: Seal. The Board may provide for a corporate seal, which may have the name of the Corporation inscribed thereon and shall otherwise be in such form as may be approved from time to time by the Board.

Section 9.3: Form of Records. Any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on or by means of, or be in the form of, any other information storage device, method or one or more electronic networks or databases (including one or more distributed electronic networks or databases), electronic or otherwise, provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with the DGCL. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the DGCL.

Section 9.4: Reliance Upon Books and Records. A member of the Board, or a member of any committee designated by the Board shall, in the performance of such person’s duties, be fully protected in relying in good faith upon the books and records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation’s officers or employees, or committees of the Board, or by any other person as to matters the member reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 9.5: Certificate of Incorporation Governs. In the event of any conflict between the provisions of the Certificate of Incorporation and Bylaws, the provisions of the Certificate of Incorporation shall govern.

Section 9.6: Severability. If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Certificate of Incorporation, then such provision shall nonetheless be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

Section 9.7: Time Periods. In applying any provision of these Bylaws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE X: AMENDMENT

Notwithstanding any other provision of these Bylaws, any alteration, amendment or repeal of these Bylaws, and any adoption of new Bylaws, shall require the approval of the Board or the stockholders of the Corporation as expressly provided in the Certificate of Incorporation.
I, JoAnn Covington, certify that I am Secretary of Bill.com Holdings, Inc., a Delaware corporation (the “Corporation”), that I am duly authorized to make and deliver this certification, that the attached Bylaws are a true and complete copy of the Restated Bylaws of the Corporation in effect as of the date of this certificate.

Dated: [ ], 2019

/s/
Raj Aji
Chief Legal Officer and Secretary
TENTH AMENDED AND RESTATED INVESTORS’ RIGHTS AGREEMENT

This Tenth Amended and Restated Investors’ Rights Agreement (this “Agreement”) is made and entered into as of December 21, 2018 by and among BDC Payments Holdings, Inc., a Delaware corporation (the “Company”) and the holders of Preferred Stock listed on Exhibit A hereto (the “Investors”).

RECITALS

WHEREAS, certain of the Investors purchased shares of the Company’s Series A Preferred Stock pursuant to a Series A Preferred Stock Purchase Agreement dated June 7, 2006 (the “Series A Agreement”), certain of the Investors purchased shares of the Company’s Series B Preferred Stock pursuant to a Series B Preferred Stock Purchase Agreement dated August 30, 2007, a Stock Transfer Agreement dated August 30, 2007 with the Chung Lacerte Trust Under Trust Agreement Dated 2/15/04 and a Second Series B Preferred Stock Purchase Agreement dated July 22, 2009 (together with the Series B Preferred Stock Purchase Agreement and the Stock Transfer Agreement, the “Series B Agreements”), certain of the Investors purchased shares of the Company’s Series C Preferred Stock pursuant to a Series C Preferred Stock Purchase Agreement dated May 21, 2010 (the “Series C Agreement”) certain of the Investors purchased shares of the Company’s Series D Preferred Stock pursuant to a Series D Preferred Stock Purchase Agreement dated December 2, 2011 (the “Series D Agreement”), certain of the Investors purchased shares of the Company’s Series E Preferred Stock pursuant to a Series E Preferred Stock Purchase Agreement dated August 1, 2013 (the “Series E Agreement”), certain of the Investors purchased shares of the Company’s Series E-1 Preferred Stock pursuant to a Series E-1 Preferred Stock Purchase Agreement dated November 8, 2013 (the “Series E-1 Agreement”), certain of the Investors purchased shares of the Company’s Series F Preferred Stock pursuant to a Series F Preferred Stock Purchase Agreement dated December 4, 2014 (the “Series F Agreement”), certain of the Investors purchased shares of the Company’s Series F-1 Preferred Stock pursuant to a Series F-1 Preferred Stock Purchase Agreement dated February 12, 2015 (the “Series F-1 Agreement”), and certain of the Investors purchased shares of the Company’s Series G Preferred Stock pursuant to a Series G Preferred Stock Purchase Agreement dated June 21, 2017, as amended by that certain Amendment No. 1 to Series G Preferred Stock Purchase Agreement dated as of September 27, 2017 and that certain Amendment No. 2 to Series G Preferred Stock Purchase Agreement dated as of December 22, 2017 (the “Series G Agreement”);

WHEREAS, the Company and certain of the Investors are parties to an Ninth Amended and Restated Investors’ Rights Agreement dated as of June 21, 2017, as amended by that certain Amendment and Assignment Agreement for Amended and Restated Investors’ Rights Agreement dated as of November 30, 2018, by and among the Company, bill.com, inc. and such Investors (the “Prior Agreement”);
WHEREAS, certain of the Investors have agreed to purchase shares of the Company’s Series H Preferred Stock (the “Series H Preferred Stock”) pursuant to a Series H Preferred Stock Purchase Agreement by and among the Company and such Investors dated of even date herewith (such agreement, as amended from time to time, the “Series H Agreement”). The Series H Agreement provides that, as a condition to such Investors’ purchase of Series H Preferred Stock thereunder, the Company and the Investors will enter into this Agreement and the Investors will be granted the rights set forth herein; and

WHEREAS, the parties to such Prior Agreement desire to amend and restate the Prior Agreement and to accept the rights and covenants hereof in lieu of their rights and covenants under the Prior Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. INFORMATION RIGHTS; CERTAIN DEFINED TERMS.

1.1 Financial Information. The Company covenants and agrees that, commencing on the date of this Agreement, the Company will:

(a) Annual Reports. Furnish to each Investor, for so long as such Investor holds at least five hundred thousand (500,000) shares (as adjusted per Section 6.10) of any combination of Common Stock issuable or issued upon conversion of the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series E-1 Preferred Stock, Series F Preferred Stock, Series F-1 Preferred Stock, Series G Preferred Stock and/or Series H Preferred Stock issued under either the Series A Agreement, the Series B Agreements, the Series C Agreement, the Series D Agreement, the Series E Agreement, the Series E-1 Agreement, the Series F Agreement, the Series F-1 Agreement, the Series G Agreement or the Series H Agreement (such Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series E-1 Preferred Stock, Series F Preferred Stock, Series F-1 Preferred Stock, Series G Preferred Stock and Series H Preferred Stock shall be collectively referred to as “Preferred Stock”) (such Investor, a “Major Investor”), as soon as practicable and in any event within ninety (90) days after the end of each fiscal year of the Company, a consolidated Balance Sheet as of the end of such fiscal year, a consolidated Statement of Income and a consolidated Statement of Cash Flows of the Company and its subsidiaries for such year, setting forth in each case in comparative form the figures from the Company’s previous fiscal year all prepared in accordance with generally accepted accounting principles and practices and audited by independent certified public accountants. Notwithstanding the foregoing, Franklin Advisers, Inc. (together with its Affiliates, “FT”), American Express Travel Related Services Company, Inc. (“AXP”), Banc of America Strategic Investments Corporation, Fifth Third Capital Holdings, LLC, and JPMC (as defined below) shall each be considered a “Major Investor” for purposes of this Agreement so long as any of them or their respective affiliates hold any shares of capital stock of the Company.

(b) Quarterly Reports. Furnish to each Major Investor as soon as practicable, and in any case within forty-five (45) days of the end of each fiscal quarter of the Company (except the last quarter of the Company’s fiscal year), quarterly unaudited financial statements, including an unaudited Balance Sheet, an unaudited Statement of Income and an unaudited Statement of Cash Flows.
(c) **Monthly Reports.** Furnish to each Major Investor as soon as practicable, and in any case within thirty (30) days after the end of each calendar month (except the last month of the Company’s fiscal year), monthly unaudited financial statements, including an unaudited Balance Sheet, an unaudited Statement of Income and an unaudited Statement of Cash Flows.

(d) **Annual Budget.** Furnish to each Major Investor as soon as practicable and in any event no later than sixty (60) days prior to the close of each fiscal year of the Company, an annual operating plan and budget for the next immediate fiscal year.

(e) **Certification.** With respect to the financial statements called for in subsections (b) and (c) of this Section 1.1, furnish an instrument executed by the Chief Financial Officer or President of the Company certifying that such financials were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (with the exception of footnotes that may be required by GAAP) and fairly present the financial condition of the Company and its results of operation for the period specified, subject to year-end audit adjustment.

1.2 **Inspection Rights.** The Company shall permit each Major Investor, at such Major Investor’s expense, to visit and inspect the Company’s properties, to examine its books of account and records and to discuss the Company’s affairs, finances and accounts with its officers, all at such reasonable times as may be requested by such Major Investor.

1.3 **Confidentiality.** Each Major Investor agrees to use, and to use commercially reasonable efforts to ensure that its authorized representatives use, the same degree of care as such recipient uses to protect its own confidential information to keep confidential any information furnished to it by the Company pursuant to this Agreement except such information that (i) was in the public domain prior to the time it was furnished to such recipient, (ii) is or becomes (through no willful or improper action or inaction by such recipient) generally available to the public, (iii) was in its possession or known by such recipient (as evidenced by written records) without restriction prior to receipt from the Company, (iv) was rightfully disclosed to such recipient by a third party without restriction or (v) was independently developed (as evidenced by written records) without any use of the Company’s confidential information and further agrees not to use any such Company confidential information for any purpose other than monitoring its investment in the Company. Notwithstanding the foregoing, any such Major Investor may disclose such proprietary or confidential information on a confidential basis to any former, current or prospective partner, limited partner, general partner, member, management company or other affiliate of such Major Investor (or any employee or representative of any of the foregoing) (each of the foregoing persons, a “**Permitted Disclosee**”) or legal counsel, accountants or representatives for such Major Investor or Permitted Disclosee, so long as such Permitted Disclosees are subject to equivalent confidentiality obligations with respect to the Company’s information. Furthermore, nothing contained in this Section 1.3 shall prevent any Major Investor or Permitted Disclosee from (a) entering into any business, entering into any agreement with a third party, or investing in or engaging in investment discussions with any other company (whether or not competitive with the Company), provided that such Major Investor or Permitted Disclosee does not, except as otherwise permitted in accordance with this Section 1.3, disclose or use any proprietary or confidential information of the Company in
connection with such activities, or (b) making any disclosures required by law, rule, regulation (including such Investor’s compliance obligations and practices and including applicable rules or regulations of a securities exchange, association or marketplace or other similar self-regulatory organization) or court or other governmental order or process, including without limitation in connection with any regulatory review or examination and including oral questions, interrogatories, requests for information and documents in legal proceedings, subpoena, civil investigative demand and other processes.

Notwithstanding anything to the contrary herein, no Investor who the Board reasonably concludes is a competitor or potential competitor of the Company shall have information rights under Sections 1.1 or 1.2.

1.4 Termination of Certain Rights. The Company’s obligations under Sections 1.1 and 1.2 above will terminate upon the closing of the Company’s initial public offering of Common Stock pursuant to an effective registration statement filed under the U.S. Securities Act of 1933, as amended (the “Securities Act”), and upon the closing of a Sale of the Company.

1.5 Certain Defined Terms. The terms “Regulatory Voting Restriction” and “Sale of the Company” shall have the respective meanings given to them in the Company’s Amended and Restated Certificate of Incorporation, as amended from time to time after the date of this Agreement (the “Restated Certificate”).

2. REGISTRATION RIGHTS.

2.1 Definitions. For purposes of this Section 2:

(a) Registration. The terms “register,” “registered,” and “registration” refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement.

(b) Registrable Securities. The term “Registrable Securities” means:

1) all the shares of Common Stock issuable or issued upon the conversion of any shares of Preferred Stock;

2) for purposes of Sections 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 4.1(b) and 4.2 only, all shares of Common Stock or Nonvoting Common Stock (A) issued upon the conversion of any shares of Series B Preferred Stock issued upon exercise of that certain warrant to purchase 102,740 shares of Series B Preferred Stock of the Company dated November 19, 2008 issued to Comerica Bank and that certain warrant to purchase 102,740 shares of Series B Preferred Stock of the Company dated January 14, 2010 issued to Comerica Bank (the “Series B Warrants”), (B) issued upon the conversion of any shares of Series D Preferred Stock issued upon exercise of that certain warrant to purchase 25,000 shares of Series D Preferred Stock of the Company dated May 3, 2013 issued to City National Bank (the “Series D Warrant”), or (C) issuable or issued upon exercise of warrants issued or issuable under that certain Warrant Issuance Agreement entered into June 21, 2017 by and between the Company
and JPMC Strategic Investments I Corporation (“JPMC”; such agreement, the “JPMC Warrant Agreement”), pursuant to which warrants to purchase up to 11,264,926 shares of Common Stock or Nonvoting Common Stock may be issued, and all such shares of Common Stock and Nonvoting Common Stock described in clauses (A), (B) and (C) of this subsection, the shares of “Warrant Common Stock”; and

(3) any shares of Common Stock or Nonvoting Common Stock issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, (A) all shares of Common Stock described in clause (1) of this subsection (b), or (B) solely for purposes of Sections 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 4.1(b) and 4.2, all shares of Warrant Common Stock described in clause (2) of this subsection (b);

excluding in all cases, however, any Registrable Securities sold by a person in a transaction in which rights under this Section 2 are not assigned in accordance with this Agreement or any Registrable Securities sold to the public or sold pursuant to Rule 144 promulgated under the Securities Act.

(c) Registrable Securities Then Outstanding. The number of shares of “Registrable Securities Then Outstanding” shall mean the number of shares of Common Stock and Nonvoting Common Stock which are Registrable Securities and (1) are then issued and outstanding, or (2) are then issuable pursuant to the exercise or conversion of then outstanding and then exercisable options, warrants or convertible securities; provided, however, that “Registrable Securities Then Outstanding” shall only include Warrant Common Stock or Registrable Securities issued in connection with Warrant Common Stock as described in clause (3)(B) of subsection (b) when used in Sections 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 4.1(b) and 4.2.

(d) Holder. For purposes of this Section 2 and Sections 3 and 4 hereof, the term “Holder” means any person owning of record Registrable Securities or any assignee of record of such Registrable Securities to whom rights under this Section 2 have been duly assigned in accordance with this Agreement; provided, however, that for purposes of this Agreement, a record holder of shares of Preferred Stock shall be deemed to be the Holder of the Registrable Securities issuable upon conversion thereof; provided, further, that the Company shall in no event be obligated to register shares of Preferred Stock and that Holders of Registrable Securities will not be required to convert their shares of Preferred Stock into Common Stock in order to exercise the registration rights granted hereunder as to such Registrable Securities until immediately before the closing of the offering to which the registration relates; provided, however, the holder of the Series B Warrants (or shares of Series B Preferred Stock or Common Stock directly or indirectly issued upon exercise thereof), the holders of the Series D Warrant (or shares of Series D Preferred Stock or Common Stock directly or indirectly issued upon exercise thereof) and the holder of any warrants issued pursuant to the JPMC Warrant Agreement (or shares of Common Stock or Nonvoting Common Stock directly or indirectly issued upon exercise thereof) shall only be a “Holder” under this Agreement for purposes of Sections 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 4.1(b) and 4.2.
(e) Form S-3. The term “Form S-3” means such form under the Securities Act as is in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC which permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(f) SEC. The term “SEC” or “Commission” means the U.S. Securities and Exchange Commission.

2.2 Demand Registration.

(a) Request by Holders. If the Company shall receive at any time after the earlier of (i) one hundred and eighty (180) days after the effective date of the Company’s initial public offering of its securities pursuant to a registration filed under the Securities Act and (ii) the fifth (5th) anniversary following the date of the initial closing of the sale of shares of Series H Preferred Stock under the Series H Agreement, a written request from the Holders of at least forty percent (40%) of the Registrable Securities Then Outstanding (excluding the Series E-1 Preferred Stock and Series F-1 Preferred Stock for purposes of such request and for calculating the percentage with respect thereto) that the Company file a registration statement under the Securities Act covering the registration of Registrable Securities pursuant to this Section 2.2, then the Company shall, within ten (10) business days of the receipt of such written request, give written notice of such request (“Request Notice”) to all Holders, and effect, as soon as practicable, the registration under the Securities Act of all Registrable Securities which Holders request to be registered and included in such registration by written notice given by such Holders to the Company within twenty (20) days after the Request Notice is deemed delivered pursuant to Section 6.1, subject only to the limitations of this Section 2.2; provided, however, that the Company shall not have any obligation to effect the filing of a registration statement under this Section 2.2(a) under either of the following two circumstances: (i) if the Registrable Securities requested by all Holders to be registered pursuant to a request hereunder have an anticipated aggregate public offering price (before any underwriting discounts and commissions) of less than Seven Million Five Hundred Thousand Dollars ($7,500,000); and (ii) during any period beginning with the date ninety (90) days prior to the Company’s good faith estimate of the date of filing of, and ending on a date one hundred and eighty (180) days following the effective date of any Company-initiated registration under the Securities Act (other than a registration relating solely to any employee benefit plan or a corporate reorganization); provided that the Company’s right under this clause (ii) not to file a registration statement shall be contingent upon the Company providing notice to the Initiating Holders (as defined below) within thirty (30) days of their request under this Section 2.2 of the Company’s intent to file such a Company-initiated registration statement within ninety (90) days and the Company thereafter actively employing in good faith, reasonable efforts to cause such Company-initiated registration statement to become effective.

(b) Underwriting. If the Holders initiating the registration request under this Section 2.2 (“Initiating Holders”) intend to distribute the Registrable Securities covered by their request by means of an underwriting, then they shall so advise the Company as a part of their request made pursuant to this Section 2.2 and the Company shall include such information in the Request Notice referred to in subsection 2.2(a). In such event, the right of any Holder to include his Registrable Securities in such registration shall be conditioned upon such
Holder’s participation in such underwriting and the inclusion of such Holder’s Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall enter into an underwriting agreement in customary form with the managing underwriter or underwriters selected for such underwriting by the Company (which underwriter or underwriters shall be reasonably acceptable to a majority in interest of the Initiating Holders). Notwithstanding any other provision of this Section 2.2, if the managing underwriter advises the Company in writing that marketing factors require a limitation of the number of securities to be underwritten, then the Company shall so advise all Holders of Registrable Securities which would otherwise be registered and underwritten pursuant hereto, and (subject to paragraph 14 of the amended and restated letter agreement between the Company and AXP, dated as of February 12, 2015 (the “Letter Agreement”)) the number of Registrable Securities that may be included in the underwriting shall be reduced as required by the underwriter(s) and allocated among each of the Holders requesting inclusion of their Registrable Securities in the underwriting on a pro rata basis according to the number of Registrable Securities Then Outstanding held by each such Holder; provided, however, that the number of shares of Registrable Securities to be included in such underwriting and registration shall not be reduced unless all other securities of the Company (including all securities proposed to be issued by the Company and included therein and any other already-outstanding securities that are not Registrable Securities) are first entirely excluded from the underwriting and registration.

(c) **Maximum Number of Demand Registrations.** The Company is obligated to effect only two (2) such registrations pursuant to this Section 2.2 provided that such registrations have been declared or ordered effective.

(d) **Deferral.** Notwithstanding the foregoing, if the Company shall furnish to Holders requesting the filing of a registration statement pursuant to this Section 2.2, a certificate signed by the President or Chief Executive Officer of the Company stating that in the good faith judgment of the Board of Directors of the Company (the “Board”), it would be materially detrimental to the Company and its stockholders for such registration statement to be filed and it is therefore necessary to defer the filing of such registration statement, then the Company shall have the right to defer such filing for a period of not more than one hundred twenty (120) days after receipt of the request of the Initiating Holders; provided, however, that the Company may not utilize this right more than once in any twelve (12) month period; provided, further, that the Company shall not register any securities for the account of itself or any other stockholder during such one hundred twenty (120) day period (other than a registration relating solely to the sale of securities of participants in a Company stock plan or a registration relating to a corporate reorganization or transaction under Rule 145 of the Securities Act).

(e) **Expenses.** All expenses incurred in connection with a registration pursuant to this Section 2.2, including without limitation all registration and qualification fees, printers’ and accounting fees, fees and disbursements of counsel for the Company, and the reasonable fees and disbursements of one counsel for the selling Holders (but excluding underwriters’ discounts and commissions), shall be borne by the Company. Each Holder participating in a registration pursuant to this Section 2.2 shall bear such Holder’s proportionate share (based on the total number of shares sold in such registration other than for the account of the Company) of all discounts and commissions. Notwithstanding the foregoing, the Company
shall not be required to pay for any expenses of any registration proceeding begun pursuant to this Section 2.2 (and the Holders electing to participate in such registration shall bear all such expenses on a pro rata basis according to the number of Registrable Securities they elected to include in such registration) if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered, unless the Holders of a majority of the Registrable Securities Then Outstanding agree to forfeit their right to one (1) demand registration pursuant to this Section 2.2 (in which case such right shall be forfeited by all Holders of Registrable Securities); provided, however, that if at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business, or prospects of the Company not known to the Holders at the time of their request for such registration and have withdrawn their request for registration with reasonable promptness after learning of such material adverse change, then the Holders shall not be required to pay any of such expenses and shall not be required to forfeit a demand registration pursuant to this Section 2.2.

2.3 Piggyback Registrations. The Company shall notify all Holders of Registrable Securities in writing at least thirty (30) days prior to filing any registration statement under the Securities Act for purposes of effecting a public offering of securities of the Company (including, but not limited to, registration statements relating to secondary offerings of securities of the Company, but excluding registration statements relating to any registration under Section 2.2 or Section 2.4 of this Agreement or to any employee benefit plan or a corporate reorganization or transaction under Rule 145 of the Securities Act) and will afford each such Holder an opportunity to include in such registration statement all or any part of the Registrable Securities then held by such Holder. Each Holder desiring to include in any such registration statement all or any part of the Registrable Securities held by such Holder shall, within twenty (20) days after the above-described notice from the Company is deemed delivered pursuant to Section 6.1, so notify the Company in writing, and in such notice shall inform the Company of the number of Registrable Securities such Holder wishes to include in such registration statement. If a Holder decides not to include all of its Registrable Securities in any registration statement thereafter filed by the Company, such Holder shall nevertheless continue to have the right to include any Registrable Securities in any subsequent registration statement or registration statements as may be filed by the Company with respect to offerings of its securities, all upon the terms and conditions set forth herein.

(a) Underwriting. If a registration statement under which the Company gives notice under this Section 2.3 is for an underwritten offering, then the Company shall so advise the Holders of Registrable Securities. In such event, the right of any such Holder’s Registrable Securities to be included in a registration pursuant to this Section 2.3 shall be conditioned upon such Holder’s participation in such underwriting and the inclusion of such Holder’s Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the managing underwriter or underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Agreement, if the managing underwriter advises the Company in writing that marketing factors require a limitation of the number of shares to be underwritten, then (subject to paragraph 14 of the Letter Agreement) the managing underwriter may exclude shares (including Registrable Securities) from the registration and the underwriting, and the number of shares that may be included in the registration and the underwriting shall be allocated, first, to the Company, second, to each of the
Holders requesting inclusion of their Registrable Securities in such registration statement, on a pro rata basis according to the number of Registrable Securities Then Outstanding held by each such Holder, and third, to all other stockholders of the Company requesting inclusion of securities of the Company in such registration; provided however, that the right of the underwriters to exclude shares (including Registrable Securities) from the registration and underwriting as described above shall be restricted so that the number of Registrable Securities included in any such registration is not reduced below thirty percent (30%) of the shares included in the registration, except for a registration relating to the Company’s initial public offering from which all Registrable Securities may be excluded. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the underwriter, delivered at least ten (10) business days prior to the effective date of the registration statement. Any Registrable Securities excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration. For any Holder which is a venture capital fund, partnership or corporation, the affiliated venture capital funds, partners, retired partners and stockholders of such Holder, or the estates and family members of any such partners and retired partners and any trusts for the benefit of any of the foregoing persons shall be deemed to be a single “Holder”, and any pro rata reduction with respect to such “Holder” shall be based upon the aggregate amount of shares carrying registration rights owned by all entities and individuals included in such “Holder”, as defined in this sentence.

(b) Expenses. All expenses incurred in connection with a registration pursuant to this Section 2.3 (excluding underwriters’ and brokers’ discounts and commissions), including, without limitation all federal and “blue sky” registration and qualification fees, printers’ and accounting fees, fees and disbursements of counsel for the Company and reasonable fees and disbursements of one counsel for the selling Holders (up to $50,000), shall be borne by the Company.

2.4 Form S-3 Registration. In case the Company shall receive a written request or requests from any Holder or Holders of Registrable Securities then holding at least Thirty Percent (30%) of the Registrable Securities Then Outstanding (with the Series E-1 Preferred Stock and Series F-1 Preferred Stock not subject to the Regulatory Voting Restriction (as such term is defined in the Restated Certificate) for purposes of such request) that the Company effect a registration on Form S-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, then the Company will:

(a) Notice. Promptly give written notice of the proposed registration and the Holder’s or Holders’ request therefor, and any related qualification or compliance, to all other Holders of Registrable Securities; and

(b) Registration. As soon as practicable, effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder’s or Holders’ Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within twenty (20) days after such written notice from the Company is deemed delivered pursuant to Section 6.1; provided, however, that the Company shall not be obligated to effect any such registration, qualification or compliance pursuant to this Section 2.4:

(1) if Form S-3 is not available for such offering by the Holders;
(2) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) at an aggregate price to the public of less than One Million Dollars ($1,000,000);

(3) if the Company shall furnish to the Holders a certificate signed by the President or Chief Executive Officer of the Company stating that in the good faith judgment of the Board, it would be materially detrimental to the Company and its stockholders for such Form S-3 Registration to be effected at such time, in which event the Company shall have the right to defer the filing of the Form S-3 registration statement no more than once during any twelve month period for a period of not more than one hundred twenty (120) days after receipt of the request of the Holder or Holders under this Section 2.4; provided, however, that the Company shall not register any securities for the account of itself or any other stockholder during such one hundred twenty (120) day period (other than a registration relating solely to the sale of securities of participants in a Company stock plan, a registration relating to a corporate reorganization or transaction under Rule 145 of the Securities Act, a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities, or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered);

(4) if the Company has, within the twelve (12) month period preceding the date of such request, already effected two (2) registrations on Form S-3 for the Holders pursuant to this Section 2.4; or

(5) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

(c) Expenses. Subject to the foregoing, the Company shall file a Form S-3 registration statement covering the Registrable Securities and other securities so requested to be registered pursuant to this Section 2.4 as soon as practicable after receipt of the request or requests of the Holders for such registration. The Company shall pay all expenses incurred in connection with each registration requested pursuant to this Section 2.4, (excluding underwriters’ or brokers’ discounts and commissions), including without limitation all filing, registration and qualification, printers’ and accounting fees and the reasonable fees and disbursements of one counsel for the selling Holder or Holders (up to $50,000) and counsel for the Company.

(d) Not Demand Registration. Form S-3 registrations shall not be deemed to be demand registrations as described in Section 2.2 above.
2.5 **Obligations of the Company.** Whenever required to effect the registration of any Registrable Securities under this Agreement, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use diligent efforts to cause such registration statement to become effective, and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective until the earlier to occur of (i) one hundred twenty (120) days following the effective date and (ii) the last date on which all Registrable Securities with respect to which such registration statement was filed are sold.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement.

(c) Furnish to the Holders such number of copies of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the disposition of the Registrable Securities owned by them that are included in such registration.

(d) Use its diligent efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders, provided that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(e) In the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the managing underwriter(s) of such offering.

(f) Notify each Holder of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing.

(g) Furnish, at the request of any Holder requesting registration of Registrable Securities, on the date that such Registrable Securities are delivered to the underwriters for sale, if such securities are being sold through underwriters, (i) an opinion, dated as of such date, of the counsel representing the Company for the purposes of such registration, in form and substance as is customarily given to underwriters in an underwritten public offering, addressed to the underwriters and (ii) a “comfort” letter dated as of such date, from the independent certified public accountants of the Company, in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering addressed to the underwriters.
2.6 Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to Sections 2.2, 2.3 or 2.4 that the selling Holders shall furnish to the Company such information regarding themselves, the Registrable Securities held by them, and the intended method of disposition of such securities as shall be reasonably required to timely effect the registration of their Registrable Securities.

2.7 Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any such registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

2.8 Indemnification. In the event any Registrable Securities are included in a registration statement under Sections 2.2, 2.3 or 2.4:

(a) By the Company. To the fullest extent permitted by law, the Company will indemnify and hold harmless each Holder, the partners, officers and directors of each Holder, any underwriter (as defined in the Securities Act) for such Holder and each person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Securities Exchange Act of 1934, as amended, (the “1934 Act”), against any losses, claims, damages, or liabilities (joint or several) to which they may become subject under the Securities Act, the 1934 Act or other federal or state law, insofar as such losses, claims, damages, or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively a “Violation”):

(i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto;

(ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or

(iii) any violation or alleged violation by the Company of the Securities Act, the 1934 Act, any federal or state securities law or any rule or regulation promulgated under the Securities Act, the 1934 Act or any federal or state securities law in connection with the offering covered by such registration statement; and the Company will reimburse each such Holder, partner, officer or director, underwriter or controlling person for any legal or other expenses reasonably incurred by them, as incurred, in connection with investigating or defending any such loss, claim, damage, liability or action; provided however, that the indemnity agreement contained in this subsection 2.8(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld), nor
shall the Company be liable in any such case for any such loss, claim, damage, liability or action to the extent (and only to the extent) that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by such Holder, partner, officer, director, underwriter or controlling person of such Holder.

(b) By Selling Holders. To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, each of its directors, each of its officers who have signed the registration statement, each person, if any, who controls the Company within the meaning of the Securities Act, any underwriter and any other Holder selling securities under such registration statement or any of such other Holder’s partners, directors or officers or any person who controls such Holder within the meaning of the Securities Act or the 1934 Act, against any losses, claims, damages or liabilities (joint or several) to which the Company or any such director, officer, controlling person, underwriter or other such Holder, partner or director, officer or controlling person of such other Holder may become subject under the Securities Act, the 1934 Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder expressly for use in connection with such registration; and each such Holder will reimburse any legal or other expenses reasonably incurred by the Company or any such director, officer, controlling person, underwriter or other Holder, partner, officer, director or controlling person of such other Holder in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the indemnity agreement contained in this subsection 2.8(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further, that the total amounts payable in indemnity by a Holder under this Section 2.8(b) in respect of any Violation shall not exceed the net proceeds received by such Holder in the registered offering out of which such Violation arises.

(c) Notice. Promptly after receipt by an indemnified party under this Section 2.8 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.8, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential conflict of interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.8, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.8.
(d) Contribution. In order to provide for just and equitable contribution to joint liability under the Securities Act in any case in which either: (i) any Holder exercising rights under this Agreement, or any controlling person of any such Holder, makes a claim for indemnification pursuant to this Section 2.8 but it is judicially determined that such indemnification may not be enforced in such case notwithstanding the fact that this Section 2.8 provides for indemnification in such case; or (ii) contribution under the Securities Act may be required on the part of any such selling Holder or any such controlling person in circumstances for which indemnification is provided under this Section 2.8; then, and in each such case, the Company and such Holder will contribute to the aggregate losses, claims, damages or liabilities to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of the indemnifying party, on the one hand, and the indemnified party, on the other, in connection with the statements or omissions or violations that resulted in such loss, liability, claim, damage or expense, as well as any other equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by a court of law by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (A) no such Holder will be required to contribute any amount in excess of net proceeds received by such Holder (such amount to be combined with any amounts paid by such Holder pursuant to Section 2.8(b)); and (B) no person or entity guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any person or entity who was not guilty of such fraudulent misrepresentation.

Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(e) Survival. The obligations of the Company and Holders under this Section 2.8 shall survive the completion of any offering of Registrable Securities in a registration statement, and otherwise.

2.9 “Market Stand-Off” Agreement. Subject to paragraph 14 of the Letter Agreement and Section 2.2 of Article VI of the Restated Certificate, each Holder hereby agrees that it shall not, to the extent requested by the Company or an underwriter of securities of the Company, lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or indirectly, any Registrable Securities or other shares of stock of the Company then owned by such Holder (other than to donees or partners of the Holder who agree to be similarly bound) for up to one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act; provided, however, that:

(a) such agreement shall be applicable only to the first such registration statement of the Company which covers securities to be sold on its behalf to the public in an underwritten offering but not to Registrable Securities sold pursuant to such registration statement or to shares purchased thereafter in the open market; and
(b) all stockholders of the Company who hold in excess of one percent (1%) of the then outstanding Common Stock and common stock equivalents of the Company and all executive officers and directors of the Company enter into similar agreements.

In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the shares subject to this Section and to impose stop transfer instructions with respect to the Registrable Securities and such other shares of stock of each Holder (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period. Each Holder further agrees to enter into any agreement reasonably requested by the underwriters to implement the foregoing within any reasonable timeframe so requested.

2.10 Rule 144 Reporting. With a view to making available the benefits of certain rules and regulations of the Commission which may at any time permit the sale of the Registrable Securities to the public without registration, after such time as a public market exists for the Common Stock of the Company, the Company agrees to:

(a) Make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act, at all times after the effective date of the first registration under the Securities Act filed by the Company for an offering of its securities to the general public;

(b) File with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the 1934 Act (at any time after it has become subject to such reporting requirements); and

(c) So long as a Holder owns any Registrable Securities, to furnish to the Holder forthwith upon request a written statement by the Company as to its compliance with the reporting requirements of said Rule 144 (at any time after 90 days after the effective date of the first registration statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the 1934 Act (at any time after it has become subject to the reporting requirements of the 1934 Act), a copy of the most recent annual or quarterly report of the Company, and such other reports and documents of the Company as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such securities without registration (at any time after the Company has become subject to the reporting requirements of the 1934 Act).

2.11 Termination of the Company’s Obligations. The Company shall have no obligations under this Section 2 with respect to any request or requests for registration made on a date more than five (5) years after the closing of a Qualified IPO (as defined below); and with respect to any Registrable Securities proposed to be sold by a Holder if, in the opinion of counsel to the Company, all Registrable Securities of such Holder may be sold in a three-month period without registration under the Securities Act pursuant to Rule 144 under the Securities Act. “Qualified IPO” means an underwritten public offering pursuant to an effective registration
statement filed under the Securities Act of 1933, as amended, covering the offer and sale of Common Stock for the account of the Company in which the aggregate public offering price (before deduction of underwriters’ discounts and commissions) equals or exceeds Thirty Five Million Dollars ($35,000,000).

2.12 No Future Grants of Registration Rights. Following the date hereof, the Company shall not, without written consent of the Holders of a majority of the Registrable Securities Then Outstanding (with the Series E-1 Preferred Stock and Series F-1 Preferred Stock being treated as not subject to the Regulatory Voting Restriction for this purpose), enter into any agreement to grant registration rights to any other party which would allow such person (a) to include securities of the Company in any registration unless, under the terms of such agreement, such person may include such securities in any such registration only to the extent that the inclusion of such securities will not reduce the number of Registrable Securities of the Holders that are included or (b) to demand registration of any securities held by such person.

3. RIGHT OF FIRST REFUSAL.

3.1 General. Each Investor and any party to whom such Investor’s rights under this Section 3 have been duly assigned in accordance with Section 4.1(c) (each such Investor or assignee being hereinafter referred to as a “Rights Holder”) has the right of first refusal to purchase such Rights Holder’s Pro Rata Share (as defined below), of all (or any part) of any “New Securities” (as defined in Section 3.2) that the Company may from time to time issue after the date of this Agreement; provided, however, that such right is contingent upon such Rights Holder demonstrating to the Company’s satisfaction that it is an “accredited investor” (as defined in Rule 501 of Regulation D promulgated under the Securities Act). A Rights Holder’s “Pro Rata Share” for purposes of this right of first refusal is the ratio of (a) the number of shares of Common Stock issuable or issued upon conversion of shares of Preferred Stock held by such Rights Holder, to (b) a number of shares of Common Stock of the Company equal to the sum of (i) the total number of shares of Common Stock and Nonvoting Common Stock of the Company then outstanding plus (ii) the total number of shares of Common Stock of the Company into which all then outstanding shares of Preferred Stock and shares of each series of Preferred Stock issuable upon exercise of then outstanding options or warrants of the Company are then or would, upon exercise of such options and warrants, be convertible plus (iii) the number of shares of Common Stock and Nonvoting Common Stock of the Company issuable upon exercise of then outstanding options or warrants to purchase shares of Common Stock and/or Nonvoting Common Stock.

3.2 New Securities. “New Securities” shall mean any shares of Common Stock of the Company, shares of Nonvoting Common Stock of the Company or shares of any series of Preferred Stock of the Company, whether now authorized or not, and rights, options or warrants to purchase such Common Stock, Nonvoting Common Stock or Preferred Stock, and securities of any type whatsoever that are, or may become, convertible or exchangeable into such Common Stock, Nonvoting Common Stock or Preferred Stock; provided, however, that the term “New Securities” does not include:

(a) shares of Common Stock issued upon conversion of any shares of Preferred Stock;
(b) shares of Common Stock, and any options, warrants, convertible securities or other rights directly or indirectly exercisable or convertible into such shares of Common Stock, granted or issued to employees, officers, directors, contractors, consultants or advisers to the Company or any Subsidiary pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other incentive arrangements that are approved by the Board;

(c) shares of Common Stock and/or Nonvoting Common Stock (and any options, warrants, convertible securities or other rights directly or indirectly exercisable or convertible into such shares of Common Stock and/or Nonvoting Common Stock) issued (i) in connection with joint ventures, manufacturing, marketing, distribution, licensing or other commercial arrangements with the Company that in each case are approved by the Board (including at least three (3) of the directors elected as a “Preferred Stock Designee” pursuant to that certain Tenth Amended and Restated Voting Agreement by and among the Company and the Holders named therein dated as of the date hereof, as may be amended (each a “Preferred Stock Director”)) and entered into primarily for other than capital raising purposes or (ii) to parties that are providing the Company with equipment leases, real property leases, loans, credit lines, or guaranties of indebtedness, in each case pursuant to arrangements that are approved by the Board (including at least three (3) Preferred Stock Directors) and that are primarily for other than equity financing purposes;

(d) shares of Common Stock (and any options, warrants, convertible securities or other rights directly or indirectly exercisable or convertible into such shares of Common Stock) issued pursuant to the acquisition of another corporation or entity by the Company by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Company acquires, in a single transaction or series of related transactions, all or substantially all of the assets of such other corporation or entity or fifty percent (50%) or more of the voting power of such other corporation or entity or fifty percent (50%) or more of the equity ownership of such other entity under arrangements approved by the Board;

(e) shares of Common Stock or Preferred Stock issued upon the exercise of any warrants or options that are outstanding as of the date of this Agreement and any shares of the Company’s Common Stock issuable upon conversion of any such shares of Preferred Stock, and shares of Common Stock and/or Nonvoting Common Stock (and any warrants exercisable into such shares of Common Stock and/or Nonvoting Common Stock) that are issued pursuant to the JPMC Warrant Agreement;

(f) shares of Common Stock issued in connection with a public offering of the Company’s Common Stock pursuant to a registration statement under the Securities Act of 1933, as amended;

(g) shares of Common Stock or other securities of the Company for which an adjustment is made pursuant to any of Sections 5.4, 5.5, 5.6 or 5.7 of Article V of the Restated Certificate; and
(h) shares of Series H Preferred Stock sold pursuant to the Series H Agreement, as amended from time to time after the date of this Agreement and any shares of the Company’s Common Stock issuable upon conversion of any such shares of Series H Preferred Stock.

3.3 Procedures. In the event that the Company proposes to undertake an issuance of New Securities, it shall first give to each Rights Holder written notice of its intention to issue New Securities (the “Notice”), describing the type of New Securities and the price and the general terms upon which the Company proposes to issue such New Securities. Each Rights Holder shall have twenty (20) days from the date of deemed delivery under Section 6.1 of any such Notice to agree in writing to purchase such Rights Holder’s Pro Rata Share of such New Securities for the price and upon the general terms specified in the Notice by giving written notice to the Company and stating therein the quantity of New Securities to be purchased (not to exceed such Rights Holder’s Pro Rata Share). If any Rights Holder fails to so agree in writing within such twenty (20) day period to purchase such Rights Holder’s full Pro Rata Share of an offering of New Securities (a “Nonpurchasing Holder”), then such Nonpurchasing Holder shall forfeit the right hereunder to purchase that part of his Pro Rata Share of such New Securities that he did not so agree to purchase and the Company shall promptly give each Rights Holder who has timely agreed to purchase his full Pro Rata Share of such offering of New Securities (a “Purchasing Holder”) written notice of the failure of any Nonpurchasing Holder to purchase such Nonpurchasing Holder’s full Pro Rata Share of such offering of New Securities (the “Overallotment Notice”). Each Purchasing Holder shall have a right of overallotment such that such Purchasing Holder may agree to purchase a portion of the Nonpurchasing Holders’ unpurchased Pro Rata Shares of such offering on a pro rata basis according to the relative Pro Rata Shares of the Purchasing Holders who are seeking to exercise such overallotment right, at any time within five (5) days after deemed delivery under Section 6.1 of the Overallotment Notice. As used herein, the term “Subsidiary” shall mean any corporation, limited liability company, partnership or other entity of which at least fifty percent (50%) of the outstanding voting stock or other ownership interests having ordinary voting power is at the time owned directly or indirectly by the Company or by one or more of such subsidiary corporations, limited liability companies, partnerships or other entities.

3.4 Failure to Exercise. In the event that the Rights Holders fail to exercise in full the right of first refusal within such twenty (20) plus five (5) day period, then the Company shall have 90 days thereafter to sell the New Securities with respect to which the Rights Holders’ rights of first refusal hereunder were not exercised, at a price and upon general terms not materially more favorable to the purchasers thereof than specified in the Company’s Notice to the Rights Holders. In the event that the Company has not issued and sold the New Securities within such 90 day period, then the Company shall not thereafter issue or sell any New Securities without again first offering such New Securities to the Rights Holders pursuant to this Section 3.

3.5 Termination. This right of first refusal shall terminate immediately before the closing of a Qualified IPO.

3.6 Regulated Holder. The Company and each Investor agrees to use commercially reasonable efforts to cooperate with a Regulated Holder so that, in the event the Regulated Holder exercises its right of first refusal pursuant to this Section 3, the terms and characteristics of such securities so issued or transferred shall comply with any regulatory requirements applicable to the Regulated Holder.
4. ASSIGNMENT AND AMENDMENT.

4.1 Assignment. Notwithstanding anything herein to the contrary:

(a) Information Rights. The rights of a Major Investor under Section 1.1 and 1.2 hereof may be assigned only to a party to the extent that such transferee acquires from the Major Investor (or the Major Investor’s permitted assigns) at least that number and type of shares capital stock of the Company, as are necessary to have the applicable rights of a Major Investor described in the relevant provisions of Sections 1.1 and 1.2 hereof, respectively. A transferee which acquires such required number and type of shares of capital stock of the Company pursuant to an assignment made in accordance with the terms and conditions hereof shall be deemed to be a “Major Investor” for purposes of Section 1; provided, however that no party may be assigned any of the foregoing rights unless (i) the Company is given written notice by the assigning party at the time of such assignment stating the name and address of the assignee and identifying the securities of the Company as to which the rights in question are being assigned, (ii) such transfer of the securities of the Company is made in compliance with the terms and conditions relating to restrictions and conditions of transfer applicable to such securities, and (iii) such assignee executes and delivers to the Company a counterpart signature page to this Agreement in a form reasonably satisfactory to the Company agreeing to be bound by all of the terms and conditions of this Agreement (including without limitation the provisions of this Section 4) as an “Investor” hereunder. Notwithstanding anything to the contrary in this Agreement, no rights under Sections 1.1 or 1.2 may be transferred or assigned to any party that the Board reasonably concludes is a competitor or potential competitor of the Company.

(b) Registration Rights. The registration rights of a Holder under Section 2 hereof may be assigned only to (i) a party who acquires at least 200,000 Registrable Securities (as adjusted per Section 6.10); provided, however, that if a Holder under Section 2 hereof holds less than 200,000 Registrable Securities (as adjusted per Section 6.10), then the registration rights under Section 2.3 may be transferred to a transferee who acquires all of such Holder’s Registrable Securities, or (ii) a transferee of Registrable Securities that is a subsidiary, parent, affiliated venture capital fund, partner, limited partner, member, retired partner, retired member or stockholder of a Holder or is a Transferee of a Regulated Holder (as those terms are defined in the Restated Certificate); provided further, however, that no party may be assigned any of the foregoing rights unless (i) the Company is given written notice by the assigning party at the time of such assignment stating the name and address of the assignee and identifying the securities of the Company as to which the rights in question are being assigned, (ii) such transfer of the securities of the Company is made in compliance with the terms and conditions relating to restrictions and conditions of transfer applicable to such securities, and (iii) such assignee executes and delivers to the Company a counterpart signature page to this Agreement in a form reasonably satisfactory to the Company agreeing to be bound by all of the terms and conditions of this Agreement (including without limitation the provisions of this Section 4) as an “Investor” hereunder.

19
(c) Refusal Rights. The rights of a Rights Holder under Section 3 hereof may be assigned only to a party to the extent that such transferee acquires from the Rights Holder (or the Rights Holder’s permitted assigns) shares of Preferred Stock or shares of Common Stock issued upon conversion thereof; provided, however that no party may be assigned any of the foregoing rights unless (i) the Company is given written notice by the assigning party at the time of such assignment stating the name and address of the assignee and identifying the securities of the Company as to which the rights in question are being assigned, (ii) such transfer of the securities of the Company is made in compliance with the terms and conditions relating to restrictions and conditions of transfer applicable to such securities, and (iii) such assignee executes and delivers to the Company a counterpart signature page to this Agreement in a form reasonably satisfactory to the Company agreeing to be bound by all of the terms and conditions of this Agreement (including without limitation the provisions of this Section 4) as an “Investor” hereunder.

4.2 Amendment of Rights.

(a) Except as set forth otherwise herein, any provision of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and Holders of a majority of the Registrable Securities Then Outstanding (with the Series E-1 Preferred Stock and Series F-1 Preferred Stock not subject to the Regulatory Voting Restriction for this purpose). Any amendment or waiver affected in accordance with this Section 4.2 shall be binding upon each party to this Agreement and each permitted successor or assignee of such party. The provisions in Section 1.1, 1.2, and 1.3 may be amended or waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Company and the holders of a majority of the Registrable Securities Then Outstanding that are held by Major Investors (with the Series E-1 Preferred Stock and Series F-1 Preferred Stock not subject to the Regulatory Voting Restriction for this purpose), and Section 1.1(a) may not be amended to remove or alter the name of any specific Investor named therein without such Investor’s written consent. Notwithstanding anything herein to the contrary, no amendment or waiver of this Agreement that would adversely and disproportionately affect the Series D Preferred Stock relative to any other series of Preferred Stock shall be made without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the outstanding Series D Preferred Stock; provided further and notwithstanding anything herein to the contrary, no amendment or waiver of this Agreement that would adversely and disproportionately affect the Series E Preferred Stock relative to any other series of Preferred Stock shall be made without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the outstanding Series E Preferred Stock; provided further and notwithstanding anything herein to the contrary, no amendment or waiver of this Agreement that would adversely and disproportionately affect the Series F Preferred Stock relative to any other series of Preferred Stock shall be made without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the outstanding Series F Preferred Stock; provided further and notwithstanding anything herein to the contrary, no amendment or waiver of this Agreement that would adversely and disproportionately affect the Series G Preferred Stock relative to any other series of Preferred Stock shall be made without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the outstanding Series G Preferred Stock; and provided further and notwithstanding anything herein to the contrary, no
amendment or waiver of this Agreement that would adversely and disproportionately affect the Series H Preferred Stock relative to any other series of Preferred Stock shall be made without the approval, by vote or written consent, of the holders of at least sixty percent (60%) of the outstanding Series H Preferred Stock. Notwithstanding anything herein to the contrary, (i) Section 3.6, Section 6.12, Section 6.13, and this Section 4.2 (with respect to this sentence) may not be amended, modified, terminated or waived in any respect, and (ii) Section 4.1(b)(ii) and any other provision that includes an express reference to any shares of Series E-1 Preferred Stock and/or Series F-1 Preferred Stock or the Letter Agreement in this Agreement may not be amended, modified, terminated or waived in a manner that would adversely and disproportionately affect the Series E-1 Preferred Stock and/or Series F-1 Preferred Stock relative to any other series of Preferred Stock, in each case without the written consent of (x) AXP in order to be enforceable against AXP and its affiliates (as defined in Regulation Y (12 C.F.R. Part 225)) and (y) for so long as any Regulated Holder or its Transferee holds any shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, the holders of a majority of the then-outstanding shares of Series E-1 Preferred Stock or Series F-1 Preferred Stock, which are so affected, in order to be enforceable against any Regulated Holder or any Transferee of such shares.

(b) Notwithstanding anything herein to the contrary, if pursuant to Section 2.3 of the Series H Agreement, any additional party purchases shares of Series H Preferred Stock pursuant to the Series H Agreement, as each is amended from time to time, as an “Additional Investor” (as defined in the Series H Agreement), then such Additional Investor shall become a party to this Agreement as an “Investor” hereunder, without the need for any consent, approval or signature of any Investor hereunder when such Additional Investor has both: (i) purchased shares of Series H Preferred Stock under the Series H Agreement, as amended from time to time, and paid the Company all consideration payable for such shares, and (ii) executed one or more counterpart signature pages to this Agreement as an “Investor”, with the Company’s consent.

5. CERTAIN COVENANTS OF THE COMPANY.

5.1 Option and Stock Awards; Vesting. Except as otherwise approved by the Board, each option grant or restricted stock award made by the Company after the date of this Agreement to any employee of the Company under any equity incentive plan of the Company (in each case an “Award”) will provide for no less than a four year vesting period, with twenty five percent (25%) of the shares to vest at the end of the first year of vesting and the remainder to vest ratably monthly over the next 36 months. Each Award will provide for the Company a freely assignable repurchase option to buy back at cost any unvested portion of the shares of Common Stock held by such person if such person’s employment with, or consulting to, the Company is terminated prior to the expiration of the vesting period of such Award.

5.2 Restrictions on Common Stock. Except as otherwise approved by the Board, all shares of Common Stock of the Company issued to employees, consultants or contractors shall be subject to a freely assignable Company right of first refusal on transfers, a standard 180 day market standoff provision, and shall prohibit transfers of unvested shares (except by operation of law or for estate planning purposes).
5.3 Invention Assignment Agreements. The Company shall require all employees to execute and deliver an Employee Inventions and Proprietary Rights Agreement and Confidentiality Agreement in substantially the form approved by the Board. The Company shall cause all consultants who are engaged to provide engineering or other technical services or who otherwise might have access to material confidential information to execute and deliver an agreement providing for the assignment to the Company of inventions conceived in the course of providing such services and the maintenance of confidential information as confidential.

5.4 Reserved.

5.5 Controlled Foreign Corporation. The Company shall not, without the consent of Holders of a majority of the Registrable Securities Then Outstanding, take actions that cause Holders, as a result of their holdings of Company capital stock, having “Subpart F income” (as determined under Sections 951 and 952 of the Internal Revenue Code of 1986, as amended (the “Code”)). The Company’s obligations under this Section 5.5 shall terminate upon the earlier of the closing of a Qualified IPO or a Sale of the Company.

5.6 Passive Foreign Investment Company. The Company shall not, without the consent of Holders of a majority of the Registrable Securities Then Outstanding, take actions that cause the Company to become a “passive foreign investment company” within the meaning of Section 1297 of the Code. The Company’s obligations under this Section 5.6 shall terminate upon the earlier of the closing of a Qualified IPO or a Sale of the Company.

5.7 D&O Insurance. The Company shall use reasonable commercial efforts to maintain customary directors’ and officers’ liability insurance in an amount and on terms reasonably acceptable to each of the Major Investors; provided that this requirement may be waived by action of the Board (including at least three (3) Preferred Stock Directors).

5.8 Publicity. The Company shall not use an Investor’s name in any manner, context or format (including reference on or links to websites, press releases, etc.) without the prior approval of such Investor.

5.9 Indemnification Agreement. The Company shall enter into an Indemnification Agreement with each director in a form satisfactory to the Board.

5.10 Board Expenses. The Company shall reimburse non-management directors for reasonable expenses associated with attendance at meetings of the Board (or committees thereof).

5.11 Related Party Transactions. Other than (i) that certain Series H Agreement, dated as of the date of this Agreement, by and among the Company and the investors party thereto, (ii) that certain Tenth Amended and Restated Right of First Refusal and Co-Sale Agreement, dated as of the date of this Agreement, by and among the Company and the stockholders party thereto, (iii) that certain Tenth Amended and Restated Voting Agreement, dated as of the date of this Agreement, by and among the Company and the stockholders party thereto, (iv) that certain Side Letter Agreement, dated as of the date hereof, by and between the Company and Franklin Advisers, Inc., (v) that certain Side Letter Agreement, dated June 21, 2017, by and between the Company and JPMC, (vi) the JPMC Warrant Agreement, (vii)
agreements and transactions pursuant to that certain Master Agreement for U.S. Deliverables by and between the Company and JPMorgan Chase Bank, National Association, dated effective as of April 28, 2017, (viii) this Agreement, (ix) the Letter Agreement, (x) that certain Application Service Provider and Customization Agreement between Bank of America, N.A and the Company dated October 24, 2013, (xi) that certain General Services Agreement between the Company and Bank of America, N.A. dated April 22, 2013, (xii) that certain Side letter dated November 8, 2013 between the Company and Banc of America Strategic Investments Corporation, (xiii) that certain Side letter dated February 18, 2015 between the Company and Banc of America Strategic Investments Corporation, (xiv) that certain Loan and Security Agreement dated December 5, 2014 between the Company and Silicon Valley Bank, and all related agreements and amendments thereto, (xv) that certain Board Observer Letter dated December 4, 2014, between the Company and Capital Partners III, L.P. and (xvi) that certain Side Letter dated September 27, 2017, between the Company and Ossa Investments Pte. Ltd., in each case as the same may be amended from time to time, the Company and/or any Subsidiary shall not enter into any transaction with any stockholder who, together with its affiliates (which affiliates shall include, without limitation, (I) with respect to any natural person, such person’s spouse, immediate family members and lineal descendants and (II) with respect to any trust, any trustee or beneficiary of such trust), beneficially owns five percent (5%) or more of the voting stock of the Company or any Subsidiary (calculated on an as-converted to Common Stock basis) or with any affiliate of such stockholder unless either (1) the terms of such transaction are no less favorable to the Company than could be obtained from a third party at arm’s length or (2) such transaction has been approved by a majority of the non-interested members of the Board.

6. GENERAL PROVISIONS

6.1 Notices. Any notice, request or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given (i) on the day of delivery if personally delivered; (ii) one (1) business day following deposit with a nationally recognized express courier service (fees prepaid) with instructions to deliver no later than the following business day for deliveries within the United States; (iii) three (3) business days following deposit with an internationally recognized express courier service (fees prepaid) with instructions to deliver no later than three (3) business days later for deliveries across international borders; or (iv) for deliveries inside the United States only, three (3) business days following deposit in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, as follows:

(a) if to an Investor, at such Investor’s respective address as set forth on Exhibit A hereto; and
(b) if to the Company, 1810 Embarcadero Road, Palo Alto, CA 94303.

Any party hereto (and such party’s permitted assigns) may by notice so given change its address for future notices hereunder. Notice shall conclusively be deemed to have been given when personally delivered or when deposited in the mail in the manner set forth above.
6.2 Entire Agreement; Waiver. This Agreement, together with all the Exhibits hereto, constitutes and contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties respecting the subject matter hereof, including the Prior Agreement, the provisions of which are amended, restated and superseded in their entirety by this Agreement. The Investors who are parties to the Prior Agreement hereby waive, on behalf of themselves and all Investors who are parties to the Prior Agreement, all rights of notice and first refusal with respect to the issuance of shares of Series H Preferred Stock under the Series H Agreement and all shares of Common Stock issuable upon conversion thereof.

6.3 Governing Law. This Agreement shall be governed by and construed exclusively in accordance with the internal laws of the State of California as applied to agreements among California residents entered into and to be performed entirely within California, excluding that body of law relating to conflict of laws and choice of law.

6.4 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, then such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

6.5 Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

6.6 Successors And Assigns. Subject to the provisions of Section 4.1, the provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the successors and permitted assigns of the parties hereto.

6.7 Captions. The captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe or interpret this Agreement.

6.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.9 Costs And Attorneys’ Fees. In the event that any action, suit or other proceeding is instituted concerning or arising out of this Agreement or any transaction contemplated hereunder, the prevailing party shall recover all of such party’s costs and attorneys’ fees incurred in each such action, suit or other proceeding, including any and all appeals or petitions therefrom.

6.10 Adjustments for Stock Splits, Etc. Wherever in this Agreement there is a reference to a specific number of shares of Common Stock, Nonvoting Common Stock or Preferred Stock of the Company of any class or series, then, upon the occurrence of any subdivision, combination or stock dividend of such class or series of stock, the specific number of shares so referenced in this Agreement shall automatically be proportionally adjusted to reflect the effect on the outstanding shares of such class or series of stock by such subdivision, combination or stock dividend.
6.11 **Aggregation of Stock.** All shares held or acquired by affiliated entities or persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement including, without limitation, determining who is a Major Investor hereunder.

6.12 **Treatment of Series E-1 Preferred Stock and Series F-1 Preferred Stock.** Unless otherwise set forth in this Agreement, for all purposes of this Agreement, the Series E-1 Preferred Stock and Series F-1 Preferred Stock of the Company shall be treated as being convertible (without actual conversion) into shares of Common Stock of the Company at the then applicable conversion rate of the Series E Preferred Stock and Series F Preferred Stock, respectively.

6.13 **Measurement of Voting Power.** Except as otherwise specifically provided herein, the Series E-1 Preferred Stock and Series F-1 Preferred Stock shall be subject to the Regulatory Voting Restriction with respect to any matter for which the Series E-1 Preferred Stock or Series F-1 Preferred Stock, respectively, otherwise has the right to vote or consent under this Agreement.

[Signature pages to follow]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

COMPANY:

BDC PAYMENTS HOLDINGS, INC.

By: /s/ René Lacerte

René Lacerte, President and CEO

[SIGNATURE PAGE TO BDC PAYMENTS HOLDINGS, INC. TENTH AMENDED AND RESTATED INVESTORS’ RIGHTS AGREEMENT]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THE INVESTORS:

[NAME OF INVESTOR]

BY: __________________________________________

NAME: _________________________________________

TITLE: _________________________________________

[SIGNATURE PAGE TO BDC PAYMENTS HOLDINGS, INC. TENTH AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT]
EXHIBIT A

List of Investors

Investor Name and Address

DCM IV, L.P.
DCM Affiliates Fund IV, L.P.
2420 Sand Hill Road, Ste. 200
Menlo Park, CA 94025
Attn: Thomas B. Blaisdell

August Capital V, L.P.
2480 Sand Hill Road, Suite 101
Menlo Park, CA 94025
Attn: Katherine Blum

August Capital V Special Opportunities, L.P. as nominee
2480 Sand Hill Road, Suite 101
Menlo Park, CA 94025
Attn: Katherine Blum

Emergence Capital Partners, L.P.
Emergence Capital Associates, L.P.
Emergence Capital Partners SBIC, L.P.
160 Bovet Road, Ste. 300
San Mateo, CA 94402
Attn. Brian Jacobs

Icon Ventures IV, L.P.
505 Hamilton Avenue
Palo Alto, CA 94301

Financial Partners Fund I, L.P.
Attn: Steven Piaker
Financial Partners
Napier Park Global Capital
280 Park Avenue, 3rd Floor
New York, NY 10017

Scale Venture Partners IV, L.P.
950 Tower Lane, Suite 1150
Foster City, CA 94404

American Express Travel Related Services Company, Inc.
200 Vesey Street
Mail Drop 51-03
New York, NY 10285
Attn: General Counsel/Chief Development Officer
EXHIBIT A

List of Investors

Capital Partners III, L.P.
2770 Sand Hill Road
Menlo Park, CA 94025

Eric Chan
Chung Lacerte Trust Under Trust Agreement dated 2/15/2004

City National Bank
Technology and Venture Capital Banking
150 California Street, 13th Floor
San Francisco, CA 94111
Attn. Rod Werner, Managing Director

Comerica Bank
Attn: Warrant Administrator
500 Woodward Avenue, 32nd Floor, MC 3379
Detroit, MI 48226

CPA2Biz, Inc.
100 Broadway, 6th Floor
New York, NY 10005
Attn: Michael Murray

Susan A. Dunn
e-RM Ventures
705 Henley Fields Circle
Duluth, GA 30097
Attn. Mark Johnson

F&W Investments – Series 2006
 c/o Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Attn. Laird H. Simons III

F&W Investments LLC – Series 2007
 c/o Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Attn. Laird H. Simons III
EXHIBIT A

List of Investors

F&W Investments II LLC – Series 2009
c/o Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Attn. Laird H. Simons III

F&W Investments LP – Series 2013
c/o Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Attn: Laird H. Simons III

Wendy Gayle


Goines/Wong 1999 Living Trust

Gary W. Hornbeek and Susan M. Miller, as Trustees of the Hornbeek/Miller Family Trust under agreement dated March 19, 2007

Tommy Hui

JPMC Strategic Investments I Corporation
270 Park Avenue, 10th Floor
New York, NY 10017
Attn: Strategic Investments

Laura Korabiak

Gary Lang and LeeAnne M. Lang, Husband and Wife, as Community Property
EXHIBIT A

List of Investors

Daniel P. and Maria A. Lind, Trustees; The Daniel P. and Maria A. Lind Revocable Living Trust, dated March 24, 2000

Colleen Lindow

The Scott J. and Marilyn M. Loftesness Revocable Trust

1999 Orttung/Palmer Family Trust

Jeongho Park

Carol R. Glover and Michael C. Glover, as Joint Tenants

Penny Lam

Darren Root

Rootworks LLC
1516 S. Walnut Street
Bloomington, IN 47401
Attn: Darren Root

The Goldman Sachs Trust Company of Delaware, as Trustee of the SB Family Dynasty Trust (as successor-in-interest to the SB Holding Corporation Delaware Trust and the Smolenski Bowers Family Dynasty Trust)
Attn: Kathleen Kinne, President
Goldman Sachs Trust Co.
601 Delaware Avenue, 2nd Floor
Wilmington, DE 19801
EXHIBIT A

List of Investors

TTP Fund II, L.P.
c/o Total Technology Ventures
1230 Peachtree Street
Promenade II, Suite 1150
Atlanta, GA 30309
Tuan Dung Vu
The Sleeter Family Trust
Banc of America Strategic Investments Corporation
One Bryant Park, 17th Floor
New York, NY 10036
Fifth Third Capital Holdings, LLC
38 Fountain Square Plaza, MD 10904F
Cincinnati, OH 45263
West Capital Partners Bill.com LLC
9555 Main Street, Suite B
Cincinnati, OH 45242
Attn: Madeleine Ludlow
West Capital Partners Bill.com II LLC
9555 Main Street, Suite B
Cincinnati, OH 45242
Attn: Madeleine Ludlow
Peter J. Kight
Commerce Ventures, L.P.
680 Mission Street, Unit 11E
San Francisco, CA 94105
Attn: Dan Rosen, Managing Member
Andrew Cohen, Trustee of
the 1997 Cohen Family Trust
MAS Advisory LLC
c/o GPS Investment Partners
767 Fifth Avenue, 19th Floor
New York, NY 10153
Marc A. Spilker 2014 Family Trust  
c/o GPS Investment Partners  
767 Fifth Avenue, 19th Floor  
New York, NY 10153

Alba Investments LLC  
c/o GPS Investment Partners  
767 Fifth Avenue, 19th Floor  
New York, NY 10153

Scott Prince  
c/o GPS Investment Partners  
767 Fifth Avenue, 19th Floor  
New York, NY 10153

Prince Partners LP  
c/o GPS Investment Partners  
767 Fifth Avenue, 19th Floor  
New York, NY 10153

Benjamin Nickoll  
c/o GPS Investment Partners  
767 Fifth Avenue, 19th Floor  
New York, NY 10153

Christine Armstrong  
c/o GPS Investment Partners  
767 Fifth Avenue, 19th Floor  
New York, NY 10153

Ossa Investments Pte. Ltd.  
60B Orchard Road  
#06-18 Tower 2  
The Atrium@Orchard  
Singapore 238891
List of Investors

Broad Street Principal Investments, L.L.C.
200 West Street
New York, NY 10282
Attention: Rafi Carmeli

Franklin Strategic Series – Franklin Growth Opportunities Fund
One Franklin Parkway
San Mateo, CA 94403
Attention: Anthony Hardy and Kat Anderson

Franklin Templeton Investment Funds – Franklin U.S. Opportunities Fund
One Franklin Parkway
San Mateo, CA 94403
Attention: Anthony Hardy and Kat Anderson

Franklin Strategic Series – Franklin Small-Mid Cap Growth Fund
One Franklin Parkway
San Mateo, CA 94403
Attention: Anthony Hardy and Kat Anderson

Franklin Templeton Variable Insurance Products Trust – Franklin Small-Mid Cap Growth VIP Fund
One Franklin Parkway
San Mateo, CA 94403
Attention: Anthony Hardy and Kat Anderson

Virtus KAR Capital Growth Series
1800 Avenue of the Starts, 2nd Floor
Los Angeles, CA 90067
Attention: Judith Ridder, Chief Compliance Officer

Virtus KAR Capital Growth Fund
1800 Avenue of the Starts, 2nd Floor
Los Angeles, CA 90067
Attention: Judith Ridder, Chief Compliance Officer

Virtus Tactical Allocation Fund
1800 Avenue of the Starts, 2nd Floor
Los Angeles, CA 90067
Attention: Judith Ridder, Chief Compliance Officer
EXHIBIT A

List of Investors

Virtus Strategic Allocation Series
1800 Avenue of the Starts, 2nd Floor
Los Angeles, CA 90067
Attention: Judith Ridder, Chief Compliance Officer

Virtus Strategic Allocation Fund
1800 Avenue of the Starts, 2nd Floor
Los Angeles, CA 90067
Attention: Judith Ridder, Chief Compliance Officer

Virtus KAR Mid-Cap Growth Fund
1800 Avenue of the Starts, 2nd Floor
Los Angeles, CA 90067
Attention: Judith Ridder, Chief Compliance Officer

Fleetcor Technologies Operating Company LLC
5445 Triangle Parkway
Norcross, GA 30092

Mastercard Investment Holdings, inc.
2000 Purchase Street
Purchase, New York 10577

FIL Investments International As Agent For And On Behalf Of Fidelity Funds SICAV in respect of European Smaller Companies Fund
c/o Brown Brothers Harriman & Co
Corporate Actions Vault
140 Broadway
New York, NY 10005

Fidelity Global Innovators Investment Trust, by its Manager Fidelity Investments Canada ULC
483 Bay Street, North Tower, Suite 300
Toronto, ON
Canada M5G 2N7

Fidelity Special Situations Fund, by its Manager Fidelity Investments Canada ULC
483 Bay Street, North Tower, Suite 300
Toronto, ON
Canada M5G 2N7

Fidelity Greater Canada Fund, by its Manager Fidelity Investments Canada ULC
483 Bay Street, North Tower, Suite 300
Toronto, ON
Canada M5G 2N7

Fidelity Investments International As Agent For And On Behalf Of Fidelity Funds SICAV in respect of European Smaller Companies Fund
EXHIBIT A

List of Investors

Cross Creek Partners V, L.P.
505 South Wakara Way, Suite 215
Salt Lake City, UT 84108

Cross Creek Capital II, L.P.
505 South Wakara Way, Suite 215
Salt Lake City, UT 84108
WARRANT TO PURCHASE COMMON STOCK

Corporation: BDC Payments Holdings, Inc., a Delaware corporation
Number of Shares: 45,000
Class of Stock: Common Stock, par value $0.00001 per share
Initial Exercise Price: $2.639 per Share
Issue Date: August 2nd, 2018
Expiration Date: August 1st, 2023

This Warrant certifies that, for good and valuable consideration, Kindred Partners, LLC (“Holder”) is entitled to purchase from the corporation named above (the “Company”), until 5:00 p.m. Pacific time, on the Expiration Date set forth above, the number of fully paid and nonassessable shares of the class of stock (the “Shares”) of the Company at the Initial Exercise Price per Share (the “Warrant Price”), all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant.

1. EXERCISE.

1.1 Method of Exercise. Holder may exercise this Warrant by delivering a duly executed Notice of Exercise in substantially the form attached as Exhibit A to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Section 1.2, this Warrant may be exercised in whole or in part and Holder shall also deliver to the Company a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Net Exercise Election. The Holder may elect to convert this Warrant, without the payment by the Holder of any additional consideration, by the surrender of this Warrant to the Company, with the net exercise election selected in the Notice of Exercise attached hereto as Exhibit A duly executed by the Holder, into the number of Shares that is obtained under the following formula:

\[ X = \frac{Y(A-B)}{A} \]

Where:
- \( X \) = the number of Shares to be issued to the Holder pursuant to this Section 1.2.
- \( Y \) = the number of Warrant Shares then subject to this Warrant.
- \( A \) = the fair market value of one Share, as determined in good faith by the Company’s Board of Directors, as at the time the net exercise election is made pursuant to this Section 1.2.
- \( B \) = the Warrant Price.
For purposes of the above calculation, fair market value of one Share shall be determined by the Company’s Board of Directors in good faith; provided, however, that if on the relevant exercise date for which such value must be determined, (1) the exercise is in connection with a Change of Control (as defined in Section 1.6.1), then the fair market value shall be the value received by holders of Shares pursuant to such transaction or (2) there exists a public market for the Company’s Common Stock at the time of such exercise, then the fair market value per share shall be determined by reference to the market price of the Common Stock as follows: (a) if the Warrant is being exercised in connection with the Company’s first underwritten public offering of its Common Stock under the Securities Act of 1933, as amended (the “Act”), the fair market value shall be the per-share offering price to the public as set forth in the Company’s final prospectus filed with the Securities and Exchange Commission (the “SEC”), or (b) otherwise, the fair market value shall be the average of (i) the closing bid and asked prices of the Common Stock quoted in the Over-The-Counter Market Summary or (ii) the last reported sale price of the Common Stock or the closing price quoted on the NASDAQ Stock Market or on any exchange on which the Common Stock is listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the five (5) trading days prior to the date of determination of fair market value. The Company will promptly respond in writing to an inquiry by the Holder as to the then current fair market value of one Share.

1.3 Delivery of Certificate and New Warrant. Promptly after Holder exercises this Warrant, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, this Warrant shall automatically be reduced by the number of Shares issued and remain exercisable for such remaining Shares not so acquired, and all other terms of the Warrant shall otherwise remain in full force and effect as so adjusted. Upon final exercise of this Warrant for any such remaining number of Shares, this Warrant shall be surrendered by the Holder to the Company for cancellation.

1.4 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, or surrender and cancellation of this Warrant, the Company at its expense shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.

1.5 Restrictions on Exercise. This Warrant may not be exercised if the issuance of the Shares upon such exercise would constitute a violation of any applicable federal or state securities laws or other laws or regulations. As a condition to the exercise of this Warrant, the Holder shall execute the attached Notice of Exercise, confirming and acknowledging that the representations and warranties of the Holder in Section 4 hereto are true and complete as of the date of exercise. If the Holder cannot make such representations because they would be factually incorrect, it shall be a condition to the Holder’s exercise of this Warrant that the Company receive such other representations as the Company considers reasonably necessary to assure the Company that the issuance of its securities upon exercise of this Warrant shall not violate any United States or state securities laws.

1.6 Change of Control of Company; Termination of Warrant.

1.6.1 “Change of Control”. As used herein, “Change of Control” means any of the following: (a) the reorganization, consolidation or merger of the Company with or into any other entity or entities in which the holders of the Company’s outstanding shares immediately before such reorganization, consolidation or merger do not, immediately after such reorganization, consolidation or merger retain stock (or other ownership interests) representing a majority of the voting power of the
surviving entity or entities of such reorganization, consolidation or merger in substantially the same proportion as their ownership immediately prior to the reorganization, consolidation or merger, as a result of their shareholdings in the Company immediately prior to the reorganization, consolidation or merger; (b) the sale, transfer or other disposition of all or substantially all of the assets of the Company; or (c) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of the Company’s securities), of the Company’s securities if, after such closing, such person or group of affiliated persons would hold fifty percent (50%) or more of the outstanding voting stock of the Company (or the surviving or acquiring entity), other than an equity financing in which the Company is the surviving corporation. For the avoidance of doubt, a public offering of securities of the Company shall not constitute a “Change of Control.”

1.6.2 Termination of Warrant. In the case of a Change of Control, the Company shall give Holder at least ten (10) days advance written notice of the anticipated closing date for such Change of Control (the “Company Notice”), which notice shall include the Company’s best estimate of the value of the Shares receivable upon exercise or conversion of this Warrant and the proposed date upon which such event is expected to occur. During such notice period, Holder may exercise or convert this Warrant in accordance with its terms, whether or not exercise or conversion is contingent upon the happening of such event and/or existence of a minimum value of the Shares receivable upon exercise or conversion as provided on Holder’s exercise notice; provided that such minimum value shall be no greater than the per share price set forth in the Company Notice. Subject to prior exercise or conversion as provided in the preceding sentence, this Warrant will terminate at 5:00 p.m. Pacific time on the day prior to the effective date of a Change of Control.

2. ADJUSTMENTS TO THE SHARES.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend on the outstanding shares of the Company’s Common Stock payable in shares of the Company’s Common Stock or other securities of the Company or subdivides or combines the outstanding shares of the Company’s Common Stock, then upon exercise or conversion of this Warrant, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend, subdivision or combination occurred.

2.2 Reclassification, Exchange or Substitution. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant (other than a merger, consolidation or recapitalization described in Section 1.6 above or a stock dividend, split, etc. described in Section 2.1 above), Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution or other event. The Company or its successor shall promptly issue to Holder a new Warrant for such new securities or other property. The new Warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2 including, without limitation, appropriate adjustments to the Warrant Price and to the number of securities or property issuable upon exercise or conversion of the new Warrant.

2.3 Adjustments of Warrant Price. If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased. If the outstanding Shares are divided by reclassification or otherwise, into a greater number of shares, the Warrant Price shall be proportionately decreased.
2.4 Adjustment is Cumulative. The provisions of this Section 2 shall similarly apply to successive, stock dividends, stock splits or combinations, reclassifications, exchanges, substitutions, or other events.

2.5 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of the Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder an amount by check computed by multiplying the fractional interest by the fair market value of a full Share.

2.6 Certificate as to Adjustments. Upon each adjustment of the Warrant Price, the Company at its expense shall compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Warrant Price in effect upon the date thereof and the series of adjustments leading to such Warrant Price.

3. REPRESENTATIONS OF THE COMPANY. The Company hereby represents and warrants to the Holder that all Shares which may be issued upon the exercise of the purchase right represented by this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

4. REPRESENTATIONS AND COVENANTS OF HOLDER.

4.1 Representations. Holder hereby represents and warrants to the Company as follows. Holder is a sophisticated investor having such knowledge and experience in business and investment matters that Holder is capable of protecting Holder’s own interests in connection with the acquisition, exercise or disposition of this Warrant. Holder is an “accredited investor” within the meaning of Regulation D promulgated under the Act. Holder is aware that this Warrant and the Shares are being, or will be, issued to Holder in reliance upon Holder’s representation in this Section 4 and that such securities are restricted securities that cannot be publicly sold except in certain prescribed situations. Holder is aware of the provisions of Rule 144 promulgated under the Act and of the conditions under which sales may be made thereunder. Holder has received such information about the Company as Holder deems reasonable, has had the opportunity to ask questions and receive answers from the Company with respect to its business, assets, prospects and financial condition and has verified any answers Holder has received from the Company with independent third parties to the extent Holder deems necessary. The Holder of this Warrant, by acceptance hereof, acknowledges this Warrant and the Shares to be issued upon exercise hereof or conversion thereof are being acquired solely for the Holder’s own account and not as a nominee for any other party, and for investment, and that the Holder will not offer, sell or otherwise dispose of this Warrant or any Shares to be issued upon exercise hereof or conversion thereof except under circumstances that will not result in a violation of the Act or any state securities laws.

4.2 Legends. Holder understands and agrees that the Warrant and/or certificates evidencing the Shares will bear legends substantially similar to those set forth below in addition to any other legend that may be required by applicable law, including Any legend required by the laws of the State of California, including any legend required by the California Department of Corporations and Sections 417 and 418 of the California Corporations Code or any other state securities laws, the Company’s Amended and Restated Certificate of Incorporation or Bylaws as in effect, this Agreement, or any other agreement between the Company and the Holder.
THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER ANY APPLICABLE STATE SECURITIES LAWS. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A 180 DAY MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS AFTER THE EFFECTIVE DATE OF ANY PUBLIC OFFERING OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

4.3 Compliance with Securities Laws on Transfer. This Warrant is not transferrable without the consent of the Company. Further, this Warrant and the Shares issuable upon exercise this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferee and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if (a) the transfer is to the stockholders or constituent partners of Holder by way of dividend or distribution to all of the same or (b) there is no material question as to the availability of current information as referenced in Rule 144(c), Holder represents that it has complied with Rule 144(d) and (e) in reasonable detail, the selling broker represents that it has complied with Rule 144(f), and the Company is provided with a copy of Holder’s notice of proposed sale and/or transfer.

4.4 Market Standoff. Holder hereby agrees that Holder shall not, to the extent requested by the Company or an underwriter of securities of the Company, sell or otherwise transfer or dispose of any shares of stock or other securities of the Company then or thereafter owned by Holder (other than to donees or partners of Holder who agree to be similarly bound) for up to one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act. For purposes of this Section 4.4, the term “Company” shall include any wholly-owned subsidiary of the Company into which the Company merges or consolidates. Holder further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with respect to the Shares of Holder until the end of such period.

4.5 Agreement to Enter into Voting Agreement. If requested to do so by the Company, Holder agrees to enter into and execute the Company’s then-current Voting Agreement concurrently with the exercise or conversion of this Warrant or at any other time Holder is requested to do
so by the Company. Holder acknowledges that, by entering into the Company’s Voting Agreement, Holder will be subjected to voting and other obligations and covenants regarding all Company shares Holder owns and all other provisions of the Company’s Voting Agreement, in addition to the market stand-off provisions described above.

4.6 No Rights as Stockholder. The Holder acknowledges that this Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the actual, valid exercise hereof. In the absence of valid exercise of this Warrant, no provisions of this Warrant, and no enumeration herein of the rights or privileges of the Holder, shall cause the Holder to be a stockholder of the Company for any purpose.

5. GENERAL PROVISIONS

5.1 Notices. Any and all notices required or permitted to be given to a party pursuant to the provisions of this Warrant will be in writing and will be effective and deemed to provide such party sufficient notice under this Warrant on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time of transmission by e-mail, addressed to the other party at its e-mail address specified herein (or hereafter modified by subsequent notice to the parties hereto); (iii) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (iv) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries.

All notices for delivery outside the United States will be sent by e-mail or by express courier. All notices not delivered personally or by e-mail will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or e-mail address set forth below the signature lines to this Warrant, or at such other address as such other party may designate by one of the indicated means of notice herein to the other parties hereto. Notices to the Company will be marked “Attention: Chief Executive Officer”.

5.2 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.3 Attorneys Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys’ fees.

5.4 Governing Law. This Warrant will be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws.

5.5 Further Assurances. The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Warrant.

5.6 Titles and Headings. The titles, captions and headings of this Warrant are included for ease of reference only and will be disregarded in interpreting or construing this Warrant. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Warrant.
5.7 **Counterparts.** This Warrant may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

5.8 **Severability.** If any provision of this Warrant is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Warrant and the remainder of this Warrant shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Warrant. Notwithstanding the forgoing, if the value of this Warrant based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

5.9 **Electronic Signatures.** This Warrant may be executed and delivered by electronic or facsimile and upon such delivery the electronic or facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

5.10 **Amendment and Waivers.** This Warrant may be amended only by a written agreement executed by each of the parties hereto. No amendment of or waiver of, or modification of any obligation under this Warrant will be enforceable unless set forth in a writing signed by the party against which enforcement is sought. Any amendment effected in accordance with this section will be binding upon all parties hereto and each of their respective successors and assigns. No delay or failure to require performance of any provision of this Warrant shall constitute a waiver of that provision as to that or any other instance. No waiver granted under this Warrant as to any one provision herein shall constitute a subsequent waiver of such provision or of any other provision herein, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

5.11 **Entire Agreement.** This Warrant constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Warrant, and supersedes all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof. This Warrant satisfies any and all obligations of the Company as set forth under the third paragraph on the first page of that certain letter agreement dated January 17, 2018 between the Company and Holder.

[Signature Page Follows]
WARRANT HOLDER:

Kindred Partners, LLC

By: /s/ James Chung
Name: James Chung
Address: 535 Mission Street
Suite 2250
San Francisco, CA 94105
Attention to: James Chung

COMPANY:

BDC Payments Holdings, Inc.

By: /s/ René Lacerte
Name: René Lacerte
CEO
Address: 1810 Embarcadero Road
Palo Alto, CA 94303
Attention to: General Counsel

[SIGNATURE PAGE TO BDC PAYMENTS HOLDINGS, INC. WARRANT TO PURCHASE STOCK]
EXHIBIT A

NOTICE OF EXERCISE

(TO BE SIGNED ONLY UPON EXERCISE OF WARRANT)

1. The undersigned hereby elects to purchase ____________ shares of the Common Stock (the “Shares”) of BDC Payments Holdings, Inc., a Delaware corporation, pursuant to the terms of the attached Warrant to Purchase Stock with an Issue Date of August 2nd, 2018 (the “Warrant”), as follows:

   (Initial applicable method:)
   
   a. The undersigned tenders herewith payment of the total purchase price of such Shares in full, pursuant to a check, wire transfer or other form of payment acceptable to the Company, in the amount of $__________.
   
   b. This exercise or conversion is not contingent upon the closing of the Change of Control or other event specified in the Company Notice to Holder in accordance with Section 1.6 of the Warrant and is not contingent upon a sale price or fair market value for the Company’s Common Stock in the Change of Control or other event of no less than the lesser of (a) $__________ per share or (b) the per share price set forth in the Company Notice.
   
   c. The undersigned hereby elects to convert the Warrant into Shares by the net exercise election pursuant to Section 1.2 of the Warrant. This conversion is exercised with respect to all of the shares of Common Stock covered by the Warrant resulting in a net total of ____________ Shares being issued to the undersigned.

2. Please issue a certificate or certificates representing said Shares in the name of the undersigned. The undersigned represents that it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws and hereby repeats the representations and warranties of the undersigned that are set forth in Section 4 of the attached Warrant.

Kindred Partners, LLC
(Printed Name of Holder)

________________________________________

________________________________________

Address:

________________________________________

(Signature of Holder)
THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED, OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR PURSUANT TO RULE 144 OR AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE CORPORATION AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED.

WARRANT TO PURCHASE COMMON STOCK

Corporation: BDC Payments Holdings, Inc., a Delaware corporation
Number of Shares: 30,000
Class of Stock: Common Stock, par value $0.00001 per share
Initial Exercise Price: $2.09 per Share
Issue Date: March 4, 2019
Expiration Date: March 3, 2024

This Warrant certifies that, for good and valuable consideration, Cole Capital, LLC ("Holder") is entitled to purchase from the corporation named above (the "Company"), until 5:00 p.m. Pacific time, on the Expiration Date set forth above, the number of fully paid and nonassessable shares of the class of stock (the "Shares") of the Company at the Initial Exercise Price per Share (the "Warrant Price"), all as set forth above and as adjusted pursuant to Section 1 of the Exemptive Act of 1933, as amended, and as adjusted pursuant to the terms and conditions set forth in this Warrant.

1. EXERCISE

1.1 Method of Exercise. Holder may exercise this Warrant by delivering a duly executed Notice of Exercise in substantially the form attached as Exhibit A to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Section 1.2, this Warrant may be exercised in whole or in part and Holder shall also deliver to the Company a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Net Exercise Election. The Holder may elect to convert this Warrant, without the payment by the Holder of any additional consideration, by the surrender of this Warrant to the Company, with the net exercise election selected in the Notice of Exercise attached hereto as Exhibit A duly executed by the Holder, into the number of Shares that is obtained under the following formula:

\[ X = \frac{Y(A-B)}{A} \]

Where:

- \( X \) = the number of Shares to be issued to the Holder pursuant to this Section 1.2.
- \( Y \) = the number of Warrant Shares then subject to this Warrant.
- \( A \) = the fair market value of one Share, as determined in good faith by the Company’s Board of Directors, as at the time the net exercise election is made pursuant to this Section 1.2.
- \( B \) = the Warrant Price.
For purposes of the above calculation, fair market value of one Share shall be determined by the Company’s Board of Directors in good faith; provided, however, that if on the relevant exercise date for which such value must be determined, (1) the exercise is in connection with a Change of Control (as defined in Section 1.6.1), then the fair market value shall be the value received by holders of Shares pursuant to such transaction or (2) there exists a public market for the Company’s Common Stock at the time of such exercise, then the fair market value per share shall be determined by reference to the market price of the Common Stock as follows: (a) if the Warrant is being exercised in connection with the Company’s first underwritten public offering of its Common Stock under the Securities Act of 1933, as amended (the “Act”), the fair market value shall be the per-share offering price to the public as set forth in the Company’s final prospectus filed with the Securities and Exchange Commission (the “SEC”), or (b) otherwise, the fair market value shall be the average of (i) the closing bid and asked prices of the Common Stock quoted in the Over-The-Counter Market Summary or (ii) the last reported sale price of the Common Stock or the closing price quoted on the NASDAQ Stock Market or on any exchange on which the Common Stock is listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the five (5) trading days prior to the date of determination of fair market value. The Company will promptly respond in writing to an inquiry by the Holder as to the then current fair market value of one Share.

1.3 Delivery of Certificate and New Warrant. Promptly after Holder exercises this Warrant, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, this Warrant shall automatically be reduced by the number of Shares issued and remain exercisable for such remaining Shares not so acquired, and all other terms of the Warrant shall otherwise remain in full force and effect as so adjusted. Upon final exercise of this Warrant for any such remaining number of Shares, this Warrant shall be surrendered by the Holder to the Company for cancellation.

1.4 Replacement of Warrants. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, or surrender and cancellation of this Warrant, the Company at its expense shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.

1.5 Restrictions on Exercise. This Warrant may not be exercised if the issuance of the Shares upon such exercise would constitute a violation of any applicable federal or state securities laws or other laws or regulations. As a condition to the exercise of this Warrant, the Holder shall execute the attached Notice of Exercise, confirming and acknowledging that the representations and warranties of the Holder in Section 4 hereto are true and complete as of the date of exercise. If the Holder cannot make such representations because they would be factually incorrect, it shall be a condition to the Holder’s exercise of this Warrant that the Company receive such other representations as the Company considers reasonably necessary to assure the Company that the issuance of its securities upon exercise of this Warrant shall not violate any United States or state securities laws.

1.6 Change of Control of Company; Termination of Warrant.

1.6.1 “Change of Control”. As used herein, “Change of Control” means any of the following: (a) the reorganization, consolidation or merger of the Company with or into any other entity or entities in which the holders of the Company’s outstanding shares immediately before such reorganization, consolidation or merger do not, immediately after such reorganization, consolidation or merger retain stock (or other ownership interests) representing a majority of the voting power of the
surviving entity or entities of such reorganization, consolidation or merger in substantially the same proportion as their ownership immediately prior to the reorganization, consolidation or merger as a result of their shareholdings in the Company immediately prior to the reorganization, consolidation or merger; (b) the sale, transfer or other disposition of all or substantially all of the assets of the Company; or (c) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of the Company’s securities), of the Company’s securities if, after such closing, such person or group of affiliated persons would hold fifty percent (50%) or more of the outstanding voting stock of the Company (or the surviving or acquiring entity), other than an equity financing in which the Company is the surviving corporation. For the avoidance of doubt, a public offering of securities of the Company shall not constitute a “Change of Control.”

1.6.2 Termination of Warrant. In the case of a Change of Control, the Company shall give Holder at least ten (10) days advance written notice of the anticipated closing date for such Change of Control (the “Company Notice”), which notice shall include the Company’s best estimate of the value of the Shares receivable upon exercise or conversion of this Warrant and the proposed date upon which such event is expected to occur. During such notice period, Holder may exercise or convert this Warrant in accordance with its terms, whether or not exercise or conversion is contingent upon the happening of such event and/or existence of a minimum value of the Shares receivable upon exercise or conversion as provided on Holder’s exercise notice; provided that such minimum value shall be no greater than the per share price set forth in the Company Notice. Subject to prior exercise or conversion as provided in the preceding sentence, this Warrant will terminate at 5:00 p.m. Pacific time on the day prior to the effective date of a Change of Control.

2. ADJUSTMENTS TO THE SHARES.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend on the outstanding shares of the Company’s Common Stock payable in shares of the Company’s Common Stock or other securities of the Company or subdivides or combines the outstanding shares of the Company’s Common Stock, then upon exercise or conversion of this Warrant, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend, subdivision or combination occurred.

2.2 Reclassification, Exchange or Substitution. Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant (other than a merger, consolidation or recapitalization described in Section 1.6 above or a stock dividend, split, etc. described in Section 2.1 above), Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution or other event. The Company or its successor shall promptly issue to Holder a new Warrant for such new securities or other property. The new Warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2 including, without limitation, appropriate adjustments to the Warrant Price and to the number of securities or property issuable upon exercise or conversion of the new Warrant.

2.3 Adjustments of Warrant Price. If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased. If the outstanding Shares are divided by reclassification or otherwise, into a greater number of shares, the Warrant Price shall be proportionately decreased.
2.4 Adjustment is Cumulative. The provisions of this Section 2 shall similarly apply to successive, stock dividends, stock splits or combinations, reclassifications, exchanges, substitutions, or other events.

2.5 Fractional Shares. No fractional Shares shall be issuable upon exercise or conversion of the Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder an amount by check computed by multiplying the fractional interest by the fair market value of a full Share.

2.6 Certificate as to Adjustments. Upon each adjustment of the Warrant Price, the Company at its expense shall compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Warrant Price in effect upon the date thereof and the series of adjustments leading to such Warrant Price.

3. REPRESENTATIONS OF THE COMPANY. The Company hereby represents and warrants to the Holder that all Shares which may be issued upon the exercise of the purchase right represented by this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

4. REPRESENTATIONS AND COVENANTS OF HOLDER.

4.1 Representations. Holder hereby represents and warrants to the Company as follows. Holder is a sophisticated investor having such knowledge and experience in business and investment matters that Holder is capable of protecting Holder’s own interests in connection with the acquisition, exercise or disposition of this Warrant. Holder is an “accredited investor” within the meaning of Regulation D promulgated under the Act. Holder is aware that this Warrant and the Shares are being, or will be, issued to Holder in reliance upon Holder’s representation in this Section 4 and that such securities are restricted securities that cannot be publicly sold except in certain prescribed situations. Holder is aware of the provisions of Rule 144 promulgated under the Act and of the conditions under which sales may be made thereunder. Holder has received such information about the Company as Holder deems reasonable, has had the opportunity to ask questions and receive answers from the Company with respect to its business, assets, prospects and financial condition and has verified any answers Holder has received from the Company with independent third parties to the extent Holder deems necessary. The Holder of this Warrant, by acceptance hereof, acknowledges this Warrant and the Shares to be issued upon exercise hereof or conversion thereof are being acquired solely for the Holder’s own account and not as a nominee for any other party, and for investment, and that the Holder will not offer, sell or otherwise dispose of this Warrant or any Shares to be issued upon exercise hereof or conversion thereof except under circumstances that will not result in a violation of the Act or any state securities laws.

4.2 Legends. Holder understands and agrees that the Warrant and/or certificates evidencing the Shares will bear legends substantially similar to those set forth below in addition to any other legend that may be required by applicable law, including Any legend required by the laws of the State of California, including any legend required by the California Department of Corporations and Sections 417 and 418 of the California...
THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER ANY APPLICABLE STATE SECURITIES LAWS. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A 180 DAY MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS AFTER THE EFFECTIVE DATE OF ANY PUBLIC OFFERING OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

4.3 Compliance with Securities Laws on Transfer. This Warrant is not transferrable without the consent of the Company. Further, this Warrant and the Shares issuable upon exercise this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if (a) the transfer is to the stockholders or constituent partners of Holder by way of dividend or distribution to all of the same or (b) there is no material question as to the availability of current information as referenced in Rule 144(c), Holder represents that it has complied with Rule 144(d) and (e) in reasonable detail, the selling broker represents that it has complied with Rule 144(f), and the Company is provided with a copy of Holder’s notice of proposed sale and/or transfer.

4.4 Market Standoff. Holder hereby agrees that Holder shall not, to the extent requested by the Company or an underwriter of securities of the Company, sell or otherwise transfer or dispose of any shares of stock or other securities of the Company then or thereafter owned by Holder (other than to donees or partners of Holder who agree to be similarly bound) for up to one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act. For purposes of this Section 4.4, the term “Company” shall include any wholly-owned subsidiary of the Company into which the Company merges or consolidates. Holder further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with respect to the Shares of Holder until the end of such period.

4.5 Agreement to Enter into Voting Agreement. If requested to do so by the Company, Holder agrees to enter into and execute the Company’s then-current Voting Agreement concurrently with the exercise or conversion of this Warrant or at any other time Holder is requested to do
so by the Company. Holder acknowledges that, by entering into the Company’s Voting Agreement, Holder will be subjected to voting and other obligations and covenants regarding all Company shares Holder owns and all other provisions of the Company’s Voting Agreement, in addition to the market stand-off provisions described above.

4.6 **No Rights as Stockholder.** The Holder acknowledges that this Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the actual, valid exercise hereof. In the absence of valid exercise of this Warrant, no provisions of this Warrant, and no enumeration herein of the rights or privileges of the Holder, shall cause the Holder to be a stockholder of the Company for any purpose.

5. **GENERAL PROVISIONS.**

5.1 **Notices.** Any and all notices required or permitted to be given to a party pursuant to the provisions of this Warrant will be in writing and will be effective and deemed to provide such party sufficient notice under this Warrant on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time of transmission by e-mail, addressed to the other party at its e-mail address specified herein (or hereafter modified by subsequent notice to the parties hereto); (iii) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (iv) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries.

All notices for delivery outside the United States will be sent by e-mail or by express courier. All notices not delivered personally or by e-mail will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or e-mail address set forth below the signature lines to this Warrant, or at such other address as such other party may designate by one of the indicated means of notice herein to the other parties hereto. Notices to the Company will be marked “Attention: Chief Executive Officer”.

5.2 **Waiver.** This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.3 **Attorneys Fees.** In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys’ fees.

5.4 **Governing Law.** This Warrant will be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws.

5.5 **Further Assurances.** The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Warrant.

5.6 **Titles and Headings.** The titles, captions and headings of this Warrant are included for ease of reference only and will be disregarded in interpreting or construing this Warrant. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Warrant.
5.7 **Counterparts.** This Warrant may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

5.8 **Severability.** If any provision of this Warrant is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Warrant and the remainder of this Warrant shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Warrant. Notwithstanding the forgoing, if the value of this Warrant based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

5.9 **Electronic Signatures.** This Warrant may be executed and delivered by electronic or facsimile and upon such delivery the electronic or facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

5.10 **Amendment and Waivers.** This Warrant may be amended only by a written agreement executed by each of the parties hereto. No amendment of or waiver of, or modification of any obligation under this Warrant will be enforceable unless set forth in a writing signed by the party against which enforcement is sought. Any amendment effected in accordance with this section will be binding upon all parties hereto and each of their respective successors and assigns. No delay or failure to require performance of any provision of this Warrant shall constitute a waiver of that provision as to that or any other instance. No waiver granted under this Warrant as to any one provision herein shall constitute a subsequent waiver of such provision or of any other provision herein, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

5.11 **Entire Agreement.** This Warrant constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Warrant, and supersedes all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof. This Warrant satisfies any and all obligations of the Company as set forth under the third paragraph on the first page of that certain letter agreement dated February 12, 2018 between the Company and Cole Capital, LLC.

[Signature Page Follows]
WARRANT HOLDER:

Cole Capital, LLC

By: /s/ Jamie Tilotta Green
Name: Jamie Tilotta Green
Address: 300 Brannan Street, Ste #304
San Francisco, CA 94107

Attention to: Julie Askew
Facsimile: 

COMPANY:

BDC Payments Holdings, Inc.

By: /s/ Rene Lacerte
Name: Rene Lacerte
CEO
Address: 1810 Embarcadero Road
Palo Alto, CA 94303

Attention to: General Counsel
Facsimile: 

[SIGNATURE PAGE TO BDC PAYMENTS HOLDINGS, INC. WARRANT TO PURCHASE STOCK]
EXHIBIT A

NOTICE OF EXERCISE

(TO BE SIGNED ONLY UPON EXERCISE OF WARRANT)

1. The undersigned hereby elects to purchase ____________________ shares of the Common Stock (the “Shares”) of BDC Payments Holdings, Inc., a Delaware corporation, pursuant to the terms of the attached Warrant to Purchase Stock with an Issue Date of March 4, 2019 (the “Warrant”), as follows:

   (Initial applicable method:)

   a. The undersigned tenders herewith payment of the total purchase price of such Shares in full, pursuant to a check, wire transfer or other form of payment acceptable to the Company, in the amount of $_____.

   b. This exercise or conversion is not contingent upon the closing of the Change of Control or other event specified in the Company Notice to Holder in accordance with Section 1.6 of the Warrant and is not contingent upon a sale price or fair market value for the Company’s Common Stock in the Change of Control or other event of no less than the lesser of (a) $_____ per share or (b) the per share price set forth in the Company Notice.

   c. The undersigned hereby elects to convert the Warrant into Shares by the net exercise election pursuant to Section 1.2 of the Warrant. This conversion is exercised with respect to all of the shares of Common Stock covered by the Warrant resulting in a net total of ____________________ Shares being issued to the undersigned.

2. Please issue a certificate or certificates representing said Shares in the name of the undersigned. The undersigned represents that it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws and hereby repeats the representations and warranties of the undersigned that are set forth in Section 4 of the attached Warrant.

Cole Capital, LLC

(Printed Name of Holder)

________________________________

________________________________

Address:

________________________________

(Signature of Holder)
THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “1933 ACT”), OR UNDER ANY STATE SECURITIES LAWS, THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED, SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THESE SECURITIES UNDER THE 1933 ACT OR APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

Warrant No. ________  January 4, 2010
(the “Issue Date”)

WARRANT TO PURCHASE SERIES B PREFERRED STOCK

OF

BILL.COM, INC.

THIS CERTIFIES THAT Comerica Bank or its permitted assigns (“Registered Holder”) is entitled, subject to the terms and conditions of this warrant (the “Warrant”), to purchase from Bill.com, Inc., a Delaware corporation (the “Company”) at any time during the period commencing on the date hereof and terminating on January 4, 2020 (the “Exercise Period”) 102,740 shares of Series B Preferred Stock of the Company (as adjusted pursuant to Section 2), $0.00001 par value per share (the “Warrant Stock”), at a price per share of US $0.73 (the “Warrant Price”) (as adjusted pursuant to Section 2), upon surrender of this Warrant at the principal office of the Company, together with a duly executed subscription form in the form attached hereto as Exhibit 1 and simultaneous payment of the full Warrant Price for the shares of Warrant Stock so purchased in lawful money of the United States. Except as otherwise provided in Section 2.5 with regard to earlier termination, this Warrant shall terminate at the end of the Exercise Period and may not be exercised thereafter.

1. Exercise. This Warrant may be exercised in whole, but not in part, at any time during the Exercise Period, by surrendering this Warrant at the principal office of the Company at 3250 Ash Street, Palo Alto, CA 94306 (or if the principal offices of the Company are changed, then at such other address for the principal offices of the Company as the Company shall give written notice to the Registered Holder), with the subscription form attached hereto duly executed by the Registered Holder, and payment, in lawful money of the United States in an amount equal to the product obtained by multiplying (i) the number of shares of Warrant Stock purchased upon such exercise by (ii) the Warrant Price, as determined in accordance with the terms hereof. All shares of Warrant Stock issued upon the exercise of this Warrant pursuant to this Section 1 shall be validly issued, fully paid and nonassessable.

2. Adjustment of Warrant Price and Number of Shares of Warrant Stock. The number and character of shares of Warrant Stock issuable upon exercise of this Warrant (or any shares of stock or other securities or property at the time receivable or issuable upon exercise of this Warrant) and the Warrant Price therefor, are subject to adjustment upon the occurrence of any of the following events:

2.1 Adjustment for Stock Splits, Stock Dividends, Combinations, etc. The Warrant Price and the number of shares of Warrant Stock issuable upon exercise of this Warrant shall each be proportionally adjusted to reflect any stock dividend, stock split, reverse stock split, or similar event applicable to shares of the same class and series as the Warrant Stock that occurs after the Issue Date.
2.2 Adjustment for Other Dividends and Distributions. In case the Company shall, after the Issue Date, make or issue, or shall fix a record date for the determination of eligible holders entitled to receive, a dividend or other distribution payable with respect to shares of the same class and series as the Warrant Stock payable in securities of the Company (other than issuances with respect to which adjustment is made under Section 2.1) or other assets of the Company, then, and in each such case, the Registered Holder of this Warrant, upon exercise of this Warrant at any time after the consummation, effective date or record date of such event, shall receive, in addition to the shares of Warrant Stock issuable upon such exercise prior to such date, the securities or such other assets of the Company to which such Registered Holder would have been entitled upon such date if such Registered Holder had exercised this Warrant immediately prior thereto (all subject to further adjustment as provided in this Warrant).

2.3 Adjustment for Recapitalization, Reorganization, Consolidation, Merger. In case of any recapitalization or reorganization of the Company (or of any other corporation, the stock or other securities of which are at the time receivable on the exercise of this Warrant), after the Issue Date, or in case, after such date, the Company (or any such corporation) shall consolidate with or merge into another corporation, then, and in each such case, the Registered Holder of this Warrant, upon the exercise of this Warrant at any time after the consummation of such recapitalization, reorganization, consolidation, or merger, shall be entitled to receive, in lieu of the stock or other securities and property receivable upon the exercise of this Warrant prior to such consummation, the stock or other securities or property to which such Registered Holder would have been entitled upon the consummation of such recapitalization, reorganization, consolidation or merger if such Registered Holder had so exercised this Warrant immediately prior thereto, all subject to further adjustment as provided in this Section 2; and in each such case, the terms of this Warrant shall be applicable to the shares of stock or other securities or property receivable upon the exercise of this Warrant after the consummation of such recapitalization, reorganization, consolidation, merger or conveyance. Notwithstanding the foregoing, the provisions of this Section 2.3 shall not apply to any Acquisition (as defined below) that is not an Illiquid Acquisition (as defined below).

2.4 Notice of Adjustment. Upon any adjustment of number and character of shares of Warrant Stock issuable upon exercise of this Warrant (or any shares of stock or other securities or property at the time receivable or issuable upon exercise of this Warrant) and the Warrant Price therefor, the Company shall give written notice in accordance with Section 6.1. The notice shall be signed by the Company’s chief financial officer and shall state the Warrant Price resulting from such adjustment and the increase or decrease, if any, in the number of shares of Warrant Stock purchasable at such price upon the exercise of this Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

2.5 Acquisition of the Company.

(a) “Acquisition.” For the purpose of this Warrant, “Acquisition” shall mean any of the following: (i) a consolidation, merger or other reorganization of the Company (in one or a series of related transactions) in which the holders of the Company’s outstanding voting stock immediately prior to such transaction(s) own, immediately after such transaction(s), securities representing less than fifty percent (50%) of the voting power of the corporation or other entity surviving such transaction(s) as a result of their shareholdings in the Company immediately prior to such transaction(s); (ii) a dissolution or liquidation of the Company; or (iii) the sale of all or substantially all of the assets of the Company.

(b) Treatment of Warrant in the Event of an Acquisition. The Company shall give Registered Holder written notice at least 20 days prior to the closing of any proposed Acquisition. If holders of Warrant Stock will receive any consideration in such Acquisition on account of their shares of Warrant Stock other than cash or common stock of a corporation whose common stock is traded on a national securities exchange or the Nasdaq National Market (or any successor) or any similar national quotation system, or any combination thereof (an “Illiquid Acquisition”), then the Company will use commercially reasonable efforts to cause the acquirer of the Company in such Illiquid Acquisition (the “Acquirer”) to assume this Warrant as a part of the Acquisition. If the Acquirer assumes this Warrant, then this Warrant shall be exercisable for the same securities, cash, and property as would be payable for the Warrant Stock issuable upon exercise of the unexercised portion of this Warrant as if such shares of Warrant Stock were outstanding on the record date for the Illiquid Acquisition and subsequent closing. The Warrant Price shall be adjusted accordingly, and the Warrant Price and number and class of Warrant Stock
shall continue to be subject to adjustment from time to time in accordance with the provisions hereof. If the Acquirer refuses to assume this Warrant in connection with an Illiquid Acquisition, or if the Acquisition is not an Illiquid Acquisition, then the Company shall give Registered Holder an additional written notice at least 5 days prior to the closing of the Acquisition of such fact. In such event, notwithstanding any other provision of this Warrant to the contrary, Registered Holder may immediately exercise this Warrant in the manner specified in this Warrant with such exercise effective immediately prior to closing of such Acquisition and if Registered Holder elects not to exercise this Warrant, then notwithstanding anything to the contrary herein, this Warrant will terminate immediately prior to the closing of such Acquisition.

2.6 Adjustments for Diluting Issuances. In the event of the issuance by the Company after the Issue Date of securities that trigger price-based anti-dilution adjustments to the conversion price of the Warrant Stock under the Company’s Amended and Restated Certificate of Incorporation (“Certificate of Incorporation”), as amended from time to time hereafter (a “Diluting Issuance”), then the number of shares of common stock issuable upon conversion of the Warrant Stock shall be adjusted in accordance with those provisions of the Company’s Certificate of Incorporation, as amended from time to time, that apply to Diluting Issuances.

3. Representations and Warranties and Certain Agreements of Registered Holder. Registered Holder hereby represents and warrants to, and agrees with, the Company, that:

3.1 Purchase for Own Account. Each of this Warrant and the shares of Warrant Stock (collectively, the “Securities”) will be acquired for investment for Registered Holder’s and its parent company, Comerica Incorporated’s, own account, not as a nominee or agent, and not with a view to the public resale or distribution thereof within the meaning of the U.S. Securities Act of 1933 (the “1933 Act”), and Registered Holder has no present intention of selling, granting any participation in, or otherwise distributing the same.

3.2 Disclosure of Information. Registered Holder believes that it has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the Securities. Registered Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of the Securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Registered Holder or to which Registered Holder had access.

3.3 Investment Experience. Registered Holder understands that the purchase of the Securities involves substantial risk. Registered Holder (i) has experience as an investor in securities of companies in the development stage and acknowledges that Registered Holder is able to fend for itself, can bear the economic risk of Registered Holder’s investment in the Securities and has such knowledge and experience in financial or business matters that Registered Holder is capable of evaluating the merits and risks of this investment in the Securities and protecting its own interests in connection with this investment and/or (ii) has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Registered Holder to be aware of the character, business acumen and financial circumstances of such persons.

3.4 Accredited Investor Status. Registered Holder is an “accredited investor” within the meaning of Regulation D promulgated under the 1933 Act.

3.5 Restricted Securities. Registered Holder understands that the Securities are characterized as “restricted securities” under the 1933 Act and Rule 144 promulgated thereunder inasmuch as they are being acquired from the Company in a transaction not involving a public offering, and that under the 1933 Act and applicable regulations thereunder such securities may be resold without registration under the 1933 Act only in certain limited circumstances. In this connection, Registered Holder represents that Registered Holder is familiar with Rule 144 of the U.S. Securities and Exchange Commission, as presently in effect, and understands the resale limitations imposed thereby and by the 1933 Act Registered Holder understands that the Company is under no obligation to register any of the securities sold hereunder.
3.6 No Solicitation. At no time was the Registered Holder presented with or solicited by any publicly issued or circulated newspaper, mail, radio, television or other form of general advertising or solicitation in connection with the offer, sale and purchase of the Securities.

3.7 Transfer of Warrant Prohibited. Neither this Warrant, nor any rights hereunder, may be assigned, conveyed or transferred, in whole or in part, without the Company’s prior written consent which the Company may withhold in its sole discretion; provided, however, that subject to compliance with all applicable securities laws, the consent of the Company shall not be required for an assignment or transfer of this Warrant to an Affiliate (as defined below) of the Registered Holder, provided that such Affiliate shall be bound by the terms of this Warrant and is also an “accredited investor” within the meaning of Regulation D promulgated under the 1933 Act. Registered Holder agrees to give notice to the Company of any such transfer in connection with or prior to the exercise of this Warrant and the Affiliate which is the transferee shall agree in a writing reasonably satisfactory to the Company to be bound by the terms of this Warrant and represent that it is an “accredited investor” within the meaning of Regulation D promulgated under the 1933 Act (provided that such notice and the signing of such a writing shall not be a condition precedent to the effectiveness of the transfer; provided, further, however, that notwithstanding anything to the contrary herein, the Company shall have no obligations under this Warrant with respect to any transferee of the Warrant until delivery to the Company of such notice and such signed writing). Registered Holder hereby gives notice that, promptly following the issuance of this Warrant to it, Registered Holder intends to transfer this Warrant to its parent entity, Comerica Incorporated, in accordance with Section 3.7. “Affiliate” means any entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the Registered Holder.

3.8 Further Limitations on Disposition. Without in any way limiting the representations set forth above, Registered Holder further agrees not to make any disposition of all or any portion of the Securities (other than the Warrant itself, transfers of which are governed by Section 3.7) unless and until:

(a) there is then in effect a registration statement under the 1933 Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

(b) Registered Holder shall have notified the Company of the proposed disposition, and shall have furnished the Company with a statement of the circumstances surrounding the proposed disposition, and, at the expense of Registered Holder or its transferee, with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration of such securities under the 1933 Act.

Notwithstanding the provisions of paragraphs (a) and (b) above, no such registration statement or opinion of counsel shall be required: (i) for any transfer in compliance with Rule 144 or Rule 144A; (ii) for any transfer without consideration (or with consideration with the Company’s consent) by a Registered Holder that is a partnership or a corporation to (A) a partner of such partnership or shareholder of such corporation, (B) a retired partner of such partnership who retires after the date hereof, (C) the estate of any such partner or shareholder or (D) an entity that is an affiliate of such entity (including without limitation a wholly owned subsidiary); or (iii) for the transfer by gift, will or intestate succession by any Registered Holder to his or her spouse or lineal descendants or ancestors or any trust for any of the foregoing; provided that in each of the foregoing cases the transferee agrees in writing to be subject to the terms of this Section 3 to the same extent as if the transferee were an original Registered Holder hereunder.

3.9 Legends. Registered Holder understands and agrees that the certificates evidencing the Securities will bear legends substantially similar to those set forth below in addition to any other legend that may be required by applicable law, by the Company’s Articles of Incorporation or Bylaws, as amended from time to time hereafter, or by any agreement between the Company and such Registered Holder:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “1933 ACT”), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE 1933 ACT AND THE
APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SHARES EVIDENCED BY THIS CERTIFICATE: (1) ARE CONVERTIBLE INTO SHARES OF COMMON STOCK OF THE COMPANY AT THE OPTION OF THE HOLDER AT ANY TIME PRIOR TO AUTOMATIC CONVERSION THEREOF; (2) AUTOMATICALLY CONVERT INTO COMMON STOCK OF THE COMPANY IN THE EVENT OF A PUBLIC OFFERING MEETING CERTAIN REQUIREMENTS OR UPON THE CONSENTS OF CERTAIN HOLDERS OF THE COMPANY’S PREFERRED STOCK ALL PURSUANT TO AND UPON THE TERMS AND CONDITIONS SPECIFIED IN THE COMPANY’S ARTICLES OF INCORPORATION. A COPY OF SUCH ARTICLES OF INCORPORATION MAY BE OBTAINED, WITHOUT CHARGE, AT THE COMPANY’S PRINCIPAL OFFICE.

The first of the legends set above shall be removed by the Company from any certificate evidencing the Securities upon delivery to the Company of an opinion of counsel, reasonably satisfactory to the Company, that a registration statement under the 1933 Act is at that time in effect with respect to the legended security or that such security can be freely transferred in a public sale (other than pursuant to Rule 144 or Rule 145 under the 1933 Act) without such a registration statement being in effect and that such transfer will not jeopardize the exemption or exemptions from registration pursuant to which the Company issued the Securities.

3.10 “Market Stand-Off” Agreement; Legend. Registered Holder hereby agrees that it shall not, to the extent requested by the Company or an underwriter of securities of the Company, sell or otherwise transfer or dispose of any Securities (other than to donees or partners of the Registered Holder who agree to be similarly bound) for up to one hundred eighty (180) days following the effective date of the first registration statement of the Company filed under the 1933 Act; provided, however, that all executive officers and directors, and one percent (1%) shareholders of the Company enter into similar agreements and also provided that any discretionary waivers or terminations of this Market Stand-Off Agreement or any other similar agreements by the Company and/or the underwriters shall apply to Registered Holder and all executive officers and directors, and one percent (1%) shareholders on a pro rata basis based on the number of shares held.

In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Securities subject to this Section (including without limitation a legend in substantially the form set forth below) and to impose stop transfer instructions with respect to the Securities subject to this Section (and the shares or securities of every other person subject to the foregoing restriction) until the end of such period.


The Registered Holder agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or
4. **Loss or Mutilation.** Upon receipt by the Company of evidence reasonably satisfactory to it of the ownership, and the loss, theft, destruction or mutilation, of this Warrant, and of indemnity reasonably satisfactory to it, and (in the case of mutilation) upon surrender and cancellation of this Warrant, the Company will execute and deliver in lieu thereof a new Warrant of like tenor.

5. **No Rights or Liabilities as Shareholder.** This Warrant does not by itself entitle the Registered Holder to any voting rights or other rights as a shareholder of the Company. In the absence of a purchase by the Registered Holder of Warrant Stock by exercise of this Warrant, no provisions of this Warrant, and no enumeration herein of the rights or privileges of the Registered Holder, shall cause such Registered Holder to be a shareholder of the Company for any purpose.

6. **Miscellaneous.**

   6.1 **Notices.** Any notice, request or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given upon the earlier of (i) actual receipt, (ii) the date that is one business day after delivery to an express overnight courier service for internal United States deliveries, fees prepaid; and (iii) a date that is three business days after delivery to an internationally recognized courier for deliveries across international borders, fees prepaid, to the party to be notified as follows:

   If to the Company:
   
   Bill.com, Inc.
   3250 Ash Street
   Palo Alto, California 94306
   Attn. President and Chief Executive Officer

   With a copy (which shall not constitute notice to the Company) to:

   Fenwick & West LLP
   801 California Street
   Mountain View, CA 94041
   Attn. Mr. Michael Patrick

   If to Registered Holder:

   Comerica Bank c/o Comerica Incorporated
   Attn: Warrant Administrator
   500 Woodward Avenue, 32nd Floor, MC 3379
   Detroit, MI 48226

   Either the Company or the Registered Holder may by notice so given change its address for future notice hereunder. Notice shall conclusively be deemed to have been given when personally delivered or when delivered in the manner set forth above.

   6.2 **Amendment; Waiver.** This Warrant may be amended and the observance of any term of the Warrant may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Registered Holder.

   6.3 **Governing Law; Consent to Jurisdiction.** This Warrant shall be governed by and construed under the internal laws of the State of California as applied to agreements among California residents entered into and to be performed entirely within California, without reference to principles of conflict of laws or
choice of laws. The Company and the Registered Holder consent to and hereby submit to the exclusive jurisdiction of any state court located in the County of Santa Clara, California and the U.S. District Court for the Northern District of California located in San Francisco, California in connection with any action, suit or proceeding arising out of or relating to this Warrant brought by any such party against any other such party, and each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such court has been brought in an inconvenient forum.

6.4 Terms Binding. By acceptance of this Warrant, the Registered Holder accepts and agrees to be bound by all the terms and conditions of this Warrant. Each assignee of this Warrant shall be deemed, by accepting such assignment, to also be bound by all the terms and conditions of this Warrant.

6.5 Notice of Certain Events. If the Company proposes at any time (a) to declare any dividend or distribution upon its stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend; (b) to effect any reclassification or recapitalization of stock; or (c) to merge or consolidate with or into any other corporation, or sell, lease, license, or convey all or substantially all of its assets, or to liquidate, dissolve or wind up, then, in connection with such events, the Company shall give Registered Holder written notice thereof as follows: (1) at least 10 days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of stock will be entitled thereto) or for determining rights to vote, if any, in respect of the matter referred to in (a) above; and (2) in the case of the matters referred to in (b) and (c) above at least 10 days prior written notice of the date of the closing or consummation of such event.

6.7 Information Rights. So long as the Registered Holder holds this Warrant and/or any of the Warrant Stock, the Company shall deliver to the Registered Holder, upon request by Registered Holder, (a) copies of written communications sent to all the shareholders of the Company and (b) upon request by Registered Holder, quarterly financial statements of the Company prepared in the ordinary course of its business and sent to its preferred shareholders. Registered Holder agrees, by accepting any information delivered pursuant to this Section 6.7, to hold such information in confidence, to use reasonable efforts not to disclose it to third parties, and not to use it for any purpose other than monitoring its investment in the Company; provided, however, that Registered Holder may disclose such information (i) on a confidential basis to its professional advisors, (ii) to the extent required to do so by applicable law or regulation, and (iii) to the extent such information has otherwise become publicly available through no fault of Registered Holder. Registered Holder’s rights under this Section 6.7 shall expire immediately prior to the closing of (i) an Acquisition, and (ii) the initial public offering of the Company’s common stock pursuant to a registration statement declared effective under the Securities Act of 1933, as amended.

BILL.COM, INC.

By:  /s/ René Lacerte
     René Lacerte, President, Chief Executive Officer
     And Chief Financial Officer

COMERICA BANK

By:  /s/ Rod Werner
     Name: Rod Werner
     Title: SVP

[Signature page to Series B Preferred Stock Warrant issued by Bill.com, Inc. to Registered Holder]
EXHIBIT 1

FORM OF SUBSCRIPTION
(To be signed only upon exercise of Warrant)

To: Bill.com, Inc.
3250 Ash Street
Palo Alto, CA 94306
Attention: Chief Executive Officer

cc: Fenwick & West LLP
801 California Street
Mountain View, California 94041
Attention: Michael J. Patrick, Esq.

(1) Exercise. The undersigned hereby elects to purchase ____ shares of Series ____ Preferred Stock of Bill.com, Inc., a Delaware corporation (the “Company”) pursuant to Section 1 of the attached Warrant, and tenders herewith payment of the purchase price for such shares in full.

(2) Investment Representations. In exercising this Warrant, the undersigned hereby confirms and acknowledges that Registered Holder has carefully reviewed the representations and warranties set forth in Section 3 of the attached Warrant and that such representations and warranties are true and correct as of this date with respect to the Registered Holder as if the Registered Holder was making such representations and warranties on this date.

(3) Surrender of Warrant. The attached Warrant is hereby surrendered for cancellation.

(4) Stock Certificate. Please issue a certificate or certificates representing said shares of the Company’s capital stock in the name specified below:

Dated: ____________________

REGISTERED HOLDER

__________________________________________
(Name of Registered Holder)

__________________________________________
(Authorized Signature)
THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN SECTIONS 5.3 AND 5.4 BELOW, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

WARRANT TO PURCHASE STOCK

Company: BILL.COM, INC.
Number of Shares: 25,000
Type/Series of Stock: Series D Preferred Stock
Warrant Price: $1.25 per share
Issue Date: May 3, 2013
Expiration Date: May 3, 2020

Credit Facility: This Warrant to Purchase Stock (“Warrant”) is issued in connection with that certain Loan and Security Agreement of even date herewith between City National Bank and BILL.COM, INC. (the “Company”).

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, CITY NATIONAL BANK (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, “Holder”) is entitled to purchase the number of fully paid and non-assessable shares (the “Shares”) of the above-stated Type/Series of Stock (the “Class”) of the Company at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. Reference is made to Section 5.4 of this Warrant whereby City National Bank shall transfer this Warrant to its parent company, City National Corp.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1 and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1, Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to Holder such number of fully paid and non-assessable Shares as are computed using the following formula:

\[ X = \frac{Y(A-B)}{A} \]

where:

\[ X = \text{the number of Shares to be issued to Holder;} \]
\[ Y = \text{the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);} \]
\[ A = \text{the Fair Market Value (as determined pursuant to Section 1.3 below) of one Share; and} \]
\[ B = \text{the Warrant Price.} \]
1.3 Fair Market Value. If the Company’s common stock is then traded or quoted on a nationally recognized securities exchange, inter-dealer quotation system or over-the-counter market (a “Trading Market”) and the Class is common stock, the fair market value of a Share shall be the closing price or last sale price of a share of common stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company. If the Company’s common stock is then traded in a Trading Market and the Class is a series of the Company’s convertible preferred stock, the fair market value of a Share shall be the closing price or last sale price of a share of the Company’s common stock reported for the Business Day immediately before the date on which Holder delivers this Warrant together with its Notice of Exercise to the Company multiplied by the number of shares of the Company’s common stock into which a Share is then convertible. If the Company’s common stock is not traded in a Trading Market, the Board of Directors of the Company shall determine the fair market value of a Share in its reasonable good faith judgment.

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) For the purpose of this Warrant, “Acquisition” means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets of the Company (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company’s domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company’s (or the surviving or successor entity’s) outstanding voting power immediately after such merger, consolidation or reorganization; or (iii) any sale or other transfer by the stockholders of the Company of shares representing at least a majority of the Company’s then-total outstanding voting power.

(b) In the event of an Acquisition in which the consideration to be received by the Company’s stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a “Cash/Public Acquisition”), either (i) Holder shall exercise this Warrant pursuant to Section 1.1 and/or 1.2 and such exercise will be deemed effective immediately prior to and contingent upon the consummation of such Acquisition or (ii) if Holder elects not to exercise the Warrant, this Warrant will expire immediately prior to the consummation of such Acquisition.

(c) The Company shall provide Holder with written notice of a Cash/Public Acquisition (together with such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such contemplated Cash/Public Acquisition giving rise to such notice), which is to be delivered to Holder not less than seven (7) Business Days prior to the closing of the proposed Cash/Public Acquisition. In the event the Company does not provide such notice, then if, immediately prior to the Cash/Public Acquisition, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above would be greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall promptly notify Holder of the number of Shares (or such other securities) issued upon such exercise to Holder and Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as the date thereof.
The Company shall give the Holder written notice at least seven (7) Business Days prior to the closing of any Acquisition that is not a Cash/Public Acquisition (an “Illiquid Acquisition”) (together with such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such contemplated Illiquid Acquisition giving rise to such notice) and use commercially reasonable efforts to cause the acquiror of the Company in such Illiquid Acquisition (the “Acquiror”) to assume this Warrant as a part of the Acquisition. If the Acquirer assumes this Warrant, then this Warrant shall be exercisable for the same securities, cash, and property as would be payable for the Warrant Stock issuable upon exercise of the unexercised portion of this Warrant as if such shares of Warrant Stock were outstanding on the record date for the Illiquid Acquisition and subsequent closing. The Warrant Price shall be adjusted accordingly, and the Warrant Price and number and class of Warrant Stock shall continue to be subject to adjustment from time to time in accordance with the provisions hereof. If the Acquirer refuses to assume this Warrant in connection with an Illiquid Acquisition, or if the Acquisition is not an Illiquid Acquisition, then the Company shall give Registered Holder an additional written notice at least 5 days prior to the closing of the Acquisition of such fact. In such event, notwithstanding any other provision of this Warrant to the contrary, Registered Holder may immediately exercise this Warrant in the manner specified in this Warrant with such exercise effective immediately prior to closing of such Acquisition and if Registered Holder elects not to exercise this Warrant, then notwithstanding anything to the contrary herein, this Warrant will terminate immediately prior to the closing of such Acquisition.

As used in this Warrant, “Marketable Securities” means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded in Trading Market, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer’s shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the closing of such Acquisition.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Stock Dividends, Splits, Etc. If the Company declares or pays a dividend or distribution on the outstanding shares of the Class payable in common stock or other securities or property (other than cash), then upon exercise of this Warrant, for each Share acquired, Holder shall receive, without additional cost to Holder, the total number and kind of securities and property which Holder would have received had Holder owned the Shares of record as of the date the dividend or distribution occurred. If the Company subdivides the outstanding shares of the Class by reclassification or otherwise into a greater number of shares, the number of Shares purchasable hereunder shall be proportionately increased and the Warrant Price shall be proportionately decreased. If the outstanding shares of the Class are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased and the number of Shares shall be proportionately decreased.

2.2 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Class are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.2 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.3 Conversion of Preferred Stock. If the Class is a class and series of the Company’s convertible preferred stock, in the event that all outstanding shares of the Class are converted, automatically or by action of Holders thereof, into common stock pursuant to the provisions of the Company’s Certificate of Incorporation, including, without limitation, in connection with the Company’s initial, underwritten public offering
and sale of its common stock pursuant to an effective registration statement under the Act (the “IPO”), then from and after the date on which all outstanding shares of the Class have been so converted, this Warrant shall be exercisable for such number of shares of common stock into which the Shares would have been converted had the Shares been outstanding on the date of such conversion, and the Warrant Price shall equal the Warrant Price in effect as of immediately prior to such conversion divided by the number of shares of common stock into which one Share would have been converted, all subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant.

2.4 Adjustments for Diluting Issuances. Without duplication of any adjustment otherwise provided for in this Section 2, the number of shares of common stock issuable upon conversion of the Shares shall be subject to anti-dilution adjustment from time to time in the manner set forth in the Company’s Articles or Certificate of Incorporation as if the Shares were issued and outstanding on and as of the date of any such required adjustment.

2.5 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the fair market value (as determined in accordance with Section 1.3 above) of a full Share, less (ii) the then-effective Warrant Price.

2.6 Notice/Certificate as to Adjustments. Upon each adjustment of the Warrant Price, Class and/or number of Shares, the Company, at the Company’s expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, Class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, Class and number of Shares in effect upon the date of such adjustment.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, Holder as follows:

(a) The initial Warrant Price referenced on the first page of this Warrant is not greater than the price per share at which shares of the Class were last sold and issued prior to the Issue Date hereof in an arms-length transaction in which at least $500,000 of such shares were sold.

(b) All Shares which may be issued upon the exercise of this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of the Class, common stock and other securities as will be sufficient to permit the exercise in full of this Warrant and the conversion of the Shares into common stock or such other securities.

(c) The Company’s capitalization table attached hereto as Schedule 1 is true and complete, in all material respects, as of the Issue Date.

3.2 Notice of Certain Events. If the Company proposes at any time to:

(a) declare any dividend or distribution upon the outstanding shares of the Class or common stock, whether in cash, property, stock, or other securities and whether or not a regular cash dividend;

(b) offer for subscription or sale pro rata to Holders of the outstanding shares of the Class any additional shares of any class or series of the Company’s stock (other than pursuant to contractual pre-emptive rights);
(c) effect any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Class;
(d) effect an Acquisition or to liquidate, dissolve or wind up; or
(e) effect an IPO;

then, in connection with each such event, the Company shall give Holder:

(1) at least seven (7) Business Days prior written notice of the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which Holders of outstanding shares of the Class will be entitled thereto) or for determining rights to vote, if any, in respect of the matters referred to in (a) and (b) above;

(2) in the case of the matters referred to in (c) and (d) above at least seven (7) Business Days prior written notice of the date when the same will take place (and specifying the date on which Holders of outstanding shares of the Class will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event); and

(3) with respect to the IPO, at least seven (7) Business Days prior written notice of the date on which the Company proposes to file its registration statement in connection therewith.

Reference is made to Section 1.6(c) whereby this Warrant will be deemed to be exercised pursuant to Section 1.2 hereof if the Company does not give written notice to Holder of a Cash/Public Acquisition as required by the terms hereof. Company will also provide information requested by Holder that is reasonably necessary to enable Holder to comply with Holder’s accounting or reporting requirements.

3.3 Information Rights. So long as the Holder holds this Warrant and/or any of the Shares, the Company shall deliver to the Holder (a) within ninety (90) days after the end of each fiscal year of the Company, the annual audited financial statements of the Company and (b) within forty-five (45) days after the end of each of the first three quarters of each fiscal year, the Company’s quarterly, unaudited financial statements, provided Company need not provide such information for any period in which Company has filed Form 10Q with the Securities and Exchange Commission.

SECTION 4. REPRESENTATIONS, WARRANTIES OF HOLDER.

Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the securities to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder’s account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company’s business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.
4.3 **Investment Experience.** Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder’s investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 **Accredited Investor Status.** Holder is an “accredited investor” within the meaning of Regulation D promulgated under the Act.

4.5 **The Act.** Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Holder’s investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 **No Voting Rights.** Holder, as a Holder of this Warrant, will not have any voting rights until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 **Term and Automatic Conversion Upon Expiration.**

(a) **Term.** Subject to the provisions of Section 1.6 above, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Pacific Time, on the Expiration Date and shall be void thereafter.

(b) **Automatic Cashless Exercise upon Expiration.** In the event that, upon the Expiration Date, the fair market value of one Share (or other security issuable upon the exercise hereof) as determined in accordance with Section 1.3 above is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 **Legends.** The Shares (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) shall be imprinted with a legend in substantially the following form:

THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT AS SET FORTH IN THAT CERTAIN WARRANT TO PURCHASE STOCK ISSUED BY THE ISSUER TO CITY NATIONAL BANK DATED MAY 3, 2013, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED UNLESS AND UNTIL REGISTERED UNDER SAID ACT AND LAWS OR IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER, SUCH OFFER, SALE, PLEDGE OR OTHER TRANSFER IS EXEMPT FROM SUCH REGISTRATION.

5.3 **Compliance with Securities Laws on Transfer.** This Warrant and the Shares issuable upon exercise of this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee. The Company shall not require Holder to provide an opinion of counsel if the transfer is to City National Corp. (City National Bank’s parent company) or any other affiliate of Holder, provided that any such transferee is an “accredited investor” as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.
5.4 Transfer Procedure. After receipt by City National Bank of the executed Warrant, City National Bank will transfer this Warrant to its parent company, City National Corp. By its acceptance of this Warrant, City National Corp. hereby makes to the Company each of the representations and warranties set forth in Section 4 hereof and agrees to be bound by all of the terms and conditions of this Warrant as if the original Holder hereof. Subject to the provisions of Section 5.3, City National Corp. and any subsequent Holder may transfer all or part of this Warrant or the Shares issuable upon exercise of this Warrant (or the securities issuable directly or indirectly, upon conversion of the Shares, if any) to any transferee, provided, however, in connection with any such transfer, City National Corp. or any subsequent Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable); and provided further, that any subsequent transferee other than City National Corp. shall agree in writing with the Company to be bound by all of the terms and conditions of this Warrant. Notwithstanding any contrary provision herein, at all times prior to the IPO, Holder may not, without the Company’s prior written consent, transfer this Warrant or any portion hereof, or any Shares issued upon any exercise hereof, or any shares or other securities issued upon any conversion of any Shares issued upon any exercise hereof, to any person or entity who directly competes with the Company, except in connection with an Acquisition of the Company by such a direct competitor.

5.5 Notices. All notices and other communications hereunder from the Company to Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient, or (iv) on the first Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5. All notices to Holder shall be addressed as follows until Holder receives notice of a change in address:

City National Bank, Technology and Venture Capital Banking
Attn: Rod Werner, Managing Director
150 California Street, 13th Floor
San Francisco, CA 94111
Telephone: 415-576-2715
Facsimile: 415-576-2811
Email: rod.wemer@cnb.com

With a copy to:

City National Bank, Legal Department
Attn: Managing Counsel, Credit Unit
555 S. Flower Street, 18th Floor
Los Angeles, California 90071
Facsimile:

Notice to the Company shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

BILL.COM, INC.
Attn: Chief Executive Officer
3200 Ash Street
Palo Alto, CA 94306
Telephone:________________________
Facsimile:________________________
Email:________________________

7
5.6 Waiver. This Warrant and any term hereof may be changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

5.7 Attorney’s Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys’ fees.

5.8 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.9 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

5.10 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.11 Business Days. “Business Day” is any day that is not a Saturday, Sunday or a day on which City National Bank is closed.

[Balance of Page Intentionally Left Blank]
IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

“COMPANY”

BILL.COM, INC.

By: /s/ René Lacerte
Name: René Lacerte  
(Print)
Title: CEO  

“HOLDER”

CITY NATIONAL BANK

By: /s/ Brian Lewis
Name: Brian Lewis  
(Print)
Title: VP

[Signature Page to Warrant to Purchase Stock]
NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right purchase _________ shares of the Series D Preferred Stock of BILL.COM, INC. (the “Company”) in accordance with the attached Warrant To Purchase Stock, and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] check in the amount of $________ payable to order of the Company enclosed herewith

[ ] Wire transfer of immediately available funds to the Company’s account

[ ] Cashless Exercise pursuant to Section 1.2 of the Warrant

[ ] Other [Describe] ______________________________________________________________

2. Please issue a certificate or certificates representing the Shares in the name specified below:

________________________________________

(Holder’s Name)

________________________________________

(Address)

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Stock as of the date hereof.

HOLDER:

________________________________________

By: _____________________________________

Name: ___________________________________

Title: ____________________________________

Date: ____________________________________

Appendix 1
THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, PLEDGED, OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR PURSUANT TO RULE 144 OR AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE CORPORATION AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED.

WARRANT TO PURCHASE COMMON STOCK

Corporation: BDC Payments Holdings, Inc., a Delaware corporation
Number of Shares: 50,000
Class of Stock: Common Stock, par value $0.00001 per share
Initial Exercise Price: $4.38 per Share
Issue Date: April 4, 2019
Expiration Date: April 3, 2024

This Warrant certifies that, for good and valuable consideration, Riviera Partners Investments LLC ("Holder") is entitled to purchase from the corporation named above (the "Company"), until 5:00 p.m. Pacific time, on the Expiration Date set forth above, the number of fully paid and nonassessable shares of the class of stock (the "Shares") of the Company at the Initial Exercise Price per Share (the "Warrant Price"), all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant.

This Warrant is being issued in connection with that certain Riviera Partners Recruiting Services Agreement dated July 24, 2018, between the Company and Holder (the "Services Agreement"), pursuant to which Holder conducted a recruiting search which resulted in the hiring of an employee who commenced employment with the Company on December 10, 2018 (the "Hired Employee").

1. EXERCISE.

1.1 Vesting. Only Vested Shares may be purchased pursuant to the exercise of this Warrant. Shares that are vested pursuant to the terms and conditions of this Section 1.1 are "Vested Shares". Shares that are not vested pursuant to the terms and conditions of this Section 1.1 are "Unvested Shares". The Shares will vest as follows: On the Issue Date, 100% of the Shares shall be Unvested Shares. 100% of the Shares shall vest, become exercisable and become eligible for purchase under this Warrant as Vested Shares upon the earlier of (i) Holder’s receipt of the Company Notice or (ii) on June 10, 2019 (subject to the termination provisions in Section 1.7).

1.2 Method of Exercise. Holder may exercise this Warrant by delivering a duly executed Notice of Exercise in substantially the form attached as Exhibit A to the principal office of the Company. Unless Holder is exercising the conversion right set forth in Section 1.3, this Warrant may be exercised in whole or in part and Holder shall also deliver to the Company a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased.
1.3 **Net Exercise Election.** The Holder may elect to convert this Warrant, without the payment by the Holder of any additional consideration, by the surrender of this Warrant to the Company, with the net exercise election selected in the Notice of Exercise attached hereto as Exhibit A duly executed by the Holder, into the number of Shares that is obtained under the following formula:

\[
X = \frac{Y (A - B)}{A}
\]

Where:
- \(X\) = the number of Shares to be issued to the Holder pursuant to this Section 1.3.
- \(Y\) = the number of Warrant Shares then subject to this Warrant.
- \(A\) = the fair market value of one Share, as determined in good faith by the Company’s Board of Directors, as at the time the net exercise election is made pursuant to this Section 1.3.
- \(B\) = the Warrant Price.

For purposes of the above calculation, fair market value of one Share shall be determined by the Company’s Board of Directors in good faith; provided, however, that if on the relevant exercise date for which such value must be determined, (1) the exercise is in connection with a Change of Control (as defined in Section 1.7.1), then the fair market value shall be the value received by holders of Shares pursuant to such transaction or (2) there exists a public market for the Company’s Common Stock at the time of such exercise, then the fair market value per share shall be determined by reference to the market price of the Common Stock as follows: (a) if the Warrant is being exercised in connection with the Company’s first underwritten public offering of its Common Stock under the Securities Act of 1933, as amended (the “Act”), the fair market value shall be the per-share offering price to the public as set forth in the Company’s final prospectus filed with the Securities and Exchange Commission (the “SEC”), or (b) otherwise, the fair market value shall be the average of (i) the closing bid and asked prices of the Common Stock quoted in the Over-The-Counter Market Summary or (ii) the last reported sale price of the Common Stock or the closing price quoted on the NASDAQ Stock Market or on any exchange on which the Common Stock is listed, whichever is applicable, as published in the Western Edition of The Wall Street Journal for the five (5) trading days prior to the date of determination of fair market value. The Company will promptly respond in writing to an inquiry by the Holder as to the then current fair market value of one Share.

1.4 **Delivery of Certificate and New Warrant.** Promptly after Holder exercises this Warrant, the Company shall deliver to Holder certificates for the Shares acquired and, if this Warrant has not been fully exercised or converted and has not expired, this Warrant shall automatically be reduced by the number of Shares issued and remain exercisable for such remaining Shares not so acquired, and all other terms of the Warrant shall otherwise remain in full force and effect as so adjusted. Upon final exercise of this Warrant for any such remaining number of Shares, this Warrant shall be surrendered by the Holder to the Company for cancellation.

1.5 **Replacement of Warrants.** On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form and amount to the Company or, in the case of mutilation, or surrender and cancellation of this Warrant, the Company at its expense shall execute and deliver, in lieu of this Warrant, a new warrant of like tenor.
1.6 **Restrictions on Exercise.** This Warrant may not be exercised if the issuance of the Shares upon such exercise would constitute a violation of any applicable federal or state securities laws or other laws or regulations. As a condition to the exercise of this Warrant, the Holder shall execute the attached Notice of Exercise, confirming and acknowledging that the representations and warranties of the Holder in Section 4 hereof are true and complete as of the date of exercise. If the Holder cannot make such representations because they would be factually incorrect, it shall be a condition to the Holder’s exercise of this Warrant that the Company receive such other representations as the Company considers reasonably necessary to assure the Company that the issuance of its securities upon exercise of this Warrant shall not violate any United States or state securities laws.

1.7 **Change of Control of Company; Termination of Warrant.**

1.7.1 **“Change of Control.”** As used herein, “Change of Control” means any of the following: (a) the reorganization, consolidation or merger of the Company with or into any other entity or entities in which the holders of the Company’s outstanding shares immediately before such reorganization, consolidation or merger do not, immediately after such reorganization, consolidation or merger retain stock (or other ownership interests) representing a majority of the voting power of the surviving entity or entities of such reorganization, consolidation or merger in substantially the same proportion as their ownership immediately prior to the reorganization, consolidation or merger as a result of their shareholdings in the Company immediately prior to the reorganization, consolidation or merger; (b) the sale, transfer or other disposition of all or substantially all of the assets of the Company; or (c) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an underwriter of the Company’s securities), of the Company’s securities if, after such closing, such person or group of affiliated persons would hold fifty percent (50%) or more of the outstanding voting stock of the Company (or the surviving or acquiring entity), other than an equity financing in which the Company is the surviving corporation. For the avoidance of doubt, a public offering of securities of the Company shall not constitute a “Change of Control.”

1.7.2 **Termination of Warrant.** In the case of a Change of Control, the Company shall give Holder at least ten (10) days advance written notice of the anticipated closing date for such Change of Control (the “Company Notice”), which notice shall include the Company’s best estimate of the value of the Shares receivable upon exercise or conversion of this Warrant and the proposed date upon which such event is expected to occur. During such notice period, Holder may exercise or convert this Warrant in accordance with its terms, whether or not exercise or conversion is contingent upon the happening of such event and/or existence of a minimum value of the Shares receivable upon exercise or conversion as provided on Holder’s exercise notice; provided that such minimum value shall be no greater than the per share price set forth in the Company Notice. Subject to prior exercise or conversion as provided in the preceding sentence, this Warrant will terminate upon the earlier of (i) 5:00 p.m. Pacific time on the day prior to the effective date of a Change of Control and, (ii) if prior to June 10, 2019, when Hired Employee ceases to be a service provider of the Company.

2. **ADJUSTMENTS TO THE SHARES.**

2.1 **Stock Dividends, Splits, Etc.** If the Company declares or pays a dividend on the outstanding shares of the Company’s Common Stock payable in shares of the Company’s Common Stock or other securities of the Company or subdivides or combines the outstanding shares of the Company’s Common Stock, then upon exercise or conversion of this Warrant, Holder shall receive, without cost to Holder, the total number and kind of securities to which Holder would have been entitled had Holder owned the Shares of record as of the date the dividend, subdivision or combination occurred.
2.2 **Reclassification, Exchange or Substitution.** Upon any reclassification, exchange, substitution, or other event that results in a change of the number and/or class of the securities issuable upon exercise or conversion of this Warrant (other than a merger, consolidation or recapitalization described in Section 1.7 above or a stock dividend, split, etc. described in Section 2.1 above), Holder shall be entitled to receive, upon exercise or conversion of this Warrant, the number and kind of securities and property that Holder would have received for the Shares if this Warrant had been exercised immediately before such reclassification, exchange, substitution or other event. The Company or its successor shall promptly issue to Holder a new Warrant for such new securities or other property. The new Warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 2 including, without limitation, appropriate adjustments to the Warrant Price and to the number of securities or property issuable upon exercise or conversion of the new Warrant.

2.3 **Adjustments of Warrant Price.** If the outstanding Shares are combined or consolidated, by reclassification or otherwise, into a lesser number of shares, the Warrant Price shall be proportionately increased. If the outstanding Shares are divided by reclassification or otherwise, into a greater number of shares, the Warrant Price shall be proportionately decreased.

2.4 **Adjustment is Cumulative.** The provisions of this Section 2 shall similarly apply to successive, stock dividends, stock splits or combinations, reclassifications, exchanges, substitutions, or other events.

2.5 **Fractional Shares.** No fractional Shares shall be issuable upon exercise or conversion of the Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional share interest arises upon any exercise or conversion of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder an amount by check computed by multiplying the fractional interest by the fair market value of a full Share.

2.6 **Certificate as to Adjustments.** Upon each adjustment of the Warrant Price, the Company at its expense shall compute such adjustment, and furnish Holder with a certificate of its Chief Financial Officer setting forth such adjustment and the facts upon which such adjustment is based. The Company shall, upon written request, furnish Holder a certificate setting forth the Warrant Price in effect upon the date thereof and the series of adjustments leading to such Warrant Price.

3. **REPRESENTATIONS OF THE COMPANY.** The Company hereby represents and warrants to the Holder that all Shares which may be issued upon the exercise of the purchase right represented by this Warrant, and all securities, if any, issuable upon conversion of the Shares, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

4. **REPRESENTATIONS AND COVENANTS OF HOLDER.**

4.1 **Representations.** Holder hereby represents and warrants to the Company as follows. Holder is a sophisticated investor having such knowledge and experience in business and investment matters that Holder is capable of protecting Holder’s own interests in connection with the acquisition, exercise or disposition of this Warrant. Holder is an “accredited investor” within the meaning of Regulation D promulgated under the Act. Holder is aware that this Warrant and the Shares are being, or will be, issued to Holder in reliance upon Holder’s representation in this Section 4 and that such securities are restricted securities that cannot be publicly sold except in certain prescribed situations. Holder is aware of the provisions of Rule 144 promulgated under the Act and of the conditions under which sales may be made thereunder. Holder has received such information about the Company as Holder deems reasonable, has had the opportunity to ask questions and receive answers from the
Company with respect to its business, assets, prospects and financial condition and has verified any answers Holder has received from the Company with independent third parties to the extent Holder deems necessary. The Holder of this Warrant, by acceptance hereof, acknowledges this Warrant and the Shares to be issued upon exercise hereof or conversion thereof are being acquired solely for the Holder’s own account and not as a nominee for any other party, and for investment, and that the Holder will not offer, sell or otherwise dispose of this Warrant or any Shares to be issued upon exercise hereof or conversion thereof except under circumstances that will not result in a violation of the Act or any state securities laws.

4.2 Legends. Holder understands and agrees that the Warrant and/or certificates evidencing the Shares will bear legends substantially similar to those set forth below in addition to any other legend that may be required by applicable law, including Any legend required by the laws of the State of California, including any legend required by the California Department of Corporations and Sections 417 and 418 of the California Corporations Code or any other state securities laws, the Company’s Amended and Restated Certificate of Incorporation or Bylaws as in effect, this Agreement, or any other agreement between the Company and the Holder:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR UNDER ANY APPLICABLE STATE SECURITIES LAWS. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A 180 DAY MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS AFTER THE EFFECTIVE DATE OF ANY PUBLIC OFFERING OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

4.3 Compliance with Securities Laws on Transfer. This Warrant is not transferrable without the consent of the Company. Further, this Warrant and the Shares issuable upon exercise this Warrant (and the securities issuable, directly or indirectly, upon conversion of the Shares, if any) may not be transferred or assigned in whole or in part without compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if (a) the transfer is to the stockholders or constituent partners of Holder by way of dividend or distribution to all of the same or (b) there is no material question as to the availability of current information as referenced in Rule 144(c), Holder represents that it has complied with Rule 144(d) and (e) in reasonable detail, the selling broker represents that it has complied with Rule 144(f), and the Company is provided with a copy of Holder’s notice of proposed sale and/or transfer.
4.4 **Market Standoff.** Holder hereby agrees that Holder shall not, to the extent requested by the Company or an underwriter of securities of the Company, sell or otherwise transfer or dispose of any shares of stock or other securities of the Company then or thereafter owned by Holder (other than to donees or partners of Holder who agree to be similarly bound) for up to one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act. For purposes of this Section 4.4, the term “Company” shall include any wholly-owned subsidiary of the Company into which the Company merges or consolidates. Holder further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with respect to the Shares of Holder until the end of such period.

4.5 **Agreement to Enter into Voting Agreement.** If requested to do so by the Company, Holder agrees to enter into and execute the Company’s then-current Voting Agreement concurrently with the exercise or conversion of this Warrant or at any other time Holder is requested to do so by the Company. Holder acknowledges that, by entering into the Company’s Voting Agreement, Holder will be subjected to voting and other obligations and covenants regarding all Company shares Holder owns and all other provisions of the Company’s Voting Agreement, in addition to the market stand-off provisions described above.

4.6 **No Rights as Stockholder.** The Holder acknowledges that this Warrant does not entitle the Holder to any voting rights or other rights as a stockholder of the Company prior to the actual, valid exercise hereof. In the absence of valid exercise of this Warrant, no provisions of this Warrant, and no enumeration herein of the rights or privileges of the Holder, shall cause the Holder to be a stockholder of the Company for any purpose.

5. **GENERAL PROVISIONS.**

5.1 **Notices.** Any and all notices required or permitted to be given to a party pursuant to the provisions of this Warrant will be in writing and will be effective and deemed to provide such party sufficient notice under this Warrant on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time of transmission by e-mail, addressed to the other party at its e-mail address specified herein (or hereafter modified by subsequent notice to the parties hereto); (iii) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (iv) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries.

All notices for delivery outside the United States will be sent by e-mail or by express courier. All notices not delivered personally or by e-mail will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or e-mail address set forth below the signature lines to this Warrant, or at such other address as such other party may designate by one of the indicated means of notice herein to the other parties hereto. Notices to the Company will be marked “Attention: Chief Executive Officer”.

5.2 **Waiver.** This Warrant and any term hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought.
5.3 **Attorneys Fees.** In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys’ fees.

5.4 **Governing Law.** This Warrant will be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws.

5.5 **Further Assurances.** The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Warrant.

5.6 **Titles and Headings.** The titles, captions and headings of this Warrant are included for ease of reference only and will be disregarded in interpreting or construing this Warrant. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Warrant.

5.7 **Counterparts.** This Warrant may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

5.8 **Severability.** If any provision of this Warrant is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Warrant and the remainder of this Warrant shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Warrant. Notwithstanding the forgoing, if the value of this Warrant based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

5.9 **Electronic Signatures.** This Warrant may be executed and delivered by electronic or facsimile and upon such delivery the electronic or facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

5.10 **Amendment and Waivers.** This Warrant may be amended only by a written agreement executed by each of the parties hereto. No amendment of or waiver of, or modification of any obligation under this Warrant will be enforceable unless set forth in a writing signed by the party against which enforcement is sought. Any amendment effected in accordance with this section will be binding upon all parties hereto and each of their respective successors and assigns. No delay or failure to require performance of any provision of this Warrant shall constitute a waiver of that provision as to that or any other instance. No waiver granted under this Warrant as to any one provision herein shall constitute a subsequent waiver of such provision or of any other provision herein, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

5.11 **Entire Agreement.** This Warrant constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Warrant, and supersedes all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof. This Warrant satisfies any and all obligations of the Company as set forth in the Equity Grant section of Exhibit A of the Services Agreement.

[Signature Page Follows]
WARRANT HOLDER:

Riviera Partners Investments LLC

By: /s/ Donald Haydon
Name: Donald Haydon
Address: 141 10th Street
San Francisco, CA 94103

Attention to: ____________________________
Facsimile: ____________________________

[Signature Page to BDC Payments Holdings, Inc. Warrant to Purchase Stock]

COMPANY:

BDC Payments Holdings, Inc.

By: /s/ René Lacerte
Name: René Lacerte
Address: 1810 Embarcadero Road
Palo Alto, CA 94303

Attention to: ____________________________
Facsimile: ____________________________
EXHIBIT A

NOTICE OF EXERCISE

(TO BE SIGNED ONLY UPON EXERCISE OF WARRANT)

1. The undersigned hereby elects to purchase _______ shares of the Common Stock (the “Shares”) of BDC Payments Holdings, Inc., a Delaware corporation, pursuant to the terms of the attached Warrant to Purchase Stock with an Issue Date of April 4, 2019 (the “Warrant”), as follows:

   (Initial applicable method:)

   a. The undersigned tenders herewith payment of the total purchase price of such Shares in full, pursuant to a check, wire transfer or other form of payment acceptable to the Company, in the amount of $_________.

   b. This exercise or conversion is not contingent upon the closing of the Change of Control or other event specified in the Company Notice to Holder in accordance with Section 1.7 of the Warrant and is not contingent upon a sale price or fair market value for the Company’s Common Stock in the Change of Control or other event of no less than the lesser of (a) $_________ per share or (b) the per share price set forth in the Company Notice.

   c. The undersigned hereby elects to convert the Warrant into Shares by the net exercise election pursuant to Section 1.3 of the Warrant. This conversion is exercised with respect to all of the shares of Common Stock covered by the Warrant resulting in a net total of ________ Shares being issued to the undersigned.

2. Please issue a certificate or certificates representing said Shares in the name of the undersigned. The undersigned represents that it is acquiring the shares solely for its own account and not as a nominee for any other party and not with a view toward the resale or distribution thereof except in compliance with applicable securities laws and hereby repeats the representations and warranties of the undersigned that are set forth in Section 4 of the attached Warrant.

   __________________________________________________________________________
   [Riviera Partners Investments LLC]
   (Printed Name of Holder)

   __________________________________________________________________________

   Address:

   __________________________________________________________________________
   (Signature of Holder)
INDEMNITY AGREEMENT

This Indemnity Agreement, dated as of , 2019 is made by and between Bill.com Holdings, Inc., a Delaware corporation (the “Company”), and , a director, officer or key employee of the Company or one of the Company’s subsidiaries or other service provider who satisfies the definition of Indemnifiable Person set forth below (“Indemnitee”).

RECITALS

A. The Company is aware that competent and experienced persons are increasingly reluctant to serve as representatives of corporations unless they are protected by comprehensive liability insurance and indemnification, due to increased exposure to litigation costs and risks resulting from their service to such corporations, and due to the fact that the exposure frequently bears no relationship to the compensation of such representatives;

B. The members of the Board of Directors of the Company (the “Board”) have concluded that to retain and attract talented and experienced individuals to serve as representatives of the Company and its Subsidiaries and Affiliates and to encourage such individuals to take the business risks necessary for the success of the Company and its Subsidiaries and Affiliates, it is necessary for the Company to contractually indemnify certain of its representatives and the representatives of its Subsidiaries and Affiliates, and to assume for itself maximum liability for Expenses and Other Liabilities in connection with claims against such representatives in connection with their service to the Company and its Subsidiaries and Affiliates;

C. Section 145 of the Delaware General Corporation Law (“Section 145”), empowers the Company to indemnify by agreement its officers, directors, employees and agents, and persons who serve, at the request of the Company, as directors, officers, employees or agents of other corporations, partnerships, joint ventures, trusts or other enterprises, and expressly provides that the indemnification provided thereby is not exclusive; and

D. The Company desires and has requested Indemnitee to serve or continue to serve as a representative of the Company and/or the Subsidiaries or Affiliates of the Company free from undue concern about inappropriate claims for damages arising out of or related to such services to the Company and/or the Subsidiaries or Affiliates of the Company.

AGREEMENT

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

   (a) Affiliate. For purposes of this Agreement, “Affiliate” of the Company means any corporation, partnership, limited liability company, joint venture, trust or other enterprise in respect of which Indemnitee is or was or will be serving as a director, officer, trustee, manager, member, partner, employee, agent, attorney, consultant, member of the entity’s governing body (whether constituted as a board of directors, board of managers, general partner or otherwise), fiduciary, or in any other similar capacity at the request, election or direction of the Company, and including, but not limited to, any employee benefit plan of the Company or a Subsidiary or Affiliate of the Company.
(b) Change in Control. For purposes of this Agreement, “Change in Control” means any event or circumstance where (i) any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than a Subsidiary or a trustee or other fiduciary holding securities under an employee benefit plan of the Company or Subsidiary, is or becomes the “Beneficial Owner” (as defined in Rule 13d-3 under said Act), directly or indirectly, of securities of the Company representing 50% or more of the total voting power represented by the Company’s then outstanding capital stock, (ii) during any period of two consecutive years, individuals who at the beginning of such period constitute the Board and any new director whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof, (iii) the stockholders of the Company approve a merger or consolidation of the Company with any other corporation, other than a merger or consolidation that would result in the outstanding capital stock of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into capital stock of the surviving entity) at least 50% of the total voting power represented by the capital stock of the Company or such surviving entity outstanding immediately after such merger or consolidation, or (iv) the stockholders of the Company approve a plan of complete liquidation of the Company or an agreement for the sale or disposition by the Company (in one transaction or a series of transactions) of all or substantially all of the Company’s assets.

(c) Expenses. For purposes of this Agreement, “Expenses” means all direct and indirect costs of any type or nature whatsoever (including, without limitation, all attorneys’ fees and related disbursements, and other out-of-pocket costs), paid or incurred by Indemnitee in connection with either the investigation, defense or appeal of, or being a witness or otherwise involved in, a Proceeding (as defined below), or establishing or enforcing a right to indemnification under this Agreement, Section 145 or otherwise; provided, however, that Expenses shall not include any judgments, fines, taxes (including ERISA or other benefit plan related excise taxes or penalties) or amounts paid in settlement of a Proceeding.

(d) Indemnifiable Event. For purposes of this Agreement, “Indemnifiable Event” means any event or occurrence related to Indemnitee’s service for the Company or any Subsidiary or Affiliate as an Indemnifiable Person (as defined below), or by reason of anything done or not done, or any act or omission, by Indemnitee in any such capacity.

(e) Indemnifiable Person. For the purposes of this Agreement, “Indemnifiable Person” means any person who is or was a director, officer, trustee, manager, member, partner, employee, attorney, consultant, member of an entity’s governing body (whether constituted as a board of directors, board of managers, general partner or otherwise) or other agent or fiduciary of the Company or a Subsidiary or Affiliate of the Company.

(f) Independent Counsel. For purposes of this Agreement, “Independent Counsel” means legal counsel that has not performed services for the Company or Indemnitee in the five years preceding the time in question and that would not, under applicable standards of professional conduct, have a conflict of interest in representing either the Company or Indemnitee.

(g) Independent Director. For purposes of this Agreement, “Independent Director” means a member of the Board who is not a party to the Proceeding for which a claim is made under this Agreement.
(h) **Other Liabilities.** For purposes of this Agreement, “**Other Liabilities**” means any and all liabilities of any type whatsoever (including, but not limited to, judgments, fines, penalties, taxes (including ERISA or other benefit plan related excise taxes or penalties), and amounts paid in settlement and all interest, taxes, assessments and other charges paid or payable in connection with or in respect of any such judgments, fines, ERISA (or other benefit plan related) excise taxes or penalties, or amounts paid in settlement).

(i) **Proceeding.** For the purposes of this Agreement, “**Proceeding**” means any threatened, pending, or completed action, suit or other proceeding, whether civil, criminal, administrative, investigative, legislative or any other type whatsoever, preliminary, informal or formal, including any arbitration or other alternative dispute resolution and including any appeal of any of the foregoing.

(j) **Subsidiary.** For purposes of this Agreement, “**Subsidiary**” means any entity of which more than 50% of the outstanding voting securities is owned directly or indirectly by the Company.

2. **Agreement to Serve.** The Indemnitee agrees to serve and/or continue to serve as an Indemnifiable Person in the capacity or capacities in which Indemnitee currently serves the Company as an Indemnifiable Person, and any additional capacity in which Indemnitee may agree to serve, until such time as Indemnitee’s service in a particular capacity shall end according to the terms of an agreement, the Company’s Certificate of Incorporation or Bylaws, governing law, or otherwise. Nothing contained in this Agreement is intended to create any right to continued employment or other form of service for the Company or a Subsidiary or Affiliate of the Company by Indemnitee.

3. **Mandatory Indemnification.**

   (a) **Agreement to Indemnify.** In the event Indemnitee is a person who was or is a party to or witness in or is threatened to be made a party to or witness in any Proceeding by reason of an Indemnifiable Event, the Company shall indemnify Indemnitee from and against any and all Expenses and Other Liabilities incurred by Indemnitee in connection with (including in preparation for) such Proceeding to the fullest extent not prohibited by the provisions of the Company’s Bylaws and the Delaware General Corporation Law (“**DGCL**”), as the same may be amended from time to time (but only to the extent that such amendment permits the Company to provide broader indemnification rights than the Bylaws or the DGCL permitted prior to the adoption of such amendment).

   (b) **Exception for Amounts Covered by Insurance and Other Sources.** Notwithstanding the foregoing, the Company shall not be obligated to indemnify Indemnitee for Expenses or Other Liabilities of any type whatsoever (including, but not limited to judgments, fines, penalties, ERISA excise taxes or penalties and amounts paid in settlement) to the extent such have been paid directly to Indemnitee (or paid directly to a third party on Indemnitee’s behalf) by any directors and officers, or other type, of insurance maintained by the Company; provided, however, that payment made to Indemnitee pursuant to an insurance policy purchased and maintained by Indemnitee at his or her own expense of any amounts otherwise indemnifiable or obligated to be made pursuant to this Agreement shall not reduce the Company’s obligations to Indemnitee pursuant to this Agreement.

   (c) **Company Obligations Primary.** The Company hereby acknowledges that Indemnitee may have rights to indemnification for Expenses and Other Liabilities provided by a venture capital firm or other sponsoring organization (“**Other Indemnitor**”). The Company agrees with Indemnitee that the Company is the indemnitor of first resort of Indemnitee with respect to matters for which indemnification is provided under this Agreement and that the Company will be obligated to make
all payments due to or for the benefit of Indemnitee under this Agreement without regard to any rights that Indemnitee may have against the Other Indemnitor. The Company hereby waives any equitable rights to contribution or indemnification from the Other Indemnitor in respect of any amounts paid to Indemnitee hereunder. The Company further agrees that no reimbursement of Other Liabilities or payment of Expenses by the Other Indemnitor to or for the benefit of Indemnitee shall affect the obligations of the Company hereunder, and that the Company shall be obligated to repay the Other Indemnitor for all amounts so paid or reimbursed to the extent that the Company has an obligation to indemnify Indemnitee for such Expenses or Other Liabilities hereunder.

4. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of any Expenses or Other Liabilities but not entitled, however, to indemnification for the total amount of such Expenses or Other Liabilities, the Company shall nevertheless indemnify Indemnitee for such total amount except as to the portion thereof for which indemnification is prohibited by the provisions of the Company’s Bylaws or the DGCL. In any review or Proceeding to determine the extent of indemnification, the Company shall bear the burden to establish, by clear and convincing evidence, the lack of a successful resolution of a particular claim, issue or matter and which amounts sought in indemnity are allocable to claims, issues or matters which were not successfully resolved.

5. Liability Insurance. So long as Indemnitee shall continue to serve the Company or a Subsidiary or Affiliate of the Company as an Indemnifiable Person and thereafter so long as Indemnitee shall be subject to any possible claim or threatened, pending or completed Proceeding as a result of an Indemnifiable Event, the Company shall use reasonable efforts to maintain in full force and effect for the benefit of Indemnitee as an insured (i) liability insurance issued by one or more reputable insurers and having the policy amount and deductible deemed appropriate by the Board and providing in all respects coverage at least comparable to and in the same amount as that provided to the Chairman of the Board or the Chief Executive Officer of the Company and (ii) any replacement or substitute policies issued by one or more reputable insurers providing in all respects coverage at least comparable to and in the same amount as that being provided to the Chairman of the Board or the Chief Executive Officer of the Company. The purchase, establishment and maintenance of any such insurance or other arrangements shall not in any way limit or affect the rights and obligations of the Company or of Indemnitee under this Agreement except as expressly provided herein, and the execution and delivery of this Agreement by the Company and Indemnitee shall not in any way limit or affect the rights and obligations of the Company or the other party or parties thereto under any such insurance or other arrangement.

6. Mandatory Advancement of Expenses. If requested by Indemnitee, the Company shall advance prior to the final disposition of the Proceeding all Expenses reasonably incurred by Indemnitee in connection with (including in preparation for) a Proceeding related to an Indemnifiable Event within (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee. The right to advances under this section shall in all events continue until final disposition of any Proceeding, including any appeal therein. Indemnitee hereby undertakes to repay such amounts advanced if, and only if and to the extent that, it shall ultimately be determined that Indemnitee is not entitled to be indemnified by the Company under the provisions of this Agreement, the Company’s Bylaws or the DGCL, and no additional form of undertaking with respect to such obligation to repay shall be required. Indemnitee’s undertaking to repay any Expenses advanced to Indemnitee hereunder shall be unsecured and shall not be subject to the accrual or payment of any interest thereon. In the event that Indemnitee’s request for the advancement of expenses shall be accompanied by an affidavit of counsel to Indemnitee to the effect that such counsel has reviewed such Expenses and that such Expenses are reasonable in such counsel’s view, then such expenses shall be deemed reasonable in the absence of clear and convincing evidence to the contrary.
7. **Notice and Other Indemnification Procedures.**

   (a) **Notification.** Promptly after receipt by Indemnitee of notice of the commencement of or the threat of commencement of any Proceeding, unless the Company is a named co-defendant with Indemnitee, Indemnitee shall, if Indemnitee believes that indemnification or advancement of Expenses with respect thereto may be sought from the Company under this Agreement, notify the Company of the commencement or threat of commencement thereof. However, a failure so to notify the Company promptly following Indemnitee’s receipt of such notice shall not relieve the Company from any liability that it may have to Indemnitee except to the extent that the Company is materially prejudiced in its defense of such Proceeding as a result of such failure, provided, however, that the Company shall have the burden to prove the existence of such material prejudice by clear and convincing evidence.

   (b) **Insurance and Other Matters.** If, at the time of the receipt of a notice of the commencement of a Proceeding pursuant to Section 7(a) above, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the issuers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all reasonable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such insurance policies. In addition, the Company will instruct the insurers and the Company’s insurance broker that they may communicate directly with Indemnitee regarding such claim.

   (c) **Assumption of Defense.** In the event the Company shall be obligated to advance the Expenses for any Proceeding against Indemnitee, the Company, if deemed appropriate by the Company, shall be entitled to assume the defense of such Proceeding as provided herein. Such defense by the Company may include the representation of two or more parties by one attorney or law firm as permitted under the ethical rules and legal requirements related to joint representations. Following delivery of written notice to Indemnitee of the Company’s election to assume the defense of such Proceeding, the approval by Indemnitee (which approval shall not be unreasonably withheld) of counsel designated by the Company and the retention of such counsel by the Company, the Company will not be liable to Indemnitee under this Agreement for any fees and expenses of counsel subsequently incurred by Indemnitee with respect to the same Proceeding. If (A) the employment of counsel by Indemnitee has been previously authorized by the Company, (B) Indemnitee shall have notified the Board in writing that Indemnitee has reasonably concluded that there may be a conflict of interest between the Company and Indemnitee in the conduct of any such defense, (C) the Company fails to employ counsel to assume the defense of such Proceeding, or (D) after a Change in Control, the employment of counsel by Indemnitee has been approved by the Independent Counsel, the expenses related to work conducted by Indemnitee’s counsel shall be subject to indemnification and/or advancement pursuant to the terms of this Agreement. Nothing herein shall preclude Indemnitee from employing counsel for any such Proceeding at Indemnitee’s expense. Indemnitee agrees that any such separate counsel retained by Indemnitee will be a member of any approved list of panel counsel under the Company’s applicable directors’ and officers’ insurance policy, should the applicable policy provide for a panel of approved counsel.

   (d) **Settlement.** The Company shall not be liable to indemnify Indemnitee under this Agreement or otherwise for any amounts paid in settlement of any Proceeding effected without the Company’s written consent; provided, however, that if a Change in Control has occurred subsequent to the date of this Agreement, the Company shall be liable for indemnification of Indemnitee for amounts paid in settlement if the Independent Counsel has approved the settlement. Neither the Company nor
any Subsidiary or Affiliate shall enter into a settlement of any Proceeding that might result in the imposition of any Expense, Other Liability, penalty, limitation or detriment on Indemnitee, whether indemnifiable under this Agreement or otherwise, without Indemnitee’s written consent. Neither the Company nor Indemnitee shall unreasonably withhold consent from any settlement of any Proceeding. The Company shall promptly notify Indemnitee upon the Company’s receipt of an offer to settle, or if the Company makes an offer to settle, any Proceeding, and provide Indemnitee with a reasonable amount of time to consider such settlement, in the case of any such settlement for which the consent of Indemnitee would be required hereunder. The Company shall not, on its own behalf, settle any part of any Proceeding to which Indemnitee is a party with respect to other parties (including the Company) without the written consent of Indemnitee if any portion of the settlement is to be funded from insurance proceeds unless approved by a majority of the Independent Directors, provided that this sentence shall cease to be of any force and effect if it has been determined in accordance with this Agreement that Indemnitee is not entitled to indemnification hereunder with respect to such Proceeding or if the Company’s obligations hereunder to Indemnitee with respect to such Proceeding have been fully discharged.

8. Determination of Right to Indemnification.

(a) Success on the Merits or Otherwise. To the extent that Indemnitee has been successful on the merits or otherwise in defense of any Proceeding referred to in Section 3(a) above or in the defense of any claim, issue or matter described therein, the Company shall indemnify Indemnitee against Expenses actually and reasonably incurred in connection therewith.

(b) Indemnification in Other Situations. In the event that Section 8(a) is inapplicable, the Company shall also indemnify Indemnitee if Indemnitee has not failed to meet the applicable standard of conduct for indemnification.

(c) Forum. Indemnitee shall be entitled to select the forum in which determination of whether or not Indemnitee has met the applicable standard of conduct shall be decided, and such election will be made from among the following:

   a. Those members of the Board who are Independent Directors even though less than a quorum;

   b. A committee of Independent Directors designated by a majority vote of Independent Directors, even though less than a quorum; or

   c. Independent Counsel selected by Indemnitee and approved by the Board, which approval may not be unreasonably withheld, which counsel shall make such determination in a written opinion.

If Indemnitee is an officer or a director of the Company at the time that Indemnitee is selecting the forum, then Indemnitee shall not select Independent Counsel as such forum unless there are no Independent Directors or unless the Independent Directors agree to the selection of Independent Counsel as the forum.

The selected forum shall be referred to herein as the “Reviewing Party”. Notwithstanding the foregoing, following any Change in Control subsequent to the date of this Agreement, the Reviewing Party shall be Independent Counsel selected in the manner provided in c. above.
(d) **Decision Timing and Expenses.** As soon as practicable, and in no event later than thirty (30) days after receipt by the Company of written notice of Indemnitee’s choice of forum pursuant to Section 8(c) above, the Company and Indemnitee shall each submit to the Reviewing Party such information as they believe is appropriate for the Reviewing Party to consider. The Reviewing Party shall arrive at its decision within a reasonable period of time following the receipt of all such information from the Company and Indemnitee, but in no event later than thirty (30) days following the receipt of all such information, provided that the time by which the Reviewing Party must reach a decision may be extended by mutual agreement of the Company and Indemnitee. All Expenses associated with the process set forth in this Section 8(d), including but not limited to the Expenses of the Reviewing Party, shall be paid by the Company.

(e) **Delaware Court of Chancery.** Notwithstanding a final determination by any Reviewing Party that Indemnitee is not entitled to indemnification with respect to a specific Proceeding, Indemnitee shall have the right to apply to the Court of Chancery, for the purpose of enforcing Indemnitee’s right to indemnification pursuant to this Agreement.

(f) **Expenses.** The Company shall indemnify Indemnitee against all Expenses incurred by Indemnitee in connection with any hearing or Proceeding under this Section 8 involving Indemnitee and against all Expenses and Other Liabilities incurred by Indemnitee in connection with any other Proceeding between the Company and Indemnitee involving the interpretation or enforcement of the rights of Indemnitee under this Agreement unless a court of competent jurisdiction finds that each of the material claims of Indemnitee in any such Proceeding was frivolous or made in bad faith.

(g) **Determination of “Good Faith.”** For purposes of any determination of whether Indemnitee acted in “good faith” or acted in “bad faith”, Indemnitee shall be deemed to have acted in good faith or not acted in bad faith if in taking or failing to take the action in question Indemnitee relied on the records or books of account of the Company or a Subsidiary or Affiliate, including financial statements, or on information, opinions, reports or statements provided to Indemnitee by the officers or other employees of the Company or a Subsidiary or Affiliate in the course of their duties, or on the advice of legal counsel for the Company or a Subsidiary or Affiliate, or on information or records given or reports made to the Company or a Subsidiary or Affiliate by an independent certified public accountant or by an appraiser or other expert selected by the Company or a Subsidiary or Affiliate, or by any other person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other person’s professional or expert competence and who has been selected with reasonable care by or on behalf of the Company or a Subsidiary or Affiliate. In connection with any determination as to whether Indemnitee is entitled to be indemnified hereunder, or to advancement of Expenses, the Reviewing Party or court shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification or advancement of Expenses, as the case may be, and the burden of proof shall be on the Company to establish, by clear and convincing evidence, that Indemnitee is not so entitled. The provisions of this Section 8(g) shall not be deemed to be exclusive or to limit in any way the other circumstances in which Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement. In addition, the knowledge and/or actions, or failures to act, of any other person serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person shall not be imputed to Indemnitee for purposes of determining the right to indemnification hereunder.

9. **Exceptions.** Any other provision herein to the contrary notwithstanding,

(a) **Claims Initiated by Indemnitee.** The Company shall not be obligated pursuant to the terms of this Agreement to indemnify or advance Expenses to Indemnitee with respect to Proceedings or claims initiated or brought voluntarily by Indemnitee and not by way of defense, except
(1) with respect to Proceedings brought to establish or enforce a right to indemnification under this Agreement, any other statute or law, as permitted under Section 145, or otherwise, (2) where the Board has consented to the initiation of such Proceeding, or (3) with respect to Proceedings brought to discharge Indemnitee’s fiduciary responsibilities, whether under ERISA or otherwise, but such indemnification or advancement of Expenses may be provided by the Company in specific cases if the Board finds it to be appropriate; or

(b) Actions Based on Federal Statutes Regarding Profit Recovery and Return of Bonus Payments. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee on account of (i) any suit in which judgment is rendered against Indemnitee by a court of competent jurisdiction in a final adjudication not subject to further appeal for an accounting of profits made from the purchase or sale by Indemnifie of securities of the Company pursuant to the provisions of Section 16(b) of the Securities Exchange Act of 1934 and amendments thereto or similar provisions of any federal, state or local statutory law, or (ii) any reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the “Sarbanes-Oxley Act”), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act); or

(c) Unlawful Indemnification. The Company shall not be obligated pursuant to the terms of this Agreement to indemnify Indemnitee for Other Liabilities if such indemnification is prohibited by law as determined by a court of competent jurisdiction in a final adjudication not subject to further appeal.

10. Non-exclusivity. The provisions for indemnification and advancement of Expenses set forth in this Agreement shall not be deemed exclusive of any other rights which Indemnitee may have under any provision of law, the Company’s Certificate of Incorporation or Bylaws, the vote of the Company’s stockholders or disinterested directors, other agreements, or otherwise, both as to acts and omissions in his or her official capacity and to acts or omissions in another capacity while serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person and Indemnitee’s rights hereunder shall continue after Indemnitee has ceased serving the Company or a Subsidiary or Affiliate as an Indemnifiable Person and shall inure to the benefit of the heirs, executors and administrators of Indemnitee.

11. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever, (i) the validity, legality and enforceability of the remaining provisions of the Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the provisions of this Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

12. Supersession, Modification and Waiver. This Agreement supersedes any prior indemnification agreement between the Indemnitee and the Company, its Subsidiaries or its Affiliates. If the Company and Indemnitee have previously entered into an indemnification agreement providing for the indemnification of Indemnitee by the Company, parties entry into this Agreement shall be deemed to amend and restate such prior agreement to read in its entirety as, and be superseded by, this Agreement.
No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) and except as expressly provided herein, no such waiver shall constitute a continuing waiver.

13. Successors and Assigns. The terms of this Agreement shall bind, and shall inure to the benefit of, and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs and personal and legal representatives. In addition, the Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all, or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement and indemnify Indemnitee to the fullest extent permitted by law.

14. Notice. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed duly given (i) if delivered by hand and a receipt is provided by the party to whom such communication is delivered, (ii) if mailed by certified or registered mail with postage prepaid, return receipt requested, on the signing by the recipient of an acknowledgement of receipt form accompanying delivery through the U.S. mail, (iii) personal service by a process server, or (iv) delivery to the recipient’s address by overnight delivery (e.g., FedEx, UPS or DHL) or other commercial delivery service. Addresses for notice to either party are as shown on the signature page of this Agreement, or as subsequently modified by written notice complying with the provisions of this Section 14. Delivery of communications to the Company with respect to this Agreement shall be sent to the attention of the Company’s Chief Legal Officer.

15. No Presumptions. For purposes of this Agreement, the termination of any Proceeding, by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law or otherwise. In addition, neither the failure of the Company or a Reviewing Party to have made a determination as to whether Indemnitee has met any particular standard of conduct or had any particular belief, nor an actual determination by the Company or a Reviewing Party that Indemnitee has not met such standard of conduct or did not have such belief, prior to the commencement of Proceedings by Indemnitee to secure a judicial determination by exercising Indemnitee’s rights under Section 8(e) of this Agreement shall be a defense to Indemnitee’s claim or create a presumption that Indemnitee has failed to meet any particular standard of conduct or did not have any particular belief or is not entitled to indemnification under applicable law or otherwise. Additionally, any admission of liability by the Company in connection with any settlement by the Company with a regulatory agency shall not, of itself, create a presumption that Indemnitee did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law or otherwise.

16. Survival of Rights. The rights conferred on Indemnitee by this Agreement shall continue after Indemnitee has ceased to serve the Company or a Subsidiary or Affiliate of the Company as an Indemnifiable Person and shall inure to the benefit of Indemnitee’s heirs, executors and administrators.

17. Subrogation and Contribution. (a) Except as otherwise expressly provided in this Agreement, in the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all documents required and shall do all acts that may be necessary to secure such rights and to enable the Company effectively to bring suit to enforce such rights.
(b) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by or on behalf of Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

18. **Specific Performance, Etc.** The parties recognize that if any provision of this Agreement is violated by the Company, Indemnitee may be without an adequate remedy at law. Accordingly, in the event of any such violation, Indemnitee shall be entitled, if Indemnitee so elects, to institute Proceedings, either in law or at equity, to obtain damages, to enforce specific performance, to enjoin such violation, or to obtain any relief or any combination of the foregoing as Indemnitee may elect to pursue.

19. **Counterparts.** This Agreement may be executed in counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

20. **Headings.** The headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation thereof.

21. **Governing Law.** This Agreement shall be governed exclusively by and construed according to the laws of the State of Delaware, as applied to contracts between Delaware residents entered into and to be performed entirely with Delaware.

22. **Consent to Jurisdiction.** The Company and Indemnitee each hereby irrevocably consent to the jurisdiction of the courts of the State of Delaware for all purposes in connection with any Proceeding which arises out of or relates to this Agreement.

[Signature Page Follows]
The parties hereto have entered into this Indemnity Agreement effective as of the date first above written.

BILL.COM HOLDINGS, INC.:

By: ______________________

Its: ______________________

INDEMNITEE:

Address: ______________________

____________________________

SIGNATURE PAGE TO INDEMNIFICATION AGREEMENT
BILL.COM, INC.

2006 EQUITY INCENTIVE PLAN

As Adopted by the Board on April 21, 2006 and amended through October 22, 2015

1. PURPOSE. The purpose of this Plan is to provide incentives to attract, retain and motivate eligible persons whose present and potential contributions are important to the success of the Company its Parent and any Subsidiaries, by offering them an opportunity to participate in the Company’s future performance through awards of Options and Restricted Stock. Capitalized terms not defined elsewhere in the text are defined in Section 22 hereof. Although this Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701 promulgated under the Securities Act, Awards may be granted which do not qualify for exemption under Rule 701 or Section 25102(o) of the California Corporations Code (“Section 25102(o)”). Any requirement of this Plan legally required only because of Section 25102(o) need not apply if the Committee so determines pursuant to a duly adopted resolution recorded in its minutes.

2. SHARES SUBJECT TO THE PLAN.

2.1 Number of Shares Available. Subject to Sections 2.2 and 17 hereof, the total number of Shares reserved and available for grant and issuance pursuant to this Plan will be 14,943,073 Shares or such lesser number of Shares as permitted by applicable law.

Subject to Sections 2.2, 5.10 and 17 hereof, if Shares: (a) are subject to an Award that terminates without such Shares being issued, or (b) are issued pursuant to an Award, but are forfeited or repurchased by the Company at the original issue price; then such Shares will again be available for grant and issuance under this Plan. At all times the Company will reserve and keep available the number of Shares necessary to satisfy the requirements of all Awards then outstanding under this Plan.

To the extent required by applicable law, in no event shall the total number of Shares issued (counting each reissuance of a Share that was previously issued and then forfeited or repurchased by the Company as a separate issuance) under the Plan upon exercise of ISOs (defined in Section 5 below) exceed 29,886,146 Shares (adjusted in proportion to any adjustments under Section 2.2 hereof) over the term of the Plan.

2.2 Adjustment of Shares. In the event that the number of outstanding shares of the Company’s common stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, spin-off or similar change in the capital structure of the Company without consideration, then (a) the number of Shares reserved for issuance under this Plan, and (b) the Exercise Prices and Purchase Prices of, and number of Shares subject to, then outstanding Awards will be proportionately adjusted, subject to any required action by the Board or the stockholders of the Company and compliance with applicable securities laws; provided, however, that fractions of a Share will not be issued but will either be paid in cash at the Fair Market Value of such fraction of a Share or will be rounded down to the nearest whole Share, as determined by the Committee; and provided, further, that the Exercise Price per share of any Option may not be decreased to below the par value of a Share.
3. ** Eligibility.** ISOs (as defined in Section 5 hereof) may be granted only to employees (including officers and directors who are also employees) of the Company or of a Parent or Subsidiary. All other types of Award may be granted to any employee, officer, director or consultant of the Company or any Parent or Subsidiary; provided with respect to any consultant, however, that such consultant is a natural person and the Award is in full or partial compensation for bona fide services unconnected with any offer and sale of securities in a capital-raising transaction. Any Participant may be granted more than one Award under this Plan.

4. **Administration.**

4.1 **Authority.** The Committee will administer this Plan. Subject to the general purposes, terms and conditions of this Plan, and to the direction of the Board, the Committee will have full power to implement and carry out this Plan. Without limitation, the Committee will have the authority to:

   (a) construe and interpret this Plan, any Award Agreement and any other agreement or document executed pursuant to this Plan;
   (b) prescribe, amend and rescind rules and regulations relating to this Plan;
   (c) approve persons to receive Awards;
   (d) determine the form and terms of Awards;
   (e) determine the number of Shares or other consideration subject to Awards;
   (f) determine whether Awards will be granted singly, in combination with, in tandem with, in replacement of, or as alternatives to, other Awards or awards under any other incentive or compensation plan of the Company or any Parent or Subsidiary;
   (g) determine whether Section 25102(o) is to apply to an Award;
   (h) grant waivers of any conditions of this Plan or any Award;
   (i) determine the terms of vesting, exercisability and payment of Awards;
   (j) correct any defect, supply any omission, or reconcile any inconsistency in this Plan, any Award, any Award Agreement or any Exercise Agreement;
   (k) determine whether an Award has been earned;
   (l) delegate to one or more officers of the Company the authority to grant Awards within parameters established by the Committee, provided each such officer is a member of the Board and subject to applicable law (for example, the corporate governance laws of the state of the Company’s incorporation);
delegate authority to grant Awards to a committee comprised solely of two, or more, “outside directors” (as defined in the regulations promulgated under Section 162(m) of the Code); make all other determinations necessary or advisable for the administration of this Plan; and

(n) extend the vesting period beyond a Participant’s Termination Date.

4.2 Committee Discretion. Any determination made by the Committee with respect to any Award will be made in its sole discretion, provided such determination does not contravene any other express term of this Plan or direction of the Board, either: (a) at the time of grant of the Award, or (b) at any later time, subject to Section 5.9 hereof and provided such determination does not contravene any express term of such Award. Any such determination will be final and binding on the Company and on all persons having an interest in any Award affected by such determination. Unless the Committee determines in writing that Section 409A of the Code is to apply with respect to a particular Award granted to a Participant, the terms of each Award granted hereunder shall be such as shall not cause such Award to be subject to Section 409A of the Code. Any term in any such Award that causes it to be subject to Section 409A may, at the election of the Committee acting in its sole discretion, be modified so as to cause the Award not to be subject to Section 409A and if such modification is not possible then the Committee shall determine in its sole discretion whether such provision shall be void and without effect or the entire Award shall be rescinded and void.

5. OPTIONS. The Committee will determine at, or prior to, the date of grant of each Option whether such Option will be an “incentive stock option” within the meaning of Section 422 of the Code (“ISO”) or a nonqualified stock option (“NQSO”), the number of Shares subject to the Option, the Exercise Price of the Option, the period during which the Option may be exercised, and all other terms and conditions of the Option, subject to the following:

5.1 Form of Option Grant. Each Option granted under this Plan will be evidenced by an Award Agreement, expressly identifying the Option as an ISO or an NQSO (“Stock Option Agreement”), which will: (a) be in such form and contain such provisions (which need not be the same for each Participant) as the Committee may from time to time approve, and (b) comply with and be subject to the terms and conditions of this Plan.

5.2 Date of Grant. The date of grant of an Option will be the date on which the Committee makes the determination to grant such Option, unless a later date of grant is specified by the Committee. The Stock Option Agreement and a copy of this Plan must be delivered to the Participant within a reasonable time after the date of grant of the Option.

5.3 Exercise Period. Options may be exercisable immediately but subject to repurchase pursuant to Section 11 hereof or may be exercisable within the times or upon the events determined by the Committee as set forth in the Stock Option Agreement governing such Option; but in no event shall an Option granted to an employee who is a non-exempt employee for purposes of overtime pay under the Fair Labor Standards Act of 1938, be exercisable earlier than six (6) months after its date of grant. The Committee also may provide for Options to become
exercisable at one time or from time to time, periodically or otherwise, in such number of Shares or percentage of Shares as the Committee determines. Subject to earlier termination of the Option as provided herein, to the extent Section 25102(o) is intended to apply, each Participant who is not an officer, director or consultant of the Company or of a Parent or Subsidiary shall have the right to exercise an Option granted hereunder at the rate of no less than twenty percent (20%) per year over five (5) years from the date such Option is granted.

(a) Subject to the terms of this Plan, any Option will expire no later than the latest date set forth in the Stock Option Agreement for the Option.

(b) Any Option which is an ISO, or to which Section 25102(o) is to apply, will expire and cease to be exercisable on the date that is the tenth anniversary of the date the Option is granted.

(c) Any ISO granted to a Ten Percent Stockholder will expire and cease to be exercisable on the date that is the fifth anniversary of the date the ISO is granted.

(d) Any Option held by a Participant who is Terminated for Cause will expire and cease to be exercisable on such Participant’s Termination Date unless determined otherwise by the Committee.

5.4 Exercise Price. The Exercise Price of an Option will be determined by the Committee when the Option is granted, subject to the following:

(a) If the Option is one to which Section 25102(o) is to apply, then the Exercise Price shall not be less than eighty-five percent (85%) of the Fair Market Value of the Shares on the date of grant and if granted to a Ten Percent Stockholder, then the Exercise Price shall not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant;

(b) Otherwise, if the Option is an ISO granted to a Ten Percent Stockholder, then the Exercise Price shall not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant.

5.5 Method of Exercise. Options may be exercised only by delivery to the Company of a written stock option exercise agreement (the “Exercise Agreement”) in a form approved by the Committee (which need not be the same for each Participant). The Exercise Agreement will state (a) the number of Shares being purchased, (b) the restrictions imposed on the Shares purchased under such Exercise Agreement, if any, and (c) such representations and agreements regarding Participant’s investment intent and access to information and other matters, if any, as may be required or desirable by the Company to comply with applicable securities laws. Participant shall execute and deliver to the Company the Exercise Agreement together with payment in full of the Exercise Price, and any applicable taxes, for the number of Shares being purchased.
5.6 Termination. Subject to earlier termination pursuant to Sections 17 and 18 hereof and unless a different exercise period is expressly set forth in the Stock Option Agreement, the exercise period of an Option is always subject to the following:

(a) If the Participant is Terminated for any reason other than death, Disability or for Cause, then the Participant may exercise such Participant’s Options only to the extent that such Options are exercisable as to Vested Shares upon the Termination Date or as otherwise determined by the Committee. Such Options must be exercised by the Participant, if at all, within three (3) months after the Termination Date (or within such longer or shorter time period (not less than thirty (30) days if granted to a non-officer employee to whom Section 25102(o) is applicable) after the Termination Date as may be determined by the Committee, with any exercise occurring three (3) months after the Termination Date deemed to be exercise of an NQSO) but in any event, no later than the applicable expiration date determined under Section 5.3 above.

(b) If the Participant is Terminated because of Participant’s death or Disability (or the Participant dies within three (3) months after a Termination other than for Cause), then Participant’s Options may be exercised only to the extent that such Options are exercisable as to Vested Shares by Participant on the Termination Date or as otherwise determined by the Committee. Such options must be exercised by Participant (or Participant’s legal representative or authorized assignee), if at all, within twelve (12) months after the Termination Date (or within such shorter time period, not less than six (6) months if granted to a non-officer employee to whom Section 25102(o) is applicable). The post-termination exercise period for Termination due to death or Disability may be for a longer time period than twelve (12) months, but shall not exceed five (5) years, after the Termination Date, if so determined by the Committee. In no event, however, shall the post-termination exercise period extend beyond the applicable expiration date determined under Section 5.3 above.

(c) In the case of an ISO however, any exercise beyond (a) three (3) months after the Termination Date when the Termination is for any reason other than the Participant’s death or “permanent and total disability”, within the meaning of Section 22(e)(3) of the Code, or (b) twelve (12) months after the Termination Date when the Termination is for Participant’s “permanent and total disability” (within the meaning of Section 22(e)(3) of the Code, shall be deemed to be exercise of an NQSO.

(d) When a Participant is Terminated for Cause, such Participant’s Options, may be exercised to no extent greater than such Options are exercisable as to Vested Shares upon the Termination Date and such Options shall expire as determined under Section 5.3 above.

5.7 Limitations on Exercise. The Committee may specify a reasonable minimum number of Shares that may be purchased on any exercise of an Option, provided that such minimum number will not prevent Participant from exercising the Option for the full number of Shares for which it is then exercisable.

5.8 Limitations on ISOs. The aggregate Fair Market Value (determined as of the date of grant) of Shares with respect to which ISOs are exercisable for the first time by a Participant during any calendar year (under this Plan or under any other incentive stock option plan of the Company or any Parent or Subsidiary) will not exceed One Hundred Thousand Dollars ($100,000). If the Fair Market Value of Shares on the date of grant with respect to which ISOs are exercisable for the first time by a Participant during any calendar year exceeds One Hundred Thousand Dollars ($100,000), then the Options for the first One Hundred Thousand Dollars.
($100,000) worth of Shares to become exercisable in such calendar year will be ISOs and the Options for the amount in excess of One Hundred Thousand Dollars ($100,000) that become exercisable in that calendar year will be NQSOs and such distinction shall be documented in separate Stock Option Agreements per Section 5.1 above. In the event that the Code or the regulations promulgated thereunder are amended after the Effective Date to provide for a different limit on the Fair Market Value of Shares permitted to be subject to ISOs, then such different limit will be automatically incorporated herein and will apply to any Options granted after the effective date of such amendment.

5.9 Modification, Extension or Renewal. The Committee may modify, extend or renew outstanding Options and authorize the grant of new Options in substitution therefor, provided that any such action may not, without the written consent of a Participant, impair any of such Participant’s rights under any Option previously granted. Any outstanding ISO that is modified, extended, renewed or otherwise altered will be treated in accordance with Section 424(h) of the Code. Subject to Section 5.10 hereof, the Committee may reduce the Exercise Price of outstanding Options without the consent of Participants by a written notice to them; provided, however, that the Exercise Price may not be reduced below the minimum Exercise Price that would be permitted under Section 5.4 hereof for Options granted on the date the action is taken to reduce the Exercise Price; provided, further, that the Exercise Price per share will not be reduced below the par value, if any, of a Share.

5.10 No Disqualification. Notwithstanding any other provision in this Plan, no term of this Plan relating to ISOs will be interpreted, amended or altered, nor will any discretion or authority granted under this Plan be exercised, so as to disqualify this Plan under Section 422 of the Code or, without the consent of the Participant, to disqualify any Participant’s ISO under Section 422 of the Code.

6. RESTRICTED STOCK AWARDS. A Restricted Stock Award is an Award made in the form of a thirty-day offer by the Company to sell Shares that are subject to certain specified restrictions. The Committee will determine all the terms and conditions of the Restricted Stock Award (such as, the number of Shares, the Purchase Price and the restrictions to which the Shares will be subject) subject to the following:

6.1 Restricted Stock Purchase Agreement. All purchases under a Restricted Stock Award will be evidenced by an Award Agreement ("Restricted Stock Purchase Agreement") that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan. The Participant’s acceptance of the Restricted Stock Award is accomplished by the Participant’s execution and delivery of the Restricted Stock Purchase Agreement and full payment for the Shares to the Company within thirty (30) days from the date the Restricted Stock Purchase Agreement is delivered to the person. If such person does not execute and deliver the Restricted Stock Purchase Agreement along with full payment (made in accordance with Section 8.1 hereof) for the Shares to the Company within such thirty (30) days, then such Restricted Stock Award will terminate, unless otherwise determined by the Committee.
6.2 **Purchase Price.** The Purchase Price of Shares sold pursuant to a Restricted Stock Award will be determined by the Committee and if Section 25102(o) is applicable, then the Purchase Price will be at least equal to eighty-five percent (85%) of the Fair Market Value of the Shares on the date the Restricted Stock Award is granted or at the time the purchase is consummated, except in the case of a sale to a Ten Percent Stockholder, in which case the Purchase Price will be one hundred percent (100%) of the Fair Market Value on the date the Restricted Stock Award is granted or at the time the purchase is consummated.

6.3 **Restrictions.** Restricted Stock Awards may be subject to the restrictions set forth in Section 11 hereof or such other restrictions determined by the Committee or required by law (including the restrictions required by Section 25102(o) when intended to apply).

7. **PAYMENT FOR SHARE PURCHASES.**

7.1 **Payment.** Payment for Shares purchased pursuant to this Plan may be made in cash (including by check) or, where expressly approved for the Participant by the Committee and permitted by law:

(a) by cancellation of indebtedness of the Company owed to the Participant;

(b) by surrender of shares that: (i) either (A) have been paid for within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (B) were obtained by Participant in the public market and (ii) are clear of all liens, claims, encumbrances or security interests;

(c) by tender of a full recourse promissory note having such terms as may be approved by the Committee and bearing interest at a rate sufficient to avoid (i) imputation of income under Sections 483 and 1274 of the Code and (ii) unfavorable accounting treatment as determined by the Committee in its sole discretion; provided, however, that Participants who are not employees or directors of the Company will not be entitled to purchase Shares with a promissory note unless the note is adequately secured by collateral other than the Shares; provided, further, that the portion of the Exercise Price or Purchase Price, as the case may be, equal to the par value of the Shares must be paid in cash or other legal consideration permitted by Delaware General Corporation Law, to the extent that Delaware General Corporation Law is applicable;

(d) by waiver of compensation due or accrued to the Participant from the Company for services rendered;

(e) with respect only to purchases upon exercise of an Option, and provided that a public market for the Company’s stock exists:

(i) through a “same day sale” commitment from the Participant and a broker-dealer that is a member of the National Association of Securities Dealers (an “NASD Dealer”) whereby the Participant irrevocably elects to exercise the Option and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or
(ii) through a “margin” commitment from the Participant and an NASD Dealer whereby the Participant irrevocably elects to exercise the Option and to pledge the Shares so purchased to the NASD Dealer in a margin account as security for a loan from the NASD Dealer in the amount of the total Exercise Price, and whereby the NASD Dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or

(f) by any combination of the foregoing.

7.2 Loan Guarantees. The Committee may, in its sole discretion, elect to assist the Participant in paying for Shares purchased under this Plan by authorizing a guarantee by the Company of a third-party loan to the Participant.

8. WITHHOLDING TAXES.

8.1 Withholding Generally. Whenever Shares are to be issued in satisfaction of Awards granted under this Plan, the Company may require the Participant to remit to the Company an amount sufficient to satisfy any foreign, federal, state and local tax withholding requirements prior to the delivery of any certificate or certificates for such Shares. Whenever, under this Plan, payments in satisfaction of Awards are to be made in cash by the Company, such payment will be net of an amount sufficient to satisfy any foreign, federal, state, and local tax withholding requirements.

8.2 Stock Withholding. When, under applicable tax laws, a Participant incurs tax liability in connection with the exercise or vesting of any Award that is subject to tax withholding and the Participant must pay the Company the amount required to be withheld, the Committee may in its sole discretion allow the Participant to satisfy the minimum tax withholding obligation by electing to have the Company withhold from the Shares to be issued that minimum number of Shares having a Fair Market Value equal to the minimum amount required to be withheld, determined on the date that the amount of tax to be withheld is to be determined; but in no event will the Company withhold Shares if such withholding would result in adverse accounting consequences to the Company. Any election by any Participant to have Shares withheld for this purpose must be in writing on a form made in accordance with the requirements established by the Committee for such election.

9. PRIVILEGES OF STOCK OWNERSHIP.

9.1 Voting and Dividends. No Participant will have any of the rights of a stockholder with respect to any Shares until the date of issuance of Shares to the Participant as recorded in the stockholder records of the Company. After Shares are issued to the Participant, the Participant will be a stockholder and have all the rights of a stockholder with respect to such Shares, including the right to vote and receive all dividends or other distributions made or paid with respect to such Shares; provided, that if such Shares are Restricted Stock, then any new, additional or different securities the Participant may become entitled to receive with respect to such Shares by virtue of a stock dividend, stock split or any other change in the corporate or capital structure of the Company will be subject to the same restrictions as the Restricted Stock. The Participant will have no right to retain such stock dividends or stock distributions with respect to Unvested Shares that are repurchased pursuant to Section 11 hereof. To the extent required, the Company will comply with Section 260.140.1 of Title 10 of the California Code of Regulations with respect to the voting rights of common stock.
9.2 **Financial Statements.** For each Participant who holds an Award the Company exempts from qualification under Section 25102(o), and for whom such is required by Section 25102(o), the Company will provide financial statements annually during the period such Participant holds such Award, or as otherwise required under Section 260.140.46 of Title 10 of the California Code of Regulations. Notwithstanding the foregoing, the Company will not be required to provide such financial statements to those Participants who are key employees whose services in connection with the Company assure them access to equivalent information.

10. **TRANSFERABILITY.** Except as permitted by the Committee, Awards granted under this Plan, and any interest therein, will not be transferable or assignable by Participant, other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to an inter vivos or testamentary trust in which the Options are to be passed to beneficiaries upon the death of the trustor (settlor), or by gift to “immediate family” as that term is defined in 17 C.F.R. 240.16a-1(e), and may not be made subject to execution, attachment or similar process. During the lifetime of the Participant an Award will be exercisable only by the Participant or Participant’s legal representative and any elections with respect to an Award may be made only by the Participant or Participant’s legal representative.

11. **RESTRICTIONS ON SHARES.**

11.1 **Right of First Refusal.** At the discretion of the Committee, the Company may reserve to itself and/or its assignee(s) in the Award Agreement a right of first refusal to purchase all Shares that a Participant (or a subsequent transferee) may propose to transfer to a third party, except as prohibited by Section 25102(o) when Section 25102(o) is intended to apply, provided that such right of first refusal terminates upon the Company’s initial public offering of common stock pursuant to an effective registration statement filed under the Securities Act.

11.2 **Right of Repurchase.** At the discretion of the Committee, the Company may reserve to itself and/or its assignee(s) in the Award Agreement a right to repurchase Unvested Shares held by a Participant for cash and/or cancellation of purchase money indebtedness owed to the Company by the Participant following such Participant’s Termination at any time within the later of ninety (90) days after the Participant’s Termination Date and the date the Participant purchases such Shares under the Plan at the Participant’s Exercise Price or Purchase Price, as the case may be, provided that to the extent Section 25102(o) is intended to apply, unless the Participant is an officer, director or consultant of the Company or of a Parent or Subsidiary, such right of repurchase lapses at the rate of no less than twenty percent (20%) per year over five (5) years from: (a) the date of grant of the Option or (b) in the case of Restricted Stock, the date the Participant purchases the Shares.

12. **CERTIFICATES.** All certificates for Shares or other securities delivered under this Plan will be subject to such stock transfer orders, legends and other restrictions as the Committee may deem necessary or advisable, including restrictions under any applicable federal, state or foreign securities law, or any rules, regulations and other requirements of the SEC or any stock exchange or automated quotation system upon which the Shares may be listed or quoted.
13. ESCROW: PLEDGE OF SHARES. To enforce any restrictions on a Participant’s Shares set forth in Section 11 hereof, the Committee may require the Participant to deposit all certificates representing Shares, together with stock powers or other instruments of transfer approved by the Committee, appropriately endorsed in blank, with the Company or an agent designated by the Company to hold in escrow until such restrictions have lapsed or terminated. The Committee may cause a legend or legends referencing such restrictions to be placed on the certificates. Any Participant who is permitted to execute a promissory note as partial or full consideration for the purchase of Shares under this Plan will be required to pledge and deposit with the Company all or part of the Shares so purchased as collateral to secure the payment of Participant’s obligation to the Company under the promissory note; provided, however, that the Committee may require or accept other or additional forms of collateral to secure the payment of such obligation and, in any event, the Company will have full recourse against the Participant under the promissory note notwithstanding any pledge of the Participant’s Shares or other collateral. In connection with any pledge of the Shares, Participant will be required to execute and deliver a written pledge agreement in such form as the Committee will from time to time approve. The Shares purchased with the promissory note may be released from the pledge on a pro rata basis as the promissory note is paid.

14. EXCHANGE AND BUYOUT OF AWARDS. The repricing of Options is permitted without prior stockholder approval. The Committee may, at any time or from time to time, authorize the Company, with the consent of the respective Participants, to issue new Awards in exchange for the surrender and cancellation of any, or all, outstanding Awards. The Committee may at any time buy from a Participant an Award previously granted with payment in cash, shares of common stock of the Company (including Restricted Stock) or other consideration, based on such terms and conditions as the Committee and the Participant may agree.

15. SECURITIES LAW AND OTHER REGULATORY COMPLIANCE. Although this Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701 promulgated under the Securities Act, grants may be made pursuant to this Plan which do not qualify for exemption under Rule 701 or Section 25102(o). Any requirement of this Plan which is required in law only because of Section 25102(o) need not apply if the Committee so determines or Section 25102(o) is actually inapplicable. An Award will not be effective unless such Award is in compliance with all applicable federal and state securities laws, rules and regulations of any governmental body, and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates for Shares under this Plan prior to (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable, and/or (b) compliance with any exemption, completion of any registration or other qualification of such Shares under any state or federal law or ruling of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the exemption, registration, qualification or listing requirements of any state securities laws, stock exchange or automated quotation system, and the Company will have no liability for any inability or failure to do so.
16. **NO OBLIGATION TO EMPLOY.** Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue as an employee, director or consultant with, the Company or any Parent or Subsidiary or limit in any way the right of the Company or any Parent or Subsidiary to terminate such service at any time, with or without Cause.

17. **CORPORATE TRANSACTIONS.**

17.1 **Assumption or Replacement of Awards by Successor or Acquiring Company.** In the event of (a) a dissolution or liquidation of the Company, (b) any reorganization, consolidation, merger or similar transaction or series of related transactions (each, a “combination transaction”) in which the Company is a constituent corporation or is a party if, as a result of such combination transaction, the voting securities of the Company that are outstanding immediately prior to the consummation of such combination transaction (other than any such securities that are held by an “Acquiring Stockholder”, as defined below) do not represent, or are not converted into, securities of the surviving corporation of such combination transaction (or such surviving corporation’s parent corporation if the surviving corporation is owned by the parent corporation) that, immediately after the consummation of such combination transaction, together possess at least fifty percent (50%) of the total voting power of all securities of such surviving corporation (or its parent corporation, if applicable) that are outstanding immediately after the consummation of such combination transaction, including securities of such surviving corporation (or its parent corporation, if applicable) that are held by the Acquiring Stockholder; or (c) a sale of all or substantially all of the assets of the Company, that is followed by the distribution of the proceeds to the Company’s stockholders, any of the outstanding Awards, or all outstanding Awards, may be assumed, converted or replaced by the successor or acquiring corporation (if any), which assumption, conversion or replacement will be binding on all Participants. In the alternative, the successor or acquiring corporation may substitute equivalent Awards or provide substantially similar consideration to Participants as was provided to stockholders of the Company (after taking into account the existing provisions of the Awards). The successor or acquiring corporation may also substitute by issuing, in place of outstanding Shares of the Company held by the Participant, substantially similar shares or other property subject to repurchase restrictions and other provisions no less favorable to the Participant than those which applied to such outstanding Shares immediately prior to such transaction described in this Section 17.1. For purposes of this Section 17.1, an “Acquiring Stockholder” means a stockholder or stockholders of the Company that (a) merges or combines with the Company in such combination transaction or (b) owns or controls a majority of another corporation that merges or combines with the Corporation in such combination transaction. In the event such successor or acquiring corporation (if any) refuses to assume, convert, replace or substitute Awards, as provided above, pursuant to a transaction described in this Section 17.1, then notwithstanding any other provision in this Plan to the contrary, those Awards that are not assumed, converted, replaced or substituted will expire with respect to unissued Shares subject to such Awards, at such time and on such conditions as the Board will determine, but no later than immediately prior to consummation of such transaction.

17.2 **Other Treatment of Awards.** Notwithstanding the provisions of Section 17.1, in the event of the occurrence of any transaction described in Section 17.1 hereof, all outstanding Awards will be treated as provided in the applicable agreement or plan of reorganization, merger, consolidation, dissolution, liquidation or sale of assets.
17.3 **Assumption of Awards by the Company.** The Company, from time to time, also may substitute or assume outstanding awards granted by another company, whether in connection with an acquisition of such other company or otherwise, by either (a) granting an Award under this Plan in substitution of such other company’s award or (b) assuming such award as if it had been granted under this Plan if the terms of such assumed award could be applied to an Award granted under this Plan. Such substitution or assumption will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other company had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another company, the terms and conditions of such award will remain unchanged (except that the exercise price and the number and nature of shares issuable upon exercise of any such award that is an “incentive stock option” under Section 422 of the Code will be adjusted pursuant to Section 424(a) of the Code to preserve such status). If the Company elects to grant a new Option rather than assuming an existing option, such new Option may be granted with a similarly adjusted Exercise Price.

18. **ADOPTION AND STOCKHOLDER APPROVAL.** This Plan takes effect on the Date. To permit the grant of ISOs and the coverage of Section 25102(o) when desirable, this Plan must be approved by the stockholders of the Company (excluding Shares issued pursuant to this Plan from the determination of whether such approval has been obtained), consistent with applicable laws, within twelve (12) months before or after the date the Plan is approved by the Board. Commencing on the Effective Date, the Board may grant Awards pursuant to this Plan; provided, however, that: (a) no Option may be exercisable prior to initial stockholder approval of this Plan; (b) no Option granted pursuant to an increase in the number of Shares approved by the Board shall be exercisable prior to the time such increase has been approved by the stockholders of the Company; and (c) with respect to Awards to which Section 25102(o) is intended to apply if the necessary stockholder approval is not obtained within the required time period, then all such Awards granted hereunder shall automatically expire, any Shares issued pursuant to any such Award shall automatically be canceled and any purchase of such Shares shall be rescinded.

19. **TERM OF PLAN/GOVERNING LAW.** Unless earlier terminated as provided herein, this Plan will terminate ten (10) years from the Effective Date or, if earlier, the date of stockholder approval. This Plan and all agreements hereunder shall be governed by and construed in accordance with the laws of the State of California.

20. **AMENDMENT OR TERMINATION OF PLAN.** Subject to Section 5.9 hereof, the Board may at any time terminate or amend this Plan in any respect, including without limitation amendment of any form of Award Agreement or instrument to be executed pursuant to this Plan; provided, however, that the Board will not, without the approval of the stockholders of the Company, amend this Plan in any manner that requires such stockholder approval pursuant to Section 25102(o) or the Code or the regulations promulgated thereunder as such provisions apply to ISO plans.

21. **NONEXCLUSIVITY OF THE PLAN.** Neither the adoption of this Plan by the Board, the submission of this Plan to the stockholders of the Company for approval, nor any provision of this Plan will be construed as creating any limitations on the power of the Board to adopt such additional compensation arrangements as it may deem desirable, including, without limitation, the granting of stock options and other equity awards otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.
22. DEFINITIONS. As used in this Plan, the following terms will have the following meanings:

“Award” means any award under this Plan, including any Option or Restricted Stock Award.

“Award Agreement” means, with respect to each Award, the signed written agreement between the Company and the Participant setting forth the terms and conditions of the Award, including the Stock Option Agreement and Restricted Stock Purchase Agreement.

“Board” means the Board of Directors of the Company.

“Cause” means Termination because of (a) any willful, material violation by the Participant of any law or regulation applicable to the business of the Company or a Parent or Subsidiary, the Participant’s conviction for, or guilty plea to, a felony or a crime involving moral turpitude, or any willful perpetration by the Participant of a common law fraud, (b) the Participant’s commission of an act of personal dishonesty which involves personal profit in connection with the Company or any other entity having a business relationship with the Company, (c) any material breach by the Participant of any provision of any agreement or understanding between the Company or any Parent or Subsidiary and the Participant regarding the terms of the Participant’s service as an employee, officer, director or consultant to the Company or a Parent or Subsidiary, including without limitation, the willful and continued failure or refusal of the Participant to perform the material duties required of such Participant as an employee, officer, director or consultant of the Company or a Parent or Subsidiary, other than as a result of having a Disability, or a breach of any applicable invention assignment and confidentiality agreement or similar agreement between the Company or a Parent or Subsidiary and the Participant, (d) Participant’s disregard of the policies of the Company or any Parent or Subsidiary so as to cause loss, damage or injury to the property, reputation or employees of the Company or a Parent or Subsidiary, or (e) any other misconduct by the Participant which is materially injurious to the financial condition or business reputation of, or is otherwise materially injurious to, the Company or a Parent or Subsidiary.


“Committee” means the committee created and appointed by the Board to administer this Plan, or if no committee is created and appointed, the Board.

“Company” means Bill.com, Inc., a Delaware corporation, or any successor corporation.

“Disability” means a disability, whether temporary or permanent, partial or total, as determined by the Committee.

“Effective Date” means the date designated by the Board (as recorded in the minutes of the Board) for this Plan to take effect.

“Exercise Price” means the price at which a holder of an Option may purchase the Shares issuable upon exercise of the Option.
“Fair Market Value” means, as of any date, the value of a share of the Company’s common stock determined as follows:

(a) if such common stock is then quoted on the Nasdaq National Market, its closing price on the Nasdaq National Market on the date of determination as reported in The Wall Street Journal;

(b) if such common stock is publicly traded and is then listed on a national securities exchange, its closing price on the date of determination on the principal national securities exchange on which the common stock is listed or admitted to trading as reported in The Wall Street Journal;

(c) if such common stock is publicly traded but is not quoted on the Nasdaq National Market nor listed or admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported by The Wall Street Journal (or, if not so reported, as otherwise reported by any newspaper or other source as the Board may determine); or

(d) if none of the foregoing is applicable, by the Committee in good faith.

“Option” means an award of an option to purchase Shares pursuant to Section 5 hereof.

“Parent” means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if each of such corporations other than the Company owns stock representing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

“Participant” means a person who receives an Award under this Plan.

“Plan” means this Bill.com, Inc. 2006 Equity Incentive Plan, as amended from time to time.

“Purchase Price” means the price at which a Participant may purchase Restricted Stock.

“Restricted Stock” means Shares purchased pursuant to a Restricted Stock Award.

“Restricted Stock Award” means an Award made pursuant to Section 6 hereof.

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended.

“Shares” means shares of the Company’s common stock ($0.00001 par value per share), reserved for issuance under this Plan, as adjusted pursuant to Sections 2 and 17 hereof, and any successor security.
“Subsidiary” means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if each of the corporations other than the last corporation in the unbroken chain owns stock representing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

“Ten Percent Stockholder” means any person who directly or by attribution (determined under Section 422 of the Code) owns more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any Parent or Subsidiary.

“Termination” or “Terminated” means, for purposes of this Plan with respect to a Participant, that the Participant has for any reason ceased to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary. A Participant will not be deemed to have ceased to provide services in the case of (a) sick leave, (b) military leave, or (c) any other leave of absence approved by the Committee, provided that such leave is for a period of not more than ninety (90) days unless: (i) reinstatement (or, in the case of an employee with an ISO, reemployment) upon the expiration of such leave is guaranteed by contract or statute, or (ii) provided otherwise pursuant to formal policy adopted from time to time by the Company’s Board and issued and promulgated in writing. In the case of any Participant on (A) sick leave, (B) military leave or (C) an approved leave of absence, the Committee may make such provisions respecting suspension of vesting of the Award while on leave from the Company or a Parent or Subsidiary as it may deem appropriate, except that in no event may an Option be exercised after the expiration of the term set forth in the Stock Option Agreement. The Committee will have sole discretion to determine whether a Participant has ceased to provide services and the effective date on which the Participant ceased to provide services (the “Termination Date”).

“Unvested Shares” means “Unvested Shares” as defined in the Award Agreement.

“Vested Shares” means “Vested Shares” as defined in the Award Agreement.
You (the “Participant”) are hereby granted an option (the “Option”) pursuant to the Company’s 2006 Equity Incentive Plan, as may be amended from time to time (the “Plan”), to purchase up to the total number of shares of Common Stock of Bill.com, Inc. (the “Company”) set forth below opposite “Number of Shares Subject to Option” (the “Shares”) as described below.

**Participant’s Name:**

**Number of Shares Subject to Option:**

**Exercise Price Per Share:** $  

**Date of Grant:**

**Vesting Commencement Date:**

**Vesting Schedule:** Provided you continue to provide services to the Company or any Subsidiary or Parent of the Company and have not been Terminated (as defined in the Plan), the Option will become vested as to portions of the total “Number of Shares Subject to Option” set forth above as follows:

(a) The Option will become vested as to 1/4th of such Shares on the one (1) year anniversary of the Vesting Commencement Date (the “First Vesting Date”); and

(b) The Option will become vested as to 1/48th of such Shares at the end of each full month succeeding the First Vesting Date until all of the Shares are vested.

**Exercise Schedule:** ☐ Same as Vesting Schedule  ☐ Early Exercise Permitted

**Option Expiration Date:** The date ten (10) years after the Date of Grant, with earlier expiration in the event of Termination of service as provided in Section 3 of the Stock Option Agreement.

**Tax Status of Option:** ☐ Incentive (To extent permitted by law) ☐ Nonqualified (Check one).  
(The Option is a nonqualified stock option if neither box is checked).

**Additional Terms:** ☐ If this boxed is checked, the additional terms and conditions set forth on Attachment 1 hereto (which must be executed by the Company and the Participant) are applicable and are incorporated herein by reference. (No document need be attached as Attachment 1 if the box is not checked.)

By their signatures below, the Company and the Participant agree that the Option is granted under and governed by this Notice and by the provisions of the Plan and the Stock Option Agreement attached hereto as Attachment 2. The Plan and the Stock Option Agreement are incorporated herein by reference. Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan or in the Stock Option Agreement, as applicable. The Participant acknowledges receipt of a copy of the Plan and the Stock Option Agreement, represents that the Participant has carefully read and is familiar with their provisions, and hereby accepts the Option subject to all of its terms and conditions. The Participant acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Participant should consult a tax adviser prior to such exercise or disposition. In the event of any conflict between this Notice of Stock Option Grant or Attachment 1 and either of the Plan or the Stock Option Agreement, the terms of the Plan and/or Stock Option Agreement shall control.

**BILL.COM, INC.**

By: ____________________________

**PARTICIPANT**

Signature

**ATTACHMENTS:**

Attachment 1 (if applicable) – Additional terms and conditions

Attachment 2 – Stock Option Agreement (with Exercise Agreement attached thereto)

Attachment 3 – 2006 Equity Incentive Plan
BILL.COM, INC.

ADDITIONAL TERMS AND CONDITIONS TO OPTION

Participant: 

Number of Shares: 

Date of Grant: 

The following terms and conditions apply to the Option described above and granted pursuant to the Notice of Stock Option Grant to which this Attachment 1 is attached:

By their signatures below, the Company and the Participant agree that the Notice of Stock Option Grant and the Stock Option Agreement are only modified or supplemented hereby to the extent expressly provided for above.

BILL.COM, INC. 

By: ________________________________

Its: ________________________________

PARTICIPANT

Signature
BILL.COM, INC.

2006 EQUITY INCENTIVE PLAN

STOCK OPTION AGREEMENT

1. GRANT OF OPTION. Pursuant to the Notice of Stock Option Grant (the “Grant Notice”) and this Stock Option Agreement, Bill.com, Inc. (the “Company”) has granted to the Participant an option (the “Option”) to purchase up to the total number of shares of Common Stock of the Company set forth in the Grant Notice (the “Shares”) at the Exercise Price Per Share set forth in the Grant Notice (the “Exercise Price”), subject to all of the terms and conditions of the Grant Notice, this Stock Option Agreement and the Plan. Capitalized terms not defined herein shall have the meanings ascribed to them in the Company’s 2006 Equity Incentive Plan, as may be amended from time to time (the “Plan”), or in the Grant Notice, as applicable. If designated as an Incentive Stock Option in the Grant Notice, the Option is intended to qualify as an “incentive stock option” (an “ISO”) within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the “Code”).

2. VESTING AND EXERCISE.

2.1 Vesting Period of Option. The Option will become vested during its term as to portions of the Shares in accordance with the Vesting Schedule set forth in the Grant Notice. If application of the applicable vesting fraction causes a fractional share, such share shall be rounded down to the nearest whole share for each month except for the last month in such vesting period, at the end of which last month the Option shall become exercisable for the full remainder of the Shares. Shares that are vested pursuant to the Vesting Schedule set forth in the Grant Notice are “Vested Shares.” Shares that are not vested pursuant to the Vesting Schedule set forth in the Grant Notice are “Unvested Shares.”

2.2 Exercise Period of Option. The Option will become exercisable during its term as to all Shares that are or become Vested Shares. In addition, if the Exercise Schedule contained in the Grant Notice indicates that “Early Exercise” of this Option is permitted, this Option may be exercised as to all or a portion of the Shares, including Unvested Shares, at any time prior to Participant’s Termination Date (any such exercise that includes Unvested Shares, an “Early Exercise”). If Participant elects to make an Early Exercise of this Option, the Company, or its assignee, shall have the option to repurchase Participant’s Unvested Shares on the terms and conditions set forth in the Exercise Agreement (the “Repurchase Option”) if Participant is Terminated (as defined in the Plan) for any reason, or no reason, including without limitation Participant’s death, Disability (as defined in the Plan), voluntary resignation or termination by the Company with or without Cause. A partial Early Exercise of this Option shall be deemed to cover first all Vested Shares and then the earliest vesting installment of Unvested Shares.

2.3 Expiration. The Option shall expire on the Option Expiration Date set forth in the Grant Notice or earlier as provided in Section 3 below or pursuant to Section 5.6 of the Plan.

3. TERMINATION.

3.1 Termination for Any Reason Except Death, Disability or Cause. If Participant is Terminated for any reason, except death, Disability or for Cause, the Option, to the extent (and only to the extent) that it would have been exercisable by Participant on the Termination Date, may be exercised by Participant no later than three months after the Termination Date, but in any event no later than the Expiration Date.
3.2 Termination Because of Death or Disability. If Participant is Terminated because of death or Disability of Participant (or Participant dies within three (3) months of Termination when Termination is for any reason other than Participant’s Disability or for Cause), the Option, to the extent that it is exercisable by Participant on the Termination Date, may be exercised by Participant (or Participant’s legal representative) no later than twelve (12) months after the Termination Date, but in any event no later than the Expiration Date. Any exercise beyond (i) three (3) months after the Termination Date when the Termination is for any reason other than the Participant’s death or disability, within the meaning of Section 22(e)(3) of the Code; or (ii) twelve (12) months after the Termination Date when the termination is for Participant’s disability, within the meaning of Section 22(e)(3) of the Code, is deemed to be an NQSO.

3.3 Termination for Cause. If the Participant is Terminated for Cause, then the Participant’s Options shall expire on such Participant’s Termination Date and the Participant must exercise such Participant’s Options, if at all, by no later than such Termination Date, but not to an extent greater than such Options are exercisable as to Vested Shares upon the Termination Date; provided, however, that the Committee may elect waive or modify such conditions.

3.4 No Obligation to Employ. Nothing in the Plan or this Stock Option Agreement shall confer on Participant any right to continue in the employ of, or other relationship with, the Company or any Parent or Subsidiary of the Company, or limit in any way the right of the Company or any Parent or Subsidiary of the Company to terminate Participant’s employment or other relationship at any time, with or without Cause.

4. MANNER OF EXERCISE

4.1 Stock Option Exercise Agreement. To exercise the Option, Participant (or in the case of exercise after Participant’s death or incapacity, Participant’s executor, administrator, heir or legatee, as the case may be) must deliver to the Company an executed stock option exercise agreement (with Notice of Exercise of Stock Option) in the form attached hereto as Exhibit A, or in such other form as may be approved by the Committee from time to time (the “Exercise Agreement”), which shall set forth, inter alia, (i) Participant’s election to exercise the Option, (ii) the number of Shares being purchased, (iii) any restrictions imposed on the Shares and (iv) any representations, warranties and agreements regarding Participant’s investment intent and access to information as may be required by the Company to comply with applicable securities laws. If someone other than Participant exercises the Option, then such person must submit documentation reasonably acceptable to the Company verifying that such person has the legal right to exercise the Option and such person shall be subject to all of the restrictions contained herein as if such person were the Participant.

4.2 Limitations on Exercise. The Option may not be exercised unless such exercise is in compliance with all applicable federal and state securities laws, as they are in effect on the date of exercise. The Option may not be exercised as to fewer than one hundred (100) Shares unless it is exercised as to all Shares as to which the Option is then exercisable.

4.3 Payment. The Exercise Agreement shall be accompanied by full payment of the Exercise Price for the shares being purchased in cash (by check), or where permitted by law:

(a) by cancellation of indebtedness of the Company to the Participant;
(b) by waiver of compensation due or accrued to Participant for services rendered;
(c) any other form of consideration approved by the Committee; or
(d) by any combination of the foregoing.
4.4 Tax Withholding. Prior to the issuance of the Shares upon exercise of the Option, Participant must pay or provide for any applicable foreign, federal, state and local withholding obligations of the Company. If the Committee permits, Participant may provide for payment of withholding taxes upon exercise of the Option by requesting that the Company retain the minimum number of Shares with a Fair Market Value equal to the minimum amount of taxes required to be withheld; but in no event will the Company withhold Shares if such withholding would result in adverse accounting consequences to the Company. In such case, the Company shall issue the net number of Shares to the Participant by deducting the Shares retained from the Shares issuable upon exercise.

4.5 Issuance of Shares. Provided that the Exercise Agreement and payment are in form and substance satisfactory to counsel for the Company, the Company shall issue the Shares registered in the name of Participant, Participant’s authorized assignee, or Participant’s legal representative, and shall deliver certificates representing the Shares with the appropriate legends affixed thereto.

5. NOTICE OF DISQUALIFYING DISPOSITION OF ISO SHARES. If the Option is an ISO, and if Participant sells or otherwise disposes of any of the Shares acquired pursuant to the ISO on or before the later of (i) the date two (2) years after the Date of Grant, and (ii) the date one (1) year after transfer of such Shares to Participant upon exercise of the Option, Participant shall immediately notify the Company in writing of such disposition. Participant agrees that Participant may be subject to income tax withholding by the Company on the compensation income recognized by Participant from the early disposition by payment in cash or out of the current wages or other compensation payable to Participant.

6. COMPLIANCE WITH LAWS AND REGULATIONS. Unless expressly stated otherwise in the resolutions approving grant of this Option, the grant of this Option, and its terms, are intended to comply with Section 25102(o) of the California Corporations Code and to avoid the application of Section 409A of the Code. Any provision of this Stock Option Agreement which is inconsistent with Section 25102(o) or any regulations thereunder shall, without further act or amendment by Participant, the Company or the Committee, be automatically reformed so as to comply with the requirements of Section 25102(o) and any regulations relating thereto. In addition, to the extent that Section 409A of the Code applies to this Option, the Committee may at any time, acting in its sole discretion, amend any provision of this Option so as to cause Section 409A not to apply to this Option without any action or other consent of Participant. The exercise of the Option and the issuance and transfer of Shares shall be subject to compliance by the Company and Participant with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Company’s Common Stock may be listed at the time of such issuance or transfer. Participant understands that the Company is under no obligation to register or qualify the Shares with the SEC, any state securities commission or any stock exchange to effect such compliance.

7. NONTRANSFERABILITY OF OPTION. The Option may not be transferred in any manner other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to an inter vivos or testamentary trust in which the options are to be passed to beneficiaries upon the death of the trustor (settlor), or by gift to a “family member” as that term is defined in 17 C.F.R. 230.701, and may be exercised during the lifetime of Participant only by Participant or in the event of Participant’s incapacity, by Participant’s legal representative. The terms of the Option shall be binding upon the executors, administrators, successors and assigns of Participant.
8. COMPANY’S REPURCHASE OPTION FOR UNVESTED SHARES. The Company, or its assignee, shall have the option to repurchase Participant’s Unvested Shares (as defined in Section 2.2 of this Agreement) on the terms and conditions set forth in the Exercise Agreement (the “Repurchase Option”) if Participant is Terminated (as defined in the Plan) for any reason, or no reason, including without limitation Participant’s death, Disability (as defined in the Plan), voluntary resignation or termination by the Company with or without Cause. Notwithstanding the foregoing, the Company shall retain the Repurchase Option for Unvested Shares only as to that number of Unvested Shares (whether or not exercised) that exceeds the number of shares which remain unexercised.

9. COMPANY’S RIGHT OF FIRST REFUSAL. Before any Vested Shares held by Participant or any transferee of such Vested Shares may be sold or otherwise transferred (including without limitation a transfer by gift or operation of law), the Company and/or its assignee(s) shall have an assignable right of first refusal to purchase the Vested Shares to be sold or transferred on the terms and conditions set forth in the Exercise Agreement (the “Right of First Refusal”). The Company’s Right of First Refusal will terminate when the Company’s securities become publicly traded.

10. U.S. TAX CONSEQUENCES. Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal tax consequences of exercise of the Option and disposition of the Shares. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. PARTICIPANT SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.

10.1 Exercise of ISO. If the Option qualifies as an ISO, there will be no regular federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price will be treated as a tax preference item for federal alternative minimum tax purposes and may subject the Participant to the alternative minimum tax in the year of exercise.

10.2 Exercise of Nonqualified Stock Option. If the Option does not qualify as an ISO, there may be a regular federal income tax liability upon the exercise of the Option. Participant will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Participant is a current or former employee of the Company, the Company may be required to withhold from Participant’s compensation or collect from Participant and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

10.3 Disposition of Shares. The following tax consequences may apply upon disposition of the Shares.

(a) Incentive Stock Options. If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an ISO and are disposed of more than two (2) years after the Date of Grant, any gain realized on disposition of the Shares will be treated as long term capital gain for federal income tax purposes. If Vested Shares purchased under an ISO are disposed of within the applicable one (1) year or two (2) year period, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. To the extent the Shares were exercised prior to vesting coincident with the filing of an 83(b) Election, the amount taxed because of a disqualifying disposition will be based upon the excess, if any, of the fair market value on the date of vesting over the exercise price.
(b) **Nonqualified Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an NQSO, any gain realized on disposition of the Shares will be treated as long term capital gain.

(c) **Withholding.** The Company may be required to withhold from the Participant’s compensation or collect from the Participant and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income.

10.4 **Section 83(b) Election for Unvested Shares Purchased by Early Exercise.** With respect to Unvested Shares which are subject to the Repurchase Option, unless an election is filed by the Participant with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), within 30 days of the purchase of the Unvested Shares, electing pursuant to Section 83(b) of the Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the Exercise Price of the Unvested Shares and their Fair Market Value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to the Participant, measured by the excess, if any, of the Fair Market Value of the Unvested Shares at the time they cease to be Unvested Shares, over the Exercise Price of the Unvested Shares.

11. **PRIVILEGES OF STOCK OWNERSHIP.** Participant shall not have any of the rights of a stockholder with respect to any Shares until the Shares are issued to Participant.

12. **INTERPRETATION.** Any dispute regarding the interpretation of this Agreement shall be submitted by Participant or the Company to the Committee for review. The resolution of such a dispute by the Committee shall be final and binding on the Company and Participant.

13. **ENTIRE AGREEMENT.** The Plan is incorporated herein by reference. This Stock Option Agreement, the Grant Notice, the Plan and the exhibits to each of the foregoing constitute the entire agreement of the parties and supersede all prior undertakings and agreements with respect to the subject matter hereof.

14. **NOTICES.** Any notice required to be given or delivered to the Company under the terms of this Stock Option Agreement shall be in writing and addressed to the Corporate Secretary of the Company at its principal corporate offices. Any notice required to be given or delivered to Participant shall be in writing and addressed to Participant at the address indicated above or to such other address as such party may designate in writing from time to time to the Company. All notices shall be deemed to have been given or delivered upon: (i) at the time of personal delivery, if delivery is in person; (ii) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (iii) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries.

15. **SUCCESSORS AND ASSIGNS.** The Company may assign any of its rights under this Stock Option Agreement, including its rights to purchase Shares under the Right of First Refusal. This Stock Option Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Stock Option Agreement shall be binding upon Participant and Participant’s heirs, executors, administrators, legal representatives, successors and assigns.
16. **SECTION 409A** Participant acknowledges that, under Section 409A of the Code, receipt of a stock option with an exercise price per share that is less than the fair market value of the stock subject to the option at the time of grant can result in significant adverse tax consequences to the Participant, including without limitation the imputation of taxable income to the Participant on the difference between the exercise price and fair market value as the option vests and the imposition of an additional excise tax on the Participant. The Company does not make any representation to Participant that the Exercise Price of this Option was equal to the fair market value per share of the Shares as of the Date of Grant. Participant acknowledges and agrees that neither the Company, nor its officers, directors, stockholders, employees, attorneys, agents, successors or assigns, shall have any liability to Participant should it be determined hereafter that the Exercise Price of this Option is less than the fair market value per share of the Shares as of the Date of Grant. If Participant desires advice regarding Section 409A of the Code with respect to this Option, Participant should consult with Participant’s own tax and/or financial advisors. Participant acknowledges that Participant is under no obligation to accept this Option.

17. **GOVERNING LAW** This Stock Option Agreement shall be governed by and construed in accordance with the laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within California. If any provision of this Stock Option Agreement is determined by a court of law to be illegal or unenforceable, then such provision will be enforced to the maximum extent possible and the other provisions will remain fully effective and enforceable.

18. **ACCEPTANCE** Participant hereby acknowledges receipt of a copy of the Plan and this Stock Option Agreement. Participant has read and understands the terms and provisions thereof, and accepts the Option subject to all the terms and conditions of the Plan and this Stock Option Agreement. Participant acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Participant should consult a tax adviser prior to such exercise or disposition.
FORM OF STOCK OPTION EXERCISE AGREEMENT
(with Notice of Exercise of Stock Option)
1. **Exercise.** In accordance with the option (the “Option”) to purchase shares of Common Stock of Bill.com, Inc. (the “Company”) granted to Purchaser on the Date of Option Grant (as set forth above) pursuant to the Company’s 2006 Equity Incentive Plan, as amended (the “Plan”), the corresponding Notice of Stock Option Grant (the “Grant Notice”) and the Stock Option Agreement attached to the Grant Notice (the “Stock Option Agreement”), Purchaser hereby elects to exercise the Option to purchase the number of Shares set forth below:

<table>
<thead>
<tr>
<th>Number of Shares Being Purchased:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Exercise Price:</td>
</tr>
<tr>
<td>(Total Shares Purchased x Exercise Price per Share)</td>
</tr>
</tbody>
</table>

2. **Payment.** Purchaser hereby encloses payment in full of the Total Exercise Price for the shares of Common Stock being purchased (the “Shares”) in the following form(s), as authorized by Purchaser’s Stock Option Agreement:

- □ BDC / Cash / (by check, with a copy attached hereto): $ 
- □ Cancellation of indebtedness of the Company owed to Purchaser: $ 
- □ Waiver of compensation due or accrued for services: $ 

3. **Purchaser Information.**

Purchaser’s address is: 

Purchaser’s Social Security Number is: 

4. **Delivery of Exhibits.** Purchaser hereby acknowledges that Purchaser (and Purchaser’s spouse, if any) have executed two (2) copies of a blank Stock Power and Assignment Separate from Stock Certificate in the form attached as Attachment 1 hereto (the “Stock Powers”) all of which are delivered herewith to the Company.
Purchaser acknowledges and agrees that the Shares are being acquired in accordance with and subject to the terms, provisions and conditions of the Plan, the Grant Notice, Stock Option Agreement, and the Stock Option Exercise Agreement attached hereto as Attachment 4, including the Right of First Refusal and, if applicable, Repurchase Option set forth therein. The Plan, the Grant Notice, the Stock Option Agreement, and the Stock Option Exercise Agreement are incorporated herein by reference. Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan, the Grant Notice, the Stock Option Agreement, or in the Stock Option Exercise Agreement, as applicable. Purchaser acknowledges receipt of a copy of the Plan, the Grant Notice, the Stock Option Agreement, and the Stock Option Exercise Agreement, represents that Purchaser has carefully read and is familiar with their provisions, including without limitation Purchaser’s investor representations set forth in Section 3 of the Stock Option Exercise Agreement, and hereby accepts the Shares subject to all of their terms and conditions. Purchaser acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Purchaser should consult a tax adviser prior to such exercise or disposition.

This Notice and the Stock Option Exercise Agreement shall be effective as of the later date on which this Notice is executed by the Company and the Purchaser.

PURCHASER:

__________________________
(Signature)
Date: _______________________

Receipt of the above is hereby acknowledged:

BILL.COM, INC.

By: ____________________________
Title: ____________________________
Dated: ____________________________

Attachments:
Attachment 1 – Stock Power and Assignment Separate from Stock Certificate
Attachment 2 – Copy of Purchaser’s check
Attachment 3 – Section 83(b) Election (if applicable)
Attachment 4 – Stock Option Exercise Agreement
ATTACHMENT 1

STOCK POWER AND ASSIGNMENT
SEPARATE FROM STOCK CERTIFICATE
FOR VALUE RECEIVED and pursuant to that certain Stock Option Exercise Agreement dated as of __________, ______ (the “Agreement”), the undersigned hereby sells, assigns and transfers unto __________________________, ________ shares of the Common Stock, $0.00001 par value per share, of Bill.com, Inc., a Delaware corporation (the “Company”), standing in the undersigned’s name on the books of the Company represented by Certificate No(s). ______ delivered herewith, and does hereby irrevocably constitute and appoint the Secretary of the Company as the undersigned’s attorney-in-fact, with full power of substitution, to transfer said stock on the books of the Company. THIS ASSIGNMENT MAY ONLY BE USED AS AUTHORIZED BY THE AGREEMENT AND ANY EXHIBITS THERETO.

Dated: ____________

________________________________________
(PURCHASER)

________________________________________
(Signature)

________________________________________
(Please Print Name)

________________________________________
(Spouse’s Signature, if any)

________________________________________
(Please Print Spouse’s Name)

**Instructions to Purchaser:** Please do not fill in any blanks other than the signature line. The purpose of this Stock Power and Assignment is to enable the Company to acquire the shares pursuant to its “Right of First Refusal” and, if applicable, “Repurchase Option,” set forth in the Agreement without requiring additional signatures on the part of the Purchaser or Purchaser’s Spouse.
FOR VALUE RECEIVED and pursuant to that certain Stock Option Exercise Agreement dated as of ______________, ____, (the “Agreement”), the undersigned hereby sells, assigns and transfers unto __________________________, __________ shares of the Common Stock, $0.00001 par value per share, of Bill.com, Inc., a Delaware corporation (the “Company”), standing in the undersigned’s name on the books of the Company represented by Certificate No(s). ______ delivered herewith, and does hereby irrevocably constitute and appoint the Secretary of the Company as the undersigned’s attorney-in-fact, with full power of substitution, to transfer said stock on the books of the Company. THIS ASSIGNMENT MAY ONLY BE USED AS AUTHORIZED BY THE AGREEMENT AND ANY EXHIBITS THERETO.

Dated: __________

PURCHASER

________________________________________
(Signature)

________________________________________
(Please Print Name)

________________________________________
(Spouse’s Signature, if any)

________________________________________
(Please Print Spouse’s Name)

Instructions to Purchaser: Please do not fill in any blanks other than the signature line. The purpose of this Stock Power and Assignment is to enable the Company to acquire the shares pursuant to its “Right of First Refusal” and, if applicable, “Repurchase Option,” set forth in the Agreement without requiring additional signatures on the part of the Purchaser or Purchaser’s Spouse.
ATTACHMENT 3

SECTION 83(B) ELECTION
The undersigned Taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include the excess, if any, of the fair market value of the property described below at the time of transfer over the amount paid for such property, as compensation for services in the calculation of: (1) regular gross income, or (2) alternative minimum taxable income, as the case may be.

1. TAXPAYER’S NAME: ____________________________
   TAXPAYER’S ADDRESS: ____________________________
   SOCIAL SECURITY NUMBER: ____________________________

2. The property with respect to which the election is made is described as follows: _____________ shares of Common Stock of Bill.com, Inc., a Delaware corporation (the “Company”) which were transferred upon exercise of an option by Company, which is Taxpayer’s employer or the corporation for whom the Taxpayer performs services.

3. The date on which the shares were transferred pursuant to the exercise of the option was _____________, ____ and this election is made for calendar year ____.

4. The shares received upon exercise of the option are subject to the following restrictions: The Company may repurchase all or a portion of the shares at the Taxpayer’s original purchase price under certain conditions at the time of Taxpayer’s termination of employment or services.

5. The fair market value of the shares (without regard to restrictions other than restrictions which by their terms will never lapse) was $_____ per share at the time of exercise of the option.

6. The amount paid for such shares upon exercise of the option was $_____ per share.

7. The Taxpayer has submitted a copy of this statement to the Company.


Dated: ____________________________

Taxpayer’s Signature

Please file the 83(b) directly with the IRS and email a copy to stockadmin@hq.bill.com

The filing address varies based on where you live. Please search online for appropriate address.
ATTACHMENT 4

BILL.COM, INC.
2006 EQUITY INCENTIVE PLAN

STOCK OPTION EXERCISE AGREEMENT
STOCK OPTION EXERCISE AGREEMENT

1. Exercise of Option. Pursuant to the exercise of that certain option (the “Option”) granted to the Purchaser (the “Purchaser”) named on the Notice of Exercise of Stock Option (the “Exercise Notice”) to which this Stock Option Exercise Agreement is attached, under the 2006 Equity Incentive Plan, as amended (the “Plan”) of Bill.com, Inc., a Delaware corporation (the “Company”) and subject to the terms and conditions of the Exercise Notice and this Stock Option Exercise Agreement (the “Exercise Agreement”), the Purchaser hereby purchases from the Company, and the Company hereby sells to the Purchaser, the Number of Shares Being Purchased (set forth in the Exercise Notice) of the Company’s Common Stock at the Exercise Price per Share set forth in the Exercise Notice. As used in this Exercise Agreement, the term “Shares” refers to the Shares purchased under the Exercise Notice and this Exercise Agreement and includes all securities received (i) in replacement of the Shares, (ii) as a result of stock dividends or stock splits with respect to the Shares, and (iii) all securities received in replacement of the Shares in a merger, recapitalization, reorganization or similar corporate transaction. Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan or the Exercise Notice.

2. Delivery.

2.1 Deliveries by Purchaser. The Purchaser hereby delivers to the Company (i) the Exercise Notice, (ii) the Stock Powers, (iii) if applicable, the Spouse Consent, and (iv) the Total Exercise Price and payment or other provision for any applicable tax obligations.

2.2 Deliveries by the Company. Upon its receipt of the Exercise Price, payment or other provision for any applicable tax obligations and all the documents to be executed and delivered by the Purchaser to the Company under this Section 2, the Company will issue a duly executed stock certificate evidencing the Shares in the name of the Purchaser to be placed in escrow as provided in Section 11 until expiration or termination of the Company’s Right of First Refusal and, if applicable, Repurchase Option, described in Sections 8 and 9 below.

3. Representations and Warranties of Purchaser. Purchaser represents and warrants to the Company that:

3.1 Agrees to Terms of the Plan. Purchaser has received a copy of the Plan and the Stock Option Agreement, has read and understands the terms of the Plan, , the Grant Notice, the Stock Option Agreement (both as defined in the Exercise Notice) and this Exercise Agreement, and agrees to be bound by their terms and conditions. Purchaser acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares, and that Purchaser should consult a tax adviser prior to such exercise or disposition.

3.2 Purchase for Own Account for Investment. Purchaser is purchasing the Shares for Purchaser’s own account for investment purposes only and not with a view to, or for sale in connection with, a distribution of the Shares within the meaning of the Securities Act. Purchaser has no present intention of selling or otherwise disposing of all or any portion of the Shares and no one other than Purchaser has any beneficial ownership of any of the Shares.
3.3 **Access to Information.** Purchaser has had access to all information regarding the Company and its present and prospective business, assets, liabilities and financial condition that Purchaser reasonably considers important in making the decision to purchase the Shares, and Purchaser has had ample opportunity to ask questions of the Company’s representatives concerning such matters and this investment.

3.4 **Understanding of Risks.** Purchaser is fully aware of: (i) the highly speculative nature of the investment in the Shares; (ii) the financial hazards involved; (iii) the lack of liquidity of the Shares and the restrictions on transferability of the Shares (e.g., that Purchaser may not be able to sell or dispose of the Shares or use them as collateral for loans); (iv) the qualifications and backgrounds of the management of the Company; and (v) the tax consequences of investment in the Shares. Purchaser is capable of evaluating the merits and risks of this investment, has the ability to protect Purchaser’s own interests in this transaction and is financially capable of bearing a total loss of this investment.

3.5 **No General Solicitation.** At no time was Purchaser presented with or solicited by any publicly issued or circulated newspaper, mail, radio, television or other form of general advertising or solicitation in connection with the offer, sale and purchase of the Shares.

4. **Compliance with Laws and Regulations.** Purchaser understands and acknowledges that the Shares have not been registered with the SEC under the Securities Act and that, notwithstanding any other provision of the Stock Option Agreement to the contrary, the exercise of any rights to purchase any Shares is expressly conditioned upon compliance with the Securities Act and all applicable state securities laws. Purchaser agrees to cooperate with the Company to ensure compliance with such laws. UNLESS EXPRESSLY STATED OTHERWISE IN THE RESOLUTIONS APPROVING THE GRANT OF THE OPTION (OR OPTIONS) BEING EXERCISED PURSUANT TO THIS EXERCISE AGREEMENT, THE PLAN, THE GRANT NOTICE, THE STOCK OPTION AGREEMENT, AND THIS EXERCISE AGREEMENT ARE INTENDED TO COMPLY WITH SECTION 25102(o) OF THE CALIFORNIA CORPORATIONS CODE AND TO AVOID THE APPLICATION OF SECTION 409A OF THE CODE. ANY PROVISION OF THIS EXERCISE AGREEMENT THAT IS INCONSISTENT SECTION 25102(o) SHALL, WITHOUT FURTHER ACT OR AMENDMENT BY THE PARTICIPANT, THE COMPANY OR THE BOARD, BE AUTOMATICALLY REFORMED SO AS TO COMPLY WITH THE REQUIREMENTS OF SECTION 25102(o). IN ADDITION, TO THE EXTENT THAT SECTION 409A OF THE CODE APPLIES, THE COMPANY MAY AT ANY TIME, ACTING IN ITS SOLE DISCRETION, AMEND ANY PROVISION OF THIS EXERCISE AGREEMENT SO AS TO CAUSE SECTION 409A NOT TO APPLY TO THIS EXERCISE AGREEMENT WITHOUT ANY ACTION OR OTHER CONSENT OF PARTICIPANT. THE SALE OF THE SECURITIES THAT ARE THE SUBJECT OF THIS EXERCISE AGREEMENT, IF NOT YET QUALIFIED WITH THE CALIFORNIA COMMISSIONER OF CORPORATIONS AND NOT EXEMPT FROM SUCH QUALIFICATION, IS SUBJECT TO SUCH QUALIFICATION, AND THE ISSUANCE OF SUCH SECURITIES, AND THE RECEIPT OF ANY PART OF THE CONSIDERATION THEREFOR PRIOR TO SUCH QUALIFICATION IS UNLAWFUL UNLESS THE SALE IS EXEMPT. THE RIGHTS OF THE PARTIES TO THIS EXERCISE AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED OR AN EXEMPTION BEING AVAILABLE.

5. **Restricted Securities.**

5.1 **No Transfer Unless Registered or Exempt.** Purchaser understands that Purchaser may not transfer any Shares unless such Shares are registered under the Securities Act or qualified under applicable state securities laws or unless, in the opinion of counsel to the Company, exemptions from such registration and qualification requirements are available. Purchaser understands that only the Company may file a registration statement with the SEC and that the Company is under no obligation to do so with respect to the Shares. Purchaser has also been advised that exemptions from registration and qualification may not be available or may not permit Purchaser to transfer all or any of the Shares in the amounts or at the times proposed by Purchaser.
5.2 SEC Rule 144. In addition, Purchaser has been advised that SEC Rule 144 promulgated under the Securities Act, which permits certain limited sales of unregistered securities, is not presently available with respect to the Shares and, in any event, requires that the Shares be held for a minimum of one (1) year, and in certain cases two (2) years, after they have been purchased and paid for (within the meaning of Rule 144). Purchaser understands that Rule 144 may indefinitely restrict transfer of the Shares so long as Purchaser remains an “affiliate” of the Company or if “current public information” about the Company (as defined in Rule 144) is not publicly available.

5.3 SEC Rule 701. The Shares are issued pursuant to SEC Rule 701 promulgated under the Securities Act and may become freely tradeable by non-affiliates (under limited conditions regarding the method of sale) ninety (90) days after the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC, subject to the lengthier market standoff agreement contained in Section 7 of this Exercise Agreement or any other agreement entered into by Purchaser. Affiliates must comply with the provisions (other than the holding period requirements) of Rule 144.

6. Restrictions on Transfers.

6.1 Disposition of Shares. Purchaser hereby agrees that Purchaser shall make no disposition of the Shares (other than as permitted by this Exercise Agreement) unless and until:

(a) Purchaser shall have notified the Company of the proposed disposition and provided a written summary of the terms and conditions of the proposed disposition;
(b) Purchaser shall have complied with all requirements of this Exercise Agreement applicable to the disposition of the Shares;
(c) Purchaser shall have provided the Company with written assurances, in form and substance satisfactory to counsel for the Company, that (i) the proposed disposition does not require registration of the Shares under the Securities Act or (ii) all appropriate actions necessary for compliance with the registration requirements of the Securities Act or of any exemption from registration available under the Securities Act (including Rule 144) have been taken; and
(d) Purchaser shall have provided the Company with written assurances, in form and substance satisfactory to the Company, that the proposed disposition will not result in the contravention of any transfer restrictions applicable to the Shares pursuant to the provisions of the Regulations referred to in Section 4 hereof.

6.2 Restriction on Transfer. Purchaser shall not transfer, assign, grant a lien or security interest in, pledge, hypothecate, encumber or otherwise dispose of any of the Shares which are subject to the Company’s Right of First Refusal or Repurchase Option described below, except as permitted by this Exercise Agreement.

6.3 Transferee Obligations. Each person (other than the Company) to whom the Shares are transferred by means of one of the permitted transfers specified in this Exercise Agreement must, as a condition precedent to the validity of such transfer, acknowledge in writing to the Company that such person is bound by the provisions of this Exercise Agreement and that the transferred Shares are subject to (i) the Company’s Right of First Refusal granted hereunder and (ii) the market stand-off provisions of Section 7 hereof, to the same extent such Shares would be so subject if retained by the Purchaser.
7. **Market Standoff Agreement.** Purchaser agrees in connection with any registration of the Company’s securities that, upon the request of the Company or the underwriters managing any public offering of the Company’s securities, Purchaser will not sell or otherwise dispose of any Shares without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed one hundred eighty (180) days) after the effective date of such registration requested by such managing underwriters and subject to all restrictions as the Company or the underwriters may specify. Purchaser further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing.

8. **Company’s Repurchase Option for Unvested Shares.** The Company, or its assignee, shall have the option to repurchase all or a portion of the Shares that are Unvested Shares (as defined in the Stock Option Agreement) on the terms and conditions set forth in this Section (the “Repurchase Option”) if Purchaser is Terminated (as defined in the Plan) for any reason, or no reason, including without limitation, Purchaser’s death, Disability (as defined in the Plan), voluntary resignation or termination by the Company with or without Cause.

   8.1 **Termination and Termination Date.** In case of any dispute as to whether Purchaser is Terminated, the Committee shall have discretion to determine whether Purchaser has been Terminated and the effective date of such Termination (the “Termination Date”).

   8.2 **Exercise of Repurchase Option.** At any time within ninety (90) days after the Purchaser’s Termination Date (or, in the case of securities issued upon exercise of an Option after the Purchaser’s Termination Date, within ninety (90) days after the date of such exercise), the Company, or its assignee, may elect to repurchase any or all the Shares that are Unvested Shares by giving Purchaser written notice of exercise of the Repurchase Option.

   8.3 **Calculation of Repurchase Price for Unvested Shares.** The Company or its assignee shall have the option to repurchase from Purchaser (or from Purchaser’s personal representative as the case may be) the Unvested Shares at the Purchaser’s Exercise Price, proportionately adjusted for any stock split or similar change in the capital structure of the Company as set forth in Section 2.2 of the Plan (the “Repurchase Price”).

   8.4 **Payment of Repurchase Price.** The Repurchase Price shall be payable, at the option of the Company or its assignee, by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by Purchaser to the Company or such assignee, or by any combination thereof. The Repurchase Price shall be paid without interest within the term of the Repurchase Option as described in Section 8.2.

   8.5 **Right of Termination Unaffected.** Nothing in this Exercise Agreement shall be construed to limit or otherwise affect in any manner whatsoever the right or power of the Company (or any Parent or Subsidiary of the Company) to terminate Purchaser’s employment or other relationship with Company (or the Parent or Subsidiary of the Company) at any time, for any reason or no reason, with or without Cause.

9. **Company’s Right of First Refusal.** Unvested Shares may not be sold or otherwise transferred by Purchaser without the Company’s prior written consent. Before any Vested Shares held by Purchaser or any transferee of such Vested Shares (either sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including, without limitation, a transfer by gift or operation of law), the Company and/or its assignee(s) will have a right of first refusal to purchase the Vested Shares to be sold or transferred (the “Offered Shares”) on the terms and conditions set forth in this Section (the “Right of First Refusal”).
9.1 **Notice of Proposed Transfer.** The Holder of the Offered Shares will deliver to the Company a written notice (the “Notice”) stating: (i) the Holder’s bona fide intention to sell or otherwise transfer the Offered Shares; (ii) the name and address of each proposed purchaser or other transferee (the “Proposed Transferee”); (iii) the number of Offered Shares to be transferred to each Proposed Transferee; (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Offered Shares (the “Offered Price”); and (v) that the Holder acknowledges this Notice is an offer to sell the Offered Shares to the Company and/or its assignee(s) pursuant to the Company’s Right of First Refusal at the Offered Price as provided for in this Exercise Agreement.

9.2 **Exercise of Right of First Refusal.** At any time within thirty (30) days after the date of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all (or, with the consent of the Holder, less than all) the Offered Shares proposed to be transferred to any one or more of the Proposed Transferees named in the Notice, at the purchase price, determined as specified below.

9.3 **Purchase Price.** The purchase price for the Offered Shares purchased under this Section will be the Offered Price, provided that if the Offered Price consists of no legal consideration (as, for example, in the case of a transfer by gift) the purchase price will be the fair market value of the Offered Shares as determined in good faith by the Company’s Board of Directors. If the Offered Price includes consideration other than cash, then the value of the non-cash consideration, as determined in good faith by the Company’s Board of Directors, will conclusively be deemed to be the cash equivalent value of such non-cash consideration.

9.4 **Payment.** Payment of the purchase price for the Offered Shares will be payable, at the option of the Company and/or its assignee(s) (as applicable), by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by the Holder to the Company (or to such assignee, in the case of a purchase of Offered Shares by such assignee) or by any combination thereof. The purchase price will be paid without interest within sixty (60) days after the Company’s receipt of the Notice, or, at the option of the Company and/or its assignee(s), in the manner and at the time(s) set forth in the Notice.

9.5 **Holder’s Right to Transfer.** If all of the Offered Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Offered Shares to each Proposed Transferee at the Offered Price or at a higher price, provided that (i) such sale or other transfer is consummated within one hundred twenty (120) days after the date of the Notice, (ii) any such sale or other transfer is effected in compliance with all applicable securities laws, and (iii) each Proposed Transferee agrees in writing that the provisions of this Section will continue to apply to the Offered Shares in the hands of such Proposed Transferee. If the Offered Shares described in the Notice are not transferred to each Proposed Transferee within such one hundred twenty (120) day period, then a new Notice must be given to the Company pursuant to which the Company will again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

9.6 **Exempt Transfers.** Notwithstanding anything to the contrary in this Section, the following transfers of Vested Shares will be exempt from the Right of First Refusal: (i) the transfer of any or all of the Vested Shares during Purchaser’s lifetime by gift or on Purchaser’s death by will or intestacy to Purchaser’s “Immediate Family” (as defined below) or to a trust for the benefit of Purchaser or Purchaser’s Immediate Family, provided that each transferee or other recipient agrees in a writing satisfactory to the Company that the provisions of this Section will continue to apply to the transferred
Vested Shares in the hands of such transferee or other recipient; (ii) any transfer of Vested Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations (except that the Right of First Refusal will continue to apply thereafter to such Vested Shares, in which case the surviving corporation of such merger or consolidation shall succeed to the rights of the Company under this Section unless the agreement of merger or consolidation expressly otherwise provides); or (iii) any transfer of Vested Shares pursuant to the winding up and dissolution of the Company. As used herein, the term “Immediate Family” will mean “family member” as that term is defined in 17 C.F.R. 230.701 (as of the Effective Date the term includes, but is not limited to: Purchaser’s spouse, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild).

9.7 Termination of Right of First Refusal. The Right of First Refusal will terminate as to all Shares (i) on the effective date of the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC under the 1933 Act (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan) or (ii) on any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Securities Exchange Act of 1934, as amended.

9.8 Encumbrances on Vested Shares. Purchaser may grant a lien or security interest in, or pledge, hypothecate or encumber Vested Shares only if each party to whom such lien or security interest is granted, or to whom such pledge, hypothecation or other encumbrance is made, agrees in a writing satisfactory to the Company that: (i) such lien, security interest, pledge, hypothecation or encumbrance will not apply to such Vested Shares after they are acquired by the Company and/or its assignees under this Section; and (ii) the provisions of this Section will continue to apply to such Vested Shares in the hands of such party and any transferee of such party. Purchaser may not grant a lien or security interest in, or pledge, hypothecate or encumber, any Unvested Shares.

10. Rights as a Stockholder. Subject to the terms and conditions of this Exercise Agreement, Purchaser will have all of the rights of a stockholder of the Company with respect to the Shares from and after the date that Shares are issued to Purchaser until such time as Purchaser disposes of the Shares or the Company and/or its assignee(s) exercise(s) the Repurchase Option or Right of First Refusal. Upon an exercise of the Repurchase Option or Right of First Refusal, Purchaser will have no further rights as a holder of the Shares so purchased upon such exercise, other than the right to receive payment for the Shares so purchased in accordance with the provisions of this Exercise Agreement, and Purchaser will promptly surrender the stock certificate(s) evidencing the Shares so purchased to the Company for transfer or cancellation.

11. Escrow. As security for Purchaser’s faithful performance of this Exercise Agreement, Purchaser agrees, immediately upon receipt of the stock certificate(s) evidencing the Shares, to deliver such certificate(s), together with the Stock Powers executed by Purchaser and by Purchaser’s spouse, if any (with the date and number of Shares left blank), to the Secretary of the Company or other designee of the Company (the “Escrow Holder”), who is hereby appointed to hold such certificate(s) and Stock Powers in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Exercise Agreement. Purchaser and the Company agree that Escrow Holder will not be liable to any party to this Exercise Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Exercise Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Exercise Agreement. The Shares will be released from escrow upon termination of the Repurchase Option and Right of First Refusal.
12. Restrictive Legends and Stop-Transfer Orders.

12.1 Legends. Purchaser understands and agrees that the Company will place the legends set forth below or similar legends on any stock certificate(s) evidencing the Shares, together with any other legends that may be required by state or U.S. Federal securities laws, the Company’s Certificate of Incorporation or Bylaws, any other agreement between Purchaser and the Company or any agreement between Purchaser and any third party:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON PUBLIC RESALE AND TRANSFER, INCLUDING THE REPURCHASE AND RIGHT OF FIRST REFUSAL OPTIONS HELD BY THE ISSUER AND/OR ITS ASSIGNEE(S) AS SET FORTH IN A STOCK OPTION EXERCISE AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH PUBLIC SALE AND TRANSFER RESTRICTIONS INCLUDING THE REPURCHASE AND RIGHT OF FIRST REFUSAL OPTIONS ARE BINDING ON TRANSFEREES OF THESE SHARES.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A 180 DAY MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS AFTER THE EFFECTIVE DATE OF ANY PUBLIC OFFERING OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

12.2 Stop-Transfer Instructions. Purchaser agrees that, to ensure compliance with the restrictions imposed by this Exercise Agreement, the Company may issue appropriate “stop-transfer” instructions to its transfer agent, if any, and if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

12.3 Refusal to Transfer. The Company will not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Exercise Agreement or (ii) to treat as owner of such Shares, or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares have been so transferred.
13. **Tax Consequences.** PURCHASER UNDERSTANDS THAT PURCHASER MAY SUFFER ADVERSE TAX CONSEQUENCES AS A RESULT OF PURCHASER’S PURCHASE OR DISPOSITION OF THE SHARES. PURCHASER REPRESENTS: (i) THAT PURCHASER HAS CONSULTED WITH ANY TAX ADVISER THAT PURCHASER DEEMS ADVISABLE IN CONNECTION WITH THE PURCHASE OR DISPOSITION OF THE SHARES AND (ii) THAT PURCHASER IS NOT RELYING ON THE COMPANY FOR ANY TAX ADVICE. IN PARTICULAR, IF UNVESTED SHARES ARE SUBJECT TO REPURCHASE BY THE COMPANY, PURCHASER REPRESENTS THAT PURCHASER HAS CONSULTED WITH PURCHASER’S OWN TAX ADVISER CONCERNING THE ADVISABILITY OF FILING AN 83(b) ELECTION WITH THE INTERNAL REVENUE SERVICE WHICH MUST BE FILED WITHIN THIRTY (30) DAYS OF THE PURCHASE OF SHARES TO BE EFFECTIVE. Set forth below is a brief summary as of the date the Plan was adopted by the Board of some of the U.S. federal tax consequences of exercise of the Option and disposition of the Shares. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. PURCHASER SHOULD CONSULT HIS OR HER OWN TAX ADVISER BEFORE EXERCISING THIS OPTION OR DISPOSING OF THE SHARES.

13.1 **Exercise of Incentive Stock Option.** If the Option qualifies as an ISO, there will be no regular U.S. federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price will be treated as a tax preference item for U.S. Federal alternative minimum tax purposes and may subject Purchaser to the alternative minimum tax in the year of exercise.

13.2 **Exercise of Nonqualified Stock Option.** If the Option does not qualify as an ISO, there may be a regular U.S. federal income tax liability upon the exercise of the Option. Purchaser will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Purchaser is or was an employee of the Company, the Company may be required to withhold from Purchaser’s compensation or collect from Purchaser and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

13.3 **Disposition of Shares.** The following tax consequences may apply upon disposition of the Shares.

(a) **Incentive Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an ISO and are disposed of more than two (2) years after the Date of Grant, any gain realized on disposition of the Shares will be treated as long term capital gain for U.S. federal income tax purposes. If Vested Shares purchased under an ISO are disposed of within the applicable one (1) year or two (2) year period, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. To the extent the Shares were exercised prior to vesting coincident with the filing of an 83(b) Election, the amount taxed because of a disqualifying disposition will be based upon the excess, if any, of the fair market value on the date of **vesting** over the exercise price.

(b) **Nonqualified Stock Options.** If the Shares are held for more than twelve (12) months after the date of the transfer of the Shares pursuant to the exercise of an NQSO, any gain realized on disposition of the Shares will be treated as long term capital gain.

(c) **Withholding.** The Company may be required to withhold from the Purchaser’s compensation or collect from the Purchaser and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income.
13.4 **Section 83(b) Election for Unvested Shares.** With respect to Unvested Shares, which are subject to the Repurchase Option, unless an election is filed by the Purchaser with the Internal Revenue Service (and, if necessary, the proper state tax authorities), within 30 days of the purchase of the Unvested Shares, electing pursuant to Section 83(b) of the Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the Exercise Price of the Unvested Shares and their Fair Market Value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to the Purchaser, measured by the excess, if any, of the Fair Market Value of the Unvested Shares at the time they cease to be Unvested Shares, over the Exercise Price of the Unvested Shares.

14. **Compliance with Laws and Regulations.** The issuance and transfer of the Shares will be subject to and conditioned upon compliance by the Company and Purchaser with all applicable state and U.S. federal laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company’s Common Stock may be listed or quoted at the time of such issuance or transfer.

15. **Successors and Assigns.** The Company may assign any of its rights and obligations under this Exercise Agreement, including its rights to purchase Shares under the Repurchase Option and Right of First Refusal. No other party to this Exercise Agreement may assign, whether voluntarily or by operation of law, any of its rights and obligations under this Exercise Agreement, except with the prior written consent of the Company. This Exercise Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Exercise Agreement will be binding upon Purchaser and Purchaser’s heirs, executors, administrators, legal representatives, successors and assigns.

16. **Governing Law.** This Exercise Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws.

17. **Notices.** Any and all notices required or permitted to be given to a party pursuant to the provisions of this Exercise Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Exercise Agreement on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (iii) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries.

18. **Further Assurances.** The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Exercise Agreement.

19. **Titles and Headings.** The titles, captions and headings of this Exercise Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Exercise Agreement. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Exercise Agreement.

20. **Entire Agreement.** The Plan, the Stock Option Agreement, the Notice (as defined in the Notice of Exercise), the Exercise Notice and this Exercise Agreement, together with all exhibits thereto, constitute the entire agreement and understanding of the parties with respect to the subject matter of this Exercise Agreement, and supersede all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.
21. **Severability.** If any provision of this Exercise Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Exercise Agreement and the remainder of this Exercise Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Exercise Agreement. Notwithstanding the forgoing, if the value of this Exercise Agreement based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.
1. **PURPOSE.** The purpose of this Plan is to provide incentives to attract, retain and motivate eligible persons whose present and potential contributions are important to the success of the Company, its Parent and Subsidiaries by offering eligible persons an opportunity to participate in the Company’s future performance through the grant of Awards covering Shares. Capitalized terms not defined in the text are defined in Section 14 hereof. Although this Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701, grants may be made pursuant to this Plan that do not qualify for exemption under Rule 701 or Section 25102(o). Any requirement of this Plan that is required in law only because of Section 25102(o) need not apply if the Committee so provides.

2. **SHARES SUBJECT TO THE PLAN.**

   2.1 **Number of Shares Available.** Subject to Sections 2.2 and 11 hereof, the total number of Shares reserved and available for grant and issuance pursuant to this Plan will be the sum of: (a) 20,298,730 shares; plus (b) shares that are subject to issuance under the Company’s 2006 Equity Incentive Plan (the “Prior Plan”) but cease to be subject to an award for any reason other than exercise of an Option after the date hereof; plus (c) shares that were issued under the Prior Plan which are repurchased by the Company or which are forfeited or used to pay withholding obligations or pay the exercise price of an Option. Subject to Sections 2.2 and 11 hereof, Shares subject to Awards that are cancelled, forfeited, settled in cash, used to pay withholding obligations or pay the exercise price of an Option or that expire by their terms at any time will again be available for grant and issuance in connection with other Awards. In the event that Shares previously issued under the Plan are reacquired by the Company pursuant to a forfeiture provision, right of first refusal, or repurchase by the Company, such Shares shall be added to the number of Shares then available for issuance under the Plan. At all times the Company will reserve and keep available a sufficient number of Shares as will be required to satisfy the requirements of all Awards granted and outstanding under this Plan.

   In no event shall the total number of Shares issued (counting each reissuance of a Share that was previously issued and then forfeited or repurchased by the Company as a separate issuance) under the Plan upon exercise of ISOs exceed Fifty Three Million One Hundred Thirty One Thousand One Hundred Thirty Eight (53,131,138) Shares (adjusted in proportion to any adjustments under Section 2.2 hereof) over the term of the Plan (the “ISO Limit”). Subject to Sections 2.2 and 11 hereof, in the event that the number of Shares reserved for issuance under the Plan is increased, the ISO Limit shall be automatically increased by such number of Shares such that the ISO Limit equals (a) two (2) multiplied by (b) the number of Shares reserved for issuance under the Plan.

   2.2 **Adjustment of Shares.** In the event that the Company’s Common Stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification, spin-off or other change in the capital structure of the Company affecting Shares without consideration, then in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan (a) the number and class of Shares reserved for issuance under this Plan, (b) the Exercise Prices of and number and class of Shares subject to outstanding Options
and SARs, and (c) the Purchase Prices of and/or number and class of Shares subject to other outstanding Awards will (to the extent appropriate) be proportionately adjusted, subject to any required action by the Board or the stockholders of the Company and compliance with applicable securities laws; provided, however, that fractions of a Share will not be issued but will either be paid in cash at the Fair Market Value of such fraction of a Share or will be rounded down to the nearest whole Share, as determined by the Committee.

3. PLAN FOR BENEFIT OF SERVICE PROVIDERS.

3.1 Eligibility. The Committee will have the authority to select persons to receive Awards. ISOs (as defined in Section 4 hereof) may be granted only to employees (including officers and directors who are also employees) of the Company or of a Parent or Subsidiary of the Company. NQSOs (as defined in Section 4 hereof) and all other types of Awards may be granted to employees, officers, directors and consultants of the Company or any Parent or Subsidiary of the Company; provided any such consultant renders bona fide services not in connection with the offer and sale of securities in a capital-raising transaction when Rule 701 is to apply to the Award granted for such services. A person may be granted more than one Award under this Plan.

3.2 No Obligation to Employ. Nothing in this Plan or any Award granted under this Plan will confer or be deemed to confer on any Participant any right to continue in the employ of, or to continue any other relationship with, the Company or any Parent or Subsidiary or limit in any way the right of the Company or any Parent or Subsidiary to terminate Participant’s employment or other relationship at any time, with or without Cause.

4. OPTIONS. The Committee may grant Options to eligible persons described in Section 3 hereof and will determine whether such Options will be Incentive Stock Options within the meaning of the Code (“ISOs”) or Nonqualified Stock Options (“NQSOs”), the number of Shares subject to the Option, the Exercise Price of the Option, the period during which the Option may be exercised, and all other terms and conditions of the Option, subject to the following terms and conditions.

4.1 Form of Option Grant. Each Option granted under this Plan will be evidenced by an Award Agreement which will expressly identify the Option as an ISO or an NQSO (“Stock Option Agreement”), and will be in such form and contain such provisions (which need not be the same for each Participant) as the Committee may from time to time approve, and which will comply with and be subject to the terms and conditions of this Plan.

4.2 Date of Grant. The date of grant of an Option will be the date on which the Committee makes the determination to grant such Option, unless a later date is otherwise specified by the Committee. The Stock Option Agreement and a copy of this Plan will be delivered to the Participant within a reasonable time after the granting of the Option.

4.3 Exercise Period. Options may be exercisable within the time or upon the events determined by the Committee in the Award Agreement and may be awarded as immediately exercisable but subject to repurchase pursuant to Section 10 hereof or may be exercisable within the times or upon the events determined by the Committee as set forth in the Stock Option Agreement governing such Option; provided, however, that (a) no Option will be exercisable after the expiration of ten (10) years from the date the Option is granted; and (b) no ISO granted to a person who directly or by attribution owns more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or of any Parent or Subsidiary (“Ten Percent Stockholder”) will be exercisable after the expiration of five (5) years from the date the ISO is granted; but in no event shall an Option granted to an employee who is a non-exempt employee for purposes of overtime pay under the U.S. Fair Labor Standards Act of 1938 be

2
exercisable earlier than six (6) months after its date of grant. The Committee also may provide for Options to become exercisable at one time or from time to time, periodically or otherwise, in such number of Shares or percentage of Shares as the Committee determines. In addition, if an Option is determined to otherwise be subject to Section 409A of the Code, such Option shall be exercisable for the Shares subject to such Option no later than the end of the applicable short-term deferral period determined under Section 409A of the Code by the Committee, except as otherwise determined by the Committee.

4.4 **Exercise Price.** The Exercise Price of an Option will be determined by the Committee when the Option is granted and shall not be less than the Fair Market Value per Share on the date of grant unless expressly determined in writing by the Committee on the Option’s date of grant; provided that the Exercise Price of an ISO granted to a Ten Percent Stockholder will not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares on the date of grant. Payment for the Shares purchased must be made in accordance with Section 8 hereof.

4.5 **Method of Exercise.** Options may be exercised only by delivery to the Company of a written stock option exercise agreement (accepted via written, electronic or other means) (the “Exercise Agreement”) in a form approved by the Committee (which need not be the same for each Participant). The Exercise Agreement will state (a) the number of Shares being purchased, (b) the restrictions imposed on the Shares purchased under such Exercise Agreement, if any, and (c) such representations and agreements regarding Participant’s investment intent and access to information and other matters, if any, as may be required or desirable by the Company to comply with applicable securities laws. Each Participant’s Exercise Agreement may be modified by (i) agreement of Participant and the Company or (ii) substitution by the Company, upon becoming a public company, in order to add the payment terms set forth in Section 8.1 that apply to a public company and such other terms as shall be necessary or advisable in order to exercise a public company option. Upon exercise of an Option, Participant shall execute and deliver to the Company the Exercise Agreement then in effect, together with payment in full of the Exercise Price for the number of Shares being purchased and payment of any applicable taxes. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 2.2 of the Plan. Exercising an Option in any manner will decrease the number of Shares thereafter available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

4.6 **Termination.** Subject to earlier termination pursuant to Sections 11 and 13 hereof and notwithstanding the exercise periods set forth in the Stock Option Agreement, exercise of an Option will always be subject to the following terms and conditions.

4.6.1 **Other than Death or Disability or for Cause.** If the Participant is Terminated for any reason other than death, Disability or for Cause, then the Participant may exercise such Participant’s Options only to the extent that such Options are exercisable as to Vested Shares upon the Termination Date or as otherwise determined by the Committee. Such Options must be exercised by the Participant, if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within three (3) months after the Termination Date (or within such shorter time period, not less than thirty (30) days, or within such longer time period after the Termination Date as may be determined by the Committee, with any exercise beyond three (3) months after the date Participant ceases to be an employee deemed to be an NQSO) but in any event, no later than the expiration date of the Options.

4.6.2 **Death or Disability.** If the Participant is Terminated because of Participant’s death or Disability (or the Participant dies within three (3) months after a Termination other than for Cause), then Participant’s Options may be exercised only to the extent that such Options are exercisable as to Vested Shares by Participant on the Termination Date or as otherwise determined by the
Committee. Such options must be exercised by Participant (or Participant’s legal representative or authorized assignee), if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within twelve (12) months after the Termination Date (or within such shorter time period, not less than six (6) months, or within such longer time period, after the Termination Date as may be determined by the Committee, with any exercise beyond (a) three (3) months after the date Participant ceases to be an employee when the Termination is for any reason other than the Participant’s death or disability, within the meaning of Section 22(e)(3) of the Code, or (b) twelve (12) months after the date Participant ceases to be an employee when the Termination is for Participant’s disability, within the meaning of Section 22(e)(3) of the Code, deemed to be an NQSO) but in any event no later than the expiration date of the Options.

4.6.3 For Cause. If the Participant is Terminated for Cause, the Participant may exercise such Participant’s Options, but not to an extent greater than such Options are exercisable as to Vested Shares upon the Termination Date and Participant’s Options shall expire on such Participant’s Termination Date, or at such later time and on such conditions as are determined by the Committee.

4.7 Limitations on Exercise. The Committee may specify a reasonable minimum number of Shares that may be purchased on any exercise of an Option, provided that such minimum number will not prevent Participant from exercising the Option for the full number of Shares for which it is then exercisable.

4.8 Limitations on ISOs. The aggregate Fair Market Value (determined as of the date of grant) of Shares with respect to which ISOs are exercisable for the first time by a Participant during any calendar year (under this Plan or under any other incentive stock option plan of the Company or any Parent or Subsidiary of the Company) will not exceed One Hundred Thousand Dollars ($100,000). If the Fair Market Value of Shares on the date of grant with respect to which ISOs are exercisable for the first time by a Participant during any calendar year exceeds One Hundred Thousand Dollars ($100,000), then the Options for the first One Hundred Thousand Dollars ($100,000) worth of Shares to become exercisable in such calendar year will be ISOs and the Options for the amount in excess of One Hundred Thousand Dollars ($100,000) that become exercisable in that calendar year will be NQSOs. In the event that the Code or the regulations promulgated thereunder are amended after the Effective Date (as defined in Section 13.1 hereof) to provide for a different limit on the Fair Market Value of Shares permitted to be subject to ISOs, then such different limit will be automatically incorporated herein and will apply to any Options granted after the effective date of such amendment.

4.9 Modification, Extension or Renewal. The Committee may modify, extend or renew outstanding Options and authorize the grant of new Options in substitution therefor, provided that any such action may not, without the written consent of a Participant, impair any of such Participant’s rights under any Option previously granted. Any outstanding ISO that is modified, extended, renewed or otherwise altered will be treated in accordance with Section 424(h) of the Code. Subject to Section 4.10 hereof, the Committee may reduce the Exercise Price of outstanding Options without the consent of Participants by a written notice to them; provided, however, that the Exercise Price may not be reduced below the minimum Exercise Price that would be permitted under Section 4.4 hereof for Options granted on the date the action is taken to reduce the Exercise Price.

4.10 No Disqualification. Notwithstanding any other provision in this Plan, no term of this Plan relating to ISOs will be interpreted, amended or altered, nor will any discretion or authority granted under this Plan be exercised, so as to disqualify this Plan under Section 422 of the Code or, without the consent of the Participant, to disqualify any Participant’s ISO under Section 422 of the Code.
5. RESTRICTED STOCK. A Restricted Stock Award is an offer by the Company to sell to an eligible person Shares that are subject to certain specified restrictions. The Committee will determine to whom an offer will be made, the number of Shares the person may purchase, the Purchase Price, the restrictions to which the Shares will be subject, and all other terms and conditions of the Restricted Stock Award, subject to the following terms and conditions.

5.1 Form of Restricted Stock Award. All purchases under a Restricted Stock Award made pursuant to this Plan will be evidenced by an Award Agreement (“Restricted Stock Purchase Agreement”) that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan. The Restricted Stock Award will be accepted by the Participant’s execution and delivery of the Restricted Stock Purchase Agreement (accepted via written, electronic or other means) and full payment for the Shares to the Company within thirty (30) days from the date the Restricted Stock Purchase Agreement is delivered to the person. If such person does not execute and deliver the Restricted Stock Purchase Agreement along with full payment for the Shares to the Company within such thirty (30) days, then the offer will terminate, unless otherwise determined by the Committee.

5.2 Purchase Price. The Purchase Price of Shares sold pursuant to a Restricted Stock Award will be determined by the Committee on the date the Restricted Stock Award is granted or at the time the purchase is consummated. Payment of the Purchase Price must be made in accordance with Section 8 hereof.

5.3 Dividends and Other Distributions. Participants holding Restricted Stock will be entitled to receive all dividends and other distributions paid with respect to such Shares, unless the Committee provides otherwise at the time the Award is granted. If any such dividends or distributions are paid in Shares, the Shares will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid.

5.4 Restrictions. Restricted Stock Awards may be subject to the restrictions set forth in Sections 9 and 10 hereof or, with respect to a Restricted Stock Award to which Section 25102(o) is to apply, such other restrictions not inconsistent with Section 25102(o).

6. RESTRICTED STOCK UNITS.

6.1 Awards of Restricted Stock Units. A Restricted Stock Unit (“RSU”) is an Award covering a number of Shares that may be settled in cash, or by issuance of those Shares at a date in the future, or by a combination of cash and Shares. No Purchase Price shall apply to an RSU settled in Shares. All grants of Restricted Stock Units will be evidenced by an Award Agreement that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan. No RSU will have a term longer than ten (10) years from the date the RSU is granted.

6.2 Form and Timing of Settlement. To the extent permissible under applicable law, the Committee may permit a Participant to defer payment (including settlement) under a RSU to a date or dates after the RSU is earned, provided that the terms of the RSU and any deferral satisfy the requirements of Section 409A of the Code (or any successor) and any regulations or rulings promulgated thereunder, to the extent the Participant is subject to Section 409A of the Code. Payment may be made in the form of cash or whole Shares or a combination thereof, all as the Committee determines.
6.3 **Dividend Equivalent Payments.** The Board may permit Participants holding RSUs to receive dividend equivalent payments on outstanding RSUs if and when dividends are paid to stockholders on Shares. In the discretion of the Board, such dividend equivalent payments may be paid in cash or Shares and they may either be paid at the same time as dividend payments are made to stockholders or delayed until when Shares are issued pursuant to the RSU grants and may be subject to the same vesting requirements as the RSUs. If the Board permits dividend equivalent payments to be made on RSUs, the terms and conditions for such payments will be set forth in the Award Agreement.

7. **STOCK APPRECIATION RIGHTS.**

7.1 **Awards of SARs.** Stock Appreciation Rights (“SARs”) may be settled in cash, or Shares (which may consist of Restricted Stock or RSUs), having a value equal to the value determined by multiplying the difference between the Fair Market Value on the date of exercise over the Exercise Price and the number of Shares with respect to which the SAR is being settled. All grants of SARs made pursuant to this Plan will be evidenced by an Award Agreement that will be in such form (which need not be the same for each Participant) as the Committee will from time to time approve, and will comply with and be subject to the terms and conditions of this Plan.

7.2 **Exercise Period and Expiration Date.** A SAR will be exercisable within the times or upon the occurrence of events determined by the Committee and set forth in the Award Agreement governing such SAR. The Award Agreement shall set forth the Expiration Date; provided that no SAR will be exercisable after the expiration of ten years from the date the SAR is granted.

7.3 **Exercise Price.** The Committee will determine the Exercise Price of the SAR when the SAR is granted, and which may not be less than the Fair Market Value on the date of grant and may be settled in cash or in Shares.

7.4 **Termination.** Subject to earlier termination pursuant to Sections 11 and 13 hereof and notwithstanding the exercise periods set forth in the Award Agreement, exercise of SARs will always be subject to the following terms and conditions.

7.4.1 **Other than Death or Disability or for Cause.** If the Participant is Terminated for any reason other than death, Disability or for Cause, then the Participant may exercise such Participant’s SARs only to the extent that such SARs are exercisable as to Vested Shares upon the Termination Date or as otherwise determined by the Committee. SARs must be exercised by the Participant, if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within three (3) months after the Termination Date (or within such shorter time period, not less than thirty (30) days, or within such longer time period after the Termination Date as may be determined by the Committee) but in any event, no later than the expiration date of the SARs.

7.4.2 **Death or Disability.** If the Participant is Terminated because of Participant’s death or Disability (or the Participant dies within three (3) months after a Termination other than for Cause), then Participant’s SARs may be exercised only to the extent that such SARs are exercisable as to Vested Shares by Participant on the Termination Date or as otherwise determined by the Committee. Such SARs must be exercised by Participant (or Participant’s legal representative or authorized assignee), if at all, as to all or some of the Vested Shares calculated as of the Termination Date or such other date determined by the Committee, within twelve (12) months after the Termination Date (or within such shorter time period, not less than six (6) months, or within such longer time period after the Termination Date as may be determined by the Committee) but in any event no later than the expiration date of the SARs.
7.4.3 If the Participant is terminated for Cause, the Participant may exercise such Participant’s SARs, but not to an extent greater than such SARs are exercisable as to Vested Shares upon the Termination Date and Participant’s SARs shall expire on such Participant’s Termination Date, or at such later time and on such conditions as are determined by the Committee.

8. PAYMENT FOR PURCHASES AND EXERCISES.

8.1 Payment in General. Payment for Shares acquired pursuant to this Plan may be made in cash equivalents (including (by check or Automated Clearing House (“ACH”) transfer) or, where expressly approved for the Participant by the Committee and where permitted by law:

(a) by cancellation of indebtedness of the Company owed to the Participant;

(b) by surrender of shares of the Company that are clear of all liens, claims, encumbrances or security interests and: (i) for which the Company has received “full payment of the purchase price” within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (ii) that were obtained by Participant in the public market;

(c) by tender of a full recourse promissory note having such terms as may be approved by the Committee and bearing interest at a rate sufficient to avoid imputation of income under Sections 483 and 1274 of the Code; provided, however, that Participants who are not employees or directors of the Company will not be entitled to purchase Shares with a promissory note unless the note is adequately secured by collateral other than the Shares; provided, further, that the portion of the Exercise Price or Purchase Price, as the case may be, equal to the par value (if any) of the Shares must be paid in cash or other legal consideration permitted by the laws under which the Company is then incorporated or organized;

(d) by waiver of compensation due or accrued to the Participant from the Company for services rendered;

(e) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;

(f) subject to compliance with applicable law, provided that a public market for the Company’s Common Stock exists, by exercising through a “same day sale” commitment from the Participant and a broker-dealer whereby the Participant irrevocably elects to exercise the Award and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price or Purchase Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price or Purchase Price directly to the Company; or

(g) by any combination of the foregoing or any other method of payment approved by the Committee.

For avoidance of uncertainty: ACH transfers that have been received by the Company into its bank account designated for receipt of such transfers under this Section 8.1 shall be deemed to have been received for all purposes under this Plan as of the date on which such transfers were initiated from the transferor’s account and made irrevocable by the transferor.
8.2 Withholding Taxes.

8.2.1 Withholding Generally. Whenever Shares are to be issued in satisfaction of Awards granted under this Plan, the Company may require the Participant to remit to the Company an amount sufficient to satisfy the maximum tax withholding requirements as to income tax, social insurance, payroll tax, fringe benefits tax, payment on account and other tax-related obligations (collectively, “Tax-Related Obligations”) prior to the delivery of any certificate or certificates for such Shares. Whenever, under this Plan, payments in satisfaction of Awards are to be made in cash by the Company, such payment will be net of an amount sufficient to satisfy applicable tax withholding requirements.

8.2.2 Stock Withholding. When, under applicable tax laws, a Participant incurs tax liability in connection with the exercise or vesting of any Award that is subject to tax withholding and the Participant is obligated to pay the Company the amount required to be withheld, the Committee may in its sole discretion allow the Participant to satisfy up to the maximum Tax-Related Obligations in the employee’s applicable jurisdictions by electing to have the Company withhold from the Shares to be issued up to the minimum number of Shares having a Fair Market Value on the date that the amount of tax to be withheld is to be determined that is not more than the minimum amount to be withheld; or to arrange a mandatory “sell to cover” on Participant’s behalf (without further authorization) but in no event will the Company withhold Shares or “sell to cover” if such withholding would result in adverse accounting consequences to the Company. The maximum Tax-Related Obligations are based on the applicable rates of the relevant tax authorities (for example, federal, state and local), including the employee’s share of payroll or similar taxes, as provided in the tax law, regulations or the authority’s administrative practices, not to exceed the highest statutory rate in that jurisdiction. Any elections to have Shares withheld or sold for this purpose will be made in accordance with the requirements established by the Committee for such elections and be in writing in a form acceptable to the Committee.

8.2.3 Elections Under Section 83(i) of the Code. A Participant will not make an election under Section 83(i) of the Code if the Company determines that the Participant is then ineligible to make such an election under applicable law or without the Company’s prior written consent (which will not be unreasonably withheld or delayed, but may be conditioned upon the Participant’s entry into additional commitments as determined by the Company).

9. RESTRICTIONS ON AWARDS.

9.1 Transferability. Except as permitted by the Committee, Awards granted under this Plan, and any interest therein, will not be transferable or assignable by Participant, other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to an inter vivos or testamentary trust in which the NQSOs are to be passed to beneficiaries upon the death of the trustor (settlor), or by gift to “family member” as that term is defined in Rule 701, and may not be made subject to execution, attachment or similar process. For the avoidance of doubt, the prohibition against assignment and transfer applies to a stock option and, prior to exercise, the shares to be issued on exercise of a stock option, and pursuant to the foregoing sentence shall be understood to include, without limitation, a prohibition against any pledge, hypothecation, or other transfer, including any short position, any “put equivalent position” or any “call equivalent position” (in each case, as defined in Rule 16a-1 promulgated under the Exchange Act). Unless an Award is transferred pursuant to the terms of this Section, during the lifetime of the Participant an Award will be exercisable only by the Participant or Participant’s legal representative and any elections with respect to an Award may be made only by the Participant or Participant’s legal representative. The terms of an Option shall be binding upon the executor, administrator, successors and assigns of the Participant who is a party thereto.
9.2 Securities Law and Other Regulatory Compliance. Although this Plan is intended to be a written compensatory benefit plan within the meaning of Rule 701 promulgated under the Securities Act, grants may be made pursuant to this Plan that do not qualify for exemption under Rule 701 or Section 25102(o). Any requirement of this Plan which is required in law only because of Section 25102(o) need not apply with respect to a particular Award to which Section 25102(o) will not apply. An Award will not be effective unless such Award is in compliance with all applicable federal and state securities laws, rules and regulations of any governmental body, and the requirements of any stock exchange or automated quotation system upon which the Shares may then be listed or quoted, as they are in effect on the date of grant of the Award and also on the date of exercise or other issuance. Notwithstanding any other provision in this Plan, the Company will have no obligation to issue or deliver certificates for Shares under this Plan prior to (a) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable, and/or (b) compliance with any exemption, completion of any registration or other qualification of such Shares under any state or federal law or ruling of any governmental body that the Company determines to be necessary or advisable. The Company will be under no obligation to register the Shares with the SEC or to effect compliance with the exemption, registration, qualification or listing requirements of any state securities laws, stock exchange or automated quotation system, and the Company will have no liability for any inability or failure so do.

9.3 Exchange and Buyout of Awards. The Committee may, at any time or from time to time, authorize the Company, with the consent of the respective Participants, to issue new Awards in exchange for the surrender and cancellation of any or all outstanding Awards. Without prior stockholder approval the Committee may reprice Options or SARs (and where such repricing is a reduction in the Exercise Price of outstanding Options or SARs, the consent of the affected Participants is not required provided written notice is provided to them). The Committee may at any time buy from a Participant an Award previously granted with payment in cash, Shares (including Restricted Stock) or other consideration, based on such terms and conditions as the Committee and the Participant may agree.

10. RESTRICTIONS ON SHARES.

10.1 Privileges of Stock Ownership. No Participant will have any of the rights of a stockholder with respect to any Shares until such Shares are issued to the Participant. After Shares are issued to the Participant, the Participant will be a stockholder and have all the rights of a stockholder with respect to such Shares, including the right to vote and receive all dividends or other distributions made or paid with respect to such Shares; provided, that if such Shares are Restricted Stock, then any new, additional or different securities the Participant may become entitled to receive with respect to such Shares by virtue of a stock dividend, stock split or any other change in the corporate or capital structure of the Company will be subject to the same restrictions as the Restricted Stock. The Participant will have no right to retain such stock dividends or stock distributions with respect to Unvested Shares that are repurchased as described in this Section 10.

10.2 Rights of First Refusal and Repurchase. At the discretion of the Committee, the Company may reserve to itself and/or its assignee(s) in the Award Agreement (a) a right of first refusal to purchase all Shares that a Participant (or a subsequent transferee) may propose to transfer to a third party, provided that such right of first refusal terminates upon the Company’s initial public offering of Common Stock pursuant to an effective registration statement filed under the Securities Act and (b) a right to repurchase Unvested Shares held by a Participant for cash and/or cancellation of purchase money indebtedness owed to the Company by the Participant following such Participant’s Termination at any time.
10.3 Escrow; Pledge of Shares. To enforce any restrictions on a Participant’s Shares, the Committee may require the Participant to deposit all certificates representing Shares, together with stock powers or other instruments of transfer approved by the Committee, appropriately endorsed in blank, with the Company or an agent designated by the Company to hold in escrow until such restrictions have lapsed or terminated. The Committee may cause a legend or legends referencing such restrictions to be placed on the certificate. Any Participant who is permitted to execute a promissory note as partial or full consideration for the purchase of Shares under this Plan will be required to pledge and deposit with the Company all or part of the Shares so purchased as collateral to secure the payment of Participant’s obligation to the Company under the promissory note; provided, however, that the Committee may require or accept other or additional forms of collateral to secure the payment of such obligation and, in any event, the Company will have full recourse against the Participant under the promissory note notwithstanding any pledge of the Participant’s Shares or other collateral. In connection with any pledge of the Shares, Participant will be required to execute and deliver a written pledge agreement in such form as the Committee will from time to time approve. The Shares purchased with the promissory note may be released from the pledge on a pro rata basis as the promissory note is paid.

10.4 Securities Law Restrictions. All certificates for Shares or other securities delivered under this Plan will be subject to such stock transfer orders, legends and other restrictions as the Committee may deem necessary or advisable, including restrictions under any applicable federal, state or foreign securities law, or any rules, regulations and other requirements of the SEC or any stock exchange or automated quotation system upon which the Shares may be listed or quoted.

11. CORPORATE TRANSACTIONS.

11.1 Acquisitions or Other Combinations. In the event that the Company is subject to an Acquisition or Other Combination, outstanding Awards acquired under the Plan shall be subject to the agreement evidencing the Acquisition or Other Combination, which need not treat all outstanding Awards in an identical manner. Such agreement, without the Participant’s consent, shall provide for one or more of the following with respect to all outstanding Awards as of the effective date of such Acquisition or Other Combination:

(a) The continuation of such outstanding Awards by the Company (if the Company is the successor entity).

(b) The assumption of outstanding Awards by the successor or acquiring entity (if any) in such Acquisition or Other Combination (or by any of its Parents, if any), which assumption, will be binding on all Participants; provided that the exercise price and the number and nature of shares issuable upon exercise of any such option or stock appreciation right, or any award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 424(a) and Section 409A of the Code. For the purposes of this Section 11, an Award will be considered assumed if, following the Acquisition or Other Combination, the Award confers the right to purchase or receive, for each Share subject to the Award immediately prior to the Acquisition or Other Combination, the consideration (whether stock, cash, or other securities or property) received in the Acquisition or Other Combination by holders of Shares for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the Acquisition or Other Combination is not solely common stock of the successor corporation or its Parent, the Committee may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of an Option or Stock Appreciation Right or upon the payout of a Restricted Stock Unit, for each Share subject to such Award, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of Common Stock in the Acquisition or Other Combination.
(c) The substitution by the successor or acquiring entity in such Acquisition or Other Combination (or by any of its Parents, if any) of equivalent awards with substantially the same terms for such outstanding Awards (except that the exercise price and the number and nature of shares issuable upon exercise of any such option or stock appreciation right, or any award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 424(a) and Section 409A of the Code).

(d) The full or partial exercisability or vesting and accelerated expiration of outstanding Awards.

(e) The settlement of the full value of such outstanding Award (whether or not then vested or exercisable) in cash, cash equivalents, or securities of the successor entity (or its Parent, if any) with a Fair Market Value equal to the required amount, followed by the cancellation of such Awards; provided however, that such Award may be cancelled without consideration if such Award has no value, as determined by the Committee, in its discretion. Subject to Section 409A of the Code, such payment may be made in installments and may be deferred until the date or dates when the Award would have become exercisable or vested. Such payment may be subject to vesting based on the Participant’s continued service, provided that without the Participant’s consent, the vesting schedule shall not be less favorable to the Participant than the schedule under which the Award would have become vested or exercisable. For purposes of this Section 11.1(e), the Fair Market Value of any security shall be determined without regard to any vesting conditions that may apply to such security.

(f) The cancellation of outstanding Awards in exchange for no consideration.

Immediately following an Acquisition or Other Combination, outstanding Awards shall terminate and cease to be outstanding, except to the extent such Awards, have been continued, assumed or substituted, as described in Sections 11.1(a), (b) and/or (c).

11.2 Assumption of Awards by the Company. The Company, from time to time, also may substitute or assume outstanding awards granted by another entity, whether in connection with an acquisition of such other entity or otherwise, by either (a) granting an Award under this Plan in substitution of such other entity’s award or (b) assuming and/or converting such award as if it had been granted under this Plan if the terms of such assumed award could be applied to an Award granted under this Plan. Such substitution or assumption will be permissible if the holder of the substituted or assumed award would have been eligible to be granted an Award under this Plan if the other entity had applied the rules of this Plan to such grant. In the event the Company assumes an award granted by another entity, the terms and conditions of such award will remain unchanged (except that the exercise price and the number and nature of shares issuable upon exercise of any such option or stock appreciation right, or any award that is subject to Section 409A of the Code, will be adjusted appropriately pursuant to Section 424(a) of the Code). In the event the Company elects to grant a new Option or SAR rather than assuming an existing option or stock appreciation right, such new Option or SAR may be granted with a similarly adjusted Exercise Price.

12. ADMINISTRATION.

12.1 Committee Authority. This Plan will be administered by the Committee or the Board if no Committee is created by the Board. Subject to the general purposes, terms and conditions of this Plan, and to the direction of the Board, the Committee will have full power to implement and carry out this Plan. Without limitation, the Committee will have the authority to:
(a) construe and interpret this Plan, any Award Agreement and any other agreement or document executed pursuant to this Plan;
(b) prescribe, amend, expand, modify and rescind or terminate rules and regulations relating to this Plan;
(c) approve persons to receive Awards;
(d) determine the form and terms of Awards;
(e) determine the number of Shares or other consideration subject to Awards granted under this Plan;
(f) determine the Fair Market Value in good faith and interpret the applicable provisions of this Plan and the definition of Fair Market Value in connection with circumstances that impact the Fair Market Value, if necessary;
(g) determine whether Awards will be granted singly, in combination with, in tandem with, in replacement of, or as alternatives to, other Awards under this Plan or awards under any other incentive or compensation plan of the Company or any Parent or Subsidiary of the Company;
(h) grant waivers of any conditions of this Plan or any Award;
(i) determine the terms of vesting, exercisability and payment of Awards to be granted pursuant to this Plan;
(j) correct any defect, supply any omission, or reconcile any inconsistency in this Plan, any Award, any Award Agreement, any Exercise Agreement or any Restricted Stock Purchase Agreement;
(k) determine whether an Award has been earned;
(l) extend the vesting period beyond a Participant’s Termination Date;
(m) adopt rules and/or procedures (including the adoption of any subplan under this Plan) relating to the operation and administration of the Plan to accommodate requirements of local law and procedures outside of the United States;
(n) delegate any of the foregoing to a subcommittee consisting of one or more executive officers pursuant to a specific delegation as may otherwise be permitted by applicable law, consistent with Section 12.2 below;
(o) change the vesting schedule of Awards under the Plan prospectively in the event that the Participant’s service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of awards; and
(p) make all other determinations necessary or advisable in connection with the administration of this Plan.
12.2 Committee Composition and Discretion. The Board may delegate full administrative authority over the Plan and Awards to a Committee consisting of at least one member of the Board (or such greater number as may then be required by applicable law). Unless in contravention of any express terms of this Plan or Award, any determination made by the Committee with respect to any Award will be made in its sole discretion either (a) at the time of grant of the Award, or (b) subject to Section 4.9 hereof, at any later time. Any such determination will be final and binding on the Company and on all persons having an interest in any Award under this Plan. To the extent permitted by applicable law, the Committee may delegate to one or more directors or officers of the Company the authority to grant an Award under this Plan.

12.3 Nonexclusivity of the Plan. Neither the adoption of this Plan by the Board, the submission of this Plan to the stockholders of the Company for approval, nor any provision of this Plan will be construed as creating any limitations on the power of the Board to adopt such additional compensation arrangements as it may deem desirable, including, without limitation, the granting of stock options and other equity awards otherwise than under this Plan, and such arrangements may be either generally applicable or applicable only in specific cases.

12.4 Governing Law. This Plan and all agreements hereunder shall be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws.

13. EFFECTIVENESS, AMENDMENT AND TERMINATION OF THE PLAN.

13.1 Adoption and Stockholder Approval. This Plan will become effective on the date that it is adopted by the Board (the “Effective Date”). This Plan will be approved by the stockholders of the Company (excluding Shares issued pursuant to this Plan), consistent with applicable laws, within twelve (12) months before or after the Effective Date. Upon the Effective Date, the Board may grant Awards pursuant to this Plan; provided, however, that: (a) no Option or SAR may be exercised prior to initial stockholder approval of this Plan; (b) no Option or SAR granted pursuant to an increase in the number of Shares approved by the Board shall be exercised prior to the time such increase has been approved by the stockholders of the Company; (c) in the event that initial stockholder approval is not obtained within the time period provided herein, all Awards for which only the exemption from California’s securities qualification requirements provided by Section 25102(o) can apply shall be canceled, any Shares issued pursuant to any such Award shall be canceled and any purchase of such Shares issued hereunder shall be rescinded; and (d) Awards (to which only the exemption from California’s securities qualification requirements provided by Section 25102(o) can apply) granted pursuant to an increase in the number of Shares approved by the Board which increase is not approved by stockholders within the time then required under Section 25102(o) shall be canceled, any Shares issued pursuant to any such Awards shall be canceled, and any purchase of Shares subject to any such Award shall be rescinded.

13.2 Term of Plan. Unless earlier terminated as provided herein, this Plan will automatically terminate ten (10) years after the Effective Date.

13.3 Amendment or Termination of Plan. Subject to Section 4.9 hereof, the Board may at any time (a) terminate or amend this Plan in any respect, including without limitation amendment of any form of Award Agreement or instrument to be executed pursuant to this Plan and (b) terminate any and all outstanding Options, SARs or RSUs upon a dissolution or liquidation of the Company, followed by the payment of creditors and the distribution of any remaining funds to the Company’s stockholders; provided, however, that the Board will not, without the approval of the stockholders of the Company, amend this Plan in any manner that requires such stockholder approval pursuant to Section 25102(o) or pursuant to the Code or the regulations promulgated under the Code as such provisions apply to ISO plans. The termination of the Plan, or any amendment thereof, shall not affect any Share previously issued or any Award previously granted under the Plan.
14. DEFINITIONS. For all purposes of this Plan, the following terms will have the following meanings.

“Acquisition,” for purposes of Section 11, means:

(a) any consolidation or merger in which the Company is a constituent entity or is a party in which the voting stock and other voting securities of the Company that are outstanding immediately prior to the consummation of such consolidation or merger represent, or are converted into, securities of the surviving entity of such consolidation or merger (or of any Parent of such surviving entity) that, immediately after the consummation of such consolidation or merger, together possess less than fifty percent (50%) of the total voting power of all voting securities of such surviving entity (or of any of its Parents, if any) that are outstanding immediately after the consummation of such consolidation or merger;

(b) a sale or other transfer by the holders thereof of outstanding voting stock and/or other voting securities of the Company possessing more than fifty percent (50%) of the total voting power of all outstanding voting securities of the Company, whether in one transaction or in a series of related transactions, pursuant to an agreement or agreements to which the Company is a party and that has been approved by the Board, and pursuant to which such outstanding voting securities are sold or transferred to a single person or entity, to one or more persons or entities who are Affiliates of each other, or to one or more persons or entities acting in concert; or

(c) the sale, lease, transfer or other disposition, in a single transaction or series of related transactions, by the Company and/or any Subsidiary of the Company, of all or substantially all the assets of the Company and its Subsidiaries taken as a whole, (or, if substantially all of the assets of the Company and its Subsidiaries are held by one or more Subsidiaries, the sale or disposition (whether by consolidation, merger, conversion or otherwise) of such Subsidiaries of the Company), except where such sale, lease, transfer or other disposition is made to the Company or one or more wholly owned Subsidiaries of the Company (an “Acquisition by Sale of Assets”).

“Affiliate” of a specified person means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified (where, for purposes of this definition, the term “control” (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

“Award” means any award pursuant to the terms and conditions of this Plan, including any Option, Restricted Stock Unit, Stock Appreciation Right or Restricted Stock Award.

“Award Agreement” means, with respect to each Award, the signed written or electronic agreement between the Company and the Participant setting forth the terms and conditions of the Award as approved by the Committee. For purposes of the Plan, the Award Agreement may be executed via written or electronic means.

“Board” means the Board of Directors of the Company.

“Cause” means Termination because of (a) Participant’s unauthorized misuse of the Company’s trade secrets or proprietary information, (b) Participant’s conviction of or plea of nolo contendere to a felony or a crime involving moral turpitude, (c) Participant’s committing an act of fraud against the Company or a Parent or Subsidiary of the Company or (d) Participant’s gross negligence or willful misconduct in the performance of his or her duties that has had or will have a material adverse effect on the Company or Parent or Subsidiary of the Company’s reputation or business.

“Committee” means the committee created and appointed by the Board to administer this Plan, or if no committee is created and appointed, the Board.

“Company” means Bill.Com Holdings, Inc., a Delaware corporation, or any successor corporation.

“Disability” means that the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.


“Exercise Price” means the price per Share at which a holder of an Option may purchase Shares issuable upon exercise of the Option.

“Fair Market Value” means, as of any date, the value of a share of the Company’s Common Stock determined as follows:

(a) if such Common Stock is then publicly traded on a national securities exchange, its closing price on the date of determination on the principal national securities exchange on which the Common Stock is listed or admitted to trading as reported in The Wall Street Journal;

(b) if such Common Stock is publicly traded but is not listed or admitted to trading on a national securities exchange, the average of the closing bid and asked prices on the date of determination as reported by The Wall Street Journal (or, if not so reported, as otherwise reported by any newspaper or other source as the Committee may determine); or

(c) if none of the foregoing is applicable to the valuation in question, by the Committee in good faith.

“Option” means an award of an option to purchase Shares pursuant to Section 4 of this Plan.

“Other Combination” for purposes of Section 11 means any (a) consolidation or merger in which the Company is a constituent entity and is not the surviving entity of such consolidation or merger or (b) any conversion of the Company into another form of entity; provided that such consolidation, merger or conversion does not constitute an Acquisition.

“Parent” of a specified entity means, any entity that, either directly or indirectly, owns or controls such specified entity, where for this purpose, “control” means the ownership of stock, securities or other interests that possess at least a majority of the voting power of such specified entity (including indirect ownership or control of such stock, securities or other interests).

“Participant” means a person who receives an Award under this Plan.
“Plan” means this 2016 Equity Incentive Plan, as amended from time to time.

“Purchase Price” means the price at which a Participant may purchase Restricted Stock pursuant to this Plan.

“Restricted Stock” means Shares purchased pursuant to a Restricted Stock Award under this Plan.

“Restricted Stock Award” means an award of Shares pursuant to Section 5 hereof.

“Restricted Stock Unit” or “RSU” means an award made pursuant to Section 6 hereof.

“Rule 701” means Rule 701 et seq. promulgated by the Commission under the Securities Act.

“SEC” means the Securities and Exchange Commission.

“Section 25102(o)” means Section 25102(o) of the California Corporations Code.

“Securities Act” means the Securities Act of 1933, as amended.

“Shares” means shares of the Company’s Common Stock, $0.00001 par value per share, reserved for issuance under this Plan, as adjusted pursuant to Sections 2.2 and 11 hereof, and any successor security.

“Stock Appreciation Right” or “SAR” means an award granted pursuant to Section 7 hereof.

“Subsidiary” means any entity (other than the Company) in an unbroken chain of entities beginning with the Company if each of the entities other than the last entity in the unbroken chain owns stock or other equity securities representing fifty percent (50%) or more of the total combined voting power of all classes of stock or other equity securities in one of the other entities in such chain.

“Termination” or “Terminated” means, for purposes of this Plan with respect to a Participant, that the Participant has for any reason ceased to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary of the Company. A Participant will not be deemed to have ceased to provide services while the Participant is on a bona fide leave of absence, if such leave was approved by the Company in writing. In the case of an approved leave of absence, the Committee may make such provisions respecting crediting of service, including suspension of vesting of the Award (including pursuant to a formal policy adopted from time to time by the Company) it may deem appropriate, except that in no event may an Option be exercised after the expiration of the term set forth in the Stock Option Agreement. The Committee will have sole discretion to determine whether a Participant has ceased to provide services and the effective date on which the Participant ceased to provide services (the “Termination Date”).

“Unvested Shares” means “Unvested Shares” as defined in the Award Agreement for an Award.

“Vested Shares” means “Vested Shares” as defined in the Award Agreement.

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16
RESTRICTED STOCK PURCHASE AGREEMENT

This Restricted Stock Purchase Agreement (the “Agreement”) is made and entered into as of ___________________________ (the “Effective Date”) by and between Bill.Com, Inc., a Delaware corporation (the “Company”), and ______________________ (“Purchaser”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Company’s 2016 Equity Incentive Plan, as may be amended from time to time (the “Plan”).

1. PURCHASE OF SHARES.

1.1 Agreement to Purchase and Sell Shares. On the Effective Date and subject to the terms and conditions of this Agreement and the Plan, Purchaser hereby purchases from the Company, and the Company hereby sells to Purchaser, ________________ shares of the Company’s Common Stock (the “Shares”), at the price of ____________________________ per share (the “Purchase Price Per Share”) for a Total Purchase Price of ____________________________. As used in this Agreement, the term “Shares” includes the Shares purchased under this Agreement and all securities received (a) in replacement of the Shares, (b) as a result of stock dividends or stock splits with respect to the Shares, and (c) in replacement of the Shares in a merger, recapitalization, reorganization or similar corporate transaction.

1.2 Payment. Purchaser hereby delivers payment of the Purchase Price as follows (check and complete as appropriate):

[ ] in cash (by check) in the amount of $________________, receipt of which is acknowledged by the Company.

[ ] by cancellation of indebtedness of the Company owed to Purchaser in the amount of $__________________________.

[ ] by the waiver hereby of compensation due or accrued for services rendered in the amount of $__________________________.

[ ] by delivery of ________________ fully-paid, nonassessable and vested shares of the Common Stock of the Company owned by Purchaser free and clear of all liens, claims, encumbrances or security interests, valued at the current Fair Market Value of $____________ per share (a) for which the Company has received “full payment of the purchase price” within the meaning of SEC Rule 144, (if purchased by use of a promissory note, such note has been fully paid with respect to such vested shares), or (b) that were obtained by Purchaser in the open public market.

2. DELIVERIES.

2.1 Deliveries by the Purchaser. Purchaser hereby delivers to the Company at its principal executive offices: (a) this completed and signed Agreement, and (b) the Purchase Price, paid by delivery of the form of payment specified in Section 1.2.
2.2 Deliveries by the Company. Upon its receipt of the Purchase Price, payment or other provision for any applicable tax obligations, if any, and all the documents to be executed and delivered by Purchaser to the Company as provided herein, the Company will issue a duly executed stock certificate evidencing the Shares in the name of Purchaser with the appropriate legends affixed thereto, to be placed in escrow as provided in Section 7.2 to secure performance of Purchaser’s obligations under Sections 5 and 6 until expiration or termination of the Company’s Repurchase Option and Refusal Right (as such terms are defined in Sections 5 and 6, respectively).

3. REPRESENTATIONS AND WARRANTIES OF PURCHASER. Purchaser represents and warrants to the Company as follows.

3.1 Agrees to Terms of the Plan. Purchaser has received a copy of the Plan, has read and understands the terms of the Plan and this Agreement, and agrees to be bound by their terms and conditions.

3.2 Acknowledgment of Tax Risks. Purchaser acknowledges that there may be adverse tax consequences upon the purchase and the disposition of the Shares, and that Purchaser has been advised by the Company to consult a tax adviser prior to such purchase or disposition. Purchaser further acknowledges that Purchaser is not relying on the Company or its counsel for tax advice regarding Purchaser’s purchaser or disposition of the Shares or the tax consequences to Purchaser of this Agreement.

3.3 Shares Not Registered or Qualified. Purchaser understands and acknowledges that the Shares have not been registered with the SEC under the Securities Act, or with any securities regulatory agency administering any state securities laws, and that, notwithstanding any other provision of this Agreement to the contrary, the purchase of any Shares is expressly conditioned upon compliance with the Securities Act and all applicable state securities laws. Purchaser agrees to cooperate with the Company to ensure compliance with such laws.

3.4 No Transfer Unless Registered or Exempt; Contractual Restrictions on Transfers. Purchaser understands that Purchaser may not transfer any Shares unless such Shares are registered under the Securities Act or qualified under applicable state securities laws or unless, in the opinion of counsel to the Company, exemptions from such registration and qualification requirements are available. Purchaser understands that only the Company may file a registration statement with the SEC and that the Company is under no obligation to do so with respect to the Shares. Purchaser has also been advised that exemptions from registration and qualification may not be available or may not permit Purchaser to transfer all or any of the Shares in the amounts or at the times proposed by Purchaser. Purchaser further acknowledges that this Agreement imposes additional restrictions on transfer of the Shares.

3.5 SEC Rule 701. Shares that are issued pursuant to SEC Rule 701 promulgated under the Securities Act may become freely tradable by non-affiliates (under limited conditions regarding the method of sale) ninety (90) days after the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC, subject to the lengthier market standoff agreement contained in Section 4 of this Agreement or any other agreement entered into by Purchaser. Affiliates must comply with the provisions (other than the holding period requirements) of Rule 144 which permits certain limited sales of unregistered securities. Rule 144 is not presently available with respect to the Shares and, in any event, requires that the Shares be held for a minimum of six (6) months, and in certain cases one (1) year, after they have been purchased and paid for (within the meaning of Rule 144). Purchaser understands that use of a promissory note as payment for the Shares may not be deemed to be “full payment of the purchase price” within the meaning of Rule 144 unless certain conditions are met and that, accordingly, the Rule 144 holding period of such Shares may not begin to run until such Shares are fully paid for within the meaning of Rule 144. Purchaser understands that Rule 144 may indefinitely restrict transfer of the Shares so long as Purchaser remains an “affiliate” of the Company or if “current public information” about the Company (as defined in Rule 144) is not publicly available.
3.6 **Access to Information.** Purchaser has had access to all information regarding the Company and its present and prospective business, assets, liabilities and financial condition that Purchaser reasonably considers important in making the decision to purchase the Shares, and Purchaser has had ample opportunity to ask questions of the Company’s representatives concerning such matters and this investment.

3.7 **Understanding of Risks.** Purchaser is fully aware of: (a) the highly speculative nature of the investment in the Shares; (b) the financial hazards involved; (c) the lack of liquidity of the Shares and the restrictions on transferability of the Shares (e.g., that Purchaser may not be able to sell or dispose of the Shares or use them as collateral for loans); (d) the qualifications and backgrounds of the management of the Company; and (e) the tax consequences of investment in, and disposition of, the Shares.

3.8 **Purchase for Own Account for Investment.** Purchaser is purchasing the Shares for Purchaser’s own account for investment purposes only and not with a view to, or for sale in connection with, a distribution of the Shares within the meaning of the Securities Act. Purchaser has no present intention of selling or otherwise disposing of all or any portion of the Shares and no one other than Purchaser has any beneficial ownership of any of the Shares.

3.9 **No General Solicitation.** At no time was Purchaser presented with or solicited by any publicly issued or circulated newspaper, mail, radio, television or other form of general advertising or solicitation in connection with the offer, sale and purchase of the Shares.

3.10 **SEC Rule 144.** Purchaser has been advised that SEC Rule 144 promulgated under the Securities Act, which permits certain limited sales of unregistered securities, is not presently available with respect to the Shares and, in any event, requires that the Shares be held for a minimum of six (6) months, and in certain cases one (1) year, after they have been purchased and paid for (within the meaning of Rule 144), subject to the lengthier market standoff agreement contained in Section 4 of this Agreement or any other agreement entered into by Purchaser. Purchaser understands that Rule 144 may indefinitely restrict transfer of the Shares so long as Purchaser remains an “affiliate” of the Company or if “current public information” about the Company (as defined in Rule 144) is not publicly available.

4. **MARKET STANDOFF AGREEMENT.** Subject to the provisions of this Section, Purchaser agrees in connection with any registration of the Company’s securities under the Securities Act or other registered public offering that, Purchaser will not sell or otherwise dispose of any Shares without the prior written consent of the Company or such managing underwriters, as the case may be, for a period of time (not to exceed one hundred eighty (180) days) after the effective date of such registration requested by such managing underwriters and subject to all restrictions as the Company or the managing underwriters may specify for employee-stockholders generally; provided however, that if during the last seventeen (17) days of the restricted period the Company issues an earnings release or material news, or a material event relating to the Company occurs, or prior to the expiration of the restricted period the Company announces that it will release earnings results during the sixteen (16)-day period beginning on the last day of the restricted period, then, if required by the underwriters or the Company, for so long as, and to the extent that, Rule 2711 or any successor rule of the Financial Industry Regulatory Authority applies, the restrictions imposed by this Section 4 shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. The restricted period shall in any event terminate two (2) years after the closing date of the Company’s initial public offering. For purposes of this Section 4, the term “Company” shall include any wholly-owned subsidiary of the Company into which the Company merges or consolidates. In order
to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the shares subject to this Section and to impose stop transfer instructions with respect to the Shares until the end of such period. Purchaser further agrees that the underwriters of any such registered public offering shall be third party beneficiaries of this Section 4 and agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing. Notwithstanding anything in this Section to the contrary, for the avoidance of doubt, the foregoing provisions of this Section shall not apply to any registration of securities of the Company (a) under an employee benefit plan or (b) in a merger, consolidation, business combination or similar transaction.

5. COMPANY’S REPURCHASE OPTION FOR UNVESTED SHARES. The Company, or (subject to Section 5.6) its assignee, shall have the option to repurchase all or a portion of the Purchaser’s Shares that are Unvested Shares (as defined below) on the Termination Date on the terms and conditions set forth in this Section (the “Repurchase Option”) if Purchaser is Terminated (as defined in the Plan) for any reason, or no reason, including without limitation, Purchaser’s death, Disability (as defined in the Plan), voluntary resignation or termination by the Company with or without Cause.

5.1 Termination and Termination Date. In case of any dispute as to whether Purchaser is Terminated, the Committee shall have discretion to determine in good faith whether Purchaser has been Terminated and the effective date of such Termination (the “Termination Date”).

5.2 Vested and Unvested Shares. Shares that are vested pursuant to the schedule set forth in this Section 5.2 are “Vested Shares.” Shares that are not vested pursuant to such schedule are “Unvested Shares.” On the Effective Date, ___________ of the Shares will be Unvested Shares (the “Initial Unvested Shares”). Provided Purchaser continues to provide services to the Company or any Subsidiary or Parent of the Company at all times from the Effective Date until ______________ (the “First Vesting Date”), then on the First Vesting Date one-fourth (1/4th) of the Initial Unvested Shares will become Vested Shares, and on the same day of each succeeding calendar month thereafter (or if there is no such day in any month, then the last day of such calendar month), an additional one forty-eighth 1/48th of the Initial Unvested Shares shall vest until the earliest to occur of (a) the date all of the Shares are Vested Shares, (b) the Termination Date or (c) the date vesting otherwise terminates pursuant to this Agreement or the Plan. No fractional Shares shall be issued. No Shares will become Vested Shares after the Termination Date. The number of the Shares that are Vested Shares or Unvested Shares will be proportionally adjusted to reflect any stock split, reverse stock split or similar change in the capital structure of the Company as set forth in Section 2.2 of the Plan occurring after the Effective Date.

5.3 Exercise of Repurchase Option. At any time within ninety (90) days after the Purchaser’s Termination Date, the Company, or its assignee, may, at its option, elect to repurchase any or all the Purchaser’s Shares that are Unvested Shares on the Termination Date by giving Purchaser written notice of exercise of the Repurchase Option, specifying the number of Unvested Shares to be repurchased. Such Unvested Shares shall be repurchased at the Purchase Price Per Share, proportionately adjusted for any stock split, reverse stock split or similar change in the capital structure of the Company as set forth in Section 2.2 of the Plan occurring after the Effective Date (the “Repurchase Price”). The Repurchase Price shall be payable, at the option of the Company or its assignee, by check or by cancellation of all or a portion of any outstanding indebtedness owed by Purchaser to the Company and/or such assignee, or by any combination thereof. The Repurchase Price shall be paid without interest within the term of the Repurchase Option as described in the first sentence of this Section 5.3. The Company may, at its option, decline to exercise its Repurchase Option or may exercise its Repurchase Option only with respect to a portion of the Unvested Shares.

5.4 Right of Termination Unaffected. Nothing in this Agreement shall be construed to limit or otherwise affect in any manner whatsoever the right or power of the Company (or any Parent or Subsidiary of the Company) to terminate Purchaser’s employment or other relationship with Company (or the Parent or Subsidiary of the Company) at any time, for any reason or no reason, with or without Cause.

4
5.5 Additional or Exchanged Securities and Property. Subject to the provisions of Section 5.2 above, in the event of a merger or consolidation of the Company with or into another entity, any other corporate reorganization, a stock split, the declaration of a stock dividend, the declaration of an extraordinary dividend payable in a form other than stock, a spin-off, a recapitalization or a similar transaction affecting the Company’s outstanding securities, any securities or other property (including cash or cash equivalents) that are by reason of such transaction exchanged for, or distributed or issued with respect to, any Unvested Shares shall immediately be subject to the Repurchase Option. Appropriate adjustments shall be made to the price per share to be paid for Unvested Shares upon the exercise of the Repurchase Option (by allocating such price among the Unvested Shares and such other securities or property), provided that the aggregate purchase price payable for the Unvested Shares and all such other securities and property shall remain the same price that was original payable under the Repurchase Option to repurchase such Unvested Shares. Subject to the provisions of Section 5.2 above, in the event of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, the Repurchase Option may be exercised by the Company’s successor.

5.6 Assignment of Repurchase Right. The Company may freely assign the Company’s Repurchase Option, in whole or in part, provided that any person who accepts an assignment of the Repurchase Option from the Company shall assume all of the Company’s rights and obligations with respect to the Repurchase Option (to the extent so assigned) under this Agreement.

6. COMPANY’S REFUSAL RIGHT. Unvested Shares shall be subject to the restrictions on transfer and the granting of encumbrances thereon as provided in Section 7 hereof. Before any Vested Shares (as defined in Section 5 hereof) held by Purchaser or any transferee of such Vested Shares (either sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including, without limitation, a transfer by gift or operation of law), the Company and/or its assignee(s) will have a right of first refusal to purchase the Vested Shares to be sold or transferred (the “Offered Shares”) on the terms and conditions set forth in this Section (the “Refusal Right”).

6.1 Notice of Proposed Transfer. The Holder of the Offered Shares will deliver to the Company a written notice (the “Notice”) stating: (a) the Holder’s bona fide intention to sell or otherwise transfer the Offered Shares; (b) the name and address of each proposed purchaser or other transferee of Offered Shares (“Proposed Transferee”); (c) the number of Offered Shares to be transferred to each Proposed Transferee; (d) the bona fide cash price or other consideration for which the Holder proposes to transfer the Offered Shares to each Proposed Transferee (the “Offered Price”); and (e) that the Holder acknowledges this Notice is an offer to sell the Offered Shares to the Company and/or its assignee(s) pursuant to the Company’s Refusal Right at the Offered Price as provided for in this Agreement.

6.2 Exercise of Refusal Right. At any time within thirty (30) days after the date the Notice is effective pursuant to Section 9.2, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all (or, with the consent of the Holder, less than all) the Offered Shares proposed to be transferred to any one or more of the Proposed Transferees named in the Notice, at the purchase price, determined as provided in Section 6.3 below.

6.3 Purchase Price. The purchase price for the Offered Shares purchased under this Section will be the Offered Price, provided that if the Offered Price consists of no legal consideration (as, for example, in the case of a transfer by gift), then the purchase price will be the fair market value of the Offered Shares as determined in good faith by the Company’s Board of Directors. If the Offered Price includes consideration other than cash, then the value of the non-cash consideration, as determined in good faith by the Company’s Board of Directors, will conclusively be deemed to be the cash equivalent value of such non-cash consideration.
6.4 Payment. The purchase price for the Offered Shares will be paid, at the option of the Company and/or its assignee(s) (as applicable), by check or by cancellation of all or a portion of any outstanding indebtedness owed by the Holder to the Company (or to such assignee, in the case of a purchase of Offered Shares by such assignee) or by any combination thereof. The purchase price will be paid without interest within sixty (60) days after the Company’s receipt of the Notice, or, at the option of the Company and/or its assignee(s), in the manner and at the time(s) set forth in the Notice.

6.5 Holder’s Right to Transfer. If all of the Offered Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Offered Shares to such Proposed Transferee at the Offered Price or at a higher price, provided that (a) such sale or other transfer is consummated within one hundred twenty (120) days after the date the Notice is effective pursuant to Section 9.2, (b) any such sale or other transfer is effected in compliance with all applicable securities laws, and (c) such Proposed Transferee agrees in writing that the provisions of this Section will continue to apply to the Offered Shares in the hands of such Proposed Transferee. If the Offered Shares described in the Notice are not transferred to such Proposed Transferee within such one hundred twenty (120) day period, then a new Notice must be given to the Company pursuant to which the Company will again be offered the Refusal Right before any Shares held by the Holder may be sold or otherwise transferred.

6.6 Exempt Transfers. Notwithstanding the foregoing, the following transfers of Vested Shares will be exempt from the Refusal Right:
(a) the transfer of any or all of the Vested Shares during Purchaser’s lifetime by gift or on Purchaser’s death by will or intestacy to Purchaser’s “Immediate Family” (as defined below) or to a trust for the benefit of Purchaser or Purchaser’s Immediate Family, provided that each transferee agrees in a writing satisfactory to the Company that the provisions of this Section will continue to apply to the transferred Vested Shares in the hands of such transferee;
(b) any transfer of Vested Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another entity or entities (except that, subject to Section 6.7, unless the agreement of merger or consolidation expressly otherwise provides, the Refusal Right will continue to apply thereafter to such Vested Shares, in which case the surviving entity of such merger or consolidation shall succeed to the rights of the Company under this Section); or
(c) any transfer of Vested Shares pursuant to the winding up and dissolution of the Company. As used herein, the term “Immediate Family” will mean Purchaser’s spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of Purchaser or Purchaser’s spouse, or the spouse of any of the above or Spousal Equivalent, as defined herein. As used herein, a person is deemed to be a “Spousal Equivalent” provided the following circumstances are true: (i) irrespective of whether or not the Purchaser and the Spousal Equivalent are the same sex, they are the sole spousal equivalent of the other for the last twelve (12) months, (ii) they intend to remain so indefinitely, (iii) neither are married to anyone else, (iv) both are at least 18 years of age and mentally competent to consent to contract, (v) they are not related by blood to a degree of closeness that would prohibit legal marriage in the state in which they legally reside, (vi) they are jointly responsible for each other’s common welfare and financial obligations, and (vii) they reside together in the same residence for the last twelve (12) months and intend to do so indefinitely.

6.7 Termination of Refusal Right. The Refusal Right will terminate as to all Shares: (a) on the effective date of the first sale of Common Stock of the Company to the public pursuant to a registration statement filed with and declared effective by the SEC under the Securities Act or, if expressly approved by the Board as terminating the Refusal Right, under the laws of any other country having substantially the same effect (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan) or (b) on any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another entity or entities if the common stock of the surviving entity or any direct or indirect parent entity thereof is registered under the Securities Exchange Act of 1934, as amended.
6.8 **Effect of Company Co-Sale Agreement.** If Purchaser is, or at any time hereafter becomes, a party to or otherwise bound by (i) the Company’s Eighth Amended and Restated Right of First Refusal and Co-Sale Agreement dated as of February 12, 2015 among the Company and certain stockholders of the Company, as such may be amended and/or restated from time to time, and/or (ii) any other agreement that is a successor to or replacement of such agreement (collectively, the “**Company Co-Sale Agreement**”), then, in the event of any conflict or inconsistency between the provisions of this Section 6 and any provisions in the Company Co-Sale Agreement granting the Company and/or other security holders of the Company rights of first refusal and/or co-sale rights with respect to any or all of the Shares, Purchaser agrees with the Company that the terms and conditions of the Company Co-Sale Agreement shall apply, govern, supersede and prevail over (and in lieu of) the provisions of this Section 6 so long as the Company Co-Sale Agreement is in effect and Purchaser is a party to or bound thereby. If the Company Co-Sale Agreement is no longer in effect or if Purchaser is not a party to or bound thereby, then the provisions of this Section 6 shall apply in full force and effect until termination of the Right of First Refusal.

7. **ADDITIONAL RESTRICTIONS UPON SHARE OWNERSHIP OR TRANSFER.**

7.1 **Rights as a Stockholder.** Subject to the terms and conditions of this Agreement, Purchaser will have all of the rights of a Stockholder of the Company with respect to the Shares from and after the date that Shares are issued to Purchaser until such time as Purchaser disposes of the Shares or the Company and/or its assignee(s) exercise(s) the Refusal Right or the Repurchase Option. Upon an exercise of the Refusal Right or the Repurchase Option, Purchaser will have no further rights as a holder of the Shares so purchased upon such exercise, other than the right to receive payment for the Shares so purchased in accordance with the provisions of this Agreement, and Purchaser will promptly surrender the stock certificate(s) evidencing the Shares so purchased to the Company for transfer or cancellation.

7.2 **Escrow.** As security for Purchaser’s faithful performance of this Agreement, Purchaser agrees, immediately upon receipt of the stock certificate(s) evidencing the Shares, to deliver such certificate(s) to the Secretary of the Company or other designee of the Company (the “**Escrow Holder**”), who is hereby appointed to hold such certificate(s) in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Purchaser and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other person or entity) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement. The Shares will be released from escrow upon termination of both the Refusal Right and the Repurchase Option.

7.3 **Encumbrances on Shares.** Without the Company’s prior written consent given with the approval of the Company’s Board of Directors, Purchaser may not grant a lien or security interest in, or pledge, hypothecate or encumber, any Unvested Shares.

7.4 **Restrictions on Transfers.** Unvested Shares may not be sold or otherwise transferred by Purchaser without the Company’s prior written consent. Purchaser hereby agrees that Purchaser shall make no disposition of the Shares (other than as permitted by this Agreement) unless and until:
(a) Purchaser shall have notified the Company of the proposed disposition and provided a written summary of the terms and conditions of the proposed disposition;

(b) Purchaser shall have complied with all requirements of this Agreement applicable to the disposition of the Shares, including but not limited to the Refusal Right, the Market Standoff and the Repurchase Option; and

(c) Purchaser shall have provided the Company with written assurances, in form and substance satisfactory to counsel for the Company, that (i) the proposed disposition does not require registration of the Shares under the Securities Act or under any state securities laws, and (ii) all appropriate actions necessary for compliance with the registration and qualification requirements of the Securities Act and any state securities laws, or of any exemption from registration or qualification, available thereunder (including Rule 144) have been taken.

Each person (other than the Company) to whom the Shares are transferred by means of one of the permitted transfers specified in this Agreement must, as a condition precedent to the validity of such transfer, acknowledge in writing to the Company that such person is bound by the provisions of this Agreement and that the transferred Shares are subject to the Company’s Refusal Right or the Repurchase Option granted hereunder and the market stand-off provisions of Section 4 hereof, to the same extent such Shares would be so subject if retained by the Purchaser.

7.5 **Restrictive Legends and Stop-transfer Orders.** Purchaser understands and agrees that the Company will place the legends set forth below or similar legends on any stock certificate(s) evidencing the Shares, together with any other legends that may be required by applicable laws, the Company’s Certificate of Incorporation or Bylaws, any other agreement between Purchaser and the Company or any agreement between Purchaser and any third party:

**THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.**

Purchaser agrees that if Purchaser becomes a party to (i) the Company Co-Sale Agreement or (ii) (A) the Company’s Eighth Amended and Restated Voting Agreement dated as of February 12, 2015 among the Company and certain stockholders of the Company, as such may be amended and/or restated from time to time, and/or (B) any other voting agreement that is a successor to or replacement of such agreement (collectively, the “Company Voting Agreement”), then Purchaser agrees that the stock certificate(s) evidencing the Shares shall, in addition, bear any legends required under the Company Co-Sale Agreement and/or the Company Voting Agreement, as applicable.

Purchaser also agrees that, to ensure compliance with the restrictions imposed by this Agreement, the Company may issue appropriate “stop-transfer” instructions to its transfer agent, if any, and if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records. The Company will not be required (a) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (b) to treat as owner of such Shares, or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares have been so transferred.

8. TAX CONSEQUENCES. PURCHASER UNDERSTANDS THAT PURCHASER MAY SUFFER ADVERSE TAX CONSEQUENCES AS A RESULT OF PURCHASER’S PURCHASE OR DISPOSITION OF THE SHARES. PURCHASER REPRESENTS (a) THAT PURCHASER HAS CONSULTED WITH ANY TAX ADVISER THAT PURCHASER DEEMS ADVISABLE IN CONNECTION WITH THE PURCHASE OR DISPOSITION OF THE SHARES AND (b) THAT PURCHASER IS NOT RELYING ON THE COMPANY FOR ANY TAX ADVICE. Purchaser hereby acknowledges that Purchaser has been informed that, with respect to Unvested Shares, unless an election is filed by Purchaser with the Internal Revenue Service (and, if necessary, the proper state taxing authorities) within 30 days after the purchase of the Shares electing, pursuant to Section 83(b) of the Internal Revenue Code (and similar state tax provisions, if applicable), to be taxed currently on any difference between the Purchase Price of the Unvested Shares and their Fair Market Value on the date of purchase, there will be a recognition of taxable income to Purchaser, measured by the excess, if any, of the Fair Market Value of the Unvested Shares, at the time they cease to be Unvested Shares, over the Purchase Price for such Shares. Purchaser represents that Purchaser has consulted any tax advisers Purchaser deems advisable in connection with Purchaser’s purchase of the Shares and the filing of the election under Section 83(b) and similar tax provisions. A form of Election under Section 83(b) is attached hereto as Exhibit 1 for reference. BY PROVIDING THE FORM OF ELECTION, NEITHER THE COMPANY NOR ITS LEGAL COUNSEL IS THEREBY UNDERTAKING TO FILE THE ELECTION FOR PURCHASER, WHICH OBLIGATION TO FILE SHALL REMAIN SOLELY WITH PURCHASER.

9. GENERAL PROVISIONS.

9.1 Successors and Assigns. The Company may assign any of its rights under this Agreement, including its rights to purchase Shares under the Refusal Right or the Repurchase Option. Neither Purchaser, nor any of Purchaser’s successors and assigns, may assign, whether voluntarily or by operation of law, any of its rights and obligations under this Agreement, except with the prior written consent of the Company. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Agreement will be binding upon Purchaser and Purchaser’s heirs, executors, administrators, legal representatives, successors and assigns.
9.2 **Notices.** Any and all notices required or permitted to be given to a party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time an electronic confirmation of receipt is received, if delivery is by email; (iii) at the time of transmission by facsimile, addressed to the other party at its facsimile number specified herein (or hereafter modified by subsequent notice to the parties hereto), with confirmation of receipt made by both telephone and printed confirmation sheet verifying successful transmission of the facsimile; (iv) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (v) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries. Any notice for delivery outside the United States will be sent by email, facsimile or by express courier. Any notice not delivered personally or by email will be sent with postage and/or other charges prepaid and properly addressed to Purchaser at the last known address or facsimile number on the books of the Company, or at such other address or facsimile number as such other party may designate by one of the indicated means of notice herein to the other parties hereto or, in the case of the Company, to it at its principal place of business. Notices to the Company will be marked “Attention: Chief Financial Officer.” Notices by facsimile shall be machine verified as received.

9.3 **Further Assurances.** The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Agreement.

9.4 **Entire Agreement.** The Plan is incorporated herein by reference. The Plan and this Agreement, together with all Exhibits hereto, constitute the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersede all prior understandings and agreements, between the parties hereto with respect to the specific subject matter hereof.

9.5 **Severability.** If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement. Notwithstanding the forgoing, if the value of this Agreement based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

9.6 **Company Co-Sale Agreement and Voting Agreement.** As a material inducement and consideration for the Company to enter into this Agreement, Purchaser hereby agrees that if, the Company requests Purchaser to enter into and become a party to (a) the Company Co-Sale Agreement (and to subject the Shares to the rights of first refusal held by the Company and other Company investors thereunder and the co-sale rights of other investors thereunder) and/or (b) the Company Voting Agreement (pursuant to which Purchaser would agree to vote all shares of Company stock held by Purchaser for the election of directors and in favor of certain material transactions (such as mergers or sales of the Company), then Purchaser will enter into such agreements and execute and deliver signature pages thereto (as requested by the Company) in such capacities and at such time as the Company requests.

9.7 **Execution.** This Agreement may be entered into in two or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. This Agreement may be executed and delivered by facsimile and, upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.
IN WITNESS WHEREOF, the Company has caused this Restricted Stock Purchase Agreement to be executed by its duly authorized representative, and Purchaser has executed this Restricted Stock Purchase Agreement, as of the date first set forth above.

BILL.COM, INC.

By: 

Address: 

Fax No.: (___) ____________

Exhibit

Exhibit 1: Form of Election Pursuant to Section 83(b)

PURCHASER

Address: 

Fax No.: (___) ____________
ELECTION UNDER SECTION 83(b) OF THE INTERNAL REVENUE CODE

The undersigned Taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include in gross income for the Taxpayer’s current taxable year the excess, if any, of the fair market value of the property described below at the time of transfer over the amount paid for such property, as compensation for services.

1. TAXPAYER’S NAME: __________________________________________________________
   TAXPAYER’S ADDRESS: _______________________________________________________

   SOCIAL SECURITY NUMBER: ________________________________________________

   TAXABLE YEAR: Calendar Year ______

2. The property with respect to which the election is made is described as follows: ___________ shares of Common Stock, par value $0.00001 per share, of Bill.Com, Inc., a Delaware corporation (the “Company”), which is Taxpayer’s employer or the corporation for whom the Taxpayer performs services.

3. The date on which the shares were transferred was ______________________, ______.

4. The shares are subject to the following restrictions: The Company may repurchase all or a portion of the shares at the Taxpayer’s original purchase price under certain conditions at the time of Taxpayer’s termination of employment or services.

5. The fair market value of the shares at the time of transfer (without regard to restrictions other than a nonlapse restriction as defined in § 1.83-3(h) of the Income Tax Regulations) was $________ per share x __________ shares = $__________.

6. The amount paid for such shares was $________ per share x __________ shares = $__________.

7. The amount to include in the Taxpayer’s gross income for the Taxpayer’s current taxable year is $__________.


Dated: __________________________________________________________  Taxpayer’s Signature
NOTICE OF STOCK OPTION GRANT

BILL.COM, INC.

2016 EQUITY INCENTIVE PLAN

The Optionee named below (“Optionee”) has been granted an option (this “Option”) to purchase shares of Common Stock, $0.00001 par value per share (the “Common Stock”), of Bill.Com, Inc., a Delaware corporation (the “Company”), pursuant to the Company’s 2016 Equity Incentive Plan, as amended from time to time (the “Plan”) on the terms, and subject to the conditions, described below and in the Stock Option Agreement attached hereto as Exhibit A, including its annexes (the “Stock Option Agreement”).

Optionee:

Maximum Number of Shares Subject to this Option (the “Shares”):

Exercise Price Per Share: $______ per share

Date of Grant:

Vesting Schedule:

Expiration Date:

Tax Status of Option:

Vesting Schedule [EXAMPLE ONLY]: For so long as Optionee continuously provides services to the Company (or any Subsidiary or Parent of the Company) as an employee, officer, director, contractor or consultant, this Option will vest (that is, become exercisable) with respect to portions of the Shares in accordance with the Vesting Schedule set forth below.

Expiration Date: The date ten (10) years after the Date of Grant set forth above, subject to earlier expiration in the event of Termination as provided in Section 3 of the Stock Option Agreement.

Tax Status of Option: (Check Only One Box):

☐ Incentive Stock Option (To the fullest extent permitted by the Code)
☐ Nonqualified Stock Option.

(Vest for neither box is checked, this Option is a Nonqualified Stock Option).

Vesting Schedule [EXAMPLE ONLY]: For so long as Optionee continuously provides services to the Company (or any Subsidiary or Parent of the Company) as an employee, officer, director, contractor or consultant, this Option will vest (that is, become exercisable) with respect to portions of the Shares as follows: (a) prior to the first one (1) year anniversary of the Vesting Start Date this Option will not be vested or exercisable as to any of the Shares; (b) this Option will become vested and exercisable with respect to [1/48th] of the Shares on the one (1) year anniversary of the Vesting Start Date; and (c) thereafter, this Option will become vested and exercisable with respect to an additional [1/48th] of the Shares when Optionee completes each month of continuous service following the first one (1) year anniversary of the Vesting Start Date.

General; Agreement: By their signatures below, Optionee and the Company agree that this Option is granted under and governed by this Notice of Stock Option Grant (this “Grant Notice”) and by the provisions of the Plan and the Stock Option Agreement. The Plan and the Stock Option Agreement are incorporated herein by reference. Capitalized terms used but not defined herein shall have the meanings given to them in the Plan or in the Stock Option Agreement, as applicable. By signing below, Optionee acknowledges receipt of a copy of this Grant Notice, the Plan and the Stock Option Agreement, represents that Optionee has carefully read and is familiar with their provisions, and hereby accepts the Option subject to all of their respective terms and conditions. Optionee acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Optionee should consult a tax adviser prior to such exercise or disposition. Optionee agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Optionee’s service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards.

Execution and Delivery: This Grant Notice may be executed and delivered electronically whether via the Company’s intranet or the Internet site of a third party or via email or any other means of electronic delivery specified by the Company. By Optionee’s acceptance hereof (whether written, electronic or otherwise), Optionee agrees, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, Optionee accepts the electronic delivery of any documents that the Company (or any third party the Company may designate), may deliver in connection with this grant (including the Plan, this Grant Notice, the Stock Option Agreement, the information described in Rules 701(e)(2), (3), (4) and (5) under the Securities Act (the “701 Disclosures”), account statements, or other communications or information) whether via the Company’s intranet or the Internet site of such third party or via email or such other means of electronic delivery specified by the Company.

BILL.COM, INC.

By /Signature: ________________________________ Optionee Signature: ________________________________

Typed Name: __________________________________ Optionee’s Name: ________________________________
STOCK OPTION AGREEMENT

BILL.COM, INC.

2016 EQUITY INCENTIVE PLAN

This Stock Option Agreement (this “Agreement”) is made and entered into as of the date of grant (the “Date of Grant”) set forth on the Notice of Stock Option Grant attached as the facing page to this Agreement (the “Grant Notice”) by and between Bill.Com, Inc., a Delaware corporation (the “Company”), and the optionee named on the Grant Notice (“Optionee”). Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Company’s 2016 Equity Incentive Plan, as amended from time to time (the “Plan”), or in the Grant Notice, as applicable.

1. GRANT OF OPTION. The Company hereby grants to Optionee an option (this “Option”) to purchase up to the total number of shares of Common Stock of the Company, $0.00001 par value per share (the “Common Stock”), set forth in the Grant Notice as the Shares (the “Shares”) at the Exercise Price Per Share set forth in the Grant Notice (the “Exercise Price”), subject to all of the terms and conditions of the Grant Notice, this Agreement and the Plan. If designated as an Incentive Stock Option in the Grant Notice, this Option is intended to qualify as an incentive stock option (the “ISO”) within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the “Code”), except that if on the Date of Grant Optionee is not subject to U.S. income tax, then this Option shall be a NQSO.

2. EXERCISE PERIOD.

2.1 Exercise Period of Option. This Option is considered to be “vested” with respect to any particular Shares when this Option is exercisable with respect to such Shares. This Option will become vested during its term as to portions of the Shares in accordance with the Vesting Schedule set forth in the Grant Notice. Notwithstanding any provision in the Plan or this Agreement to the contrary, on or after Optionee’s Termination Date, this Option may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date.

2.2 Vesting of Option Shares. Shares with respect to which this Option is vested and exercisable at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “Vested Shares.” Shares with respect to which this Option is not vested and exercisable at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “Unvested Shares.”

2.3 Expiration. The Option shall expire on the Expiration Date set forth in the Grant Notice or earlier as provided in Section 3 below.

3. TERMINATION.

3.1 Termination for Any Reason Except Death, Disability or Cause. Except as provided in subsection 3.2 in a case in which Optionee dies within three (3) months after Optionee is Terminated other than for Cause, if Optionee is Terminated for any reason (other than Optionee’s death or Disability or for Cause), then (a) on and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date and (b) this Option to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee’s Termination Date, may be exercised by Optionee no later than three (3) months after Optionee’s Termination Date (but in no event may this Option be exercised after the Expiration Date).
3.2 Termination Because of Death or Disability. If Optionee is Terminated because of Optionee’s death or Disability (or if Optionee dies within three (3) months of the date of Optionee’s Termination for any reason other than for Cause), then (a) on and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date and (b) this Option, to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee’s Termination Date, may be exercised by Optionee (or Optionee’s legal representative) no later than twelve (12) months after Optionee’s Termination Date, but in no event later than the Expiration Date. Any exercise of this Option beyond (i) three (3) months after the date Optionee ceases to be an employee when Optionee’s Termination is for any reason other than Optionee’s death or disability, within the meaning of Section 22(e)(3) of the Code; or (ii) twelve (12) months after the date Optionee ceases to be an employee when the termination is for Optionee’s disability, within the meaning of Section 22(e)(3) of the Code, is deemed to be an NQSO.

3.3 Termination for Cause. If Optionee is Terminated for Cause, then Optionee may exercise this Option, but only with respect to any Shares that are Vested Shares on Optionee’s Termination Date, and this Option shall expire on Optionee’s Termination Date, or at such later time and on such conditions as may be affirmatively determined by the Committee. On and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date.

3.4 No Obligation to Employ. Nothing in the Plan or this Agreement shall confer on Optionee any right to continue in the employ of, or other relationship with, the Company or any Parent or Subsidiary of the Company, or limit in any way the right of the Company or any Parent or Subsidiary of the Company to terminate Optionee’s employment or other relationship at any time, with or without Cause.

4. MANNER OF EXERCISE.

4.1 Stock Option Exercise Notice and Agreement. To exercise this Option, Optionee (or in the case of exercise after Optionee’s death or incapacity, Optionee’s executor, administrator, heir or legatee, as the case may be) must deliver to the Company an executed Stock Option Exercise Notice and Agreement in the form attached hereto as Annex A, or in such other form as may be approved by the Committee from time to time (the “Exercise Agreement”) and payment for the shares being purchased in accordance with this Agreement. The Exercise Agreement shall set forth, among other things, (i) Optionee’s election to exercise this Option, (ii) the number of Shares being purchased, (iii) any representations, warranties and agreements regarding Optionee’s investment intent and access to information as may be required by the Company to comply with applicable securities laws in connection with any exercise of this Option and (iv) any other agreements required by the Company. If someone other than Optionee exercises this Option, then such person must submit documentation reasonably acceptable to the Company verifying that such person has the legal right to exercise this Option and such person shall be subject to all of the restrictions contained herein as if such person were Optionee.

4.2 Limitations on Exercise. This Option may not be exercised unless such exercise is in compliance with all applicable federal and state securities laws, as they are in effect on the date of exercise.

4.3 Payment. The Exercise Agreement shall be accompanied by full payment of the Exercise Price for the shares being purchased in cash (by check or wire transfer), or where permitted by law:

(a) by cancellation of indebtedness of the Company owed to Optionee;
(b) by surrender of shares of the Company that are free and clear of all security interests, pledges, liens, claims or encumbrances and:

   (i) for which the Company has received “full payment of the purchase price” within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (ii) that were obtained by Optionee in the public market;

   (c) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;

   (d) provided that a public market for the Common Stock exists and subject to compliance with applicable law, by exercising as set forth below, through a “same day sale” commitment from Optionee and a broker-dealer whereby Optionee irrevocably elects to exercise this Option and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or

   (e) by any combination of the foregoing or any other method of payment approved by the Committee that constitutes legal consideration for the issuance of Shares.

4.4 Tax Withholding. Prior to the issuance of the Shares upon exercise of the Option, Optionee must pay or provide for any applicable federal, state and local withholding obligations of the Company. If the Committee permits, Optionee may provide for payment of withholding taxes upon exercise of the Option by requesting that the Company retain the minimum number of Shares with a Fair Market Value equal to the minimum amount of taxes required to be withheld; or to arrange a mandatory “sell to cover” on Participant’s behalf (without further authorization); but in no event will the Company withhold Shares or “sell to cover” if such withholding would result in adverse accounting consequences to the Company. In case of stock withholding or a sell to cover, the Company shall issue the net number of Shares to Optionee by deducting the Shares retained from the Shares issuable upon exercise.

4.5 Issuance of Shares. Provided that the Exercise Agreement and payment are in form and substance satisfactory to counsel for the Company, the Company shall issue the Shares issuable upon a valid exercise of this Option registered in the name of Optionee, Optionee’s authorized assignee, or Optionee’s legal representative, and shall deliver certificates representing the Shares with the appropriate legends affixed thereto.

5. COMPLIANCE WITH LAWS AND REGULATIONS. The Plan and this Agreement are intended to comply with Section 25102(o) and Rule 701. Any provision of this Agreement that is inconsistent with Section 25102(o) or Rule 701 shall, without further act or amendment by the Company or the Committee, be reformed to comply with the requirements of Section 25102(o) and/or Rule 701. The exercise of this Option and the issuance and transfer of Shares shall be subject to compliance by the Company and Optionee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Common Stock may be listed at the time of such issuance or transfer. Optionee understands that the Company is under no obligation to register or qualify the Shares with the SEC, any state securities commission or any stock exchange to effect such compliance.

6. NONTRANSFERABILITY OF OPTION. This Option may not be transferred in any manner other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to a testamentary trust in which the options are to be passed to beneficiaries upon the death of the trustor (settlor) or a revocable trust, or by gift to “immediate family” as that term is defined in 17 C.F.R. 240.16a-1(e), and may be exercised during the lifetime of Optionee only by Optionee or in the event of Optionee’s incapacity, by Optionee’s legal representative. The terms of this Option shall be binding upon the executors, administrators, successors and assigns of Optionee.
7. RESTRICTIONS ON TRANSFER.

7.1 Disposition of Shares. Optionee hereby agrees that Optionee shall make no disposition of any of the Shares (other than as permitted by this Agreement) unless and until:

(a) Optionee shall have notified the Company of the proposed disposition and provided a written summary of the terms and conditions of the proposed disposition;

(b) Optionee shall have complied with all requirements of this Agreement applicable to the disposition of the Shares;

(c) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to counsel for the Company, that (i) the proposed disposition does not require registration of the Shares under the Securities Act or under any applicable state securities laws or (ii) all appropriate actions necessary for compliance with the registration requirements of the Securities Act or of any exemption from registration available under the Securities Act (including Rule 144) or applicable state securities laws have been taken; and

(d) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to the Company, that the proposed disposition will not result in the contravention of any transfer restrictions applicable to the Shares pursuant to the provisions of the regulations promulgated under Section 25102(o), Rule 701 or under any other applicable securities laws or adversely affect the Company’s ability to rely on the exemption(s) from registration under the Securities Act or under any other applicable securities laws for the grant of the Option, the issuance of Shares thereunder or any other issuance of securities under the Plan.

7.2 Restriction on Transfer. Optionee shall not transfer, assign, grant a lien or security interest in, pledge, hypothecate, encumber or otherwise dispose of any of the Shares which are subject to the Company’s Right of First Refusal described below, except as permitted by this Agreement.

7.3 Transferee Obligations. Each person (other than the Company) to whom the Shares are transferred by means of one of the permitted transfers specified in this Agreement must, as a condition precedent to the validity of such transfer, acknowledge in writing to the Company that such person is bound by the provisions of this Agreement and that the transferred Shares are subject to (i) the Company’s Right of First Refusal granted hereunder and (ii) the market stand-off provisions of Section 8 below, to the same extent such Shares would be so subject if retained by Optionee.

8. MARKET STANDOFF AGREEMENT. Optionee agrees that, subject to any early release provisions that apply pro rata to stockholders of the Company according to their holdings of Common Stock (determined on an as-converted into Common Stock basis), Optionee will not, for a period of up to one hundred eighty (180) days (plus up to an additional thirty five (35) days to the extent reasonably requested by the Company or such underwriter(s) to accommodate regulatory restrictions on the publication or other distribution of research reports or earnings releases by the Company, including NASD and NYSE rules) following the effective date of the registration statement filed with the SEC relating to the initial underwritten sale of Common Stock of the Company to the public under the Securities Act (the “IPO”), directly or indirectly sell, offer to sell, grant any option for the sale of, or otherwise dispose of any Common Stock or securities convertible into Common Stock, except for: (i) transfers of Shares permitted under Section 9.6 hereof so long as such transferee furnishes to the Company and the managing underwriter their written consent to be bound by this Section 8 as a condition precedent to such transfer; and (ii) sales of any securities to be included in the registration statement for the IPO. For the avoidance of doubt, the provisions of this Section shall only apply to the IPO. The restricted period shall in any event terminate two (2) years after the closing date of the IPO. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with
9. COMPANY’S RIGHT OF FIRST REFUSAL. Before any Shares held by Optionee or any transferee of such Shares (either sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including, without limitation, a transfer by gift or operation of law), the Company and/or its assignee(s) will have a right of first refusal to purchase the Shares to be sold or transferred (the “Offered Shares”) on the terms and conditions set forth in this Section (the “Right of First Refusal”).

9.1 Notice of Proposed Transfer. The Holder of the Offered Shares will deliver to the Company a written notice (the “Notice”) stating: (i) the Holder’s bona fide intention to sell or otherwise transfer the Offered Shares; (ii) the name and address of each proposed purchaser or other transferee (the “Proposed Transferee”); (iii) the number of Offered Shares to be transferred to each Proposed Transferee; (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Offered Shares (the “Offered Price”); and (v) that the Holder acknowledges this Notice is an offer to sell the Offered Shares to the Company and/or its assignee(s) pursuant to the Company’s Right of First Refusal at the Offered Price as provided for in this Agreement.

9.2 Exercise of Right of First Refusal. At any time within thirty (30) days after the date of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all (or, with the consent of the Holder, less than all) the Offered Shares proposed to be transferred to any one or more of the Proposed Transferees named in the Notice, at the purchase price, determined as specified below.

9.3 Purchase Price. The purchase price for the Offered Shares purchased under this Section will be the Offered Price, provided that if the Offered Price consists of no legal consideration (as, for example, in the case of a transfer by gift) then the purchase price will be the fair market value of the Offered Shares as determined in good faith by the Committee. If the Offered Price includes consideration other than cash, then the value of the non-cash consideration, as determined in good faith by the Committee, will conclusively be deemed to be the cash equivalent value of such non-cash consideration.

9.4 Payment. Payment of the purchase price for the Offered Shares will be payable, at the option of the Company and/or its assignee(s) (as applicable), by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by the Holder to the Company (or to such assignee, in the case of a purchase of Offered Shares by such assignee) or by any combination thereof. The purchase price will be paid without interest within sixty (60) days after the Company’s receipt of the Notice, or, at the option of the Company and/or its assignee(s), in the manner and at the time(s) set forth in the Notice.

9.5 Holder’s Right to Transfer. If all of the Offered Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Offered Shares to each Proposed Transferee at the Offered Price or at a higher price, provided that (i) such sale or other transfer is consummated within ninety (90) days after the date of the Notice, (ii) any such sale or other transfer is effected in compliance with all applicable securities laws, and (iii) each Proposed Transferee agrees in writing that the provisions of this Section will continue to apply to the Offered Shares in the hands of such Proposed Transferee. If the Offered Shares described in the Notice are not transferred to each Proposed Transferee within such ninety (90) day period, then a new Notice must be given to the Company pursuant to which the Company will again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.
9.6 Exempt Transfers. Notwithstanding anything to the contrary in this Section, the following transfers of Shares will be exempt from the Right of First Refusal: (i) the transfer of any or all of the Shares during Optionee’s lifetime by gift or on Optionee’s death by will or intestacy to any member(s) of Optionee’s “Immediate Family” (as defined below) or to a trust for the benefit of Optionee and/or member(s) of Optionee’s Immediate Family, provided that each transferee or other recipient agrees in a writing satisfactory to the Company that the provisions of this Section will continue to apply to the transferred Shares in the hands of such transferee or other recipient; (ii) any transfer of Shares made pursuant to a statutory merger, statutory consolidation of the Company with or into another corporation or corporations or a conversion of the Company into another form of legal entity (except that the Right of First Refusal will continue to apply thereafter to such Shares, in which case the surviving corporation of such merger or consolidation or the resulting entity of such conversion shall succeed to the rights of the Company under this Section unless the agreement of merger or consolidation or conversion expressly otherwise provides); or (iii) any transfer of Shares pursuant to the winding up and dissolution of the Company. As used herein, the term “Immediate Family” will mean Optionee’s spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of Optionee or Optionee’s spouse, or the spouse of any of the above or Spousal Equivalent, as defined herein. As used herein, a person is deemed to be a “Spousal Equivalent” provided the following circumstances are true: (i) irrespective of whether or not Optionee and the Spousal Equivalent are the same sex, they are the sole spousal equivalent of the other for the last twelve (12) months, (ii) they intend to remain so indefinitely, (iii) neither are married to anyone else, (iv) both are at least 18 years of age and mentally competent to consent to contract, (v) they are not related by blood to a degree of closeness that which would prohibit legal marriage in the state in which they legally reside, (vi) they are jointly responsible for each other’s common welfare and financial obligations, and (vii) they reside together in the same residence for the last twelve (12) months and intend to do so indefinitely.

9.7 Termination of Right of First Refusal. The Right of First Refusal will terminate as to all Shares: (i) on the effective date of the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC under the Securities Act (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan); (ii) on any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Exchange Act; or (iii) on any transfer or conversion of Shares made pursuant to a statutory conversion of the Company into another form of legal entity if the common equity (or comparable equity security) of entity resulting from such conversion is registered under the Exchange Act.

9.8 Encumbrances on Shares. Optionee may grant a lien or security interest in, or pledge, hypothecate or encumber Shares only if each party to whom such lien or security interest is granted, or to whom such pledge, hypothecation or other encumbrance is made, agrees in a writing satisfactory to the Company that: (i) such lien, security interest, pledge, hypothecation or encumbrance will not adversely affect or impair the Right of First Refusal or the rights of the Company and/or its assignee(s) with respect thereto and will not apply to such Shares after they are acquired by the Company and/or its assignees under this Section; and (ii) the provisions of this Agreement will continue to apply to such Shares in the hands of such party and any transferee of such party.

9.9 Effect of Company Co-Sale Agreement. If Optionee is, or at any time hereafter becomes, a party to or otherwise bound by (i) the Company’s Eighth Amended and Restated Right of First Refusal and Co-Sale Agreement dated as of February 12, 2015 among the Company and certain stockholders of the Company, as such may be amended and/or restated from time to time, and/or (ii) any other agreement that is a successor to or replacement of such agreement (collectively, the “Company Co-Sale Agreement”), then, in the event of any conflict or inconsistency between the provisions of this Section 9 and any provisions in the Company Co-Sale Agreement granting the Company and/or other
security holders of the Company rights of first refusal and/or co-sale rights with respect to any or all of the Shares, Optionee agrees with the Company that the terms and conditions of the Company Co-Sale Agreement shall apply, govern, supersede and prevail over (and in lieu of) the provisions of this Section 9 so long as the Company Co-Sale Agreement is in effect and Optionee is a party to or bound thereby. If the Company Co-Sale Agreement is no longer in effect or if Optionee is not a party to or bound thereby, then the provisions of this Section 9 shall apply in full force and effect until termination of the Right of First Refusal.

10. RIGHTS AS A STOCKHOLDER. Optionee shall not have any of the rights of a stockholder with respect to any Shares unless and until such Shares are issued to Optionee. Subject to the terms and conditions of this Agreement, Optionee will have all of the rights of a stockholder of the Company with respect to the Shares from and after the date that Shares are issued to Optionee pursuant to, and in accordance with, the terms of the Exercise Agreement until such time as Optionee disposes of the Shares or the Company and/or its assignee(s) exercise(s) the Right of First Refusal. Upon an exercise of the Right of First Refusal, Optionee will have no further rights as a holder of the Shares so purchased upon such exercise, other than the right to receive payment for the Shares so purchased in accordance with the provisions of this Agreement, and Optionee will promptly surrender the stock certificate(s) evidencing the Shares so purchased to the Company for transfer or cancellation.

11. ESCROW. As security for Optionee’s faithful performance of this Agreement, Optionee agrees, immediately upon receipt of the stock certificate(s) evidencing the Shares, to deliver such certificate(s) to the Secretary of the Company or other designee of the Company (the “Escrow Holder”), who is hereby appointed to hold such certificate(s) in escrow and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Optionee and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of the Right of First Refusal.

12. Company Co-Sale Agreement and Voting Agreement. As a material inducement and consideration for the Company to enter into this Agreement, Optionee hereby agrees that if, the Company requests Optionee to enter into and become a party to (a) the Company Co-Sale Agreement (and to subject the Shares to the rights of first refusal held by the Company and other Company investors thereunder and the co-sale rights of other investors thereunder) and/or (b) the Company Voting Agreement (pursuant to which Optionee would agree to vote all shares of Company stock held by Optionee for the election of directors and in favor of certain material transactions (such as mergers or sales of the Company), then Optionee will enter into such agreements and execute and deliver signature pages thereto (as requested by the Company) in such capacities as the Company requests, at the time of exercising this Option and as a condition to such exercise or at any later time.

13. RESTRICTIVE LEGENDS AND STOP-TRANSFER ORDERS.

13.1 Legends. Optionee understands and agrees that the Company will place the legends set forth below or similar legends on any stock certificate(s) evidencing the Shares, together with any other legends that may be required by state or U.S. Federal securities laws, the Company’s Certificate of Incorporation or Bylaws, any other agreement between Optionee and the Company, or any agreement between Optionee and any third party (and any other legend(s) that the Company may become obligated to place on the stock certificate(s) evidencing the Shares under the terms of any agreement to which the Company is or may become bound or obligated):
(a) The securities represented hereby have not been registered under the Securities Act of 1933, as amended (the “securities act”), or under the securities laws of certain states. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as permitted under the securities act and applicable state securities laws, pursuant to registration or exemption therefrom. Investors should be aware that they may be required to bear the financial risks of this investment for an indefinite period of time. The issuer of these securities may require an opinion of counsel in form and substance satisfactory to the issuer to the effect that any proposed transfer or resale is in compliance with the securities act and any applicable state securities laws.

(b) The shares represented by this certificate are subject to certain restrictions on resale and transfer, including the right of first refusal held by the issuer and/or its assignee(s) as set forth in a stock option agreement between the issuer and the original holder of these shares, a copy of which may be obtained at the principal office of the issuer. Such sale and transfer restrictions, including the right of first refusal, are binding on transferees of these shares.

(c) The shares represented by this certificate are subject to a market standoff restriction as set forth in a certain stock option agreement between the issuer and the original holder of these shares, a copy of which may be obtained at the principal office of the issuer. As a result of such agreement, these shares may not be traded prior to 180 days (and possibly longer) after the effective date of certain public offerings of the common stock of the issuer hereof. Such restriction is binding on transferees of these shares.

Optionee agrees that if Optionee becomes a party to (i) the Company Co-Sale Agreement or (ii) (A) the Company’s Eighth Amended and Restated Voting Agreement dated as of February 12, 2015 among the Company and certain stockholders of the Company, as such may be amended and/or restated from time to time, and/or (B) any other voting agreement that is a successor to or replacement of such agreement (collectively, the “Company Voting Agreement”), then Optionee agrees that the stock certificate(s) evidencing the Shares shall, in addition, bear any legends required under the Company Co-Sale Agreement and/or the Company Voting Agreement, as applicable.

13.2 Stop-Transfer Instructions. Optionee agrees that, to ensure compliance with the restrictions imposed by this Agreement, the Company may issue appropriate “stop-transfer” instructions to its transfer agent, if any, and if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

13.3 Refusal to Transfer. The Company will not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares, or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares have been so transferred.

14. Certain Tax Consequences. Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal tax consequences of exercise of the Option and disposition of the Shares. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.
14.1 **Exercise of ISO.** If the Option qualifies as an ISO, there will be no regular federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price will be treated as a tax preference item for federal alternative minimum tax purposes and may subject Optionee to the alternative minimum tax in the year of exercise.

14.2 **Exercise of Nonqualified Stock Option.** If the Option does not qualify as an ISO, there may be a regular federal income tax liability upon the exercise of the Option. Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Optionee is a current or former employee of the Company, the Company may be required to withhold from Optionee’s compensation or collect from Optionee and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

14.3 **Disposition of Shares.** The following tax consequences may apply upon disposition of the Shares.

(a) **Incentive Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an ISO and are disposed of more than two (2) years after the Date of Grant, any gain realized on disposition of the Shares will be treated as long term capital gain for federal income tax purposes. If Shares purchased under an ISO are disposed of within the applicable one (1) year or two (2) year period, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price.

(b) **Nonqualified Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an NQSO, any gain realized on disposition of the Shares will be treated as long term capital gain.

15. **GENERAL PROVISIONS.**

15.1 **Interpretation.** Any dispute regarding the interpretation of this Agreement shall be submitted by Optionee or the Company to the Committee for review. The resolution of such a dispute by the Committee shall be final and binding on the Company and Optionee.

15.2 **Entire Agreement.** The Plan, the Grant Notice and the Exercise Agreement are each incorporated herein by reference. This Agreement, the Grant Notice, the Plan and the Exercise Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior undertakings and agreements with respect to such subject matter.

16. **NOTICES.** Any and all notices required or permitted to be given to a party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time an electronic confirmation of receipt is received, if delivery is by email; (iii) at the time of transmission by facsimile, addressed to the other party at its facsimile number specified herein (or hereafter modified by subsequent notice to the parties hereto), with confirmation of receipt made by both telephone and printed confirmation sheet verifying successful transmission of the facsimile; (iv) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States, with proof of delivery from the courier requested; or (v) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries. Any notice for delivery outside the United States will be sent by email, facsimile or by express courier. Any notice not delivered personally or by email will be sent with postage and/or other charges prepaid and properly
addressed to Optionee at the last known address or facsimile number on the books of the Company, or at such other address or facsimile number as such other party may designate by one of the indicated means of notice herein to the other parties hereto or, in the case of the Company, to it at its principal place of business. Notices to the Company will be marked “Attention: Chief Financial Officer.” Notices by facsimile shall be machine verified as received.

17. SUCCESSORS AND ASSIGNS. The Company may assign any of its rights under this Agreement including its rights to purchase Shares under the Right of First Refusal. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement shall be binding upon Optionee and Optionee’s heirs, executors, administrators, legal representatives, successors and assigns.

18. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within California. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, then such provision will be enforced to the maximum extent possible and the other provisions will remain fully effective and enforceable.

19. FURTHER ASSURANCES. The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Agreement.

20. TITLES AND HEADINGS. The titles, captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Agreement. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Agreement.

21. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

22. SEVERABILITY. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement. Notwithstanding the forgoing, if the value of this Agreement based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

* * * *

Attachment: Annex A: Form of Stock Option Exercise Notice and Agreement

11
ANNEX A

FORM OF STOCK OPTION EXERCISE NOTICE AND AGREEMENT
STOCK OPTION EXERCISE NOTICE AND AGREEMENT

BILL.COM, INC.

2016 EQUITY INCENTIVE PLAN

*NOTE: You must sign this Notice on Page 3 before submitting it to Bill.Com, Inc. (the “Company”) AND, if requested to do so by the Company, you must also sign the signature pages to the Company’s then-current Company Co-Sale Agreement and Company Voting Agreement (as those terms are defined in the Stock Option Agreement) before submitting this Notice to the Company.

OPTIONEE INFORMATION: Please provide the following information about yourself (“Optionee”):

Name: ___________________________ Social Security Number: ___________________________
Address: ___________________________ Employee Number: ___________________________
Email Address: ___________________________

OPTION INFORMATION: Please provide this information on the option being exercised (the “Option”):

Grant No. ___________________________ Date of Grant: ___________________________
Option Price per Share: $____ Type of Stock Option: □ Nonqualified (NQSO)
Total number of shares of Common Stock of the Company subject to the Option: □ Incentive (ISO)

EXERCISE INFORMATION:
Number of shares of Common Stock of the Company for which the Option is now being exercised [________________]. (These shares are referred to below as the “Purchased Shares.”)

Total Exercise Price Being Paid for the Purchased Shares: $____________

Form of payment enclosed [check all that apply]:

□ Check for $__________, payable to “Bill.Com, Inc.”
□ Certificate(s) for ________________ shares of Common Stock of the Company. These shares will be valued as of the date this notice is received by the Company. [ Requires Company consent.]

AGREEMENTS, REPRESENTATIONS AND ACKNOWLEDGMENTS OF OPTIONEE: By signing this Stock Option Exercise Notice and Agreement, Optionee hereby agrees with, and represents to, the Company as follows:

1. Terms Governing. I acknowledge and agree with the Company that I am acquiring the Purchased Shares by exercise of this Option subject to all other terms and conditions of the Notice of Stock Option Grant and the Stock Option Agreement that govern the Option, including without limitation the terms of the Company’s 2016 Equity Incentive Plan, as it may be amended (the “Plan”).
2. **Investment Intent; Securities Law Restrictions.** I represent and warrant to the Company that I am acquiring and will hold the Purchased Shares for investment for my account only, and not with a view to, or for resale in connection with, any “distribution” of the Purchased Shares within the meaning of the Securities Act of 1933, as amended (the “Securities Act”). I understand that the Purchased Shares have not been registered under the Securities Act by reason of a specific exemption from such registration requirement and that the Purchased Shares must be held by me indefinitely, unless they are subsequently registered under the Securities Act or I obtain an opinion of counsel (in form and substance satisfactory to the Company and its counsel) that registration is not required. I acknowledge that the Company is under no obligation to register the Purchased Shares under the Securities Act or under any other securities law.

3. **Restrictions on Transfer: Rule 144.** I will not sell, transfer or otherwise dispose of the Purchased Shares in violation of the Securities Act, the Securities Exchange Act of 1934, or the rules promulgated thereunder (including Rule 144 under the Securities Act described below “Rule 144”) or of any other applicable securities laws. I am aware of Rule 144, which permits limited public resales of securities acquired in a non-public offering, subject to satisfaction of certain conditions, which include (without limitation) that: (a) certain current public information about the Company is available; (b) the resale occurs only after the holding period required by Rule 144 has been met; (c) the sale occurs through an unsolicited “broker’s transaction”; and (d) the amount of securities being sold during any three-month period does not exceed specified limitations. I understand that the conditions for resale set forth in Rule 144 have not been satisfied and that the Company has no plans to satisfy these conditions in the foreseeable future.

4. **Access to Information; Understanding of Risk in Investment.** I acknowledge that I have received and had access to such information as I consider necessary or appropriate for deciding whether to invest in the Purchased Shares and that I had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the issuance of the Purchased Shares. I am aware that my investment in the Company is a speculative investment that has limited liquidity and is subject to the risk of complete loss. I am able, without impairing my financial condition, to hold the Purchased Shares for an indefinite period and to suffer a complete loss of my investment in the Purchased Shares.

5. **Rights of First Refusal; Market Stand-off.** I acknowledge that the Purchased Shares remain subject to the Company’s Right of First Refusal and the market stand-off covenants (sometimes referred to as the “lock-up”), all in accordance with the applicable Notice of Stock Option Grant and the Stock Option Agreement that govern the Option.

6. **Form of Ownership.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the form of ownership of the Purchased Shares that is appropriate for me. In the event that I choose to transfer my Purchased Shares to a trust, I agree to sign a Stock Transfer Agreement. In the event that I choose to transfer my Purchased Shares to a trust that is not an eligible revocable trust, I also acknowledge that the transfer will be treated as a “disposition” for tax purposes. As a result, the favorable ISO tax treatment will be unavailable and other unfavorable tax consequences may occur.

7. **Investigation of Tax Consequences.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the tax consequences of acquiring the Purchased Shares at this time.

8. **Other Tax Matters.** I agree that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes my tax liabilities. I will not make any claim against the Company or its Board, officers or employees related to tax liabilities arising from my options or my other compensation. In particular, I acknowledge that my options (including the Option) are exempt from section 409A of the Internal Revenue Code only if the exercise price per share is at least equal to the fair market value per share of the Common Stock at the time the option was granted by the Board. Since shares of the Common Stock are not traded on an established securities market, the determination of their fair market value was made by the Board and/or by an independent valuation firm retained by the Company. I acknowledge that there is no guarantee in either case that the Internal Revenue Service will agree with the valuation, and I will not make any claim against the Company or its Board, officers or employees in the event that the Internal Revenue Service asserts that the valuation was too low.
9. **Spouse Consent.** I agree to seek the consent of my spouse to the extent required by the Company to enforce the foregoing.

10. **Agreement to Enter into Company Co-Sale Agreement and Company Voting Agreement.** Pursuant to the Stock Option Agreement, if requested to do so by the Company, I agree to enter into and execute the then-current Company Co-Sale Agreement and/or the then-current Company Voting Agreement concurrently with my exercise of the Option or at any other time I am requested to do so by the Company. I acknowledge that by entering into the Company Co-Sale Agreement I will be subjecting the Purchased Shares to the rights of first refusal, co-sale rights and all the other provisions of the Company Co-Sale Agreement and that by entering into the Voting Agreement I will be subjected to voting and other obligations and covenants regarding all Company shares I own and all other provisions of the Company Voting Agreement, in addition to the right of first refusal, repurchase option and market stand-off provisions described above.

11. **Tax Withholding.** As a condition of exercising this Option, I agree to make adequate provision for foreign, federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of the Purchased Shares, whether by withholding, direct payment to the Company, or otherwise.

The undersigned hereby executes and delivers this Stock Option Exercise Notice and Agreement to agrees to be bound by its terms.

---

**SIGNATURE:**

**DATE:**

Optionee’s Name: __________________________

[Signature Page to Stock Option Exercise Notice and Agreement]
NOTICE OF STOCK OPTION GRANT

BILL.COM, INC.

2016 EQUITY INCENTIVE PLAN

The Optionee named below ("Optionee") has been granted an option (this "Option") to purchase shares of Common Stock, $0.00001 par value per share (the "Common Stock"), of Bill.Com, Inc., a Delaware corporation (the "Company"), pursuant to the Company's 2016 Equity Incentive Plan, as amended from time to time (the "Plan") on the terms, and subject to the conditions, described below and in the Stock Option Agreement attached hereto as Exhibit A, including its annexes (the "Stock Option Agreement").

Optionee:

Maximum Number of Shares Subject to this Option (the "Shares"):

Exercise Price Per Share: $____ per share

Date of Grant:

Vesting Start Date:

Exercise Schedule: This Option is immediately exercisable for all of the Shares, subject to the terms of the Stock Option Agreement

Expiration Date: The date ten (10) years after the Date of Grant set forth above, subject to earlier expiration in the event of Termination as provided in Section 3 of the Stock Option Agreement.

Tax Status of Option:

☐ Incentive Stock Option (To the fullest extent permitted by the Code)
☐ Nonqualified Stock Option.

(If neither box is checked, this Option is a Nonqualified Stock Option).

Vesting Schedule [EXAMPLE ONLY]: For so long as Optionee continuously provides services to the Company (or any Subsidiary or Parent of the Company) as an employee, officer, director, contractor or consultant, the Shares subject to this Option will vest as follows: (a) prior to the first one (1) year anniversary of the Vesting Start Date, none of the Shares will be vested; (b) [1/48th] of the Shares will be vested on the one (1) year anniversary of the Vesting Start Date; and (c) thereafter, this Option will become vested and exercisable with respect to an additional [1/48th] of the Shares when Optionee completes each month of continuous service following the first one (1) year anniversary of the Vesting Start Date.

General; Agreement: By their signatures below, Optionee and the Company agree that this Option is granted under and governed by this Notice of Stock Option Grant (this "Grant Notice") and by the provisions of the Plan and the Stock Option Agreement. The Plan and the Stock Option Agreement are incorporated herein by reference. Capitalized terms used but not defined herein shall have the meanings given to them in the Plan or in the Stock Option Agreement, as applicable. By signing below, Optionee acknowledges receipt of a copy of this Grant Notice, the Plan and the Stock Option Agreement, represents that Optionee has carefully read and is familiar with their provisions, and hereby accepts the Option subject to all of their respective terms and conditions. Optionee acknowledges that there may be adverse tax consequences upon exercise of the Option or disposition of the Shares and that Optionee should consult a tax adviser prior to such exercise or disposition. Optionee agrees and acknowledges that the Vesting Schedule may change prospectively in the event that Optionee’s service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards.

Execution and Delivery: This Grant Notice may be executed and delivered electronically whether via the Company’s intranet or the Internet site of a third party or via email or any other means of electronic delivery specified by the Company. By Optionee’s acceptance hereof (whether written, electronic or otherwise), Optionee agrees, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, Optionee accepts the electronic delivery of any documents that the Company (or any third party the Company may designate), may deliver in connection with this grant (including the Plan, this Grant Notice, the Stock Option Agreement, the information described in Rules 701(e)(2), (3), (4) and (5) under the Securities Act (the “701 Disclosures”), account statements, or other communications or information) whether via the Company’s intranet or the Internet site of such third party or via email or such other means of electronic delivery specified by the Company.

BILL.COM, INC.

By /Signature: ___________________________ Optionee Signature: ___________________________

Typed Name: ___________________________ Optionee’s Name: ___________________________
Title: ________________________________

ATTACHMENT: Exhibit A – Stock Option Agreement
STOCK OPTION AGREEMENT
BILL.COM, INC.
2016 EQUITY INCENTIVE PLAN

This Stock Option Agreement (this “Agreement”) is made and entered into as of the date of grant (the “Date of Grant”) set forth on the Notice of Stock Option Grant attached as the facing page to this Agreement (the “Grant Notice”) by and between Bill.Com, Inc., a Delaware corporation (the “Company”), and the optionee named on the Grant Notice (“Optionee”). Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Company’s 2016 Equity Incentive Plan, as amended from time to time (the “Plan”), or in the Grant Notice, as applicable.

1. GRANT OF OPTION. The Company hereby grants to Optionee an option (this “Option”) to purchase up to the total number of shares of Common Stock of the Company, $0.00001 par value per share (the “Common Stock”), set forth in the Grant Notice as the Shares (the “Shares”) at the Exercise Price Per Share set forth in the Grant Notice (the “Exercise Price”), subject to all of the terms and conditions of the Grant Notice, this Agreement and the Plan. If designated as an Incentive Stock Option in the Grant Notice, this Option is intended to qualify as an incentive stock option (the “ISO”) within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the “Code”), except that if on the Date of Grant Optionee is not subject to U.S. income tax, then this Option shall be a NQSO.

2. EXERCISE PERIOD.

2.1. Exercise Period of Option. Subject to the conditions set forth in this Agreement, all or part of this Option may be exercised at any time after the Date of Grant. Shares purchased by exercising this Option may be subject to the Repurchase Option set forth in Section 7 below. This Option will become vested during its term as to portions of the Shares in accordance with the Vesting Schedule set forth in the Grant Notice. Notwithstanding any provision in the Plan or this Agreement to the contrary, on or after Optionee’s Termination Date, this Option may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date.

2.2. Vesting of Option Shares. Shares with respect to which this Option is vested at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “Vested Shares.” Shares with respect to which this Option is not vested at a given time pursuant to the Vesting Schedule set forth in the Grant Notice are “Unvested Shares.”

2.3. Expiration. The Option shall expire on the Expiration Date set forth in the Grant Notice or earlier as provided in Section 3 below.

3. TERMINATION.

3.1. Termination for Any Reason Except Death, Disability or Cause. Except as provided in subsection 3.2 in a case in which Optionee dies within three (3) months after Optionee is Terminated other than for Cause, if Optionee is Terminated for any reason (other than Optionee’s death or Disability or for Cause), then (a) on and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date and (b) this Option to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee’s Termination Date, may be exercised by Optionee no later than three (3) months after Optionee’s Termination Date (but in no event may this Option be exercised after the Expiration Date).
3.2. Termination Because of Death or Disability. If Optionee is Terminated because of Optionee’s death or Disability (or if Optionee dies within three (3) months of the date of Optionee’s Termination for any reason other than for Cause), then (a) on and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date and (b) this Option, to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Optionee’s Termination Date, may be exercised by Optionee (or Optionee’s legal representative) no later than twelve (12) months after Optionee’s Termination Date, but in no event later than the Expiration Date. Any exercise of this Option beyond (i) three (3) months after the date Optionee ceases to be an employee when Optionee’s Termination is for any reason other than Optionee’s death or disability, within the meaning of Section 22(e)(3) of the Code; or (ii) twelve (12) months after the date Optionee ceases to be an employee when the termination is for Optionee’s disability, within the meaning of Section 22(e)(3) of the Code, is deemed to be an NQSO.

3.3. Termination for Cause. If Optionee is Terminated for Cause, then Optionee may exercise this Option, but only with respect to any Shares that are Vested Shares on Optionee’s Termination Date, and this Option shall expire on Optionee’s Termination Date, or at such later time and on such conditions as may be affirmatively determined by the Committee. On and after Optionee’s Termination Date, this Option shall expire immediately with respect to any Shares that are Unvested Shares and may not be exercised with respect to any Shares that are Unvested Shares on Optionee’s Termination Date.

3.4. No Obligation to Employ. Nothing in the Plan or this Agreement shall confer on Optionee any right to continue in the employ of, or other relationship with, the Company or any Parent or Subsidiary of the Company, or limit in any way the right of the Company or any Parent or Subsidiary of the Company to terminate Optionee’s employment or other relationship at any time, with or without Cause.

4. MANNER OF EXERCISE.

4.1. Stock Option Exercise Notice and Agreement. To exercise this Option, Optionee (or in the case of exercise after Optionee’s death or incapacity, Optionee’s executor, administrator, heir or legatee, as the case may be) must deliver to the Company an executed Stock Option Exercise Notice and Agreement in the form attached hereto as Annex A, or in such other form as may be approved by the Committee from time to time (the “Exercise Agreement”) and payment for the shares being purchased in accordance with this Agreement. The Exercise Agreement shall set forth, among other things, (i) Optionee’s election to exercise this Option, (ii) the number of Shares being purchased, (iii) any representations, warranties and agreements regarding Optionee’s investment intent and access to information as may be required by the Company to comply with applicable securities laws in connection with any exercise of this Option and (iv) any other agreements required by the Company. If someone other than Optionee exercises this Option, then such person must submit documentation reasonably acceptable to the Company verifying that such person has the legal right to exercise this Option and such person shall be subject to all of the restrictions contained herein as if such person were Optionee.

4.2. Limitations on Exercise. This Option may not be exercised unless such exercise is in compliance with all applicable federal and state securities laws, as they are in effect on the date of exercise.

4.3. Payment. The Exercise Agreement shall be accompanied by full payment of the Exercise Price for the shares being purchased in cash (by check or wire transfer), or where permitted by law:

(a) by cancellation of indebtedness of the Company owed to Optionee;
(b) by surrender of shares of the Company that are free and clear of all security interests, pledges, liens, claims or encumbrances and:
(i) for which the Company has received “full payment of the purchase price” within the meaning of SEC Rule 144 (and, if such shares were purchased from the Company by use of a promissory note, such note has been fully paid with respect to such shares) or (ii) that were obtained by Optionee in the public market;
(c) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;
(d) provided that a public market for the Common Stock exists, subject to compliance with applicable law, by exercising as set forth below, through a “same day sale” commitment from Optionee and a broker-dealer whereby Optionee irrevocably elects to exercise this Option and to sell a portion of the Shares so purchased sufficient to pay the total Exercise Price, and whereby the broker-dealer irrevocably commits upon receipt of such Shares to forward the total Exercise Price directly to the Company; or
(e) by any combination of the foregoing or any other method of payment approved by the Committee that constitutes legal consideration for the issuance of Shares.

4.4. **Tax Withholding.** Prior to the issuance of the Shares upon exercise of the Option, Optionee must pay or provide for any applicable federal, state and local withholding obligations of the Company. If the Committee permits, Optionee may provide for payment of withholding taxes upon exercise of the Option by requesting that the Company retain the minimum number of Shares with a Fair Market Value equal to the minimum amount of taxes required to be withheld; or to arrange a mandatory “sell to cover” on Participant’s behalf (without further authorization); but in no event will the Company withhold Shares or “sell to cover” if such withholding would result in adverse accounting consequences to the Company. In case of stock withholding or a sell to cover, the Company shall issue the net number of Shares to Optionee by deducting the Shares retained from the Shares issuable upon exercise.

4.5. **Issuance of Shares.** Provided that the Exercise Agreement and payment are in form and substance satisfactory to counsel for the Company, the Company shall issue the Shares issuable upon a valid exercise of this Option registered in the name of Optionee, Optionee’s authorized assignee, or Optionee’s legal representative, and shall deliver certificates representing the Shares with the appropriate legends affixed thereto.

5. **COMPLIANCE WITH LAWS AND REGULATIONS.** The Plan and this Agreement are intended to comply with Section 25102(o) and Rule 701. Any provision of this Agreement that is inconsistent with Section 25102(o) or Rule 701 shall, without further act or amendment by the Company or the Committee, be reformed to comply with the requirements of Section 25102(o) and/or Rule 701. The exercise of this Option and the issuance and transfer of Shares shall be subject to compliance by the Company and Optionee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Common Stock may be listed at the time of such issuance or transfer. Optionee understands that the Company is under no obligation to register or qualify the Shares with the SEC, any state securities commission or any stock exchange to effect such compliance.

6. **NONTRANSFERABILITY OF OPTION.** This Option may not be transferred in any manner other than by will or by the laws of descent and distribution, and, with respect to NQSOs, by instrument to a testamentary trust in which the options are to be passed to beneficiaries upon the death of the trustor (settlor) or a revocable trust, or by gift to “immediate family” as that term is defined in 17 C.F.R. 240.16a-1(e), and may be exercised during the lifetime of Optionee only by Optionee or in the event of Optionee’s incapacity, by Optionee’s legal representative. The terms of this Option shall be binding upon the executors, administrators, successors and assigns of Optionee.
7. COMPANY’S REPURCHASE OPTION FOR UNVESTED SHARES. If Optionee is Terminated for any reason, or no reason, including without limitation, Optionee’s death, Disability, voluntary resignation or termination by the Company with or without Cause and Optionee has acquired Unvested Shares by exercising this Option, then the Company and/or its assignee(s) shall have the option to repurchase all or a portion of Optionee’s Unvested Shares (as defined in Section 2.2 of this Agreement) as of the Termination Date on the terms and conditions set forth in this Section 7 (the “Repurchase Option”).

7.1. Termination and Termination Date. In case of any dispute as to whether Optionee is Terminated, the Committee shall have discretion to determine whether Optionee has been Terminated and the effective date of such Termination (the “Termination Date”).

7.2. Exercise of Repurchase Option. Subject to the foregoing provisions of this Section, at any time within ninety (90) days after Optionee’s Termination Date, the Company and/or its assignee(s), may elect to repurchase any or all of Optionee’s Unvested Shares by giving Optionee written notice of exercise of the Repurchase Option.

7.3. Calculation of Repurchase Price for Unvested Shares. The Company or its assignee shall have the option to repurchase from Optionee (or from Optionee’s personal representative as the case may be) the Unvested Shares at Optionee’s Exercise Price, as such may be proportionately adjusted for any stock split or similar change in the capital structure of the Company as set forth in Section 2.2 of the Plan (the “Repurchase Price”).

7.4. Payment of Repurchase Price. The Repurchase Price shall be payable, at the option of the Company or its assignee, by check or by cancellation of all or a portion of any outstanding indebtedness owed by Optionee to the Company and/or such assignee, or by any combination thereof. The Repurchase Price shall be paid without interest within the term of the Repurchase Option as described in Section 7.2.

7.5. Right of Termination Unaffected. Nothing in this Agreement shall be construed to limit or otherwise affect in any manner whatsoever the right or power of the Company (or any Parent or Subsidiary of the Company) to terminate Optionee’s employment or other relationship with Company (or any Parent or Subsidiary of the Company) at any time, for any reason or no reason, with or without Cause.

8. RESTRICTIONS ON TRANSFER.

8.1. Disposition of Shares. Optionee hereby agrees that Optionee shall make no disposition of any of the Shares (other than as permitted by this Agreement) unless and until:

   (a) Optionee shall have notified the Company of the proposed disposition and provided a written summary of the terms and conditions of the proposed disposition;

   (b) Optionee shall have complied with all requirements of this Agreement applicable to the disposition of the Shares;

   (c) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to counsel for the Company, that (i) the proposed disposition does not require registration of the Shares under the Securities Act or under any applicable state securities laws or (ii) all appropriate actions necessary for compliance with the registration requirements of the Securities Act or of any exemption from registration available under the Securities Act (including Rule 144) or applicable state securities laws have been taken; and
(d) Optionee shall have provided the Company with written assurances, in form and substance satisfactory to the Company, that the proposed disposition will not result in the contravention of any transfer restrictions applicable to the Shares pursuant to the provisions of the regulations promulgated under Section 25102(o), Rule 701 or under any other applicable securities laws or adversely affect the Company’s ability to rely on the exemption(s) from registration under the Securities Act or under any other applicable securities laws for the grant of the Option, the issuance of Shares thereunder or any other issuance of securities under the Plan.

8.2. **Restriction on Transfer.** Optionee shall not transfer, assign, grant a lien or security interest in, pledge, hypothecate, encumber or otherwise dispose of any of the Shares which are subject to the Company’s Repurchase Option or the Right of First Refusal described below, except as permitted by this Agreement.

8.3. **Transferee Obligations.** Each person (other than the Company) to whom the Shares are transferred by means of one of the permitted transfers specified in this Agreement must, as a condition precedent to the validity of such transfer, acknowledge in writing to the Company that such person is bound by the provisions of this Agreement and that the transferred Shares are subject to (i) both the Company’s Repurchase Option and the Company’s Right of First Refusal granted hereunder and (ii) the market stand-off provisions of Section 9 below, to the same extent such Shares would be so subject if retained by Optionee.

9. **MARKET STANDOFF AGREEMENT.** Optionee agrees that, subject to any early release provisions that apply pro rata to stockholders of the Company according to their holdings of Common Stock (determined on an as-converted into Common Stock basis), Optionee will not, for a period of up to one hundred eighty (180) days (plus up to an additional thirty five (35) days to the extent reasonably requested by the Company or such underwriter(s) to accommodate regulatory restrictions on the publication or other distribution of research reports or earnings releases by the Company, including NASD and NYSE rules) following the effective date of the registration statement filed with the SEC relating to the initial underwritten sale of Common Stock of the Company to the public under the Securities Act (the “IPO”), directly or indirectly sell, offer to sell, grant any option for the sale of, or otherwise dispose of any Common Stock or securities convertible into Common Stock, except for:

(i) transfers of Shares permitted under Section 10.6 hereof so long as such transferee furnishes to the Company and the managing underwriter their written consent to be bound by this Section 9 as a condition precedent to such transfer; and

(ii) sales of any securities to be included in the registration statement for the IPO. For the avoidance of doubt, the provisions of this Section shall only apply to the IPO. The restricted period shall in any event terminate two (2) years after the closing date of the IPO. In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the Shares subject to this Section and to impose stop transfer instructions with respect to the Shares until the end of such period. Optionee further agrees to enter into any agreement reasonably required by the underwriters to implement the foregoing restrictions on transfer. For the avoidance of doubt, the foregoing provisions of this Section shall not apply to any registration of securities of the Company (a) under an employee benefit plan or (b) in a merger, consolidation, business combination or similar transaction.

10. **COMPANY’S RIGHT OF FIRST REFUSAL.** Unvested Shares may not be sold or otherwise transferred, or pledged by Optionee or made subject to a security interest, pledge or other lien without the Company’s prior written consent, which may be withheld in the Company’s sole and absolute discretion. Before any Vested Shares held by Optionee or any transferee of such Vested Shares (either sometimes referred to herein as the “Holder”) may be sold or otherwise transferred (including, without limitation, a transfer by gift or operation of law), the Company and/or its assignee(s) will have a right of first refusal to purchase the Vested Shares to be sold or transferred (the “Offered Shares”) on the terms and conditions set forth in this Section (the “Right of First Refusal”).
10.1. **Notice of Proposed Transfer.** The Holder of the Offered Shares will deliver to the Company a written notice (the “Notice”) stating: (i) the Holder’s bona fide intention to sell or otherwise transfer the Offered Shares; (ii) the name and address of each proposed purchaser or other transferee (the “Proposed Transferee”); (iii) the number of Offered Shares to be transferred to each Proposed Transferee; (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Offered Shares (the “Offered Price”); and (v) that the Holder acknowledges this Notice is an offer to sell the Offered Shares to the Company and/or its assignee(s) pursuant to the Company’s Right of First Refusal at the Offered Price as provided for in this Agreement.

10.2. **Exercise of Right of First Refusal.** At any time within thirty (30) days after the date of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all (or, with the consent of the Holder, less than all) the Offered Shares proposed to be transferred to any one or more of the Proposed Transferees named in the Notice, at the purchase price, determined as specified below.

10.3. **Purchase Price.** The purchase price for the Offered Shares purchased under this Section will be the Offered Price, provided that if the Offered Price consists of no legal consideration (as, for example, in the case of a transfer by gift) then the purchase price will be the fair market value of the Offered Shares as determined in good faith by the Committee. If the Offered Price includes consideration other than cash, then the value of the non-cash consideration, as determined in good faith by the Committee, will conclusively be deemed to be the cash equivalent value of such non-cash consideration.

10.4. **Payment.** Payment of the purchase price for the Offered Shares will be payable, at the option of the Company and/or its assignee(s) (as applicable), by check or by cancellation of all or a portion of any outstanding purchase money indebtedness owed by the Holder to the Company (or to such assignee, in the case of a purchase of Offered Shares by such assignee) or by any combination thereof. The purchase price will be paid without interest within sixty (60) days after the Company’s receipt of the Notice, or, at the option of the Company and/or its assignee(s), in the manner and at the time(s) set forth in the Notice.

10.5. **Holder’s Right to Transfer.** If all of the Offered Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Offered Shares to each Proposed Transferee at the Offered Price or at a higher price, provided that (i) such sale or other transfer is consummated within ninety (90) days after the date of the Notice, (ii) any such sale or other transfer is effected in compliance with all applicable securities laws, and (iii) each Proposed Transferee agrees in writing that the provisions of this Section will continue to apply to the Offered Shares in the hands of such Proposed Transferee. If the Offered Shares described in the Notice are not transferred to each Proposed Transferee within such ninety (90) day period, then a new Notice must be given to the Company pursuant to which the Company will again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

10.6. **Exempt Transfers.** Notwithstanding anything to the contrary in this Section, the following transfers of Vested Shares will be exempt from the Right of First Refusal: (i) the transfer of any or all of the Vested Shares during Optionee’s lifetime by gift or on Optionee’s death by will or intestacy to any member(s) of Optionee’s “Immediate Family” (as defined below) or to a trust for the benefit of Optionee and/or member(s) of Optionee’s Immediate Family, provided that each transferee or other recipient agrees in a writing satisfactory to the Company that the provisions of this Section will continue to apply to the transferred Vested Shares in the hands of such transferee or other recipient; (ii) any transfer of Vested Shares made pursuant to a statutory merger, statutory consolidation of the Company with or into another corporation or corporations or a conversion of the Company into another form of legal entity (except that the Right of First Refusal will continue to apply thereafter to such Vested Shares, in which case the surviving corporation of such merger or consolidation or the resulting entity of such conversion shall succeed to the rights of the Company under this Section unless the agreement of merger
or consolidation or conversion expressly otherwise provides); or (iii) any transfer of Vested Shares pursuant to the winding up and dissolution of the Company. As used herein, the term “Immediate Family” will mean Optionee’s spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of Optionee or Optionee’s spouse, or the spouse of any of the above or Spousal Equivalent, as defined herein. As used herein, a person is deemed to be a “Spousal Equivalent” provided the following circumstances are true: (i) irrespective of whether or not Optionee and the Spousal Equivalent are the same sex, they are the sole spousal equivalent of the other for the last twelve (12) months, (ii) they intend to remain so indefinitely, (iii) neither are married to anyone else, (iv) both are at least 18 years of age and mentally competent to consent to contract, (v) they are not related by blood to a degree of closeness that which would prohibit legal marriage in the state in which they legally reside, (vi) they are jointly responsible for each other’s common welfare and financial obligations, and (vii) they reside together in the same residence for the last twelve (12) months and intend to do so indefinitely.

10.7. Termination of Right of First Refusal. The Right of First Refusal will terminate as to all Shares: (i) on the effective date of the first sale of Common Stock of the Company to the general public pursuant to a registration statement filed with and declared effective by the SEC under the Securities Act (other than a registration statement relating solely to the issuance of Common Stock pursuant to a business combination or an employee incentive or benefit plan); (ii) on any transfer or conversion of Shares made pursuant to a statutory merger or statutory consolidation of the Company with or into another corporation or corporations if the common stock of the surviving corporation or any direct or indirect parent corporation thereof is registered under the Exchange Act; or (iii) on any transfer or conversion of Shares made pursuant to a statutory conversion of the Company into another form of legal entity if the common equity (or comparable equity security) of entity resulting from such conversion is registered under the Exchange Act.

10.8. Encumbrances on Vested Shares. Optionee may grant a lien or security interest in, or pledge, hypothecate or encumber Vested Shares only if each party to whom such lien or security interest is granted, or to whom such pledge, hypothecation or other encumbrance is made, agrees in a writing satisfactory to the Company that: (i) such lien, security interest, pledge, hypothecation or encumbrance will not adversely affect or impair the Right of First Refusal or the rights of the Company and/or its assignee(s) with respect thereto and will not apply to such Vested Shares after they are acquired by the Company and/or its assignees under this Section; and (ii) the provisions of this Agreement will continue to apply to such Vested Shares in the hands of such party and any transferee of such party. Optionee may not grant a lien or security interest in, or pledge, hypothecate or encumber, any Unvested Shares.

10.9. Effect of Company Co-Sale Agreement. If Optionee is, or at any time hereafter becomes, a party to or otherwise bound by (i) the Company’s Eighth Amended and Restated Right of First Refusal and Co-Sale Agreement dated as of February 12, 2015 among the Company and certain stockholders of the Company, as such may be amended and/or restated from time to time, and/or (ii) any other agreement that is a successor to or replacement of such agreement (collectively, the “Company Co-Sale Agreement”), then, in the event of any conflict or inconsistency between the provisions of this Section 10 and any provisions in the Company Co-Sale Agreement granting the Company and/or other security holders of the Company rights of first refusal and/or co-sale rights with respect to any or all of the Shares, Optionee agrees with the Company that the terms and conditions of the Company Co-Sale Agreement shall apply, govern, supersede and prevail over (and in lieu of) the provisions of this Section 10 so long as the Company Co-Sale Agreement is in effect and Optionee is a party to or bound thereby. If the Company Co-Sale Agreement is no longer in effect or if Optionee is not a party to or bound thereby, then the provisions of this Section 10 shall apply in full force and effect until termination of the Right of First Refusal.
11. RIGHTS AS A STOCKHOLDER. Optionee shall not have any of the rights of a stockholder with respect to any Shares unless and until such Shares are issued to Optionee. Subject to the terms and conditions of this Agreement, Optionee will have all of the rights of a stockholder of the Company with respect to the Shares from and after the date that Shares are issued to Optionee pursuant to, and in accordance with, the terms of the Exercise Agreement until such time as Optionee disposes of the Shares or the Company and/or its assignee(s) exercise(s) the Repurchase Option or the Right of First Refusal. Upon an exercise of the Repurchase Option or the Right of First Refusal, Optionee will have no further rights as a holder of the Shares so purchased upon such exercise, other than the right to receive payment for the Shares so purchased in accordance with the provisions of this Agreement, and Optionee will promptly surrender the stock certificate(s) evidencing the Shares so purchased to the Company for transfer or cancellation.

12. ESCROW. As security for Optionee’s faithful performance of this Agreement, Optionee agrees, immediately upon receipt of the stock certificate(s) evidencing the Shares, to deliver such certificate(s) to the Secretary of the Company or other designee of the Company (the “Escrow Holder”), who is hereby appointed to hold such certificate(s) and to take all such actions and to effectuate all such transfers and/or releases of such Shares as are in accordance with the terms of this Agreement. Optionee and the Company agree that Escrow Holder will not be liable to any party to this Agreement (or to any other party) for any actions or omissions unless Escrow Holder is grossly negligent or intentionally fraudulent in carrying out the duties of Escrow Holder under this Agreement. Escrow Holder may rely upon any letter, notice or other document executed with any signature purported to be genuine and may rely on the advice of counsel and obey any order of any court with respect to the transactions contemplated by this Agreement and will not be liable for any act or omission taken by Escrow Holder in good faith reliance on such documents, the advice of counsel or a court order. The Shares will be released from escrow upon termination of both the Repurchase Option and the Right of First Refusal.

13. Company Co-Sale Agreement and Voting Agreement. As a material inducement and consideration for the Company to enter into this Agreement, Optionee hereby agrees that if, the Company requests Optionee to enter into and become a party to (a) the Company Co-Sale Agreement (and to subject the Shares to the rights of first refusal held by the Company and other Company investors thereunder) and/or (b) the Company Voting Agreement (pursuant to which Optionee would agree to vote all shares of Company stock held by Optionee for the election of directors and in favor of certain material transactions (such as mergers or sales of the Company), then Optionee will enter into such agreements and execute and deliver signature pages thereto (as requested by the Company) in such capacities as the Company requests, at the time of exercising this Option and as a condition to such exercise or at any later time.

14. RESTRICTIVE LEGENDS AND STOP-TRANSFER ORDERS.

14.1. Legends. Optionee understands and agrees that the Company will place the legends set forth below or similar legends on any stock certificate(s) evidencing the Shares, together with any other legends that may be required by state or U.S. Federal securities laws, the Company’s Certificate of Incorporation or Bylaws, any other agreement between Optionee and the Company, or any agreement between Optionee and any third party (and any other legend(s) that the Company may become obligated to place on the stock certificate(s) evidencing the Shares under the terms of any agreement to which the Company is or may become bound or obligated):

(a) THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS.
b) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON RESALE AND TRANSFER, INCLUDING THE REPURCHASE OPTION AND RIGHT OF FIRST REFUSAL HELD BY THE ISSUER AND/OR ITS ASSIGNEE(S) AS SET FORTH IN A STOCK OPTION AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH SALE AND TRANSFER RESTRICTIONS, INCLUDING THE REPURCHASE OPTION AND RIGHT OF FIRST REFUSAL, ARE BINDING ON TRANSFEREES OF THESE SHARES.

c) THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A MARKET STANDOFF RESTRICTION AS SET FORTH IN A CERTAIN STOCK OPTION AGREEMENT BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. AS A RESULT OF SUCH AGREEMENT, THESE SHARES MAY NOT BE TRADED PRIOR TO 180 DAYS (AND POSSIBLY LONGER) AFTER THE EFFECTIVE DATE OF CERTAIN PUBLIC OFFERINGS OF THE COMMON STOCK OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.

Optionee agrees that if Optionee becomes a party to (i) the Company Co-Sale Agreement or (ii) (A) the Company’s Eighth Amended and Restated Voting Agreement dated as of February 12, 2015 among the Company and certain stockholders of the Company, as such may be amended and/or restated from time to time, and/or (B) any other voting agreement that is a successor to or replacement of such agreement (collectively, the “Company Voting Agreement”), then Optionee agrees that the stock certificate(s) evidencing the Shares shall, in addition, bear any legends required under the Company Co-Sale Agreement and/or the Company Voting Agreement, as applicable.

14.2. Stop-Transfer Instructions. Optionee agrees that, to ensure compliance with the restrictions imposed by this Agreement, the Company may issue appropriate “stop-transfer” instructions to its transfer agent, if any, and if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

14.3. Refusal to Transfer. The Company will not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Agreement or (ii) to treat as owner of such Shares, or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares have been so transferred.

15. CERTAIN TAX CONSEQUENCES. Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal tax consequences of exercise of the Option and disposition of the Shares. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.

15.1. Exercise of ISO. If the Option qualifies as an ISO, there will be no regular federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price will be treated as a tax preference item for federal alternative minimum tax purposes and may subject Optionee to the alternative minimum tax in the year of exercise.
15.2. **Exercise of Nonqualified Stock Option.** If the Option does not qualify as an ISO, there may be a regular federal income tax liability upon the exercise of the Option. Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Optionee is a current or former employee of the Company, the Company may be required to withhold from Optionee’s compensation or collect from Optionee and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

15.3. **Disposition of Shares.** The following tax consequences may apply upon disposition of the Shares.

(a) **Incentive Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an ISO and are disposed of more than two (2) years after the Date of Grant, any gain realized on disposition of the Shares will be treated as long term capital gain for federal income tax purposes. If Vested Shares purchased under an ISO are disposed of within the applicable one (1) year or two (2) year period, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price. If Vested Shares were exercised prior to vesting coincident with the filing of an 83(b) Election, the amount taxed because of a disqualifying disposition will be based upon the excess, if any, of the fair market value on the date of vesting over the exercise price.

(b) **Nonqualified Stock Options.** If the Shares are held for more than twelve (12) months after the date of purchase of the Shares pursuant to the exercise of an NQSO, any gain realized on disposition of the Shares will be treated as long term capital gain.

15.4. **Section 83(b) Election for Unvested Shares.** With respect to Unvested Shares, which are subject to the Repurchase Option, unless an election is filed by Optionee with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), within thirty (30) days of the purchase of the Unvested Shares, electing pursuant to Section 83(b) of the Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the Exercise Price of the Unvested Shares and their Fair Market Value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to Optionee, measured by the excess, if any, of the Fair Market Value of the Unvested Shares at the time they cease to be Unvested Shares, over the Exercise Price of the Unvested Shares.

16. **GENERAL PROVISIONS.**

16.1. **Interpretation.** Any dispute regarding the interpretation of this Agreement shall be submitted by Optionee or the Company to the Committee for review. The resolution of such a dispute by the Committee shall be final and binding on the Company and Optionee.

16.2. **Entire Agreement.** The Plan, the Grant Notice and the Exercise Agreement are each incorporated herein by reference. This Agreement, the Grant Notice, the Plan and the Exercise Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior undertakings and agreements with respect to such subject matter.

17. **NOTICES.** Any and all notices required or permitted to be given to a party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed to provide such party sufficient notice under this Agreement on the earliest of the following: (i) at the time of personal delivery, if delivery is in person; (ii) at the time an electronic confirmation of receipt is received, if delivery is by email; (iii) at the time of transmission by facsimile, addressed to the other party at its facsimile number specified herein (or hereafter modified by subsequent notice to the parties hereto), with confirmation of receipt made by both telephone and printed confirmation sheet verifying successful transmission of the facsimile; (iv) one (1) business day after deposit with an express overnight courier for United States deliveries, or two (2) business days after such deposit for deliveries outside of the United States.
States, with proof of delivery from the courier requested; or (v) three (3) business days after deposit in the United States mail by certified mail (return receipt requested) for United States deliveries. Any notice for delivery outside the United States will be sent by email, facsimile or by express courier. Any notice not delivered personally or by email will be sent with postage and/or other charges prepaid and properly addressed to Optionee at the last known address or facsimile number on the books of the Company, or at such other address or facsimile number as such other party may designate by one of the indicated means of notice herein to the other parties hereto or, in the case of the Company, to it at its principal place of business. Notices to the Company will be marked “Attention: Chief Financial Officer.” Notices by facsimile shall be machine verified as received.

18. SUCCESSORS AND Assigns. The Company may assign any of its rights under this Agreement including its rights to purchase Shares under both the Right of First Refusal and Repurchase Option. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement shall be binding upon Optionee and Optionee’s heirs, executors, administrators, legal representatives, successors and assigns.

19. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California as such laws are applied to agreements between California residents entered into and to be performed entirely within California. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, then such provision will be enforced to the maximum extent possible and the other provisions will remain fully effective and enforceable.

20. FURTHER ASSURANCES. The parties agree to execute such further documents and instruments and to take such further actions as may be reasonably necessary to carry out the purposes and intent of this Agreement.

21. TITLES AND HEADINGS. The titles, captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Agreement. Unless otherwise specifically stated, all references herein to “sections” and “exhibits” will mean “sections” and “exhibits” to this Agreement.

22. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement.

23. SEVERABILITY. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement. Notwithstanding the forgoing, if the value of this Agreement based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

* * * * *

Attachments:

Annex A: Form of Stock Option Exercise Notice and Agreement
ANNEX A

FORM OF STOCK OPTION EXERCISE NOTICE AND AGREEMENT
STOCK OPTION EXERCISE NOTICE AND AGREEMENT
BILL.COM, INC.

2016 EQUITY INCENTIVE PLAN

*NOTE: You must sign this Notice on Page 3 before submitting it to Bill.Com, Inc. (the “Company”) AND, if requested to do so by the Company, you must also sign the signature pages to the Company’s then-current Company Co-Sale Agreement and Company Voting Agreement (as those terms are defined in the Stock Option Agreement) before submitting this Notice to the Company.

OPTIONEE INFORMATION: Please provide the following information about yourself (“Optionee”):

Name: ___________________________ Social Security Number: ___________________________
Address: ___________________________ Employee Number: ___________________________
                                      Email Address: ___________________________

OPTION INFORMATION: Please provide this information on the option being exercised (the “Option”):

Grant No. ___________________________
Date of Grant: ___________________________
Option Price per Share: $________
Type of Stock Option: ☐ Nonqualified (NQSO) ☐ Incentive (ISO)
Total number of shares of Common Stock of the Company subject to the Option: ☐

EXERCISE INFORMATION:

Number of shares of Common Stock of the Company for which the Option is now being exercised [________________]. (These shares are referred to below as the “Purchased Shares.”)

Total Exercise Price Being Paid for the Purchased Shares: $________

Form of payment enclosed [check all that apply]:
☐ Check for $________, payable to “Bill.Com, Inc.”
☐ Certificate(s) for _____________ shares of Common Stock of the Company. These shares will be valued as of the date this notice is received by the Company. [Requires Company consent.]

AGREEMENTS, REPRESENTATIONS AND ACKNOWLEDGMENTS OF OPTIONEE: By signing this Stock Option Exercise Notice and Agreement, Optionee hereby agrees with, and represents to, the Company as follows:

1. Terms Governing. I acknowledge and agree with the Company that I am acquiring the Purchased Shares by exercise of this Option subject to all other terms and conditions of the Notice of Stock Option Grant and the Stock Option Agreement that govern the Option, including without limitation the terms of the Company’s 2016 Equity Incentive Plan, as it may be amended (the “Plan”).
2. **Investment Intent; Securities Law Restrictions.** I represent and warrant to the Company that I am acquiring and will hold the Purchased Shares for investment for my account only, and not with a view to, or for resale in connection with, any “distribution” of the Purchased Shares within the meaning of the Securities Act of 1933, as amended (the “Securities Act”). I understand that the Purchased Shares have not been registered under the Securities Act by reason of a specific exemption from such registration requirement and that the Purchased Shares must be held by me indefinitely, unless they are subsequently registered under the Securities Act or I obtain an opinion of counsel (in form and substance satisfactory to the Company and its counsel) that registration is not required. I acknowledge that the Company is under no obligation to register the Purchased Shares under the Securities Act or under any other securities law.

3. **Restrictions on Transfer: Rule 144.** I will not sell, transfer or otherwise dispose of the Purchased Shares in violation of the Securities Act, the Securities Exchange Act of 1934, or the rules promulgated thereunder (including Rule 144 under the Securities Act described below “Rule 144”)) or of any other applicable securities laws. I am aware of Rule 144, which permits limited public resales of securities acquired in a non-public offering, subject to satisfaction of certain conditions, which include (without limitation) that: (a) certain current public information about the Company is available; (b) the resale occurs only after the holding period required by Rule 144 has been met; (c) the sale occurs through an unsolicited “broker’s transaction;” and (d) the amount of securities being sold during any three-month period does not exceed specified limitations. I understand that the conditions for resale set forth in Rule 144 have not been satisfied and that the Company has no plans to satisfy these conditions in the foreseeable future.

4. **Access to Information; Understanding of Risk in Investment.** I acknowledge that I have received and had access to such information as I consider necessary or appropriate for deciding whether to invest in the Purchased Shares and that I had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the issuance of the Purchased Shares. I am aware that my investment in the Company is a speculative investment that has limited liquidity and is subject to the risk of complete loss. I am able, without impairing my financial condition, to hold the Purchased Shares for an indefinite period and to suffer a complete loss of my investment in the Purchased Shares.

5. **Rights of First Refusal; Repurchase Options; Market Stand-off.** I acknowledge that the Purchased Shares remain subject to the Company’s Right of First Refusal, the Company’s Repurchase Option (with respect to unvested Purchased Shares) and the market stand-off covenants (sometimes referred to as the “lock-up”), all in accordance with the applicable Notice of Stock Option Grant and the Stock Option Agreement that govern the Option

6. **Form of Ownership.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the form of ownership of the Purchased Shares that is appropriate for me. In the event that I choose to transfer my Purchased Shares to a trust, I agree to sign a Stock Transfer Agreement. In the event that I choose to transfer my Purchased Shares to a trust that is not an eligible revocable trust, I also acknowledge that the transfer will be treated as a “disposition” for tax purposes. As a result, the favorable ISO tax treatment will be unavailable and other unfavorable tax consequences may occur.

7. **Investigation of Tax Consequences.** I acknowledge that the Company has encouraged me to consult my own adviser to determine the tax consequences of acquiring the Purchased Shares at this time.

8. **Other Tax Matters.** I agree that the Company does not have a duty to design or administer the Plan or its other compensation programs in a manner that minimizes my tax liabilities. I will not make any claim against the Company or its Board, officers or employees related to tax liabilities arising from my options or my other compensation. In particular, I acknowledge that my options (including the Option) are exempt from Section 409A of the Internal Revenue Code only if the exercise price per share is at least equal to the fair market value per share of the Common Stock at the time the option was granted by the Board. Since shares of the Common Stock are not traded on an established
securities market, the determination of their fair market value was made by the Board and/or by an independent valuation firm retained by the Company. I acknowledge that there is no guarantee in either case that the Internal Revenue Service will agree with the valuation, and I will not make any claim against the Company or its Board of Directors, officers or employees in the event that the Internal Revenue Service asserts that the valuation was too low.

9. **Spouse Consent.** I agree to seek the consent of my spouse to the extent required by the Company to enforce the foregoing.

10. **Agreement to Enter into Company Co-Sale Agreement and Company Voting Agreement.** Pursuant to the Stock Option Agreement, if requested to do so by the Company, I agree to enter into and execute the then-current Company Co-Sale Agreement and/or the then-current Company Voting Agreement concurrently with my exercise of the Option or at any other time I am requested to do so by the Company. I acknowledge that by entering into the Company Co-Sale Agreement I will be subjecting the Purchased Shares to the rights of first refusal, co-sale rights and all the other provisions of the Company Co-Sale Agreement and that by entering into the Voting Agreement I will be subjected to voting and other obligations and covenants regarding all Company shares I own and all other provisions of the Company Voting Agreement, in addition to the right of first refusal, repurchase option and market stand-off provisions described above.

11. **Tax Withholding.** As a condition of exercising this Option, I agree to make adequate provision for foreign, federal, state or other tax withholding obligations, if any, which arise upon the grant, vesting or exercise of this Option, or disposition of the Purchased Shares, whether by withholding, direct payment to the Company, or otherwise.

**IMPORTANT NOTE:** UNVESTED PURCHASED SHARES ARE SUBJECT TO REPURCHASE BY THE COMPANY. PLEASE CONSULT WITH YOUR TAX ADVISER CONCERNING THE ADVISABILITY OF FILING AN 83(b) ELECTION WITH THE INTERNAL REVENUE SERVICE WHICH MUST BE FILED WITHIN THIRTY (30) DAYS AFTER THE PURCHASE OF SHARES TO BE EFFECTIVE.

A form of Election under Section 83(b) is attached hereto as Exhibit 1 for reference. Unless an 83(b) election is timely filed with the Internal Revenue Service (and, if necessary, the proper state taxing authorities), electing pursuant to Section 83(b) of the Internal Revenue Code (and similar state tax provisions, if applicable) to be taxed currently on any difference between the purchase price of the Unvested Purchased Shares and their fair market value on the date of purchase, there may be a recognition of taxable income (including, where applicable, alternative minimum taxable income) to you, measured by the excess, if any, of the Fair Market Value of the Unvested Purchased Shares at the time they cease to be Unvested Purchased Shares, over the purchase price of the Unvested Purchased Shares.

Furthermore, to the extent the Purchased Shares were purchased upon exercise of an ISO, Optionee acknowledges that Optionee may be subject to federal and state income taxes as a result of a disqualifying disposition of the Purchased Shares, with any gain realized on (a) Vested Shares initially purchased under an ISO subject to a disqualifying disposition treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Shares on the date of exercise over the Exercise Price and (b) Unvested Shares initially purchased under an ISO (and regardless of whether an 83(b) election is timely filed with the Internal Revenue Service) subject to a disqualifying disposition treated as compensation income (taxable at ordinary income rates in the year of the disposition) to the extent of the excess, if any, of the Fair Market Value of the Share on the date of vesting over the Exercise Price.

THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THE OPTION OR DISPOSING OF THE SHARES.

The undersigned hereby executes and delivers this Stock Option Exercise Notice and Agreement and agrees to be bound by its terms.
SIGNATURE: __________________________  DATE: __________________________

Optionee’s Name: __________________________

Attachments:

Exhibit 1 – Section 83(b) Election Form

[Signature Page to Stock Option Exercise Notice and Agreement]
EXHIBIT 1

SECTION 83(b) ELECTION
The undersigned Taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include the excess, if any, of the fair market value of the property described below at the time of transfer over the amount paid for such property, as compensation for services in the calculation of: (1) regular gross income; (2) alternative minimum taxable income; or (3) disqualifying disposition gross income, as the case may be.

1. TAXPAYER’S NAME: ____________________________
   TAXPAYER’S ADDRESS: ________________________________________________________________
   SOCIAL SECURITY NUMBER: ____________________________________________________________

2. The property with respect to which the election is made is described as follows: _______ shares of Common Stock, par value $0.00001 per share, of Bill.Com, Inc., a Delaware corporation (the “Company”), which were transferred upon exercise of an option by the Company, which is Taxpayer’s employer or the corporation for whom the Taxpayer performs services.

3. The date on which the shares were transferred pursuant to the exercise of the option was ______________________, ______ and this election is made for calendar year ______.

4. The shares received upon exercise of the option are subject to the following restrictions: The Company may repurchase all or a portion of the shares at Taxpayer’s original purchase price per share, under certain conditions at the time of Taxpayer’s termination of employment or services.

5. The fair market value of the shares (without regard to restrictions other than restrictions which by their terms will never lapse) was $_____ per share x _______ shares = $______ at the time of exercise of the option.

6. The amount paid for such shares upon exercise of the option was $____ per share x _______ shares = $______.

7. The Taxpayer has submitted a copy of this statement to the Company.

8. The amount to include in gross income is $______________. [The result of the amount reported in Item 5 minus the amount reported in Item 6.]


Dated: ____________________________
Taxpayer’s Signature
SENIOR SECURED CREDIT FACILITIES

CREDIT AGREEMENT

dated as of June 28, 2019,

among

BDC PAYMENTS HOLDINGS, INC.,

as a Guarantor,

BILL.COM, LLC,

as the Borrower,

THE SEVERAL LENDERS FROM TIME TO TIME PARTY HERETO,

SILICON VALLEY BANK,

as Administrative Agent, Issuing Lender and Swingline Lender,

and

SILICON VALLEY BANK,

as Lead Arranger
<table>
<thead>
<tr>
<th>SECTION 1 DEFINITIONS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Defined Terms</td>
<td>1</td>
</tr>
<tr>
<td>1.2 Other Definitional Provisions</td>
<td>30</td>
</tr>
<tr>
<td>1.3 Rounding</td>
<td>31</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SECTION 2 AMOUNT AND TERMS OF COMMITMENTS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 [Reserved]</td>
<td>31</td>
</tr>
<tr>
<td>2.2 [Reserved]</td>
<td>31</td>
</tr>
<tr>
<td>2.3 [Reserved]</td>
<td>31</td>
</tr>
<tr>
<td>2.4 Revolving Commitments</td>
<td>31</td>
</tr>
<tr>
<td>2.5 Procedure for Revolving Loan Borrowing</td>
<td>32</td>
</tr>
<tr>
<td>2.6 Swingline Commitment</td>
<td>32</td>
</tr>
<tr>
<td>2.7 Procedure for Swingline Borrowing; Refunding of Swingline Loans</td>
<td>33</td>
</tr>
<tr>
<td>2.8 Overadvances</td>
<td>34</td>
</tr>
<tr>
<td>2.9 Fees</td>
<td>35</td>
</tr>
<tr>
<td>2.10 Termination or Reduction of Revolving Commitments</td>
<td>35</td>
</tr>
<tr>
<td>2.11 [Reserved]</td>
<td>36</td>
</tr>
<tr>
<td>2.12 [Reserved]</td>
<td>36</td>
</tr>
<tr>
<td>2.13 Conversion and Continuation Options</td>
<td>36</td>
</tr>
<tr>
<td>2.14 Limitations on Eurodollar Tranches</td>
<td>36</td>
</tr>
<tr>
<td>2.15 Interest Rates and Payment Dates</td>
<td>37</td>
</tr>
<tr>
<td>2.16 Computation of Interest and Fees</td>
<td>37</td>
</tr>
<tr>
<td>2.17 Inability to Determine Interest Rate</td>
<td>37</td>
</tr>
<tr>
<td>2.18 Pro Rata Treatment and Payments</td>
<td>38</td>
</tr>
<tr>
<td>2.19 Illegality; Requirements of Law</td>
<td>41</td>
</tr>
<tr>
<td>2.20 Taxes</td>
<td>43</td>
</tr>
<tr>
<td>2.21 Indemnity</td>
<td>46</td>
</tr>
<tr>
<td>2.22 Change of Lending Office</td>
<td>46</td>
</tr>
<tr>
<td>2.23 Substitution of Lenders</td>
<td>47</td>
</tr>
<tr>
<td>2.24 Defaulting Lenders</td>
<td>48</td>
</tr>
<tr>
<td>2.25 Joint and Several Liability of the Borrowers</td>
<td>50</td>
</tr>
<tr>
<td>2.26 Notes</td>
<td>53</td>
</tr>
<tr>
<td>2.27 Incremental Facility</td>
<td>53</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SECTION 3 LETTERS OF CREDIT</th>
<th>55</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 L/C Commitment</td>
<td>55</td>
</tr>
<tr>
<td>3.2 Procedure for Issuance of Letters of Credit</td>
<td>56</td>
</tr>
<tr>
<td>3.3 Fees and Other Charges</td>
<td>57</td>
</tr>
<tr>
<td>3.4 L/C Participations; Existing Letters of Credit</td>
<td>57</td>
</tr>
<tr>
<td>3.5 Reimbursement</td>
<td>58</td>
</tr>
<tr>
<td>3.6 Obligations Absolute</td>
<td>59</td>
</tr>
<tr>
<td>3.7 Letter of Credit Payments</td>
<td>59</td>
</tr>
<tr>
<td>3.8 Applications</td>
<td>59</td>
</tr>
<tr>
<td>3.9 Interim Interest</td>
<td>59</td>
</tr>
<tr>
<td>3.10 Cash Collateral</td>
<td>60</td>
</tr>
<tr>
<td>3.11 Additional Issuing Lenders</td>
<td>61</td>
</tr>
<tr>
<td>3.12 Resignation of the Issuing Lender</td>
<td>61</td>
</tr>
</tbody>
</table>
Table of Contents
(continued)

3.13 Applicability of UCP and ISP 61

SECTION 4 REPRESENTATIONS AND WARRANTIES 61

4.1 Financial Condition 61
4.2 No Change 62
4.3 Existence; Compliance with Law 62
4.4 Power, Authorization; Enforceable Obligations 62
4.5 No Legal Bar 63
4.6 Litigation 63
4.7 No Default 63
4.8 Ownership of Property; Liens; Investments 63
4.9 Intellectual Property 63
4.10 Taxes 63
4.11 Federal Regulations 64
4.12 Labor Matters 64
4.13 ERISA 64
4.14 Investment Company Act; Other Regulations 65
4.15 Subsidiaries 65
4.16 Use of Proceeds 66
4.17 Environmental Matters 66
4.18 Accuracy of Information, etc. 67
4.19 Security Documents. 67
4.20 Solvency 67
4.21 Regulation H 68
4.22 Designated Senior Indebtedness 68
4.23 [Reserved] 68
4.24 Insurance 68
4.25 No Casualty 68
4.26 Recurring Revenue 68
4.27 Capitalization 68
4.28 OFAC 68
4.29 Anti-Corruption Laws 69
4.30 Holding Company 69

SECTION 5 CONDITIONS PRECEDENT 69

5.1 Conditions to Initial Extension of Credit 69
5.2 Conditions to Each Extension of Credit 72
5.3 Post-Closing Conditions Subsequent 73

SECTION 6 AFFIRMATIVE COVENANTS 73

6.1 Financial Statements 73
6.2 Certificates; Reports; Other Information 74
6.3 Collections 75
6.4 Payment of Obligations 76
6.5 Maintenance of Existence; Compliance 76
6.6 Maintenance of Property; Insurance 76
6.7 Inspection of Property; Books and Records; Discussions 76
6.8 Notices 77
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.9  Environmental Laws</td>
<td>78</td>
</tr>
<tr>
<td>6.10 Operating Accounts</td>
<td>78</td>
</tr>
<tr>
<td>6.11 Audits</td>
<td>78</td>
</tr>
<tr>
<td>6.12 Additional Collateral, Etc.</td>
<td>79</td>
</tr>
<tr>
<td>6.13 [Reserved]</td>
<td>81</td>
</tr>
<tr>
<td>6.14 Use of Proceeds</td>
<td>81</td>
</tr>
<tr>
<td>6.15 Designated Senior Indebtedness</td>
<td>81</td>
</tr>
<tr>
<td>6.16 Anti-Corruption Laws</td>
<td>81</td>
</tr>
<tr>
<td>6.17 Further Assurances</td>
<td>81</td>
</tr>
<tr>
<td><strong>SECTION 7 NEGATIVE COVENANTS</strong></td>
<td>81</td>
</tr>
<tr>
<td>7.1  Financial Condition Covenants</td>
<td>82</td>
</tr>
<tr>
<td>7.2  Indebtedness</td>
<td>82</td>
</tr>
<tr>
<td>7.3  Liens</td>
<td>83</td>
</tr>
<tr>
<td>7.4  Fundamental Changes</td>
<td>85</td>
</tr>
<tr>
<td>7.5  Disposition of Property</td>
<td>86</td>
</tr>
<tr>
<td>7.6  Restricted Payments</td>
<td>87</td>
</tr>
<tr>
<td>7.7  [Reserved]</td>
<td>88</td>
</tr>
<tr>
<td>7.8  Investments</td>
<td>88</td>
</tr>
<tr>
<td>7.9  ERISA</td>
<td>90</td>
</tr>
<tr>
<td>7.10 Optional Payments and Modifications of</td>
<td>90</td>
</tr>
<tr>
<td>Certain Preferred Stock and Debt Instruments</td>
<td></td>
</tr>
<tr>
<td>7.11 Transactions with Affiliates</td>
<td>90</td>
</tr>
<tr>
<td>7.12 Sale Leaseback Transactions</td>
<td>91</td>
</tr>
<tr>
<td>7.13 Swap Agreements</td>
<td>91</td>
</tr>
<tr>
<td>7.14 Accounting Changes</td>
<td>91</td>
</tr>
<tr>
<td>7.15 Negative Pledge Clauses</td>
<td>91</td>
</tr>
<tr>
<td>7.16 Clauses Restricting Subsidiary Distributions</td>
<td>91</td>
</tr>
<tr>
<td>7.17 Lines of Business</td>
<td>92</td>
</tr>
<tr>
<td>7.18 Designation of other Indebtedness</td>
<td>92</td>
</tr>
<tr>
<td>7.19 [Reserved]</td>
<td>92</td>
</tr>
<tr>
<td>7.20 Organizational Agreements; Material</td>
<td>92</td>
</tr>
<tr>
<td>Contracts</td>
<td></td>
</tr>
<tr>
<td>7.21 Use of Proceeds</td>
<td>92</td>
</tr>
<tr>
<td>7.22 Subordinated Indebtedness</td>
<td>92</td>
</tr>
<tr>
<td>7.23 Anti-Terrorism Laws</td>
<td>93</td>
</tr>
<tr>
<td><strong>SECTION 8 EVENTS OF DEFAULT</strong></td>
<td>93</td>
</tr>
<tr>
<td>8.1  Events of Default</td>
<td>93</td>
</tr>
<tr>
<td>8.2  Remedies Upon Event of Default</td>
<td>96</td>
</tr>
<tr>
<td>8.3  Application of Funds</td>
<td>97</td>
</tr>
<tr>
<td><strong>SECTION 9 THE ADMINISTRATIVE AGENT</strong></td>
<td>98</td>
</tr>
<tr>
<td>9.1  Appointment and Authority</td>
<td>98</td>
</tr>
<tr>
<td>9.2  Delegation of Duties</td>
<td>99</td>
</tr>
<tr>
<td>9.3  Exculpatory Provisions</td>
<td>99</td>
</tr>
<tr>
<td>9.4  Reliance by Administrative Agent</td>
<td>100</td>
</tr>
<tr>
<td>9.5  Notice of Default</td>
<td>101</td>
</tr>
<tr>
<td>9.6  Non-Reliance on Administrative Agent and Other Lenders</td>
<td>101</td>
</tr>
</tbody>
</table>
# Table of Contents (continued)

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.7</td>
<td>Indemnification</td>
<td>101</td>
</tr>
<tr>
<td>9.8</td>
<td>Agent in Its Individual Capacity</td>
<td>102</td>
</tr>
<tr>
<td>9.9</td>
<td>Successor Administrative Agent</td>
<td>102</td>
</tr>
<tr>
<td>9.10</td>
<td>Collateral and Guaranty Matters</td>
<td>103</td>
</tr>
<tr>
<td>9.11</td>
<td>Administrative Agent May File Proofs of Claim</td>
<td>104</td>
</tr>
<tr>
<td>9.12</td>
<td>No Other Duties, etc.</td>
<td>105</td>
</tr>
<tr>
<td>9.13</td>
<td>Cash Management Bank and Qualified Counterparty Reports</td>
<td>105</td>
</tr>
<tr>
<td>9.14</td>
<td>Survival</td>
<td>105</td>
</tr>
</tbody>
</table>

## SECTION 10 MISCELLANEOUS

| 10.1    | Amendments and Waivers                                              | 105  |
| 10.2    | Notices                                                              | 107  |
| 10.3    | No Waiver; Cumulative Remedies                                       | 109  |
| 10.4    | Survival of Representations and Warranties                           | 109  |
| 10.5    | Expenses; Indemnity; Damage Waiver                                   | 109  |
| 10.6    | Successors and Assigns; Participations and Assignments               | 111  |
| 10.7    | Adjustments; Set-off                                                | 115  |
| 10.8    | Payments Set Aside                                                  | 116  |
| 10.9    | Interest Rate Limitation                                             | 116  |
| 10.10   | Counterparts; Electronic Execution of Assignments                   | 116  |
| 10.11   | Severability                                                         | 116  |
| 10.12   | Integration                                                          | 117  |
| 10.13   | GOVERNING LAW                                                        | 117  |
| 10.14   | Submission to Jurisdiction; Waivers                                  | 117  |
| 10.15   | Acknowledgements                                                     | 118  |
| 10.16   | Releases of Jurisdiction; Liens                                      | 118  |
| 10.17   | Treatment of Certain Information; Confidentiality                    | 118  |
| 10.18   | Automatic Debits                                                     | 119  |
| 10.19   | Judgment Currency                                                    | 120  |
| 10.20   | Patriot Act; Other Regulations                                       | 120  |
| 10.21   | Acknowledgement and Consent to Bail-In of EEA Financial Institutions | 120  |
## Table of Contents (continued)

### SCHEDULES

- **Schedule 1.1A:** Commitments
- **Schedule 1.1B:** Existing Letters of Credit
- **Schedule 4.4:** Governmental Approvals, Consents, Authorizations, Filings and Notices
- **Schedule 4.13:** Pension Plans
- **Schedule 4.15:** Subsidiaries
- **Schedule 4.17:** Environmental Matters
- **Schedule 4.19(a):** Financing Statements and Other Filings
- **Schedule 4.27:** Capitalization
- **Schedule 7.2(d):** Existing Indebtedness
- **Schedule 7.3(f):** Existing Liens
- **Schedule 7.8(e):** Existing Investments

### EXHIBITS

- **Exhibit A:** Form of Guarantee and Collateral Agreement
- **Exhibit B:** Form of Compliance Certificate
- **Exhibit C:** Form of Secretary’s/Managing Member’s Certificate
- **Exhibit D:** Form of Solvency Certificate
- **Exhibit E:** Form of Assignment and Assumption
- **Exhibits F-1 – F-4:** Forms of U.S. Tax Compliance Certificate
- **Exhibit G:** Reserved
- **Exhibit H-1:** Form of Revolving Loan Note
- **Exhibit H-2:** Form of Swingline Loan Note
- **Exhibit I:** Form of Borrowing Base Certificate
- **Exhibit J:** Form of Collateral Information Certificate
- **Exhibit K:** Form of Notice of Borrowing
- **Exhibit L:** Form of Notice of Conversion/Continuation
THIS CREDIT AGREEMENT (this “Agreement”), dated as of June 28, 2019, is entered into by and among BDC PAYMENTS HOLDINGS, INC., a Delaware corporation (“Holdings”), BILL.COM, LLC, a Delaware limited liability company (“Bill.com” and together with any other Person that becomes a Borrower hereunder, individually or collectively as the context requires, jointly and severally, the “Borrower”), the several banks and other financial institutions or entities from time to time party to this Agreement (each a “Lender” and, collectively, the “Lenders”), SILICON VALLEY BANK (“SVB”), as the Issuing Lender and the Swingline Lender, and SVB, as administrative agent and collateral agent for the Lenders (in such capacities, together with any successors and assigns in such capacities, the “Administrative Agent”).

RECITALS:

WHEREAS, the Borrower desires to obtain financing to refinance the Existing Credit Facility, as well as for working capital financing and letter of credit facilities;

WHEREAS, the Lenders have agreed to extend a revolving credit facility to the Borrower, upon the terms and conditions specified in this Agreement, in an aggregate principal amount not to exceed $50,000,000 (subject to the addition of up to $25,000,000 pursuant to an incremental facility contained herein), including a letter of credit sub-facility in the aggregate availability amount of $10,000,000 (as a sublimit of the revolving loan facility), and a swingline sub-facility in the aggregate availability amount of $10,000,000 (as a sublimit of the revolving loan facility);

WHEREAS, the Borrower has agreed to secure all of its Obligations by granting to the Administrative Agent, for the benefit of the Secured Parties, a first priority lien (subject to Liens permitted by the Loan Documents) on substantially all of its assets; and

WHEREAS, each of the Guarantors has agreed to guarantee the Obligations of the Borrower and to secure its respective Obligations in respect of such guarantee by granting to the Administrative Agent, for the benefit of the Secured Parties, a first priority lien (subject to Liens permitted by the Loan Documents) on substantially all of its assets.

NOW, THEREFORE, the parties hereto hereby agree as follows:

SECTION 1
DEFINITIONS

1.1 Defined Terms. As used in this Agreement (including the recitals hereof), the terms listed in this Section 1.1 shall have the respective meanings set forth in this Section 1.1.

“ABR”: for any day, a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect for such day plus 0.50%, and (c) the Eurodollar Rate plus 1.25%. Any change in the ABR due to a change in any of the Prime Rate, the Federal Funds Effective Rate or the Eurodollar Rate, as the case may be, shall be effective as of the opening of business on the effective day of the change in such rates.

“ABR Loans”: Loans, the rate of interest applicable to which is based upon the ABR.

“Account Debtor”: any Person who may become obligated to any Person under, with respect to, or on account of, an Account, chattel paper or general intangibles (including a payment intangible). Unless otherwise stated, the term “Account Debtor,” when used herein, shall mean an Account Debtor in respect of an Account of the Borrower.
“Accounts”: all “accounts” (as defined in the UCC) of a Person, including, without limitation, accounts, accounts receivable, monies due or to become due and obligations in any form (whether arising in connection with contracts, contract rights, instruments, general intangibles, or chattel paper), in each case whether arising out of goods sold or services rendered or from any other transaction and whether or not earned by performance, now or hereafter in existence, and all documents of title or other documents representing any of the foregoing, and all collateral security and guaranties of any kind, now or hereafter in existence, given by any Person with respect to any of the foregoing. Unless otherwise stated, the term “Account,” when used herein, shall mean an Account of the Loan Parties.

“Administrative Agent”: SVB, as the administrative agent under this Agreement and the other Loan Documents, together with any of its successors in such capacity.

“Affected Lender”: as defined in Section 2.23.

“Affiliate”: with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified; provided that, neither the Administrative Agent nor the Lenders shall be deemed Affiliates of the Loan Parties as a result of the exercise of their rights and remedies under the Loan Documents.

“Agent Parties”: as defined in Section 10.2(d)(ii).

“Aggregate Exposure”: with respect to any Lender at any time, an amount equal to the sum of (a) the amount of such Lender’s Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender’s Revolving Extensions of Credit then outstanding, and (b) without duplication of clause (a), the L/C Commitment of such Lender then in effect (as a sublimit of the Revolving Commitment of such Lender).

“Aggregate Exposure Percentage”: with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender’s Aggregate Exposure at such time to the Aggregate Exposure of all Lenders at such time.

“Agreement”: as defined in the preamble hereto.

“Applicable Margin”: commencing on the first day of the first full calendar month ending after the Closing Date, the rate per annum set forth under the relevant column heading below based on the applicable Cash Balance as of the last Business Day of the immediately preceding calendar month:

<table>
<thead>
<tr>
<th>Cash Balance</th>
<th>Applicable Margin for Eurodollar Loans and Letters of Credit</th>
<th>Applicable Margin for ABR Loans</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; the Cash Balance Threshold</td>
<td>2.75%</td>
<td>-0.25%</td>
</tr>
<tr>
<td>&gt; the Cash Balance Threshold</td>
<td>1.75%</td>
<td>-1.25%</td>
</tr>
</tbody>
</table>

If, as a result of any restatement of or other adjustment to the account statements of the Loan Parties or for any other reason, the Administrative Agent determines that the Cash Balance as of any date was inaccurate and (y) a proper calculation of the Cash Balance would have resulted in different pricing for any period, then (i) if the proper calculation of the Cash Balance would have resulted in higher pricing
for such period, the Borrower shall automatically and retroactively be obligated to pay to the Administrative Agent, for the benefit of the applicable Lenders, promptly on demand by the Administrative Agent, an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period; and (ii) if the proper calculation of the Cash Balance would have resulted in lower pricing for such period, neither the Administrative Agent nor any Lender shall have any obligation to repay any interest or fees to the Borrower.

“Application”: an application, in such form as the Issuing Lender may specify from time to time, requesting the Issuing Lender to issue a Letter of Credit.

“Approved Fund”: any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender, or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Assignment and Assumption”: an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.6), and accepted by the Administrative Agent, in substantially the form of Exhibit E or any other form approved by the Administrative Agent.

“Available Revolving Commitment”: at any time, an amount equal to (a) the lesser of (i) the Total Revolving Commitments in effect at such time and (ii) the Borrowing Base in effect at such time, minus (b) the aggregate undrawn amount of all outstanding Letters of Credit at such time, minus (c) the aggregate amount of all L/C Disbursements that have not yet been reimbursed or converted into Revolving Loans at such time, minus (d) the aggregate principal balance of any Revolving Loans outstanding at such time; provided that for purposes of calculating any Lender’s Revolving Extensions of Credit for the purpose of determining such Lender’s Available Revolving Commitment pursuant to Section 2.9(b), the aggregate principal amount of Swingline Loans then outstanding shall be deemed to be zero.

“Available Revolving Increase Amount”: as of any date of determination, an amount equal to the result of (a) $25,000,000 minus (b) the aggregate principal amount of Increases to the Revolving Commitments previously made pursuant to Section 2.27 after the Closing Date.

“Bail-In Action”: the exercise of any Write- Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bail-In Legislation”: with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bankruptcy Code”: Title 11 of the United States Code entitled “Bankruptcy.”

“Benefitted Lender”: as defined in Section 10.7(a).

“Bill.com”: as defined in the preamble hereto.

“Blocked Person”: as defined in Section 7.23.

“Board”: the Board of Governors of the Federal Reserve System of the United States (or any successor).
“Borrower”: as defined in the preamble hereto.

“Borrowing Base”: the result of (a) the product of (i) RR for the most recently ended month for which a Borrowing Base Certificate was required to be delivered hereunder, multiplied by (ii) the Multiplier minus (b) the amount of Reserves established by the Administrative Agent at such time. The Borrowing Base shall be calculated by the Administrative Agent based on information provided by the Borrower and acceptable to the Administrative Agent, in its sole discretion.

“Borrowing Base Certificate”: a certificate to be executed and delivered from time to time by the Borrower to the Administrative Agent in substantially the form of Exhibit I, or in such other form as shall be acceptable in form and substance to the Administrative Agent.

“Borrowing Date”: any Business Day specified by the Borrower in a Notice of Borrowing as a date on which the Borrower requests the relevant Lenders to make Loans hereunder.

“Business”: as defined in Section 4.17(b).

“Business Day”: a day other than a Saturday, Sunday or other day on which commercial banks in the State of New York or the State of California are authorized or required by law to close; provided that with respect to notices and determinations in connection with, and payments of principal and interest on, Eurodollar Loans, such day is also a day for trading by and between banks in Dollar deposits in the interbank eurodollar market.

“Capital Lease Obligations”: as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP, provided that for all purposes hereunder, any obligations of such Person that would have been treated as operating leases in accordance with Accounting Standards Codification 840 (regardless of whether or not then in effect) shall be treated as operating leases for purposes of all financial definitions, calculations and covenants, without giving effect to Accounting Standards Codification 842 requiring operating leases to be recharacterized or treated as capital leases.

“Capital Stock”: with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“Cash Balance”: the aggregate amount of unrestricted cash and Cash Equivalents held by the Loan Parties in Deposit Accounts maintained with SVB, or in Deposit Accounts or Securities Accounts subject to Control Agreements in favor of the Administrative Agent or otherwise subject to a first priority Lien in favor of the Administrative Agent.

“Cash Balance Threshold”: $50,000,000.
“Cash Collateralize”: to pledge and deposit with or deliver to (a) with respect to Obligations in respect of Letters of Credit, the Administrative Agent, for the benefit of the Issuing Lender and one or more of the Lenders, as applicable, as collateral for LC Exposure or obligations of the Lenders to fund participations in respect thereof, cash or deposit account balances or, if the Administrative Agent and the Issuing Lender shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and such Issuing Lender; (b) with respect to Obligations in respect of any Cash Management Agreement in connection with Cash Management Services, the applicable Cash Management Bank, for its own or any of its applicable Affiliate’s benefit, as provider of such Cash Management Services, cash or deposit account balances or, if the Administrative Agent and the applicable Cash Management Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and such Cash Management Bank; or (c) with respect to Obligations in respect of any Specified Swap Agreements, the applicable Qualified Counterparty, as Collateral for such Obligations, cash or deposit account balances or, if such Qualified Counterparty shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to such Qualified Counterparty. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents”: (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one (1) year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of twelve (12) months or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $250,000,000; (c) commercial paper of an issuer rated at least A-2 by S&P or P-2 by Moody’s, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within two hundred seventy 270 days from the date of acquisition; (d) overnight repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one (1) year or less from the date of acquisition rated at least A- by S&P or A-3 by Moody’s; (f) securities with maturities of twelve (12) months or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition; or (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody’s and (iii) have portfolio assets of at least $5,000,000,000.

“Cash Management Agreement”: as defined in the definition of “Cash Management Services.”

“Cash Management Bank”: any Person that, at the time it enters into a Cash Management Agreement, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Cash Management Agreement.

“Cash Management Services”: cash management and other services provided to one or more of the Loan Parties by a Cash Management Bank which may include treasury, depository, return items, overdraft, controlled disbursement, merchant store value cards, e-payables services, electronic funds transfer, interstate depository network, automatic clearing house transfer (including the Automated Clearing House processing of electronic funds transfers through the direct Federal Reserve Fedline
system), merchant services, direct deposit of payroll, business credit card (including so-called “purchase cards”, “procurement cards” or “p-cards”), credit card processing services, debit cards, stored value cards, and check cashing services identified in such Cash Management Bank’s various cash management services or other similar agreements (each, a “Cash Management Agreement”).

“Casualty Event”: any damage to or any destruction of, or any condemnation or other taking by any Governmental Authority of any property of the Loan Parties.

“Certificated Securities”: as defined in Section 4.19(a).

“Change of Control”: (a) at any time, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of 49% or more of the ordinary voting power for the election of directors of Holdings (determined on a fully diluted basis); (b) during any twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Holdings cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; (c) at any time, Holdings shall cease to own and control, of record and beneficially, directly or indirectly, 100% of each class of outstanding Capital Stock of each of the other Loan Parties; (d) at any time, Holdings shall cease to own and control, of record and directly, 100% of each class of outstanding Capital Stock of each of the other Loan Parties; or (e) a “change of control” or any comparable term under and as defined in any agreement governing any other Indebtedness of the Group Members in an aggregate principal amount in excess of $5,000,000.

“Closing Date”: the date on which all of the conditions precedent set forth in Section 5.1 are satisfied or waived by the Administrative Agent and, as applicable, the Lenders or the Required Lenders.

“Code”: the Internal Revenue Code of 1986, as amended from time to time.

“Collateral”: all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is purported to be created by any Security Document.

“Collateral Information Certificate”: the Collateral Information Certificate to be executed and delivered by Holdings pursuant to Section 5.1, substantially in the form of Exhibit J.

“Collateral-Related Expenses”: all reasonable, documented, out-of-pocket costs and expenses of the Administrative Agent paid or incurred in connection with any sale, collection or other realization on the Collateral, including reasonable compensation to the Administrative Agent and its agents and counsel, and reimbursement for all other costs, expenses and liabilities and advances made or incurred by the Administrative Agent in connection therewith (including as described in Section 6.6 of the Guarantee and Collateral Agreement), and all amounts for which the Administrative Agent is entitled to indemnification under the Security Documents and all advances made by the Administrative Agent under the Security Documents for the account of any Loan Party.
“Commitment”: as to any Lender, its Revolving Commitment.

“Commitment Fee Rate”: 0.20% per annum.

“Commodity Exchange Act”: the Commodity Exchange Act (7 U.S.C. Section 1 et seq.), as amended from time to time, and any successor statute.

“Communications”: as defined in Section 10.2(d)(ii).

“Compliance Certificate”: a certificate duly executed by a Responsible Officer of Holdings substantially in the form of Exhibit B.

“Connection Income Taxes”: Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Contractual Obligation”: as to any Person, any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control”: the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Control Agreement”: any account control agreement in form and substance reasonably satisfactory to the Administrative Agent entered into among the depository institution at which a Loan Party maintains a Deposit Account or the securities intermediary at which a Loan Party maintains a Securities Account, such Loan Party, and the Administrative Agent pursuant to which the Administrative Agent obtains control (within the meaning of the UCC or any other applicable law) over such Deposit Account or Securities Account.

“Covenant Testing Period”: each period (a) commencing on the last day of the applicable fiscal period of Holdings most recently ended before a Covenant Trigger Event for which Holdings is required to deliver to the Administrative Agent financial statements pursuant to Section 6.1(b), and (b) continuing through and including the first day after such Covenant Trigger Event that (x) the Cash Balance for the applicable period continues to be greater than or equal to the Cash Balance Threshold for thirty (30) consecutive days or (y) no Loans are outstanding hereunder for thirty (30) consecutive days.

“Covenant Trigger Event”: any time that (a) the Cash Balance is less than the Cash Balance Threshold and (b) any Loans are outstanding hereunder.

“Debtor Relief Laws”: the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

“Default”: any of the events specified in Section 8.1, whether or not any requirement for the giving of notice, the lapse of time, or both, has been satisfied.

“Default Rate”: as defined in Section 2.15(c).
“Defaulting Lender”: subject to Section 2.24(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s reasonable determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Lender, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, the Issuing Lender or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s reasonable determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) become the subject of a Bail-In Action or (iii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.24(b)) upon delivery of written notice of such determination to the Borrower, the Issuing Lender, the Swingline Lender and each Lender.

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

“Deposit Account Control Agreement”: any Control Agreement entered into by the Administrative Agent, a Loan Party and a financial institution holding a Deposit Account of such Loan Party pursuant to which the Administrative Agent is granted “control” (for purposes of the UCC) over such Deposit Account.

“Designated Jurisdiction”: any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“Determination Date”: as defined in the definition of “Pro Forma Basis”.

“Discharge of Obligations”: subject to Section 10.8, the satisfaction of the Obligations (including all such Obligations relating to Cash Management Services) by the payment in full, in cash (or, as applicable, Cash Collateralization in accordance with the terms hereof) of the principal of and interest on or other liabilities relating to each Loan and any previously provided Cash Management Services, all fees and all other expenses or amounts payable under any Loan Document (other than inchoate
(a) no default or termination event shall have occurred and be continuing thereunder, (b) any such Obligations in respect of Specified Swap Agreements have, if required by any applicable Qualified Counterparties, been Cash Collateralized, (c) no Letter of Credit shall be outstanding (or, as applicable, each outstanding and undrawn Letter of Credit has been Cash Collateralized in accordance with the terms hereof), (d) no Obligations in respect of any Cash Management Services are outstanding (or, as applicable, all such outstanding Obligations in respect of Cash Management Services have been Cash Collateralized in accordance with the terms hereof), and (e) the aggregate Commitments of the Lenders are terminated.

“Disposition”: with respect to any property (including, without limitation, Capital Stock of any Subsidiary of any Group Member), any sale, lease, Sale Leaseback Transaction, assignment, conveyance, transfer, encumbrance or other disposition thereof (in one transaction or in a series of transactions and whether effected pursuant to a Division or otherwise) and any issuance of Capital Stock of any of Holdings’ Subsidiaries. The terms “Dispose” and “Disposed of” shall have correlative meanings.

“Disqualified Stock”: any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days after the date on which the Loans mature. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that Holdings and its Subsidiaries may become obligated to pay upon maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock or portion thereof, plus accrued dividends.

“Division”: in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons, with the dividing Person either continuing or terminating its existence as part of such division, including as contemplated under Section 18-217 of the Delaware Limited Liability Company Act, or any analogous action taken pursuant to any other applicable Requirements of Law.

“Dollars” and “$”: dollars in lawful currency of the United States.

“Domestic Subsidiary”: any Subsidiary of Holdings organized under the laws of any jurisdiction within the United States.

“EEA Financial Institution”: (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country”: any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority”: any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.
“Eligible Assignee”: any Person (other than an Excluded Lender) that meets the requirements to be an assignee under Section 10.6(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 10.6(b)(iii)).

“Eligible Customer Accounts”: Accounts generated from expected receipt of Recurring Revenue which arise in the ordinary course of the business of the Loan Parties that meet all of such Loan Party’s representations and warranties set forth herein and in the Guarantee and Collateral Agreement with respect thereto.

“Environmental Laws”: any and all foreign, Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, requirements of any Governmental Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning protection of human health or the environment, as now or may at any time hereafter be in effect.

“Environmental Liability”: any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) a violation of an Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Materials of Environmental Concern, (c) exposure to any Materials of Environmental Concern, (d) the release or threatened release of any Materials of Environmental Concern into the environment, or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“ERISA”: the Employee Retirement Income Security Act of 1974, as amended, including (unless the context otherwise requires) any rules or regulations promulgated thereunder.

“ERISA Affiliate”: each business or entity which is, or within the last six (6) years was, a member of a “controlled group of corporations,” under “common control” or an “affiliated service group” with any Loan Party within the meaning of Section 414(b), (c), (m) or (n) of the Code, required to be aggregated with any Loan Party under Section 414(o) of the Code, or is, or within the last six (6) years was, under “common control” with any Loan Party, within the meaning of Section 4001(a)(14) of ERISA.

“ERISA Event”: any of (a) a reportable event as defined in Section 4043 of ERISA with respect to a Pension Plan, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(a) of ERISA that it be notified within thirty (30) days of the occurrence of such event; (b) the applicability of the requirements of Section 4043(b) of ERISA with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, to any Pension Plan where an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such plan within the following thirty (30) days; (c) a withdrawal by any Loan Party or any ERISA Affiliate thereof from a Pension Plan or the termination of any Pension Plan resulting in liability under Sections 4063 or 4064 of ERISA; (d) the withdrawal of any Loan Party or any ERISA Affiliate thereof in a complete or partial withdrawal (within the meaning of Section 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by any Loan Party or any ERISA Affiliate thereof of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA; (e) the filing of a notice of intent to terminate, the treatment of a plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (f) the imposition of liability on any Loan Party or any ERISA Affiliate thereof pursuant to Sections 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (g) the failure by any Loan Party or any ERISA Affiliate thereof to make any required
contribution to a Pension Plan, or the failure to meet the minimum funding standard of Section 412 of the Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Code) or the failure to make by its due date a required installment under Section 430 of the Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (h) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered to critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; (i) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (j) the imposition of any liability under Title I or Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any ERISA Affiliate thereof; (k) an application for a funding waiver under Section 303 of ERISA or an extension of any amortization period pursuant to Section 412 of the Code with respect to any Pension Plan; (l) the occurrence of a non-exempt prohibited transaction under Sections 406 or 407 of ERISA for which any Loan Party or any Subsidiary thereof may be directly or indirectly liable; (m) a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a) of the Code by any fiduciary or disqualified person for which any Loan Party or any ERISA Affiliate thereof may be directly or indirectly liable; (n) the occurrence of an act or omission which could give rise to the imposition on any Loan Party or any ERISA Affiliate thereof of fines, penalties, taxes or related charges under Chapter 43 of the Code or under Sections 409, 502(c), (i) or (l) or 4071 of ERISA; (o) the assertion of a material claim (other than routine claims for benefits) against any Plan or the assets thereof, or against any Loan Party or any Subsidiary thereof in connection with any such Plan; (p) receipt from the IRS of notice of the failure of any Qualified Plan to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Qualified Plan to qualify for exemption from taxation under Section 501(a) of the Code; (q) the imposition of any lien (or the fulfillment of the conditions for the imposition of any lien) on any of the rights, properties or assets of any Loan Party or any ERISA Affiliate thereof, in either case pursuant to Title I or Title IV of ERISA, including Section 302(f) or 303(k) of ERISA or to Section 401(a)(29) or 430(k) of the Code; or (r) the establishment or amendment by any Loan Party or any Subsidiary thereof of any “welfare plan” as such term is defined in Section 3(1) of ERISA, that provides post-employment welfare benefits in a manner that could be reasonably likely to result in material liability of any Loan Party.

“ERISA Funding Rules”: the rules regarding minimum required contributions (including any installment payment thereof) to Pension Plans, as set forth in Section 412 of the Code and Section 302 of ERISA, with respect to Plan years ending prior to the effective date of the Pension Protection Act of 2006, and thereafter, as set forth in Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

“EU Bail-In Legislation Schedule”: the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

“Eurocurrency Reserve Requirements”: for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.
“Eurodollar Base Rate”: with respect to each day during each Interest Period pertaining to (a) a Eurodollar Loan, the rate per annum determined by the Administrative Agent by reference to the ICE Benchmark Administration London Interbank Offered Rate (“LIBOR”) (or any successor thereto if the ICE Benchmark Administration is no longer making LIBOR available) for deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period in Dollars, determined as of approximately 11:00 A.M. (London, England time) two (2) Business Days prior to the beginning of such Interest Period (as set forth by Bloomberg Information Service or any successor thereto or any other commercially available service selected by the Administrative Agent which provides quotations of LIBOR); and (b) an ABR Loan, the rate per annum determined by the Administrative Agent to be LIBOR (for delivery on the first day of such Interest Period) with a term of one (1) month in Dollars, determined as of approximately 11:00 A.M. (London, England time) two (2) Business Days prior to the beginning of such Interest Period (as set forth by Bloomberg Information Service or any successor thereto or any other commercially available service selected by the Administrative Agent which provides quotations of LIBOR); provided that in either case (a) or (b), the Eurodollar Base Rate shall not be less than 0%. In the event that the Administrative Agent determines that LIBOR is not available, the “Eurodollar Base Rate” shall be determined by reference to the rate per annum equal to the offered quotation rate to first class banks in the London interbank market by SVB for deposits (for delivery on the first day of the relevant Interest Period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan of the Administrative Agent, in its capacity as a Lender, for which the Eurodollar Base Rate is then being determined with maturities comparable to such period, in the case of a Eurodollar Loan, and of one (1) month, in the case of an ABR Loan, as of approximately 11:00 A.M. (London, England time) two (2) Business Days prior to the beginning of such Interest Period; provided that, in all events, such Eurodollar Base Rate shall not be less than 0%.

“Eurodollar Loans”: Loans the rate of interest applicable to which is based upon clause (a) of the definition of “Eurodollar Base Rate.”

“Eurodollar Rate”: with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula:

\[
\frac{\text{Eurodollar Base Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}
\]

The Eurodollar Rate shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Requirements; provided that the Eurodollar Rate shall not be less than 0%.

“Eurodollar Tranche”: the collective reference to Eurodollar Loans under a particular Facility (other than the L/C Facility), the then current Interest Periods with respect to all of which begin on the same date and end on the same later date (whether or not such Loans shall originally have been made on the same day).

“Event of Default”: any of the events specified in Section 8.1; provided that any requirement for the giving of notice, the lapse of time, or both, has been satisfied.


“Excluded Assets”: as defined in the Guarantee and Collateral Agreement.

“Excluded Lender”: any operating company directly and primarily engaged in substantially similar business operations as the Group Members and any Subsidiary of such operating company, in each case, that has been specifically identified by name in writing by Holdings or the Borrower to the Administrative Agent and the Lenders and approved by the Administrative Agent as an “Excluded Lender”; provided, that such Persons shall no longer be designated as an Excluded Lender if any Event of Default under Section 8.1(a) or (f) has occurred and is continuing.

12
“Excluded Subsidiary”: any Subsidiary that is (a) not a Domestic Subsidiary of Holdings or another Loan Party if becoming a Guarantor hereunder would reasonably be expected to result in adverse tax consequences, (b) a Foreign Subsidiary Holding Company if becoming a Guarantor hereunder would reasonably be expected to result in adverse tax consequences or (c) an Immaterial Subsidiary.

“Excluded Swap Obligations”: with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee Obligation of such Guarantor with respect to, or the grant by such Guarantor of a Lien to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time such Guarantee Obligation of such Guarantor, or the grant by such Guarantor of such Lien, becomes effective with respect to such Swap Obligation. If such a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee Obligation or Lien is or becomes excluded in accordance with the first sentence of this definition.

“Excluded Taxes”: any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.23) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.20, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with Section 2.20(f) and (d) any withholding Taxes imposed under FATCA.

“Existing Credit Facility”: the credit facility governed by that certain Amended and Restated Loan and Security Agreement dated as of October 5, 2017, as amended.

“Existing Letters of Credit”: the letters of credit described on Schedule 1.1B.

“Facility”: each of (a) the L/C Facility (which is a sub-facility of the Revolving Facility), (b) the Revolving Facility and (c) the Swingline Facility (which is a sub-facility of the Revolving Facility).

“FATCA”: Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.
“Federal Funds Effective Rate”: for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by SVB from three federal funds brokers of recognized standing selected by it.

“Fee Letter”: the letter agreement dated June 10, 2019, among the Borrower, Holdings and the Administrative Agent.


“Flow of Funds Agreement”: the spreadsheet or other similar statement prepared by the Administrative Agent and approved by the Borrower, regarding the disbursement of Loan proceeds (if any) on the Closing Date, the funding and the payment of the fees and expenses of the Administrative Agent and the Lenders (including counsel to the Administrative Agent), and such other matters as may be agreed to by the Borrower, the Administrative Agent and the Lenders.

“Foreclosed Borrowers”: as defined in Section 2.25.

“Foreign Lender”: (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

“Foreign Subsidiary”: any Subsidiary of Holdings that is not a Domestic Subsidiary.

“Foreign Subsidiary Holding Company”: any direct or indirect Domestic Subsidiary of Holdings, substantially all of the assets of which consist of the Capital Stock (or Capital Stock and other securities) of one or more controlled foreign corporations (within the meaning of Section 957 of the Code) or other Foreign Subsidiary Holding Companies.

“Fronting Exposure”: at any time there is a Defaulting Lender, as applicable, (a) with respect to the Issuing Lender, such Defaulting Lender’s L/C Percentage of the outstanding L/C Exposure other than L/C Exposure as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting Lender’s Revolving Percentage of outstanding Swingline Loans made by the Swingline Lender other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders.

“Fund”: any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its activities.

“Funding Office”: the Revolving Loan Funding Office.

“GAAP”: generally accepted accounting principles in the United States as in effect from time to time, except that for purposes of Section 7.1, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements referred to in Section 4.1(b). In the event that any “Accounting Change” (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrower and the Administrative Agent agree to enter into negotiations to amend such provisions of this Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Borrower’s financial
condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. “Accounting Changes” refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC, or the adoption of IFRS.

“Governmental Approval”: 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”: the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), and any group or body charged with setting accounting or regulatory capital rules or standards (including the Financial Standards Board, the Bank for International Settlements, the Basel Committee on Banking Supervision and any successor or similar authority to any of the foregoing).

“Group Members”: the collective reference to Holdings and its Subsidiaries.

“Guarantee and Collateral Agreement”: the Guarantee and Collateral Agreement to be executed and delivered by the Loan Parties, substantially in the form of Exhibit A.

“Guarantee Obligation”: as to any Person (the “guaranteeing person”), any obligation, including a reimbursement, counterindemnity or similar obligation, of the guaranteeing person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person (including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness, leases, dividends or other obligations (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person’s maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.
“Guarantors”: a collective reference to Holdings and each Subsidiary of Holdings which has become a Guarantor pursuant to the requirements of Section 6.12 hereof and the Guarantee and Collateral Agreement. Notwithstanding the foregoing or any contrary provision herein or in any other Loan Document, no Excluded Subsidiary shall be required to be a Guarantor, and no Subsidiary shall be required to become a Guarantor if, in the reasonable judgment of the Administrative Agent and the Borrower, the burden or cost of providing a guarantee shall be excessive in view of the benefits to be obtained by the Secured Parties therefrom.

“Holdings”: has the meaning in the preamble hereto.

“IFRS”: international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

“Immaterial Subsidiary”: at any date of determination, any Subsidiary of any Loan Party (other than a Borrower or a Guarantor) designated as such by the Borrower in writing and which as of such date (a) holds assets representing 5% or less of Holdings’ consolidated total assets as of such date (determined in accordance with GAAP), (b) has generated less than 5% of Holdings’ consolidated total revenues determined in accordance with GAAP for the four fiscal quarter period ending on the last day of the most recent period for which financial statements have been delivered after the Closing Date pursuant to Section 6.1(b); provided that all Subsidiaries that are individually “Immaterial Subsidiaries” shall not have aggregate consolidated total assets that would represent 10% or more of Holdings’ consolidated total assets as of such date or have generated 10% or more of Holdings’ consolidated total revenues for such four fiscal quarter period, in each case determined in accordance with GAAP, and (c) owns no material Intellectual Property.

“Increase”: as defined in Section 2.27.

“Increase Joinder”: an instrument, in form and substance reasonably satisfactory to the Administrative Agent, by which a Lender becomes a party to this Agreement pursuant to Section 2.27.

“Incurred”: as defined in the definition of “Pro Forma Basis”.

“Indebtedness”: of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than current trade payables incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (e) all Capital Lease Obligations and all Synthetic Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit, surety bonds or similar arrangements, (g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Capital Stock in such Person or any other Person (including, without limitation, Disqualified Stock), or any warrant, right or option to acquire such Capital Stock, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (g) above, (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation, and (j) the net obligations of such Person in respect of Swap Agreements. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor.
“Indemnified Taxes”: (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Indemnitee”: as defined in Section 10.5(b).

“Insolvency Proceeding”: (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of any Person’s creditors generally or any substantial portion of such Person’s creditors, in each case undertaken under U.S. Federal, state or foreign law, including any Debtor Relief Law.

“Intellectual Property”: the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including copyrights, copyright licenses, patents, patent licenses, trademarks, trademark licenses, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

“Interest Payment Date”: (a) as to any ABR Loan (including any Swingline Loan), the first Business Day of each fiscal quarter to occur while such Loan is outstanding and the final maturity date of such Loan, (b) as to any Eurodollar Loan having an Interest Period of three (3) months or less, the last Business Day of such Interest Period, (c) as to any Eurodollar Loan having an Interest Period longer than three (3) months, each day that is three (3) months (or, if such date is not a Business Day, the Business Day next succeeding such date) after the first day of such Interest Period and the last Business Day of such Interest Period, and (d) as to any Loan (other than any Revolving Loan that is an ABR Loan and any Swingline Loan), the date of any repayment or prepayment made in respect thereof.

“Interest Period”: as to any Eurodollar Loan, (a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one (1), three (3) or six (6) months thereafter, as selected by the Borrower in its Notice of Borrowing or Notice of Conversion/Continuation, as the case may be, given with respect thereto; and (b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one (1), three (3) or six (6) months thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent in a Notice of Conversion/Continuation not later than 10:00 A.M. on the date that is three (3) Business Days prior to the last day of the then current Interest Period with respect thereto; provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless 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 immediately preceding Business Day;

(ii) the Borrower may not select an Interest Period under a particular Facility that would extend beyond the Revolving Termination Date;
(iii) any Interest Period 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 a calendar month; and

(iv) the Borrower shall select Interest Periods so as not to require a payment or prepayment of any Eurodollar Loan during an Interest Period for such Loan.

“Interest Rate Agreement”: any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is (a) for the purpose of hedging the interest rate exposure associated with Holdings’ and its Subsidiaries’ operations, (b) approved by Administrative Agent, and (c) not for speculative purposes.

“Inventory”: all “inventory,” as such term is defined in the UCC, now owned or hereafter acquired by any Loan Party, wherever located, and in any event including inventory, merchandise, goods and other personal property that are held by or on behalf of any Loan Party for sale or lease or are furnished or are to be furnished under a contract of service, or that constitutes raw materials, work in process, finished goods, returned goods, or materials or supplies of any kind used or consumed or to be used or consumed in such Loan Party’s business or in the processing, production, packaging, promotion, delivery or shipping of the same, including all supplies and embedded software.

“Investments”: as defined in Section 7.8.

“IRS”: the Internal Revenue Service, or any successor thereto.

“ISP”: with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“Issuing Lender”: as the context may require, (a) SVB or any Affiliate thereof, in its capacity as issuer of any Letter of Credit (including, without limitation, each Existing Letter of Credit), and (b) any other Lender or an Affiliate thereof that may become an Issuing Lender pursuant to Section 3.11 or 3.12, with respect to Letters of Credit issued by such Lender or its Affiliate. The Issuing Lender may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Lender or other financial institutions, in which case the term “Issuing Lender” shall include any such Affiliate or other financial institution with respect to Letters of Credit issued by such Affiliate or other financial institution.

“Issuing Lender Fees”: as defined in Section 3.3(a).

“L/C Advance”: each L/C Lender’s funding of its participation in any L/C Disbursement in accordance with its L/C Percentage of the L/C Commitment.

“L/C Commitment”: as to any L/C Lender, the obligation of such L/C Lender, if any, to purchase an undivided interest in the Issuing Lenders’ obligations and rights under and in respect of each Letter of Credit (including to make payments with respect to draws made under any Letter of Credit pursuant to Section 3.5(b)) in an aggregate principal amount not to exceed the amount set forth under the heading “L/C Commitment” opposite such L/C Lender’s name on Schedule 1.1A or in the Assignment and Assumption or Increase Joinder pursuant to which such L/C Lender becomes a party hereto, as the same may be changed from time to time pursuant to the terms hereof. The L/C Commitment is a sublimit of the Revolving Commitment and the aggregate amount of the L/C Commitments shall not exceed the amount of the Total L/C Commitments at any time.
“L/C Disbursements”: a payment or disbursement made by the Issuing Lender pursuant to a Letter of Credit.

“L/C Exposure”: at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, and (b) the aggregate amount of all L/C Disbursements that have not yet been reimbursed or converted into Revolving Loans at such time. The L/C Exposure of any L/C Lender at any time shall equal its L/C Percentage of the aggregate L/C Exposure at such time.

“L/C Facility”: the L/C Commitments and the extensions of credit made thereunder.

“L/C Fee Payment Date”: as defined in Section 3.3(a).

“L/C Lender”: a Lender with an L/C Commitment.

“L/C Percentage”: as to any L/C Lender at any time, the percentage of the Total L/C Commitments represented by such L/C Lender’s L/C Commitment, as such percentage may be adjusted as provided in Section 2.24.

“L/C-Related Documents”: collectively, each Letter of Credit (including any Existing Letter of Credit), all applications for any Letter of Credit (and applications for the amendment of any Letter of Credit) submitted by the Borrower to the Issuing Lender and any other document, agreement and instrument relating to any Letter of Credit, including any of the Issuing Lender’s standard form documents for letter of credit issuances.

“Lenders”: as defined in the preamble hereto; provided that unless the context otherwise requires, each reference herein to the Lenders shall be deemed to include the Issuing Lender, the L/C Lender and the Swingline Lender.

“Letter of Credit”: as defined in Section 3.1(a); provided that such term shall include each Existing Letter of Credit.

“Letter of Credit Availability Period”: the period from and including the Closing Date to but excluding the Letter of Credit Maturity Date.

“Letter of Credit Fees”: as defined in Section 3.3(a).

“Letter of Credit Fronting Fees”: as defined in Section 3.3(a).

“Letter of Credit Maturity Date”: the date occurring fifteen (15) days prior to the Revolving Termination Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“LIBOR”: as defined in the definition of “Eurodollar Base Rate.”

“Lien”: any mortgage, deed of trust, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing).

“Loan”: any loan made or maintained by any Lender pursuant to this Agreement.
“Loan Documents”: this Agreement, each Security Document, each Note, the Fee Letter, the Flow of Funds Agreement, each Assignment and Assumption, each Compliance Certificate, each Borrowing Base Certificate, each Increase Joinder, each Notice of Borrowing, each Notice of Conversion/Continuation, the Solvency Certificate, the Collateral Information Certificate, each L/C-Related Document, each subordination or intercreditor agreement and any agreement creating or perfecting rights in cash collateral pursuant to the provisions of Section 3.10, or otherwise, and any amendment, waiver, supplement or other modification to any of the foregoing.

“Loan Parties”: each Group Member that is a party to a Loan Document, as a Borrower or a Guarantor.

“Material Adverse Effect”: (a) a material impairment in the perfection or priority of the Administrative Agent’s Lien on the Collateral or in the value of such Collateral; (b) a material adverse change in, or a material adverse effect on, the operations, business, assets, properties, liabilities (actual or contingent) or financial condition of the Loan Parties and their Subsidiaries, taken as a whole; (c) a material impairment of the rights and remedies, taken as a whole, of the Administrative Agent and the Lenders under any Loan Document (other than as a result of the action or inaction of the Administrative Agent and the Lenders), or of the ability of the Loan Parties, taken as a whole, to perform their obligations under the Loan Documents; or (d) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party (other than as a result of the action or inaction of the Administrative Agent or any Lender).

“Materials of Environmental Concern”: any substance, material or waste that is defined, regulated, governed or otherwise characterized under any Environmental Law as hazardous or toxic or as a pollutant or contaminant (or by words of similar meaning and regulatory effect), any petroleum or petroleum products, asbestos, polychlorinated biphenyls, urea-formaldehyde insulation, molds or fungus, and radioactivity, radiofrequency radiation at levels known to be hazardous to human health and safety.

“Minority Lender”: as defined in Section 10.1(b).

“Moody’s”: Moody’s Investors Service, Inc.

“Mortgaged Properties”: the real properties as to which, pursuant to Section 6.12(b) or otherwise, the Administrative Agent, for the benefit of the Secured Parties, shall be granted a Lien pursuant to the Mortgages.

“Mortgages”: each of the mortgages, deeds of trust, deeds to secure debt or such equivalent documents hereafter entered into and executed and delivered by one or more of the Loan Parties to the Administrative Agent, in each case, as such documents may be amended, amended and restated, supplemented or otherwise modified, renewed or replaced from time to time and in form and substance reasonably acceptable to the Administrative Agent.

“Multiemployer Plan”: a “multiemployer plan” (within the meaning of Section 3(37) of ERISA) to which any Loan Party or any ERISA Affiliate thereof makes, is making, or is obligated or has ever been obligated to make, contributions.

“Multiplier”: at any time of determination, (a) if the Cash Balance is less than the Cash Balance Threshold, 3, or (b) if the Cash Balance is equal to or greater than the Cash Balance Threshold, 4; provided, however, that the Administrative Agent has the right to decrease the foregoing Multipliers in its good faith business judgment based on the results of field exams, audits and to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value in any
material respects; provided, further, that so long as no Event of Default has occurred and is continuing, the Administrative Agent will endeavor in good faith to first consult with the Borrower prior to any such decrease (it being agreed that failure to do so shall not be a violation of this Agreement or give rise of any liability of the Administrative Agent or any Lender).

“Net Revenue”: gross revenue minus returns and discounts of the Loan Parties determined in accordance with GAAP.

“Non-Consenting Lender”: any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Affected Lenders in accordance with the terms of Section 10.1 and (b) has been approved by the Required Lenders.

“Non-Defaulting Lender”: at any time, each Lender that is not a Defaulting Lender at such time.

“Note”: a Revolving Loan Note or a Swingline Loan Note.

“Notice of Borrowing”: a notice substantially in the form of Exhibit K.

“Notice of Conversion/Continuation”: a notice substantially in the form of Exhibit L.

“Obligations”: (a) the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed or allowable in such proceeding) the Loans and all other obligations and liabilities (including any fees or expenses that accrue after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed or allowable in such proceeding) of the Loan Parties to the Administrative Agent, the Issuing Lender, any other Lender, any applicable Cash Management Bank, and any Qualified Counterparty party to a Specified Swap Agreement, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Agreement, any other Loan Document, the Letters of Credit, any Cash Management Agreement, any Specified Swap Agreement or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, payment obligations, fees, indemnities, costs, expenses (including all reasonable and documented out-of-pocket fees, charges and disbursements of counsel to the Administrative Agent, the Issuing Lender, any other Lender, any applicable Cash Management Bank, to the extent that any applicable Cash Management Agreement requires the reimbursement by any applicable Group Member of any such expenses), and any Qualified Counterparty party to a Specified Swap Agreement that are required to be paid by any Loan Party pursuant any Loan Document, Cash Management Agreement or otherwise, and (b) any obligations of any other Group Member arising in connection with any Cash Managements Agreement. For the avoidance of doubt, the Obligations shall not include (i) any obligations arising under any warrants or other equity instruments issued by any Loan Party to any Lender, or (ii) solely with respect to any Guarantor that is not a Qualified ECP Guarantor, any Excluded Swap Obligations of such Guarantor.

“OFAC”: the Office of Foreign Assets Control of the United States Department of the Treasury and any successor thereto.
“Operating Documents”: for any Person as of any date, such Person’s constitutional documents, formation documents and/or certificate of incorporation (or equivalent thereof), as certified (if applicable) by such Person’s jurisdiction of formation as of a recent date, and, (a) if such Person is a corporation, its bylaws or memorandum and articles of association (or equivalent thereof) 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.

“Other Connection Taxes”: with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes”: all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.23).

“Overadvance”: as defined in Section 2.8.

“Participant”: as defined in Section 10.6(d).

“Participant Register”: as defined in Section 10.6(d).


“Payoff Letter”: a letter, in form and substance reasonably satisfactory to the Administrative Agent, dated as of a date prior to the Closing Date and executed by SVB and the applicable Loan Parties to the effect that upon receipt by SVB of the “payoff amount” (however designated) referenced therein, (a) the obligations of the Group Members under the Existing Credit Facility shall be satisfied in full, (b) the Liens held by SVB under the Existing Credit Facility shall terminate without any further action, and (c) the Borrower and the Administrative Agent (and their respective counsel and such counsel’s agents) shall be entitled to file UCC-3 amendment statements, any other releases reasonably necessary to further evidence the termination of such Liens.

“PBGC”: the Pension Benefit Guaranty Corporation, or any successor thereto.

“Pension Plan”: an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (a) that is or was at any time maintained or sponsored by any Loan Party or any ERISA Affiliate thereof or to which any Loan Party or any ERISA Affiliate thereof has ever made, or was obligated to make, contributions, and (b) that is or was subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA.

“Permitted Acquisition”: as defined in Section 7.8(n).

“Person”: any natural Person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.
“Plan”: (a) an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan which is or was at any time maintained or sponsored by any Loan Party or any Subsidiary thereof or to which any Loan Party or any Subsidiary thereof has ever made, or was obligated to make, contributions, (b) a Pension Plan, or (c) a Qualified Plan.

“Platform”: is any of Debt Domain, Intralinks, Syndtrak, DebtX or a substantially similar electronic transmission system.

“Preferred Stock”: the preferred Capital Stock of Holdings.

“Prime Rate”: the rate of interest per annum 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 the Administrative Agent, the “Prime Rate” shall mean the rate of interest per annum announced by the Administrative Agent as its prime rate in effect at its principal office in the State of California (such announced Prime Rate not being intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors).

“Pro Forma Basis”: with respect to any calculation or determination for any period, in making such calculation or determination on the specified date of determination (the “Determination Date”):

(a) pro forma effect will be given to any Indebtedness incurred by Holdings or any of its Subsidiaries (including by assumption of then outstanding Indebtedness or by a Person becoming a Subsidiary) (“Incurred”) after the beginning of the applicable period and on or before the Determination Date to the extent the Indebtedness is outstanding or is to be Incurred on the Determination Date, as if such Indebtedness had been Incurred on the first day of such period;

(b) pro forma calculations of interest on Indebtedness bearing a floating interest rate will be made as if the rate in effect on the Determination Date (taking into account any Swap Agreement applicable to the Indebtedness) had been the applicable rate for the entire reference period; and

(c) pro forma effect will be given to: (A) the acquisition or disposition of companies, divisions or lines of businesses by Holdings and its Subsidiaries, including any acquisition or disposition of a company, division or line of business since the beginning of the reference period by a Person that became a Subsidiary after the beginning of the applicable period; and (B) the discontinuation of any discontinued operations; in each case of clauses (A) and (B), that have occurred since the beginning of the applicable period and before the Determination Date as if such events had occurred, and, in the case of any disposition, the proceeds thereof applied, on the first day of such period. To the extent that pro forma effect is to be given to an acquisition or disposition of a company, division or line of business, the pro forma calculation will be calculated in good faith by a responsible financial or accounting officer of Holdings in accordance with Regulation S-X under the Securities Act based upon the most recent four full fiscal quarters for which the relevant financial information is available.

“Projected Pro Forma Financial Statements”: projected balance sheets, income statements and cash flow statements prepared by Holdings and its consolidated Subsidiaries that give effect to (i) the Loans to be made on the Closing Date and the use of proceeds thereof (ii) the refinancing of the Existing Credit Facility and (iii) the payment of fees and expenses in connection with the foregoing, in each case prepared on a quarterly basis through the Revolving Termination Date, and in each case demonstrating pro forma compliance with the covenant set forth in Section 7.1.
“Projections”: as defined in Section 6.2(c).

“Properties”: as defined in Section 4.17(a).

“Protective Overadvance”: as defined in Section 2.8(b).

“Qualified Counterparty”: with respect to any Specified Swap Agreement, any counterparty thereto that is a Lender or an Affiliate of a Lender or, at the time such Specified Swap Agreement was entered into or as of the Closing Date, was the Administrative Agent or a Lender or an Affiliate of the Administrative Agent or a Lender.

“Qualified ECP Guarantor”: in respect of any Swap Obligation, (a) each Guarantor that has total assets exceeding $10,000,000 at the time the relevant Guarantee Obligation of such Guarantor provided in respect of, or the Lien granted by such Guarantor to secure, such Swap Obligation (or guaranty thereof) becomes effective with respect to such Swap Obligation, and (b) any other Guarantor that (i) constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder, or (ii) can cause another Person (including, for the avoidance of doubt, any other Guarantor not then constituting a “Qualified ECP Guarantor”) to qualify as an “eligible contract participant” at such time by entering into a “keepwell, support, or other agreement” as contemplated by Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Qualified IPO”: a bona fide underwritten sale to the public of common stock of Holdings (or any direct or indirect parent) (a) pursuant to a registration statement (other than on Form S-8 or any other form relating to securities issuable under any benefit plan of Holdings or any of its Subsidiaries, as the case may be) that is declared effective by the Securities and Exchange Commission or any successor thereto or (b) after which the common Capital Stock of Holdings or any direct or indirect parent of Holdings are listed on an internationally recognized securities exchange or dealer quotation system.

“Qualified Plan”: an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (a) that is or was at any time maintained or sponsored by any Loan Party or any ERISA Affiliate thereof or to which any Loan Party or any ERISA Affiliate thereof has ever made, or was ever obligated to make, contributions, and (b) that is intended to be tax-qualified under Section 401(a) of the Code.

“Recipient”: the (a) Administrative Agent, (b) any Lender or (c) the L/C Issuer, as applicable.

“Recurring Revenue”: for any month, the revenue of the Group Members derived from software license subscriptions recognized during such month, plus all transactional revenue, bank minimum guaranteed revenue, installation and set-up fees amortized over the life of the contract not to exceed 5% of revenue, revenue share and float revenue, in each case received in the ordinary course of the Group Members’ businesses, in each case determined in accordance with GAAP and specifically excluding revenue or accounts received based on (a) sales of inventory, goods, or equipment, (b) transaction revenue not received in the ordinary course of business, (c) sales of services not in the ordinary course of business, (d) revenue received due to one-time, non-recurring transactions, installation and/or set-up fees, (e) add-on purchases by the Group Members’ existing clients not resulting in a continuing stream of revenue and (f) such other exclusions as the Administrative Agent shall determine after prior consultation with the Borrower, in its reasonable discretion.

“Refunded Swingline Loans”: as defined in Section 2.7(b).

“Register”: as defined in Section 10.6(c).
“Regulation T”: Regulation T of the Board as in effect from time to time.

“Regulation U”: Regulation U of the Board as in effect from time to time.

“Regulation X”: Regulation X of the Board as in effect from time to time.

“Related Parties”: with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Replacement Lender”: as defined in Section 2.23.

“Required Lenders”: at any time, (a) if only one Lender holds the Total Outstanding Revolving Commitments, such Lender; and (b) if more than one Lender holds the Total Outstanding Revolving Commitments, then at least two Lenders who together hold more than 50% of the Total Revolving Commitments (including, without duplication, the L/C Commitments) then in effect or, if the Revolving Commitments have been terminated, the Total Revolving Extensions of Credit then outstanding; provided that for the purposes of this clause (b), the Revolving Commitments of, and the portion of the Revolving Loans and participations in L/C Exposure and Swingline Loans held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; provided further that a Lender and its Affiliates shall be deemed one Lender.

“Requirement of Law”: as to any Person, the Operating Documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority (including, for the avoidance of doubt, the Basel Committee on Banking Supervision and any successor thereto or similar authority or successor thereto), 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.

“Reserves”: as of any date of determination, such amounts as the Administrative Agent may from time to time establish and revise in its good faith business judgment, reducing the amount of the Borrowing Base (a) to reflect events, conditions, contingencies or risks which, as determined by the Administrative Agent in its good faith business judgment, do or may adversely affect (i) the Collateral or any other property which is security for the Obligations or its value (including without limitation any increase in delinquencies of Accounts), (ii) the assets, business or prospects of the Group Members, or (iii) the security interests and other rights of the Administrative Agent in the Collateral (including the enforceability, perfection and priority thereof); or (b) to reflect the Administrative Agent’s reasonable belief that any collateral report or financial information furnished by or on behalf of the Loan Parties to the Administrative Agent is or may have been incomplete, inaccurate or misleading in any material respect; or (c) in respect of any state of facts which the Administrative Agent determines constitutes an Event of Default or may, with notice or passage of time or both, constitute an Event of Default.

“Responsible Officer”: with respect to any Person, the chief executive officer, president, chief financial officer or controller of such Person, but in any event, with respect to financial matters, the chief financial officer, treasurer or controller of such Person.

“Restricted Payments”: as defined in Section 7.6.

“Revolving Commitment”: as to any Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Swingline Loans and Letters of Credit in an aggregate principal amount not to exceed the amount set forth under the heading “Revolving Commitment” opposite such Lender’s name on Schedule 1.1A or in the Assignment and Assumption or Increase Joinder pursuant to
which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof (including in connection with assignments and Increases permitted hereunder). The amount of the Total Revolving Commitments as of the Closing Date is $50,000,000. The L/C Commitment and the Swingline Commitment are each sublimits of the Total Revolving Commitments.

“Revolving Commitment Period”: the period from and including the Closing Date to the Revolving Termination Date.

“Revolving Extensions of Credit”: as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding, plus (b) such Lender’s L/C Percentage of the aggregate undrawn amount of all outstanding Letters of Credit (including the Existing Letter of Credit) at such time, plus (c) such Lender’s L/C Percentage of the aggregate amount of all L/C Disbursements that have not yet been reimbursed or converted into Revolving Loans at such time, plus (d) such Lender’s Revolving Percentage of the aggregate principal amount of Swingline Loans then outstanding.

“Revolving Facility”: the Revolving Commitments and the extensions of credit made thereunder.

“Revolving Lender”: each Lender that has a Revolving Commitment or that holds Revolving Loans.

“Revolving Loan Conversion”: as defined in Section 3.5(b).

“Revolving Loan Funding Office”: the office of the Administrative Agent specified in Section 10.2 or such other office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

“Revolving Loan Note”: a promissory note in the form of Exhibit H-1, as it may be amended, supplemented or otherwise modified from time to time.

“Revolving Loans”: as defined in Section 2.4(a).

“Revolving Percentage”: as to any Revolving Lender at any time, the percentage which such Lender’s Revolving Commitment then constitutes of the Total Revolving Commitments or, at any time after the Revolving Commitments shall have expired or terminated, the percentage which the aggregate principal amount of such Lender’s Revolving Loans then outstanding constitutes of the aggregate principal amount of all Revolving Loans then outstanding; provided that in the event that the Revolving Loans are paid in full prior to the reduction to zero of the Total Revolving Commitments, the Revolving Percentages shall be determined in a manner designed to ensure that the other outstanding Revolving Extensions of Credit shall be held by the Revolving Lenders on a comparable basis.

“Revolving Termination Date”: June 28, 2022.

“RR”: the Recurring Revenue of the Loan Parties from Eligible Customer Accounts for any applicable period as of the last day of such period, determined in accordance with GAAP.


“Sale Leaseback Transaction”: any arrangement with any Person or Persons, whereby in contemporaneous or substantially contemporaneous transactions a Loan Party sells substantially all of its right, title and interest in any property and, in connection therewith, acquires, leases or licenses back the right to use all or a material portion of such property.
“Sanction(s)”: any international economic sanction administered or enforced by the United States Government (including OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

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

“Secured Parties”: the collective reference to the Administrative Agent, the Lenders (including any Issuing Lender in its capacity as Issuing Lender and any Swingline Lender in its capacity as Swingline Lender), any Cash Management Bank (in its or their respective capacities as providers of Cash Management Services), and any Qualified Counterparties.

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

“Securities Account Control Agreement”: any Control Agreement entered into by the Administrative Agent, a Loan Party and a securities intermediary holding a Securities Account of such Loan Party pursuant to which the Administrative Agent is granted “control” (for purposes of the UCC) over such Securities Account.

“Securities Act”: the Securities Act of 1933, as amended from time to time and any successor statute.

“Security Documents”: the collective reference to (a) the Guarantee and Collateral Agreement, (b) the Mortgages (if any), (c) each Deposit Account Control Agreement, (d) each Securities Account Control Agreement, (e) all other security documents hereafter delivered to the Administrative Agent granting a Lien on any property of any Person to secure the Obligations of any Loan Party arising under any Loan Document, (f) each Pledge Supplement, (g) each Assumption Agreement, and (h) all financing statements, fixture filings, assignments, acknowledgments and other filings, documents and agreements made or delivered pursuant to any of the foregoing.

“Solvency Certificate”: the Solvency Certificate, dated the Closing Date, delivered to the Administrative Agent pursuant to Section 5.1(o), which Solvency Certificate shall be in substantially the form of Exhibit D.

“Solvent”: when used with respect to any Person, as of any date of determination, (a) the amount of the “fair value” of the assets of such Person will, as of such date, exceed the amount of all “liabilities of such Person, contingent or otherwise,” as of such date, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (b) the “present fair saleable value” of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, as such quoted terms are determined in accordance with applicable federal and state laws governing determinations of the insolvency of debtors, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts generally as they mature. For purposes of this definition, (i) “debt” means liability on a “claim,” and (ii) “claim” means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured.
“Specified Swap Agreement”: any Swap Agreement entered into by a Loan Party (or in the sole discretion of the Administrative Agent, any other Group Member) and any Qualified Counterparty (or any Person who was a Qualified Counterparty as of the Closing Date or as of the date such Swap Agreement was entered into) to the extent permitted under Section 7.13.

“Subordinated Debt Document”: any agreement, certificate, document or instrument executed or delivered by any Group Member and evidencing Indebtedness of such Group Member which is subordinated to the payment of the Obligations or the Liens securing such Indebtedness is subordinated to the Administrative Agent’s Lien, in each case, in a manner approved in writing by the Administrative Agent, and any renewals, modifications, or amendments thereof which are approved in writing by the Administrative Agent.

“Subordinated Indebtedness”: Indebtedness of a Loan Party subordinated to the Obligations pursuant to subordination terms (including payment, lien and remedies subordination terms, as applicable) reasonably acceptable to the Administrative Agent.

“Subsidiary”: 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 otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of Holdings.

“Surety Indebtedness”: as of any date of determination, indebtedness (contingent or otherwise) owing to sureties arising from surety bonds issued on behalf of any Loan Party or its respective Subsidiaries as support for, among other things, their contracts with customers, whether such indebtedness is owing directly or indirectly by such Loan Party or any such Subsidiary.

“SVB”: as defined in the preamble hereto.

“Swap Agreement”: any agreement with respect to any swap, hedge, forward, future or derivative transaction or option or similar agreement (including without limitation, any Interest Rate Agreement) involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions, provided that the following shall not constitute “Swap Agreements”: (a) any phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower and its Subsidiaries, (b) any stock option or warrant agreement for the purchase of Capital Stock of the Borrower, (c) the purchase of Capital Stock or Indebtedness (including securities convertible into Capital Stock) of the Borrower pursuant to delayed delivery contracts, accelerated stock repurchase agreements, forward contracts or other similar agreements and (d) any of the items specified in the foregoing clauses (a) through (c), to the extent the same constitutes a derivative embedded in a convertible security issued by the Borrower.

“Swap Obligation”: with respect to any Guarantor, any obligation of such Guarantor to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.
“Swap Termination Value”: in respect of any one or more Swap Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Agreements, (a) for any date on or after the date any such Swap Agreement has been closed out and termination value determined in accordance therewith, such termination value, and (b) for any date prior to the date referenced in clause (a), the amount determined as the mark-to-market value for such Swap Agreement, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Agreements (which may include a Qualified Counterparty).

“Swingline Commitment”: the obligation of the Swingline Lender to make Swingline Loans pursuant to Section 2.6 in an aggregate principal amount at any one time outstanding not to exceed $10,000,000.

“Swingline Lender”: SVB, in its capacity as the lender of Swingline Loans or such other Lender as the Borrower may from time to time select as the Swingline Lender hereunder pursuant to Section 2.7(f); provided that such Lender has agreed to be a Swingline Lender.

“Swingline Loan Note”: a promissory note in the form of Exhibit H-2, as it may be amended, supplemented or otherwise modified from time to time.

“Swingline Loans”: as defined in Section 2.6.

“Swingline Participation Amount”: as defined in Section 2.7(c).

“Synthetic Lease Obligation”: the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) an agreement for the use of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“Taxes”: all present or future taxes, levies, impose, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Total Credit Exposure”: as to any Lender at any time, the unused Commitments and Revolving Extensions of Credit of such Lender at such time.

“Total L/C Commitments”: at any time, the sum of all L/C Commitments at such time, as the same may be reduced from time to time pursuant to Section 2.10 or 3.5(b). The initial amount of the Total L/C Commitments on the Closing Date is $10,000,000.

“Total Revolving Commitments”: at any time, the aggregate amount of the Revolving Commitments then in effect.

“Total Revolving Extensions of Credit”: at any time, the aggregate amount of the Revolving Extensions of Credit outstanding at such time.

“Trade Date”: as defined in Section 10.6(b)(i)(B).

“Transferee”: any Eligible Assignee or Participant.

“Type”: as to any Loan, its nature as an ABR Loan or a Eurodollar Loan.
“Unfriendly Acquisition”: any acquisition that has not, at the time of the first public announcement of an offer relating thereto, been approved by the board of directors (or other legally recognized governing body) of the Person to be acquired; except that with respect to any acquisition of a non-U.S. Person, an otherwise friendly acquisition shall not be deemed to be unfriendly if it is not customary in such jurisdiction to obtain such approval prior to the first public announcement of an offer relating to a friendly acquisition.

“Uniform Commercial Code” or “UCC”: the Uniform Commercial Code (or any similar or equivalent legislation) as in effect from time to time in the State of New York, or as the context may require, any other applicable jurisdiction.

“United States” and “U.S.”: the United States of America.

“U.S. Person”: any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“Withholding Agent”: as applicable, any of any applicable Loan Party and the Administrative Agent, as the context may require.

“Write-Down and Conversion Powers”: with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.2 Other Definitional Provisions.

(a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto.

(b) As used herein and in the other Loan Documents, and in any certificate or other document made or delivered pursuant hereto or thereto, (i) accounting terms relating to any Group Member not defined in Section 1.1 and accounting terms partly defined in Section 1.1, to the extent not defined, shall have the respective meanings given to them under GAAP, (ii) the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation,” (iii) the word “incur” shall be construed to mean incur, create, issue, assume, become liable in respect of or suffer to exist (and the words “incurred” and “incurrence” shall have correlative meanings), (iv) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, Capital Stock, securities, revenues, accounts, leasehold interests and contract rights, (v) references to a given time of day shall, unless otherwise specified, be deemed to refer to Pacific time, and (vi) references to agreements (including this Agreement) or other Contractual Obligations shall, unless otherwise specified, be deemed to refer to such agreements or Contractual Obligations as amended, supplemented, restated, amended and restated or otherwise modified from time to time.

(c) The words “hereof,” “herein” and “hereunder” and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, unless otherwise specified. The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (ii) unless otherwise specified, all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, and (iii) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time.
(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(e) Any reference in any Loan Document to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a Division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a Division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale or transfer, or similar term, as applicable, to, of or with a separate Person. Any Division of a limited liability company shall constitute a separate Person under the Loan Documents (and each Division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity) on the first date of its existence. In connection with any Division, if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then such asset shall be deemed to have been transferred from the original Person to the subsequent Person.

1.3 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 2
AMOUNT AND TERMS OF COMMITMENTS

2.1 [Reserved].

2.2 [Reserved].

2.3 [Reserved].

2.4 Revolving Commitments. Subject to the terms and conditions hereof, each Revolving Lender severally agrees to make revolving credit loans (each, a “Revolving Loan” and, collectively, the “Revolving Loans”) to the Borrower from time to time during the Revolving Commitment Period in an aggregate principal amount at any one time outstanding which, when added to the aggregate outstanding amount of the Swingline Loans, the aggregate undrawn amount of all outstanding Letters of Credit, and the aggregate amount of all L/C Disbursements that have not yet been reimbursed or converted into Revolving Loans, incurred on behalf of the Borrower and owing to such Lender, does not exceed the amount of such Lender’s Revolving Commitment. In addition, such aggregate obligations shall not at any time exceed the lesser of (i) the Total Revolving Commitments in effect at such time, and (ii) the Borrowing Base in effect at such time. During the Revolving Commitment Period the Borrower may use the Revolving Commitments by borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof. The Revolving Loans may from time to time be Eurodollar Loans or ABR Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Sections 2.5 and 2.13.
(b) The Borrower shall repay all outstanding Revolving Loans (including all Overadvances and Protective Overadvances) on the Revolving Termination Date.

2.5 Procedure for Revolving Loan Borrowing. The Borrower may borrow under the Revolving Commitments during the Revolving Commitment Period on any Business Day; provided that the Borrower shall give the Administrative Agent an irrevocable Notice of Borrowing (which must be received by the Administrative Agent prior to 10:00 A.M. (a) three (3) Business Days prior to the requested Borrowing Date, in the case of Eurodollar Loans, or (b) one (1) Business Day prior to the requested Borrowing Date, in the case of ABR Loans (in each case, with originals to follow within three (3) Business Days)) provided that any such Notice of Borrowing of ABR Loans under the Revolving Facility to finance payments under Section 3.5(a) may be given not later than 10:00 A.M. on the date of the proposed borrowing, in each such case specifying (i) the amount and Type of Revolving Loans to be borrowed, (ii) the requested Borrowing Date, (iii) in the case of Eurodollar Loans, the respective amounts of each such Type of Loan and the respective lengths of the initial Interest Period therefor, and (iv) instructions for remittance of the proceeds of the applicable Loans to be borrowed. Unless otherwise agreed by the Administrative Agent in its sole discretion, no Revolving Loan may be made as, converted into or continued as a Eurodollar Loan having an Interest Period in excess of one (1) month prior to the date that is thirty (30) days after the Closing Date. Each borrowing under the Revolving Commitments shall be in an amount equal to in the case of ABR Loans, $1,000,000 or a whole multiple of $100,000 in excess thereof (or, if the then aggregate Available Revolving Commitments are less than $1,000,000, such lesser amount); provided that the Swingline Lender may request, on behalf of the Borrower, borrowings under the Revolving Commitments that are ABR Loans in other amounts pursuant to Section 2.7. Upon receipt of any such Notice of Borrowing from the Borrower, the Administrative Agent shall promptly notify each Revolving Lender thereof. Each Revolving Lender will make the amount of its pro rata share of each such borrowing available to the Administrative Agent for the account of the Borrower at the Revolving Loan Funding Office prior to 12:00 P.M. on the Borrowing Date requested by the Borrower in funds immediately available to the Administrative Agent. Such borrowing will then be made available to the Borrower by the Administrative Agent crediting such account as is designated in writing to the Administrative Agent by the Borrower with the aggregate of the amounts made available to the Administrative Agent by the Revolving Lenders and in like funds as received by the Administrative Agent or, if so specified in the Flow of Funds Agreement, the Administrative Agent shall wire transfer or otherwise credit all or a portion of such aggregate amounts to SVB (for application against amounts then outstanding under the Existing Credit Facility), in accordance with the wire instructions specified for such purpose in the Flow of Funds Agreement.

2.6 Swingline Commitment. Subject to the terms and conditions hereof, the Swingline Lender agrees to make available a portion of the credit accommodations otherwise available to the Borrower under the Revolving Commitments from time to time during the Revolving Commitment Period by making swing line loans (each a “Swingline Loan” and, collectively, the “Swingline Loans”) to the Borrower; provided that (a) the aggregate principal amount of Swingline Loans outstanding at any time shall not exceed the Swingline Commitment then in effect, (b) the Borrower shall not request, and the Swingline Lender shall not make, any Swingline Loan if, after giving effect to the making of such Swingline Loan, the aggregate amount of the Available Revolving Commitments would be less than zero, and (c) the Borrower shall not use the proceeds of any Swingline Loan to refinance any then outstanding Swingline Loan. During the Revolving Commitment Period, the Borrower may use the Swingline Commitment by borrowing, repaying and reborrowing, all in accordance with the terms and conditions hereof. Swingline Loans shall be ABR Loans only. The Borrower shall repay to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the Revolving Termination Date. The Swingline Lender shall not make a Swingline Loan during the period commencing at the time it has received notice (by telephone or in writing) from the Administrative Agent at the request of any Lender, acting in good faith, that one or more of the applicable conditions specified in Section 5.2 (other than Section 5.2(d)) is not then satisfied and has had a reasonable opportunity to react to such notice and ending when such conditions are satisfied or duly waived.
2.7 Procedure for Swingline Borrowing; Refunding of Swingline Loans.

(a) Whenever the Borrower desires that the Swingline Lender make Swingline Loans the Borrower shall give the Swingline Lender irrevocable telephonic notice (which telephonic notice must be received by the Swingline Lender not later than 12:00 P.M. on the proposed Borrowing Date) confirmed promptly in writing by a Notice of Borrowing, specifying (i) the amount to be borrowed, (ii) the requested Borrowing Date (which shall be a Business Day during the Revolving Commitment Period), and (iii) instructions for the remittance of the proceeds of such Loan. Each borrowing under the Swingline Commitment shall be in an amount equal to $500,000 or a whole multiple of $100,000 in excess thereof. Promptly thereafter, on the Borrowing Date specified in a notice in respect of Swingline Loans, the Swingline Lender shall make available to the Borrower an amount in immediately available funds equal to the amount of the Swingline Loan to be made by depositing such amount in the account designated in writing to the Administrative Agent by the Borrower. Unless a Swingline Loan is sooner refinanced by the advance of a Revolving Loan pursuant to Section 2.7(b), such Swingline Loan shall be repaid by the Borrower no later than five (5) Business Days after the advance of such Swingline Loan.

(b) The Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of the Borrower (which hereby irrevocably directs the Swingline Lender to act on its behalf), on one (1) Business Day’s telephonic notice given by the Swingline Lender no later than 12:00 P.M. and promptly confirmed in writing, request each Revolving Lender to make, and each Revolving Lender hereby agrees to make, a Revolving Loan, in an amount equal to such Revolving Lender’s Revolving Percentage of the aggregate amount of such Swingline Loan (each a “Refunded Swingline Loan”) outstanding on the date of such notice, to repay the Swingline Lender. Each Revolving Lender shall make the amount of such Revolving Loan available to the Administrative Agent at the Revolving Loan Funding Office in immediately available funds, not later than 10:00 A.M. one (1) Business Day after the date of such notice. The proceeds of such Revolving Loan shall immediately be made available by the Administrative Agent to the Swingline Lender for application by the Swingline Lender to the repayment of the Refunded Swingline Loan. The Borrower irrevocably authorizes the Swingline Lender to charge the Borrower’s accounts with the Administrative Agent (up to the amount available in each such account) immediately to pay the amount of any Refunded Swingline Loan to the extent amounts received from the Revolving Lenders are not sufficient to repay in full such Refunded Swingline Loan.

(c) If prior to the time that the Borrower has repaid the Swingline Loans pursuant to Section 2.7(a) or a Revolving Loan has been made pursuant to Section 2.7(b), one of the events described in Section 8.1(f) shall have occurred or if for any other reason, as determined by the Swingline Lender in its sole discretion, Revolving Loans may not be made as contemplated by Section 2.7(b), each Revolving Lender shall, on the date such Revolving Loan was to have been made pursuant to the notice referred to in Section 2.7(b) or on the date requested by the Swingline Lender (with at least one (1) Business Days’ notice to the Revolving Lenders), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to the Swingline Lender an amount (the “Swingline Participation Amount”) equal to (i) such Revolving Lender’s Revolving Percentage times (ii) the sum of the aggregate principal amount of the outstanding Swingline Loans that were to have been repaid with such Revolving Loans.
Whenever, at any time after the Swingline Lender has received from any Revolving Lender such Lender’s Swingline Participation Amount, the Swingline Lender receives any payment on account of the Swingline Loans, the Swingline Lender will distribute to such Lender its Swingline Participation Amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender’s participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Lender’s pro rata portion of such payment if such payment is not sufficient to pay the principal of and interest on all Swingline Loans then due); provided that in the event that such payment received by the Swingline Lender is required to be returned, such Revolving Lender will return to the Swingline Lender any portion thereof previously distributed to it by the Swingline Lender.

(c) Each Revolving Lender’s obligation to make the Loans referred to in Section 2.7(b) and to purchase participating interests pursuant to Section 2.7(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender or the Borrower may have against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other Revolving Lender, or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(f) The Swingline Lender may resign at any time by giving thirty (30) days’ prior notice to the Administrative Agent, the Lenders and the Borrower. Following such notice of resignation from the Swingline Lender, the Swingline Lender may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the Required Lenders and the successor Swingline Lender. After the resignation or replacement of the Swingline Lender hereunder, the retiring Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of the Swingline Lender under this Agreement and the other Loan Documents with respect to Swingline Loans made by it prior to such resignation or replacement, but shall not be required or permitted to make any additional Swingline Loans.

2.8 Overadvances; Protective Overadvances.

(a) If at any time or for any reason the aggregate amount of the Total Revolving Extensions of Credit exceeds the lesser of (x) the amount of the Total Revolving Commitments then in effect, and (y) the amount of the Borrowing Base then in effect (any such excess, an “Overadvance”), the Borrower shall, if the amount of such Overadvance is (a) equal or greater than $500,000, immediately pay the full amount of such Overadvance to the Administrative Agent, without notice or demand, or (b) less than $500,000, within one (1) Business Day after the receipt of a request by the Administrative Agent, pay the full amount of such Overadvance to the Administrative Agent, and may then, in its sole discretion, make Revolving Loans to the Borrower on behalf of the Lenders, so long as the aggregate amount of such Revolving Loans shall not exceed the lesser of (y) 10% of the Borrowing Base (if then applicable) and (z) 10% of the Commitments, if the Administrative Agent, in its reasonable credit judgment, deems that such Revolving Loans are necessary or desirable (i) to protect all or any portion of the Collateral, (ii) to enhance the likelihood or maximize the amount of repayment of the Loans and the other Obligations or (iii) to pay any other amount chargeable to the Borrower pursuant to this Agreement (such Revolving Loans, “Protective Overadvances”); provided that (A) in no event shall the Total Revolving Extensions of Credit exceed the amount of the Total Revolving
Commitments then in effect and (B) the Borrower shall repay each Protective Overadvance on the date which the earlier of (y) the thirtieth (30th) day after the date of incurrence of such Protective Overadvance and (z) the date the Required Lenders provide written notice to the Administrative Agent and the Borrower requiring the Borrower to repay such Protective Overadvance. Each applicable Lender shall be obligated to advance to the Borrower its Revolving Percentage of each Protective Overadvance made in accordance with this Section 2.8(b). If Protective Overadvances are made in accordance with the preceding sentence, then all Revolving Lenders shall be bound to make, or permit to remain outstanding, such Protective Overadvances based upon their Revolving Percentages in accordance with the terms of this Agreement. All Protective Overadvances shall be secured by the Collateral and shall bear interest as provided in this Agreement for Revolving Loans generally.

2.9 Fees.

(a) Fee Letter. The Borrower agrees to pay to the Administrative Agent the fees in the amounts and on the dates as set forth in the Fee Letter and to perform any other obligations contained therein.

(b) Commitment Fee. As additional compensation for the Revolving Commitments, the Borrower shall pay to the Administrative Agent for the account of the Lenders, in arrears, on the first day of each calendar quarter of the Borrower prior to the Revolving Termination Date and on the Revolving Termination Date, a fee for the Borrower’s non-use of available funds in an amount equal to the Commitment Fee Rate per annum multiplied by the difference between (x) the Total Revolving Commitments (as they may be reduced or increased from time to time) and (y) the sum of (A) the average for the period of the daily closing balance of the Revolving Loans outstanding, (B) the aggregate undrawn amount of all Letters of Credit outstanding at such time and (C) the aggregate amount of all L/C Disbursements that have not yet been reimbursed or converted into Revolving Loans at such time.

(c) Fees Nonrefundable. All fees payable under this Section 2.9 shall be fully earned on the date paid and nonrefundable.

(d) Increase in Fees. At any time that an Event of Default exists, upon the request of the Required Lenders, the amount of any of the foregoing fees due under subsection (b) shall be increased by adding 2.0% per annum thereto.

2.10 Termination or Reduction of Revolving Commitments.

The Borrower shall have the right, without penalty or premium, upon not less than three (3) Business Days’ notice to the Administrative Agent, to terminate the Revolving Commitments or, from time to time, to reduce the amount of the Revolving Commitments; provided that no such termination or reduction of the Revolving Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Loans and Swingline Loans made on the effective date thereof (which prepayments may be made without penalty or premium other than any amounts owing (if any) pursuant to Section 2.21), the Total Revolving Extensions of Credit then outstanding would exceed the lesser of (A) the Total Revolving Commitments then in effect, and (B) the Borrowing Base then in effect; provided that if such notice indicates that such termination or reduction is conditioned on the occurrence of a transaction it may be revoked if such transaction is not consummated. Any such reduction shall be in an amount equal to $1,000,000, or a whole multiple thereof (or, if the then Total Revolving Commitments are less than $1,000,000, such lesser amount), and shall reduce permanently the Revolving Commitments then in effect; provided further, if in connection with any such reduction or termination of the Revolving Commitments a Eurodollar Loan is prepaid on any day other than the last day of the Interest Period applicable thereto, the Borrower shall also pay any amounts owing (if any) pursuant to Section 2.21. The
Borrower shall have the right, without penalty or premium, upon not less than three (3) Business Days’ notice to the Administrative Agent, to terminate the L/C Commitments or, from time to time, to reduce the amount of the L/C Commitments; provided that no such termination or reduction of L/C Commitments shall be permitted if, after giving effect thereto, the Total L/C Commitments shall be reduced to an amount that would result in the aggregate L/C Exposure exceeding the Total L/C Commitments (as so reduced). Any such reduction shall be in an amount equal to $1,000,000, or a whole multiple thereof (or, if the then Total L/C Commitments are less than $1,000,000, such lesser amount), and shall reduce permanently the L/C Commitments then in effect. The Borrower shall have the right, without penalty or premium other than any amounts owing (if any) pursuant to Section 2.21, at any time and from time to time to prepay any Loan in whole or in part, upon not less than three (3) Business Days’ notice to the Administrative Agent; provided that if such notice indicates that such prepayment is conditioned on the occurrence of a transaction it may be revoked if such transaction is not consummated. Upon receipt of any such notice, the Administrative Agent shall promptly notify each relevant Lender thereof.

2.11 [Reserved].

2.12 [Reserved].

2.13 Conversion and Continuation Options.

(a) The Borrower may elect from time to time to convert Eurodollar Loans to ABR Loans by giving the Administrative Agent prior irrevocable notice in a Notice of Conversion/Continuation of such election no later than 10:00 A.M. on the Business Day preceding the proposed conversion date; provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Administrative Agent prior irrevocable notice in a Notice of Conversion/Continuation of such election no later than 10:00 A.M. on the third Business Day preceding the proposed conversion date (which notice shall specify the length of the initial Interest Period therefor); provided that no ABR Loan may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing. Upon receipt of any such notice, the Administrative Agent shall promptly notify each relevant Lender thereof.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving irrevocable notice in a Notice of Conversion/Continuation to the Administrative Agent, in accordance with the applicable provisions of the term “Interest Period” set forth in Section 1.1, of the length of the next Interest Period to be applicable to such Loans; provided that no Eurodollar Loan may be continued as such when any Event of Default has occurred and is continuing; provided further that if the Borrower shall fail to give any required notice as described above in this paragraph or if such continuation is not permitted pursuant to the preceding proviso, such Loans shall be automatically converted to ABR Loans on the last day of such then expiring Interest Period. Upon receipt of any such notice the Administrative Agent shall promptly notify each relevant Lender thereof.

2.14 Limitations on Eurodollar Tranches. Notwithstanding anything to the contrary in this Agreement, all borrowings, conversions and continuations of Eurodollar Loans and all selections of Interest Periods shall be in such amounts and be made pursuant to such elections so that, (a) after giving effect thereto, the aggregate principal amount of the Eurodollar Loans comprising each Eurodollar Tranche shall be equal to $1,000,000 or a whole multiple of $100,000 in excess thereof, and (b) no more than seven (7) Eurodollar Tranches shall be outstanding at any one time.
2.15 Interest Rates and Payment Dates.

(a) Each Eurodollar Loan shall bear interest for each day during each Interest Period with respect thereto at a rate per annum equal to (i) the Eurodollar Rate determined for such day plus (ii) the Applicable Margin.

(b) Each ABR Loan (including any Swingline Loan) shall bear interest at a rate per annum equal to (i) the ABR plus (ii) the Applicable Margin.

(c) During the continuance of an Event of Default, at the request of the Required Lenders, all outstanding Loans shall bear interest at a rate per annum equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2% and all Letters of Credit Fees shall accrue at a rate per annum equal to the rate that would otherwise be applicable thereto plus 2% (collectively, the “Default Rate”); provided that the Default Rate shall apply to all outstanding Loans and Letter of Credit Fees automatically and without any Required Lender consent therefor upon the occurrence and during the continuance of any Event of Default arising under Section 8.1(a) or (f).

(d) Interest shall be payable in arrears on each Interest Payment Date; provided that interest accruing pursuant to Section 2.15(c) shall be payable from time to time on demand.

2.16 Computation of Interest and Fees.

(a) Interest and fees payable pursuant hereto shall be calculated on the basis of a 360-day year for the actual days elapsed, except that, with respect to ABR Loans the rate of interest on which is calculated on the basis of the Prime Rate (or, as applicable, on the basis of the Eurodollar Rate), the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of each determination of a Eurodollar Rate (and, as applicable, of the determination of the Eurodollar Rate applicable to an ABR Loan). Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurocurrency Reserve Requirements shall become effective as of the opening of business on the day on which such change becomes effective. The Administrative Agent shall as soon as practicable notify the Borrower and the relevant Lenders of the effective date and the amount of each such change in interest rate.

(b) Each determination of an interest rate by the Administrative Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Administrative Agent shall, at the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.16(a).

2.17 Inability to Determine Interest Rate. If prior to the first day of any Interest Period, or as applicable, on any day on which an ABR Loan bearing interest determined by reference to the Eurodollar Rate is outstanding, the Administrative Agent or the Required Lenders shall have determined (which determination shall be conclusive and binding upon the Borrower) in connection with any request for a Eurodollar Loan, a request for an ABR Loan to bear interest with reference to the Eurodollar Rate, or a conversion to or a continuation of either of the foregoing that, by reason of circumstances affecting the relevant market, (a) Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such requested Loan or conversion or continuation, as applicable, (b) adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period, or (c) the Eurodollar Rate determined or to be determined for such Interest Period will not
adequately and fairly reflect the cost to such Lenders (as conclusively certified by such Lenders) of making or maintaining their affected Loans during such Interest Period, then, in any such case (a), (b) or (c), the Administrative Agent shall promptly notify the Borrower and the relevant Lenders thereof as soon as practicable thereafter. Any such determination shall specify the basis for such determination and shall, in the absence of manifest error, be conclusive and binding for all purposes. Thereafter, (w) any Eurodollar Loans under the relevant Facility requested to be made on the first day of such Interest Period shall be made as ABR Loans, (x) any such requested ABR Loans which were to have utilized a Eurodollar Rate component in determining the ABR shall not utilize a Eurodollar Rate component in determining the ABR applicable to such requested ABR Loan, (y) any Loans under the relevant Facility that were to have been converted on the first day of such Interest Period to Eurodollar Loans shall be continued as ABR Loans and (z) any outstanding Eurodollar Loans under the relevant Facility shall be converted, on the last day of the then-current Interest Period, to ABR Loans. Until such notice has been withdrawn by the Administrative Agent, no further Eurodollar Loans under the relevant Facility shall be made or continued as such, nor shall the Borrower have the right to convert Loans under the relevant Facility to Eurodollar Loans, and the utilization of the Eurodollar Rate component in determining the ABR shall be suspended.

2.18 Pro Rata Treatment and Payments.

(a) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments shall be made pro rata according to the respective L/C Percentages or Revolving Percentages, as the case may be, of the relevant Lenders.

(b) [Reserved]

(c) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Revolving Loans shall be made pro rata according to the respective outstanding principal amounts of the Revolving Loans then held by the Revolving Lenders.

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff and shall be made prior to 10:00 A.M. on the due date thereof to the Administrative Agent, for the account of the Lenders, at the Funding Office, in Dollars and in immediately available funds. The Administrative Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. Any payment received by the Administrative Agent after 10:00 A.M. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding two sentences, interest thereon shall be payable at the then applicable rate during such extension.

(e) Unless the Administrative Agent shall have been notified in writing by any Lender prior to the proposed date of any borrowing that such Lender will not make the amount that would constitute its share of such borrowing available to the Administrative Agent, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date in accordance with Section 2, and the Administrative Agent may, in reliance upon such assumption, make
available to the Borrower a corresponding amount. If such amount is not in fact made available to the Administrative Agent by the required time on the Borrowing Date therefor, such Lender and the Borrower severally agree to pay to the Administrative Agent forthwith, on written demand, such corresponding amount with interest thereon, for each day from and including the date on which such amount is made available to the Borrower but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, a rate equal to the greater of (A) the Federal Funds Effective Rate and (B) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, and (ii) in the case of a payment to be made by the Borrower, the rate per annum applicable to ABR Loans under the relevant Facility. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender’s Loan included in such borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Nothing herein shall be deemed to limit the rights of Administrative Agent or any Lender against any Loan Party.

(g) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Section 2, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable extension of credit set forth in Section 5.1 or Section 5.2 are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(h) The obligations of the Lenders hereunder to (i) make Revolving Loans, (ii) fund its participations in L/C Disbursements in accordance with its respective L/C Percentage, (iii) fund its respective Swingline Participation Amount of any Swingline Loan, and (iv) make payments pursuant to Section 9.7, as applicable, are several and not joint. The failure of any Lender to make any such Loan, to fund any such participation or to make any such payment under Section 9.7 on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 9.7.

(i) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.
(j) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees, Overadvances and Protective Overadvances then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees, Overadvances and Protective Overadvances then due to such parties, and (ii) second, toward payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(k) If any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the principal of or interest on any Loan made by it, its participation in the L/C Exposure or other obligations hereunder, as applicable (other than pursuant to a provision hereof providing for non-pro rata treatment), in excess of its Revolving Percentage or L/C Percentage, as applicable, of such payment on account of the Loans or participations obtained by all of the Lenders, such Lender shall (a) notify the Administrative Agent of the receipt of such payment, and (b) within five (5) Business Days of such receipt purchase (for cash at face value) from the other Revolving Lenders or L/C Lenders, as applicable (through the Administrative Agent), without recourse, such participations in the Revolving Loans made by them and/or participations in the L/C Exposure held by them, as applicable, or make such other adjustments as shall be equitable, as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of the other Lenders in accordance with their respective Revolving Percentages or L/C Percentages, as applicable; provided, however, that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest and (ii) the provisions of this clause (k) shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment or sale of a participation in any of its Loans or participations in L/C Disbursements to any assignee or participant, other than to the Borrower or any of its Affiliates (as to which the provisions of this clause (k) shall apply). The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.18(k) may exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. No documentation other than notices and the like referred to in this Section 2.18(k) shall be required to implement the terms of this Section 2.18(k). The Administrative Agent shall keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased pursuant to this Section 2.18(k) and shall in each case notify the Revolving Lenders or the L/C Lenders, as applicable, following any such purchase. The provisions of this Section 2.18(k) shall not be construed to apply to (i) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (ii) the application of Cash Collateral provided for in Section 3.10, or (iii) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or sub-participations in any L/C Exposure to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section 2.18(k) shall apply). The Borrower consents on behalf of itself and each other Loan Party to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation. For the avoidance of doubt, no amounts received by the Administrative Agent or any Lender from any Guarantor that is not a Qualified ECP Guarantor shall be applied in partial or complete satisfaction of any Excluded Swap Obligations.
Notwithstanding anything to the contrary in this Agreement, the Administrative Agent may, in its discretion at any time or from time to time, without the Borrower’s request and even if the conditions set forth in Section 5.2 would not be satisfied, make a Revolving Loan in an amount equal to the portion of the Obligations constituting overdue interest and fees and Swingline Loans from time to time due and payable to itself, any Revolving Lender, the Swingline Lender or the Issuing Lender, and apply the proceeds of any such Revolving Loan to those Obligations; provided that after giving effect to any such Revolving Loan, the aggregate outstanding Revolving Loans will not exceed the Total Revolving Commitments then in effect.

2.19 Illegality; Requirements of Law.

(a) Illegality. If any Lender determines that any Requirement of Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender to make, maintain or fund Loans whose interest is determined by reference to the Eurodollar Rate, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurodollar Loans or to convert ABR Loans to Eurodollar Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Eurodollar Rate component of the ABR, the interest on such ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the ABR, in each case, until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Loans of such Lender to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurodollar Rate component of the ABR), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Loans, and (y) if such notice asserts the illegality of such Lender determining or charging interest based upon the Eurodollar Rate, the Administrative Agent shall, during the period of such suspension compute the ABR applicable to such Lender without reference to the Eurodollar Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

(b) Requirements of Law. If the adoption of or any change in any Requirement of Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority, or the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority made subsequent to the date hereof:

(i) shall subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and (C) Connection Income Taxes) on its Loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

(ii) shall impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Eurodollar Rate); or
and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or
maintaining Loans determined with reference to the Eurodollar Rate or of maintaining its obligation to make such Loans, or to increase the cost to such
Lender or such other Recipient of issuing, maintaining or participating in Letters of Credit (or of maintaining its obligation to participate in or to issue any
Letter of Credit), or to reduce the amount of any sum receivable or received by such Lender or other Recipient hereunder in respect thereof (whether of
principal, interest or any other amount), then, in any such case, upon the request of such Lender or other Recipient, the Borrower will promptly pay such
Lender or other Recipient, as the case may be, any additional amount or amounts necessary to compensate such Lender or other Recipient, as the case may be,
for such additional costs incurred or reduction suffered. If any Lender becomes entitled to claim any additional amounts pursuant to this paragraph, it
shall promptly notify the Borrower (with a copy to the Administrative Agent) of the event by reason of which it has become so entitled.

(c) If any Lender determines that any change in any Requirement of Law affecting such Lender or any lending office of such Lender or such
Lender’s holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender’s
capital or on the capital of such Lender’s holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans
made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by the Issuing Lender, to a level
below that which such Lender or such Lender’s holding company could have achieved but for such change in such Requirement of Law (taking into
consideration such Lender’s policies and the policies of such Lender’s holding company with respect to capital adequacy), then from time to time the
Borrower will pay to such Lender or the Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or the
Issuing Lender or such Lender’s or Issuing Lender’s holding company for any such reduction suffered.

(d) For purposes of this Agreement, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines,
or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International
Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in
each case pursuant to Basel III, shall in each case (i) and (ii) be deemed to be a change in any Requirement of Law, regardless of the date enacted, adopted
or issued.

(e) A certificate as to any additional amounts payable pursuant to paragraphs (b), (c), or (d) of this Section submitted by any Lender to the
Borrower (with a copy to the Administrative Agent) shall be conclusive in the absence of manifest error. The Borrower shall pay such Lender the amount
shown as due on any such certificate within ten (10) days after receipt thereof. Failure or delay on the part of any Lender to demand compensation pursuant
to this Section shall not constitute a waiver of such Lender’s right to demand such compensation. Notwithstanding anything to the contrary in this
Section 2.19, the Borrower shall not be required to compensate a Lender pursuant to this Section 2.19 for any amounts incurred more than nine (9) months
prior to the date that such Lender notifies the Borrower of the change in the Requirement of Law giving rise to such increased costs or reductions, and of
such Lender’s intention to claim compensation therefor; provided that if the circumstances giving rise to such claim have a retroactive effect, then such nine
(9) month period shall be extended to include the period of such retroactive effect. The obligations of the Borrower arising pursuant to this Section 2.19
shall survive the Discharge of Obligations and the resignation of the Administrative Agent.

42
2.20 Taxes.

For purposes of this Section 2.20, the term “Lender” includes the Issuing Lender and the term “applicable law” includes FATCA.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law, and the Borrower shall, and shall cause each other Loan Party, to comply with the requirements set forth in this Section 2.20. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.20) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes. Each of Holdings and the Borrower shall, and each of Holdings and the Borrower shall cause each other Loan Party to, timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes applicable to such Loan Party.

(c) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.20, the Borrower shall, or shall cause such other Loan Party to, deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by Loan Parties. The Borrower shall, and shall cause each other Loan Party to, jointly and severally indemnify each Recipient, within ten (10) Business Days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.20) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) Business Days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender’s failure to comply with the provisions of Section 10.6 relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any
Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 2.20(e).

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 2.20(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if the Lender is not legally entitled to complete, execute or deliver such documentation or, in the Lender’s reasonable judgment, such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) executed copies of IRS Form W-8ECI;
(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so. Each Foreign Lender shall promptly notify the Borrower at any time it determines that it is no longer in a position to provide any previously delivered certificate to the Borrower (or any other form of certification adopted by the U.S. taxing authorities for such purpose).

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.20 (including by the payment of additional amounts pursuant to this Section 2.20), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund).
Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 2.20(g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.20(g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.20(g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) **Survival.** Each party’s obligations under this Section 2.20 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender and the Discharge of Obligations.

2.21 **Indemnity.** The Borrower agrees to indemnify each Lender for, and to hold each Lender harmless from, any loss or expense that such Lender may sustain or incur as a consequence of (a) a default by the Borrower in making a borrowing of, conversion into or continuation of Eurodollar Loans after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) a default by the Borrower in making any prepayment of or conversion from Eurodollar Loans after the Borrower has given a notice thereof in accordance with the provisions of this Agreement, or (c) for any reason, the making of a prepayment of Eurodollar Loans on a day that is not the last day of an Interest Period with respect thereto. Such losses and expenses shall be equal to the excess, if any, of (i) the amount of interest that would have accrued on the amount so prepaid, or not so borrowed, reduced, converted or continued, for the period from the date of such prepayment or of such failure to borrow, reduce, convert or continue to the last day of such Interest Period (or, in the case of a failure to borrow, reduce, convert or continue, the Interest Period that would have commenced on the date of such failure) in each case at the applicable rate of interest or other return for such Loans provided for herein (excluding, however, the Applicable Margin included therein, if any), over (ii) the amount of interest (as reasonably determined by such Lender) that would have accrued to such Lender on such amount by placing such amount on deposit for a comparable period with leading banks in the interbank eurodollar market. A certificate as to any amounts payable pursuant to this Section submitted to the Borrower by any Lender shall be conclusive in the absence of manifest error. This covenant shall survive the Discharge of Obligations.

2.22 **Change of Lending Office.** Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.19(b), Section 2.19(c), Section 2.20(a), Section 2.20(b) or Section 2.20(d) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate a different lending office for funding or booking its Loans affected by such event or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.19 or 2.20, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender; provided that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.19(b), Section 2.19(c), Section 2.20(a), Section 2.20(b) or Section 2.20(d). The Borrower hereby agrees to pay all reasonable and documented out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment made at the request of the Borrower.
2.23 Substitution of Lenders. Upon the receipt by the Borrower of any of the following (or in the case of clause (a) below, if the Borrower is required to pay any such amount), with respect to any Lender (any such Lender described in clauses (a) through (c) below being referred to as an “Affected Lender” hereunder):

(a) a request from a Lender for payment of Indemnified Taxes or additional amounts under Section 2.20 or of increased costs pursuant to Section 2.19(c) (and, in any such case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.22 or is a Non-Consenting Lender);

(b) a notice from the Administrative Agent under Section 10.1(b) that one or more Minority Lenders are unwilling to agree to an amendment or other modification approved by the Required Lenders and the Administrative Agent; or

(c) notice from the Administrative Agent that a Lender is a Defaulting Lender;

then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent and such Affected Lender: (i) request that one or more of the other Lenders acquire and assume all or part of such Affected Lender’s Loans and Commitment; or (ii) designate a replacement lending institution (which shall be an Eligible Assignee) to acquire and assume all or a ratable part of such Affected Lender’s Loans and Commitment (the replacing Lender or lender in (i) or (ii) being a “Replacement Lender”); provided, however, that the Borrower shall be liable for the payment upon demand of all costs and other amounts arising under Section 2.21 that result from the acquisition of any Affected Lender’s Loan and/or Commitment (or any portion thereof) by a Lender (other than a Lender replaced pursuant to clause (c) above) or Replacement Lender, as the case may be, on a date other than the last day of the applicable Interest Period with respect to any Eurodollar Loans then outstanding. The Affected Lender replaced pursuant to this Section 2.23 shall be required to assign and delegate, without recourse, all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more Replacement Lenders that so agree to acquire and assume all or a ratable part of such Affected Lender’s Loans and Commitment upon payment to such Affected Lender of an amount (in the aggregate for all Replacement Lenders) equal to 100% of the outstanding principal of the Affected Lender’s Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents from such Replacement Lenders (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts, including amounts under Section 2.21 hereof unless such Lender is being replaced pursuant to clause (c) above in which case amounts under Section 2.21 shall not be required to be paid). Any such designation of a Replacement Lender shall be effected in accordance with, and subject to the terms and conditions of, the assignment provisions contained in Section 10.6 (with the assignment fee to be paid by the Borrower in such instance), provided that, if such Affected Lender does not comply with Section 10.6 within ten (10) Business Days after the Borrower’s request, the Administrative Agent is authorized to execute the Assignment and Acceptance on behalf of such Affected Lender. Notwithstanding the foregoing, with respect to any assignment pursuant to this Section 2.23, (a) in the case of any such assignment resulting from a claim for compensation under Section 2.19 or payments required to be made pursuant to Section 2.20, such assignment shall result in a reduction in such compensation or payments thereafter; (b) such assignment shall not conflict with applicable law and (c) in the case of any assignment resulting from a Lender being a Minority Lender referred to in clause (b) of this Section 2.23, the applicable assignee shall have consented to the applicable amendment, waiver or consent. Notwithstanding the foregoing, an Affected Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Affected Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.
2.24 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender’s right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.1 and in the definition of Required Lenders.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 8 or otherwise, and including any amounts made available to the Administrative Agent by such Defaulting Lender pursuant to Section 10.7), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lender or to the Swingline Lender hereunder; third, to be held as Cash Collateral for the funding obligations of such Defaulting Lender of any participation in any Letter of Credit; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a Deposit Account and released pro rata to (x) satisfy such Defaulting Lender’s potential future funding obligations with respect to Loans under this Agreement, and (y) be held as Cash Collateral for the future funding obligations of such Defaulting Lender of any participation in any future Letter of Credit; sixth, to the payment of any amounts owing to any L/C Lender, Issuing Lender or Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any L/C Lender, Issuing Lender or Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default has occurred and is continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (A) such payment is a payment of the principal amount of any Loans or L/C Advances in respect of which such Defaulting Lender has not fully funded its appropriate share and (B) such Loans or L/C Advances were made at a time when the conditions set forth in Section 5.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Advances owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Advances owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Advances and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments under the applicable Facility without giving effect to Section 2.24(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.24(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee pursuant to Section 2.9(b) for any period during which such Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to such Defaulting Lender).
(B) Each Defaulting Lender shall be limited in its right to receive Letter of Credit Fees as provided in Section 3.3(d).

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender’s participation in Letters of Credit or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the Issuing Lender and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to the Issuing Lender’s or the Swingline Lender’s Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) **Reallocation of Pro Rata Share to Reduce Fronting Exposure.** During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit pursuant to Section 3.4 or in Swingline Loans pursuant to Section 2.7(c), the L/C Percentage of each Non-Defaulting Lender of any such Letter of Credit and the Revolving Percentage of each Non-Defaulting Lender of any such Swingline Loan, as the case may be, shall be computed without giving effect to the Revolving Commitment of such Defaulting Lender; provided that, (A) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Event of Default has occurred and is continuing; and (B) the aggregate obligations of each Non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit and Swingline Loans shall not exceed the positive difference, if any, of (1) the Revolving Commitment of that Non-Defaulting Lender minus (2) the aggregate outstanding amount of the Revolving Loans of that Lender plus the aggregate amount of that Lender’s L/C Percentage of then outstanding Letters of Credit. Subject to Section 10.21, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender’s increased exposure following such reallocation.

(v) **Cash Collateral, Repayment of Swingline Loans.** If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lender’s Fronting Exposure and (y) second, Cash Collateralize the Issuing Lender’s Fronting Exposure in accordance with the procedures set forth in Section 3.10.

(b) **Defaulting Lender Cure.** If the Borrower, the Administrative Agent, the Swingline Lender and the Issuing Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Lenders in accordance with their respective Revolving Percentages and L/C Percentages, as applicable (without giving effect to Section 2.24(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while such Lender was a Defaulting Lender; and provided further that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender having been a Defaulting Lender.
(c) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan, and (ii) the Issuing Lender shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure in respect of Letters of Credit after giving effect thereto.

(d) Termination of Defaulting Lender. The Borrower may terminate the unused amount of the Revolving Commitment of any Revolving Lender that is a Defaulting Lender upon not less than ten (10) Business Days’ prior notice to the Administrative Agent (which shall promptly notify the Lenders thereof), and in such event the provisions of Section 2.24(a)(ii) will apply to all amounts thereafter paid by the Borrower for the account of such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts); provided that (i) no Event of Default shall have occurred and be continuing, and (ii) such termination shall not be deemed to be a waiver or release of any claim the Borrower, the Administrative Agent, the Issuing Lender, the Swingline Lender or any other Lender may have against such Defaulting Lender.

2.25 Joint and Several Liability of the Borrowers.

If at any time there is more than one Person composing the Borrower:

(a) Each Borrower is accepting joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Lenders under this Agreement, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations.

(b) Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 2.25), it being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each Borrower without preferences or distinction among them.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event the other Borrowers will make such payment with respect to, or perform, such Obligations.

(d) The Obligations of each Borrower under the provisions of this Section 2.25 constitute the absolute and unconditional, full recourse Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of this Agreement or any other circumstances whatsoever.

(e) Except as otherwise expressly provided in this Agreement, each Borrower hereby waives notice of acceptance of its joint and several liability, notice of any Loans made or Letters of Credit issued under or pursuant to this Agreement, notice of the occurrence of any Default, Event of Default, or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by the Administrative Agent or Lenders under or in respect of any of the Obligations, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as otherwise provided in this Agreement). Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any payment of
any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Administrative Agent or Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by the Administrative Agent or Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of the Administrative Agent or Lender with respect to the failure by any Borrower to comply with any of its respective Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 2.25 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its Obligations under this Section 2.25, it being the intention of each Borrower that, so long as any of the Obligations hereunder remain unsatisfied, the Obligations of each Borrower under this Section 2.25 shall not be discharged except by performance and then only to the extent of such performance. The Obligations of each Borrower under this Section 2.25 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any Borrower, the Administrative Agent or any Lender.

(f) Each Borrower represents and warrants to the Administrative Agent and Lenders that such Borrower is currently informed of the financial condition of the Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each Borrower further represents and warrants to the Administrative Agent and Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each Borrower hereby covenants that such Borrower will continue to keep informed of the Borrowers’ financial condition, the financial condition of other guarantors, if any, and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

(g) Each Borrower waives all rights and defenses (i) arising out of an election of remedies by the Administrative Agent or any Lender, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed such Borrower’s rights of subrogation and reimbursement against any applicable Loan Party by the operation of Section 580 or 726 of the California Code of Civil Procedure or otherwise, and (ii) relating to any suretyship defenses available to it under the Uniform Commercial Code or any other applicable law, including, without limitation, the benefit of California Civil Code Section 2815 permitting revocation as to future transactions and the benefit of California Civil Code Sections 1432, 2787 through 2855, 2899 and 3433.

(h) Each Borrower waives all rights and defenses that such Borrower may have because the Obligations are secured by real property at any time. This means, among other things:

(i) The Administrative Agent and Lenders may collect from such Borrower without first foreclosing on any real or personal property Collateral pledged by the Borrowers.

(ii) If the Administrative Agent or any Lender forecloses on any Collateral consisting of real property pledged by the Borrowers:

(A) The amount of the Obligations may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

51
(B) The Administrative Agent and Lenders may collect from such Borrower even if the Administrative Agent or Lenders, by foreclosing on real property, has destroyed any right such Borrower may have to collect from the other Borrowers.

This is an unconditional and irrevocable waiver of any rights and defenses such Borrower may have because the Obligations are secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d or 726 of the California Code of Civil Procedure.

(i) The provisions of this Section 2.25 are made for the benefit of the Administrative Agent, the Lenders, and their respective successors and assigns, and may be enforced by it or them from time to time against any or all the Borrowers as often as occasion therefor may arise and without requirement on the part of the Administrative Agent, any Lender, any successor or any assign first to marshal any of its or their claims or to exercise any of its or their rights against any Borrower or to exhaust any remedies available to it or them against any Borrower or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy. The provisions of this Section 2.25 shall remain in effect until all of the Obligations shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Obligations, is rescinded or must otherwise be restored or returned by the Administrative Agent or any Lender upon the insolvency, bankruptcy or reorganization of any Borrower, or otherwise, the provisions of this Section 2.25 will forthwith be reinstated in effect, as though such payment had not been made.

(j) Each Borrower hereby agrees that it will not enforce any of its rights of contribution or subrogation against any other Borrower with respect to any liability incurred by it hereunder or under any of the other Loan Documents, any payments made by it to the Administrative Agent or Lenders with respect to any of the Obligations or any collateral security therefor until such time as all of the Obligations have been paid in full in cash. Any claim which any Borrower may have against any other Borrower with respect to any payments to the Administrative Agent or Lender hereunder or under any other Loan Documents are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the prior payment in full in cash of the Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any Borrower, its debts or its assets, whether voluntary or involuntary, all such Obligations shall be paid in full in cash before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any other Borrower therefor. Notwithstanding anything to the contrary contained in this Section 2.25, no Borrower shall exercise any rights of subrogation, contribution, indemnity, reimbursement or other similar rights against, and shall not proceed or seek recourse against or with respect to any property or asset of, any other Borrower (the “Foreclosed Borrower”), including after payment in full of the Obligations, if all or any portion of the Obligations have been satisfied in connection with an exercise of remedies in respect of the Capital Stock of such Foreclosed Borrower whether pursuant to the Security Documents or otherwise.

(k) Each Borrower hereby agrees that, after the occurrence and during the continuance of any Default or Event of Default, the payment of any amounts due with respect to the indebtedness owing by any Borrower to any other Borrower is hereby subordinated to the prior payment in full in cash of the Obligations. Each Borrower hereby agrees that after the occurrence and during the continuance of any Default or Event of Default, such Borrower will not demand, sue for or otherwise attempt to collect any indebtedness of any other Borrower owing to such Borrower until the Obligations shall have been paid in full in cash. If, notwithstanding the foregoing sentence, such Borrower shall collect, enforce or receive any amounts in respect of such indebtedness, such amounts shall be collected, enforced and received by such Borrower as trustee for the Administrative Agent, and such Borrower shall deliver any such amounts to the Administrative Agent for application to the Obligations in accordance with the terms of this Agreement.

52
(l) Subject to the foregoing, to the extent that any Borrower shall, under this Agreement as a joint and several obligor, repay any of the Obligations made to another Borrower hereunder or other Obligations incurred directly and primarily by any other Borrower (an “Accommodation Payment”), then the Borrower making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each other Borrower in an amount, for each of such other Borrower, equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Borrower’s Allocable Amount and the denominator of which is the sum of the Allocable Amounts of all of the Borrowers. As of any date of determination, the “Allocable Amount” of each Borrower shall be equal to the maximum amount of liability for Accommodation Payments which could be asserted against such Borrower hereunder without (a) rendering such Borrower “insolvent” within the meaning of Section 101(31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act (“UFTA”) or Section 2 of the Uniform Fraudulent Conveyance Act (“UFCA”), (b) leaving such Borrower with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA, or (c) leaving such Borrower unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA.

(m) Each entity composing the Borrower hereby irrevocably appoints Bill.com as the borrowing agent and attorney-in-fact for all entities composing the Borrower (the “Administrative Borrower”) which appointment shall remain in full force and effect unless and until the Administrative Agent shall have received prior written notice signed by each entity composing the Borrower that such appointment has been revoked and that another entity composing the Borrower has been appointed Administrative Borrower. Each entity composing the Borrower hereby irrevocably appoints and authorizes the Administrative Borrower (a) to provide Agent with all notices with respect to Loans and Letters of Credit obtained for the benefit of any entity composing the Borrower and all other notices and instructions under this Agreement and the other Loan Documents, and (b) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain Loans and Letters of Credit and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement and the other Loan Documents.

2.26 Notes. If so requested by any Lender by written notice to the Borrower (with a copy to the Administrative Agent), the Borrower shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to Section 10.6) (promptly after the Borrower’s receipt of such notice) a Note or Notes to evidence such Lender’s Loans.

2.27 Incremental Facility.

(a) At any time during the Revolving Commitment Period, the Borrower may request from time to time from one or more existing Lenders or from other Eligible Assignees reasonably acceptable to the Administrative Agent, the Issuing Lender, the Swingline Lender and the Borrower (but subject to the conditions set forth in clause (b) below) that the Total Revolving Commitments be increased by an aggregate amount not to exceed the Available Revolving Increase Amount (each such increase, an “Increase”); provided that the Borrower may not request an Increase on more than five occasions during the Revolving Commitment Period. No Lender shall be obligated to increase its Revolving Commitments in connection with a proposed Increase. The Administrative Agent shall invite each Lender to provide a portion of the Increase ratably in accordance with its Revolving Percentage of
each requested Increase (it being agreed that no Lender shall be obligated to provide an Increase and that any Lender may elect to participate in such Increase in an amount that is less than its Revolving Percentage of such requested Increase or more than its Revolving Percentage of such requested Increase if other Lenders have elected not to participate in any applicable requested Increase in accordance with their Revolving Percentage) and to the extent, five (5) Business Days after receipt of invitation, sufficient Lenders do not agree to provide the full amount of such Increase, then the Administrative Agent may invite any prospective lender that satisfies the criteria of being an “Eligible Assignee” to become a Lender in connection with the proposed Increase. Any Increase shall be in an amount of at least $5,000,000 (or, if the Available Revolving Increase Amount is less than $5,000,000, such remaining Available Revolving Increase Amount) and integral multiples of $1,000,000 in excess thereof. Additionally, for the avoidance of doubt, it is understood and agreed that in no event shall the aggregate amount of the Increases to the Revolving Commitments exceed the Available Revolving Increase Amount during the term of the Agreement. Each request for an Increase delivered by the Borrower to the Administrative Agent shall set forth the amount and proposed terms of the Increase.

(b) Each of the following shall be conditions precedent to any Increase of the Revolving Commitments in connection therewith:

(i) any Increase shall be on the same terms (including the interest rate, and maturity date), as applicable, as, and pursuant to documentation applicable to, the Revolving Facility then in effect; provided that any such Increase may provide for terms (including interest rate) more favorable to such Increase lenders, if any existing Revolving Loans at the time of such Increase are also provided the benefit of such more favorable terms (and the consent of any existing Revolving Lender shall not be required to implement such terms); provided, further, that any fees shall be agreed between the Borrower and the lenders providing such Increase;

(ii) the Borrower shall have delivered a written request for such Increase at least ten (10) Business Days prior to the requested establishment of such Increase (or such later date as may be reasonably approved by the Administrative Agent), which request shall set forth the amount and proposed terms of the Increase;

(iii) each lender agreeing to such Increase, the Borrower and the Administrative Agent shall have signed an Increase Joinder (any Increase Joinder may, with the consent of the Administrative Agent, the Borrower and the lenders agreeing to such Increase, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate to effectuate the provisions of this Section 2.27 (including the preceding clause (ii)) and the Borrower shall have executed any Notes requested by any Lender in connection with the making of the Increase. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, an Increase Joinder reasonably satisfactory to the Administrative Agent, and the amendments to this Agreement effected thereby, shall not require the consent of any Lender other than the Lender(s) agreeing to establish such Increase;

(iv) immediately after giving pro forma effect to such Increase and the use of proceeds thereof, each of the conditions precedent in Section 5.2(a) are satisfied;

(v) immediately after giving pro forma effect to such Increase and the use of proceeds thereof, (A) no Default or Event of Default shall have occurred and be continuing at the time of such Increase and (B) the Borrower shall be in compliance with the then applicable financial covenant set forth in Section 7.1 hereof as of the end of the most recently ended month and quarter for which financial statements are required to be delivered prior to such Increase (regardless of whether such financial covenant is required to be tested), and the Borrower shall have delivered to the Administrative Agent a Compliance Certificate evidencing compliance with the requirements of this clause (v).
in connection with such Increase, the Borrower shall pay to the Administrative Agent, for the benefit of the Administrative Agent or the Increase lenders, as applicable, all fees that the Borrower has agreed to pay in connection with such Increase; and

(vii) upon each Increase in accordance with this Section 2.27, all outstanding Loans, participations hereunder in Letters of Credit and participations hereunder in Swingline Loans held by each Lender shall be reallocated among the Lenders (including any newly added Lenders) in accordance with the Lenders’ respective revised Revolving Percentages and L/C Percentages, pursuant to procedures reasonably determined by the Administrative Agent in consultation with the Borrower.

(c) Upon the effectiveness of any Increase, (i) all references in this Agreement and any other Loan Document to the Revolving Loans shall be deemed, unless the context otherwise requires, to include such Increase advanced pursuant to this Section 2.27 and any amendments effected through the Increase Joinder and (ii) all references in this Agreement and any other Loan Document to the Revolving Commitment shall be deemed, unless the context otherwise requires, to include the commitment to advance an amount equal to such Increase pursuant to this Section 2.27.

(d) The Revolving Loans and Revolving Commitments established pursuant to this Section 2.27 shall constitute Revolving Loans and Revolving Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from any guarantees and the security interests created by the Loan Documents. The Borrower shall take any actions reasonably required by Administrative Agent to ensure and demonstrate that the Liens and security interests granted by the Loan Documents continue to be perfected under the UCC or otherwise after giving effect to the establishment of any such new Revolving Commitments.

SECTION 3
LETTERS OF CREDIT

3.1 L/C Commitment.

(a) Subject to the terms and conditions hereof, the Issuing Lender agrees to issue letters of credit (“Letters of Credit”) for the account of the Borrower on any Business Day during the Letter of Credit Availability Period in such form as may reasonably be approved from time to time by the Issuing Lender; provided that the Issuing Lender shall have no obligation to issue any Letter of Credit if, after giving effect to such issuance, the L/C Exposure would exceed either the Total L/C Commitments or the Available Revolving Commitment at such time. Unless otherwise agreed to by the Administrative Agent in its sole discretion, each Letter of Credit shall (i) be denominated in Dollars and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the Letter of Credit Maturity Date, provided that any Letter of Credit with a one (1) year term may provide for the renewal thereof for additional one (1) year periods (which shall in no event extend beyond the date referred to in clause (y) above).

(b) The Issuing Lender shall not at any time be obligated to issue any Letter of Credit if:

(i) such issuance would conflict with, or cause the Issuing Lender or any L/C Lender to exceed any limits imposed by, any applicable Requirement of Law;
(ii) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Issuing Lender from issuing, amending or reinstating such Letter of Credit, or any law, rule or regulation applicable to the Issuing Lender or any request, guideline or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Lender shall prohibit, or request that the Issuing Lender refrain from, the issuance, amendment, renewal or reinstatement of letters of credit generally or such Letter of Credit in particular or shall impose upon the Issuing Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Issuing Lender is not otherwise compensated) not in effect on the Closing Date, or shall impose upon the Issuing Lender any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the Issuing Lender in good faith deems material to it;

(iii) the Issuing Lender has received written notice from any Lender, the Administrative Agent or the Borrower, at least one (1) Business Day prior to the requested date of issuance, amendment, renewal or reinstatement of such Letter of Credit, that one or more of the applicable conditions contained in Section 5.2 shall not then be satisfied;

(iv) any requested Letter of Credit is not in form and substance acceptable to the Issuing Lender, or the issuance, amendment or renewal of a Letter of Credit shall violate any applicable laws or regulations or any applicable policies of the Issuing Lender;

(v) such Letter of Credit contains any provisions providing for automatic reinstatement of the stated amount after any drawing thereunder;

(vi) except as otherwise agreed by the Administrative Agent and the Issuing Lender, such Letter of Credit is in an initial face amount less than $250,000; or

(vii) any Lender is at that time a Defaulting Lender, unless the Issuing Lender has entered into arrangements, including the delivery of Cash Collateral pursuant to Section 3.10, satisfactory to the Issuing Lender (in its sole discretion) with the Borrower or such Defaulting Lender to eliminate the Issuing Lender’s actual or potential Fronting Exposure (after giving effect to Section 2.24(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or such Letter of Credit and all other L/C Exposure as to which the Issuing Lender has actual or potential Fronting Exposure, as it may elect in its sole discretion.

3.2 Procedure for Issuance of Letters of Credit. The Borrower may from time to time request that the Issuing Lender issue a Letter of Credit for the account of the Borrower by delivering to the Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of the Issuing Lender, and such other certificates, documents and other papers and information as the Issuing Lender may request. Upon receipt of any Application, the Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall the Issuing Lender be required to issue any Letter of Credit earlier than three (3) Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by the Issuing Lender and the Borrower. The Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. The Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof).
3.3 Fees and Other Charges.

(a) The Borrower agrees to pay, with respect to each Existing Letter of Credit and each outstanding Letter of Credit issued for the account of (or at the request of) the Borrower, (i) a fronting fee of 0.125% per annum on the daily amount available to be drawn under each such Letter of Credit to the Issuing Lender for its own account (a “Letter of Credit Fronting Fee”), and (ii) a letter of credit fee equal to the Applicable Margin relating to Letters of Credit multiplied by the daily amount available to be drawn under each such Letter of Credit on the drawable amount of such Letter of Credit to the Administrative Agent for the ratable account of the L/C Lenders (determined in accordance with their respective L/C Percentages) (a “Letter of Credit Fee Payment Date”) after the issuance date of such Letter of Credit, and (iii) the Issuing Lender’s standard and reasonable fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit issued for the account of (or at the request of) the Borrower or processing of drawings thereunder (the fees in this clause (iii), collectively, the “Issuing Lender Fees”). All Letter of Credit Fronting Fees and Letter of Credit Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(b) In addition to the foregoing fees, the Borrower shall pay or reimburse the Issuing Lender for such normal and customary costs and expenses as are incurred or charged by the Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

(c) The Borrower shall furnish to the Issuing Lender and the Administrative Agent such other documents and information pertaining to any requested Letter of Credit issuance, amendment or renewal, including any L/C-Related Documents, as the Issuing Lender or the Administrative Agent may require. This Agreement shall control in the event of any conflict with any L/C-Related Document (other than any Letter of Credit).

(d) Any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the Issuing Lender pursuant to Section 3.10 shall be payable, to the maximum extent permitted by applicable law, to the other L/C Lenders in accordance with the upward adjustments in their respective L/C Percentages allocable to such Letter of Credit pursuant to Section 2.24(a)(iv), with the balance of such fee, if any, payable to the Issuing Lender for its own account.

(e) All fees payable under this Section 3.3 shall be fully earned on the date paid and nonrefundable.

3.4 L/C Participations; Existing Letters of Credit.

(a) L/C Participations. The Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Lender, and, to induce the Issuing Lender to issue Letters of Credit, each L/C Lender irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Lender, on the terms and conditions set forth below, for such L/C Lender’s own account and risk an undivided interest equal to such L/C Lender’s L/C Percentage in the Issuing Lender’s obligations and rights under and in respect of each Letter of Credit and the amount of each draft paid by the Issuing Lender thereunder. Each L/C Lender agrees with the Issuing Lender that, if a draft is paid under any Letter of Credit for which the Issuing Lender is not reimbursed in full by the Borrower pursuant to Section 3.5(a), such L/C Lender shall pay to the Issuing Lender upon demand at the Issuing Lender’s address for notices specified herein an amount equal to such L/C Lender’s L/C Percentage of the amount of such draft, or any
part thereof, that is not so reimbursed. Each L/C Lender’s obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Lender may have against the Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Section 5.2, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other L/C Lender, or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(b) Existing Letters of Credit. On and after the Closing Date, the Existing Letters of Credit (if any) shall be deemed for all purposes, including for purposes of the fees to be collected pursuant to Sections 3.3(a) and (b), reimbursement of costs and expenses to the extent provided herein and for purposes of being secured by the Collateral, a Letter of Credit outstanding under this Agreement and entitled to the benefits of this Agreement and the other Loan Documents, and shall be governed by the applications and agreements pertaining thereto and by this Agreement (which shall control in the event of a conflict).

3.5 Reimbursement.

(a) If the Issuing Lender shall make any L/C Disbursement in respect of a Letter of Credit, the Issuing Lender shall notify the Borrower and the Administrative Agent thereof and the Borrower shall pay or cause to be paid to the Issuing Lender an amount equal to the entire amount of such L/C Disbursement not later than the immediately following Business Day. Each such payment shall be made to the Issuing Lender at its address for notices referred to herein in Dollars and in immediately available funds; provided that the Borrower may, subject to the satisfaction of the conditions to borrowing set forth herein, request in accordance with Section 2.5 or Section 2.7(a) that such payment be financed with a Revolving Loan or a Swingline Loan, as applicable, in an equivalent amount and, to the extent so financed, the Borrower’s obligations to make such payment shall be discharged and replaced by the resulting Revolving Loan or Swingline Loan.

(b) If the Issuing Lender shall not have received from the Borrower the payment that it is required to make pursuant to Section 3.5(a) with respect to a Letter of Credit within the time specified in such Section, the Issuing Lender will promptly notify the Administrative Agent of the L/C Disbursement and the Administrative Agent will promptly notify each L/C Lender of such L/C Disbursement and its L/C Percentage thereof, and each L/C Lender shall pay to the Issuing Lender upon demand at the Issuing Lender’s address for notices specified herein an amount equal to such L/C Lender’s L/C Percentage of such L/C Disbursement (and the Administrative Agent may apply Cash Collateral provided for this purpose); upon such payment pursuant to this paragraph to reimburse the Issuing Lender for any L/C Disbursement, the Borrower shall be required to reimburse the L/C Lenders for such payments (including interest accrued thereon from the date of such payment until the date of such reimbursement at the rate applicable to Revolving Loans that are ABR Loans plus 2% per annum) on demand; provided that if at the time of and after giving effect to such payment by the L/C Lenders, the conditions to borrowings and Revolving Loan Conversions set forth in Section 5.2 are satisfied, the Borrower may, by written notice to the Administrative Agent certifying that such conditions are satisfied and that all interest owing under this paragraph has been paid, request that such payments by the L/C Lenders be converted into Revolving Loans (a “Revolving Loan Conversion”), in which case, if such conditions are in fact satisfied, the L/C Lenders shall be deemed to have extended, and the Borrower shall be deemed to have accepted, a Revolving Loan in the aggregate principal amount of such payment without further action on the part of any party, and the Total L/C Commitments shall be permanently reduced by such amount; any amount so paid pursuant to this paragraph shall, on and after the payment date thereof, be deemed to be Revolving Loans for all purposes hereunder; provided that the Issuing Lender, at its option, may effectuate a Revolving Loan Conversion regardless of whether the conditions to borrowings and Revolving Loan Conversions set forth in Section 5.2 are satisfied.
3.6 Obligations Absolute. The Borrower’s obligations under this Section 3 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against the Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with the Issuing Lender that the Issuing Lender shall not be responsible for, and the Borrower’s obligations hereunder shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even though such documents shall in fact prove to be invalid, fraudulent or forged, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee. The Issuing Lender shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except for errors or omissions found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Issuing Lender. The Borrower agrees that any action taken or omitted by the Issuing Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or willful misconduct, shall be binding on the Borrower and shall not result in any liability of the Issuing Lender to the Borrower.

In addition to amounts payable as elsewhere provided in the Agreement, the Borrower hereby agrees to pay and to protect, indemnify, and save Issuing Lender harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys’ fees) that the Issuing Lender may incur or be subject to as a consequence, direct or indirect, of (A) the issuance of any Letter of Credit, or (B) the failure of Issuing Lender or of any L/C Lender to honor a demand for payment under any Letter of Credit thereof as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority, in each case other than to the extent solely as a result of the gross negligence or willful misconduct of Issuing Lender or such L/C Lender (as finally determined by a court of competent jurisdiction).

3.7 Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the Issuing Lender shall promptly notify the Borrower and the Administrative Agent of the date and amount thereof. The responsibility of the Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

3.8 Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Section 3, the provisions of this Section 3 shall apply.

3.9 Interim Interest. If the Issuing Lender shall make any L/C Disbursement in respect of a Letter of Credit, then, unless either the Borrower shall have reimbursed such L/C Disbursement in full within the time period specified in Section 3.5(a) or the L/C Lenders shall have reimbursed such L/C Disbursement in full on such date as provided in Section 3.5(b), in each case the unpaid amount thereof shall bear interest for the account of the Issuing Lender, for each day from and including the date of such L/C Disbursement to but excluding the date of payment by the Borrower, at the rate per annum that would apply to such amount if such amount were a Revolving Loan that is an ABR Loan; provided that the provisions of Section 2.15(c) shall be applicable to any such amounts not paid when due.
3.10 Cash Collateral.

(a) Certain Credit Support Events. Upon the request of the Administrative Agent or the Issuing Lender (i) if the Issuing Lender has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Advance by all the L/C Lenders that is not reimbursed by the Borrower or converted into a Revolving Loan or Swingline Loan pursuant to Section 3.5(b), or (ii) if, as of the Letter of Credit Maturity Date, any L/C Exposure for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then effective L/C Exposure in an amount equal to 105% of such L/C Exposure.

At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the request of the Administrative Agent or the Issuing Lender (with a copy to the Administrative Agent), the Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover 105% of the Fronting Exposure relating to the Letters of Credit (after giving effect to Section 2.24(a)(iv) and any Cash Collateral provided by such Defaulting Lender).

(b) Grant of Security Interest. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts with the Administrative Agent. The Borrower, and to the extent provided by any Lender or Defaulting Lender, such Lender or Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lender and the L/C Lenders, and agrees to maintain, a first priority security interest and Lien in all such Cash Collateral and in all proceeds thereof, as security for the Obligations to which such Cash Collateral may be applied pursuant to Section 3.10(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or any Issuing Lender as herein provided, or that the total amount of such Cash Collateral is less than 105% of the applicable L/C Exposure, Fronting Exposure and other Obligations secured thereby, the Borrower or the relevant Lender or Defaulting Lender, as applicable, will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by such Defaulting Lender).

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 3.10, Section 2.24 or otherwise in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Exposure, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure in respect of Letters of Credit or other Obligations shall no longer be required to be held as Cash Collateral pursuant to this Section 3.10 following (i) the elimination of the applicable Fronting Exposure and other Obligations giving rise thereto (including by the termination of the Defaulting Lender status of the applicable Lender), or (ii) a determination by the Administrative Agent and the Issuing Lender that there exists excess Cash Collateral; provided, however, (A) that Cash Collateral furnished by or on behalf of a Loan Party shall not be released during the continuance of an Event of Default, and (B) that, subject to Section 2.24, the Person providing such Cash Collateral and the Issuing Lender may agree that such Cash Collateral shall not be released but instead shall be held to support future anticipated Fronting Exposure or other obligations, and provided further, that to the extent that such Cash Collateral was provided by the Borrower or any other Loan Party, such Cash Collateral shall remain subject to any security interest and Lien granted pursuant to the Loan Documents including any applicable Cash Management Agreement.
3.11 Additional Issuing Lenders. The Borrower may, at any time and from time to time with the consent of the Administrative Agent (which consent shall not be unreasonably withheld) and such Lender, designate one or more additional Lenders to act as an issuing bank under the terms of this Agreement. Any Lender designated as an issuing bank pursuant to this paragraph shall be deemed to be an “Issuing Lender” (in addition to being a Lender) in respect of Letters of Credit issued or to be issued by such Lender, and, with respect to such Letters of Credit, such term shall thereafter apply to the other Issuing Lender and such Lender.

3.12 Resignation of the Issuing Lender. The Issuing Lender may resign at any time by giving at least thirty (30) days’ prior written notice to the Administrative Agent, the Lenders and the Borrower. Subject to the next succeeding paragraph, upon the acceptance of any appointment as the Issuing Lender hereunder by a Lender that shall agree to serve as successor Issuing Lender, such successor shall succeed to and become vested with all the interests, rights and obligations of the retiring Issuing Lender and the retiring Issuing Lender shall be discharged from its obligations to issue additional Letters of Credit hereunder without affecting its rights and obligations with respect to Letters of Credit previously issued by it. At the time such resignation shall become effective, the Borrower shall pay all accrued and unpaid fees pursuant to Section 3.3. The acceptance of any appointment as the Issuing Lender hereunder by a successor Lender shall be evidenced by an agreement entered into by such successor, in a form satisfactory to the Borrower and the Administrative Agent, and, from and after the effective date of such agreement, (i) such successor Lender shall have all the rights and obligations of the previous Issuing Lender under this Agreement and the other Loan Documents and (ii) references herein and in the other Loan Documents to the term “Issuing Lender” shall be deemed to refer to such successor or to any previous Issuing Lender, or to such successor and all previous Issuing Lenders, as the context shall require. After the resignation of the Issuing Lender hereunder, the retiring Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit or to extend, renew or increase any existing Letter of Credit.

3.13 Applicability of UCP and ISP. Unless otherwise expressly agreed by the Issuing Lender and the Borrower when a Letter of Credit is issued and subject to applicable laws, the Letters of Credit shall be governed by and subject to (a) with respect to standby Letters of Credit, the rules of the ISP, and (b) with respect to commercial Letters of Credit, the rules of the Uniform Customs and Practice for Documentary Credits, as published in its most recent version by the International Chamber of Commerce on the date any commercial Letter of Credit is issued.

SECTION 4
REPRESENTATIONS AND WARRANTIES

To induce the Administrative Agent and the Lenders to enter into this Agreement and to make the Loans and issue the Letters of Credit, Holdings and the Borrower hereby jointly and severally represent and warrant to the Administrative Agent and each Lender, as to themselves and each of their respective Subsidiaries, that:

4.1 Financial Condition.

(a) The Projected Pro Forma Financial Statements have been prepared based on the best information available to the Borrower as of the date of delivery thereof and are based upon good faith estimates and assumptions believed by management of Holdings to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount.
4.2 No Change. Since June 30, 2018, there has been no development or event that has had or could reasonably be expected to have a Material Adverse Effect.

4.3 Existence; Compliance with Law. Each Group Member (a) is duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization, (b) has the power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged, (c) is duly qualified as a foreign corporation or other organization and in good standing (if applicable) under the laws of each jurisdiction where the failure to be so qualified or in good standing could reasonably be expected to have a Material Adverse Effect and (d) is in material compliance with all Requirements of Law except in such instances in which (i) such Requirement of Law is being contested in good faith by appropriate proceedings diligently conducted and the prosecution of such contest would not reasonably be expected to result in a Material Adverse Effect, or (ii) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

4.4 Power, Authorization; Enforceable Obligations. Each Loan Party has the power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to obtain extensions of credit hereunder. Each Loan Party has taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. No Governmental Approval or consent or authorization of, filing with, notice to or other act by or in respect of, any other Person is required in connection with the extensions of credit hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the Loan Documents, except (i) Governmental Approvals, consents, authorizations, filings and notices described on Schedule 4.4, which Governmental Approvals, consents, authorizations, filings and notices have been obtained or made and are in full force and effect, and (ii) the filings referred to in Section 4.19. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon
execution will constitute, a legal, valid and binding obligation of each Loan Party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

4.5 No Legal Bar. The execution, delivery and performance of this Agreement and the other Loan Documents, the issuance of Letters of Credit, the borrowings hereunder and the use of the proceeds thereof will not violate any material Requirement of Law or any material Contractual Obligation of any Group Member and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any Requirement of Law or any such Contractual Obligation (other than the Liens created by the Security Documents). No Group Member has violated any Requirement of Law or violated or failed to comply with any Contractual Obligation applicable to Holdings or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect.

4.6 Litigation. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Borrower, threatened by or against any Group Member or against any of their respective properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, or (b) that could reasonably be expected to have a Material Adverse Effect (taking into account the likelihood of success).

4.7 No Default. No Group Member is in default under or with respect to any of its Contractual Obligations in any respect that could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing, nor shall either result from the making of a requested credit extension.

4.8 Ownership of Property; Liens; Investments. Each Group Member has title in fee simple to, or a valid leasehold interest in, all of its real property, and good title to, or a valid leasehold interest in, all of its other property material to the Group Member’s business, and none of such property is subject to any Lien except as permitted by Section 7.3. No Loan Party owns any Investment except as permitted by Section 7.8. Section 10 of the Collateral Information Certificate sets forth a complete and accurate list of all real property owned by each Loan Party as of the Closing Date, if any. The Collateral Information Certificate sets forth a complete and accurate list of all leases of real property under which any Loan Party is the lessee as of the Closing Date.

4.9 Intellectual Property. Each Group Member owns, or is licensed to use, all Intellectual Property reasonably necessary for the conduct of its business as currently conducted. No claim has been asserted and is pending by any Person challenging or questioning any Group Member’s use of any Intellectual Property or the validity or effectiveness of any Group Member’s Intellectual Property, nor does any Loan Party know of any valid basis for any such claim, unless such claim could not reasonably be expected to have a Material Adverse Effect. The use of Intellectual Property by each Group Member, and the conduct of such Group Member’s business, as currently conducted, does not infringe on or otherwise violate the rights of any Person, unless such infringement could not reasonably be expected to have a Material Adverse Effect, and there are no claims pending or, to the knowledge of any Loan Party, threatened to such effect.

4.10 Taxes. Each Group Member has filed or caused to be filed all Federal, state income and other material tax returns that are required to be filed (taking into account all applicable extension periods) and has paid all taxes shown to be due and payable on said returns or on any assessments made against it or any of its property and all other taxes, fees or other charges imposed on it or any of its property by any Governmental Authority (other than any the amount or validity of which are currently
being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member or where the amount is less than $200,000 in the aggregate; no tax Lien has been filed, other than Liens for Taxes not yet due and payable and Liens for Taxes the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which reserves in conformity with GAAP have been provided on the books of the relevant Group Member, and, to the knowledge of the Loan Parties, no claim is being asserted, with respect to any such tax, fee or other charge.

4.11 Federal Regulations. The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of “buying” or “carrying” “margin stock” (within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect) or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used for buying or carrying any such margin stock or for extending credit to others for the purpose of purchasing or carrying margin stock in violation of Regulations T, U or X of the Board. If any margin stock directly or indirectly constitutes Collateral securing the Obligations, if requested by any Lender or the Administrative Agent, the Borrower will furnish to the Administrative Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1, as applicable, referred to in Regulation U.

4.12 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Group Member pending or, to the knowledge of the Loan Parties, threatened; (b) hours worked by and payment made to employees of each Group Member have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters; and (c) all payments due from any Group Member on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Group Member.

4.13 ERISA.

   (a) Schedule 4.13 is a complete and accurate list of all Pension Plans maintained or sponsored by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes as of the Closing Date;

   (b) the Borrower and its ERISA Affiliates are in compliance in all material respects with all applicable provisions and requirements of ERISA with respect to each Plan, and have performed all their obligations under each Plan;

   (c) no ERISA Event has occurred or is reasonably expected to occur;

   (d) the Borrower and each of its ERISA Affiliates have met all applicable requirements under the ERISA Funding Rules with respect to each Pension Plan, and no waiver of the minimum funding standards under the ERISA Funding Rules has been applied for or obtained;

   (e) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60%, and neither the Borrower nor any of its ERISA Affiliates knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage to fall below 60% as of the most recent valuation date;
(f) except to the extent required under Section 4980B of the Code, or as described on Schedule 4.13, no Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of the Borrower or any of its ERISA Affiliates;

(g) as of the most recent valuation date for any Pension Plan, the amount of outstanding benefit liabilities (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans (excluding for purposes of such computation any Pension Plans with respect to which assets exceed benefit liabilities), does not exceed $200,000;

(h) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder will not involve any transaction that is subject to the prohibitions of Section 406 of ERISA or in connection with which taxes could be imposed pursuant to Section 4975(c)(1) (A)-(D) of the Code;

(i) all liabilities under each Plan are (i) funded to at least the minimum level required by law or, if higher, to the level required by the terms governing the Plans, (ii) insured with a reputable insurance company, (iii) provided for or recognized in the financial statements most recently delivered to the Administrative Agent and the Lenders pursuant hereto or (iv) estimated in the formal notes to the financial statements most recently delivered to the Administrative Agent and the Lenders pursuant hereto;

(j) there are no circumstances which may give rise to a liability in relation to any Plan which is not funded, insured, provided for, recognized or estimated in the manner described in clause (g); and

(k) (i) the Borrower is not and will not be a “plan” within the meaning of Section 4975(e) of the Code; (ii) the assets of the Borrower do not and will not constitute “plan assets” within the meaning of the United States Department of Labor Regulations set forth in 29 C.F.R. §2510.3-101; (iii) the Borrower is not and will not be a “governmental plan” within the meaning of Section 3(32) of ERISA; and (iv) transactions by or with the Borrower are not and will not be subject to state statutes applicable to the Borrower regulating investments of fiduciaries with respect to governmental plans.

4.14 Investment Company Act; Other Regulations. No Loan Party is required to register as an “investment company” within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under any Requirement of Law (other than Regulation X of the Board) that limits its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable.

4.15 Subsidiaries.

(a) Except as disclosed to the Administrative Agent by the Borrower in writing from time to time after the Closing Date, (a) Schedule 4.15 sets forth the name and jurisdiction of organization of each Subsidiary of Holdings and, as to each such Subsidiary, the percentage of each class of Capital Stock owned by any Loan Party, and (b) there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than equity awards granted to employees, consultants or directors and directors’ qualifying shares) of any nature relating to any Capital Stock of any Subsidiary of Holdings, except as may be created by the Loan Documents.
(b) No Immaterial Subsidiary (a) holds assets representing more than 5% of Holdings’ consolidated total assets (determined in accordance with GAAP), (b) has generated more than 5% of Holdings’ consolidated total revenues determined in accordance with GAAP for the four fiscal quarter period ending on the last day of the most recent period for which financial statements have been delivered after the Closing Date pursuant to Section 6.1(b); provided that all Subsidiaries that are individually an Immaterial Subsidiary do not have aggregate consolidated total assets that would represent 10% or more of Holdings’ consolidated total assets nor have generated 10% or more of Holdings’ consolidated total revenues for such four fiscal quarter period, in each case, determined in accordance with GAAP, or (c) owns any material Intellectual Property.

4.16 Use of Proceeds. The proceeds of the Revolving Loans, Swingline Loans and Letters of Credit shall be used to refinance existing Indebtedness, to pay related fees and expenses and for general corporate purposes (including Permitted Acquisitions).

4.17 Environmental Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect:

(a) except as disclosed on Schedule 4.17, the facilities and properties owned, leased or operated by any Group Member (the “Properties”) do not contain, and, to the knowledge of the Loan Parties, have not previously contained, any Materials of Environmental Concern in amounts or concentrations or under circumstances that constitute or have constituted a violation of, or could give rise to liability under, any Environmental Law;

(b) no Group Member has received or is aware of any notice of violation, alleged violation, non-compliance, liability or potential liability regarding environmental matters or compliance with Environmental Laws with regard to any of the Properties or the business operated by any Group Member (the “Business”), nor does any Loan Party have knowledge or reason to believe that any such notice will be received or is being threatened;

(c) no Group Member has transported or disposed of Materials of Environmental Concern from the Properties in violation of, or in a manner or to a location that could give rise to liability under, any Environmental Law, nor has any Group Member generated, treated, stored or disposed of Materials of Environmental Concern at, on or under any of the Properties in violation of, or in a manner that could give rise to liability under, any applicable Environmental Law;

(d) no judicial proceeding or governmental or administrative action is pending or, to the knowledge of any Loan Party, threatened, under any Environmental Law to which any Group Member is or will be named as a party with respect to the Properties or the Business, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to the Properties or the Business;

(e) there has been no release or threat of release of Materials of Environmental Concern at or from the Properties arising from or related to the operations of any Group Member or otherwise in connection with the Business, in violation of or in amounts or in a manner that could give rise to liability under Environmental Laws;

(f) the Properties and all operations of the Group Members at the Properties are in compliance, and have in the last five (5) years been in compliance, with all applicable Environmental Laws, and except as set forth on Schedule 4.17, to the knowledge of the Borrower, there is no contamination at, under or about the Properties or violation of any Environmental Law with respect to the Properties or the Business; and
(g) no Group Member has assumed any liability of any other Person under Environmental Laws.

4.18 Accuracy of Information, etc. No statement or information contained in this Agreement, any other Loan Document or any other document, certificate or written statement furnished by or on behalf of any Loan Party to the Administrative Agent or the Lenders, or any of them, for use in connection with the transactions contemplated by this Agreement or the other Loan Documents, contained as of the date such statement, information, document or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary to make the statements contained herein or therein not misleading. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Administrative Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

4.19 Security Documents.

(a) The Guarantee and Collateral Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. In the case of the Pledged Stock described in the Guarantee and Collateral Agreement that are securities represented by stock certificates or otherwise constituting certificated securities within the meaning of Section 8-102(a)(15) of the UCC or the corresponding code or statute of any other applicable jurisdiction (“Certificated Securities”), when certificates representing such Pledged Stock are delivered to the Administrative Agent, and in the case of the other Collateral constituting personal property described in the Guarantee and Collateral Agreement, when financing statements and other filings specified on Schedule 4.19(a) in appropriate form are filed in the offices specified on Schedule 4.19(a), the Administrative Agent, for the benefit of the Secured Parties, shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for the Obligations, in each case prior and superior in right to any other Person (except, in the case of Collateral other than Pledged Stock, Liens permitted by Section 7.3). As of the Closing Date, none of the Loan Parties that is a limited liability company or partnership has any Capital Stock that is a Certificated Security.

(b) Each of the Mortgages delivered after the Closing Date will be, upon execution, effective to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable Lien on the Mortgaged Properties described therein and proceeds thereof, and when the Mortgages are filed in the offices for the applicable jurisdictions in which the Mortgaged Properties are located, each such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in the Mortgaged Properties and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person.

4.20 Solvency; Voidable Transaction. Each Loan Party is, and after giving effect to the incurrence of all Indebtedness, Obligations and obligations being incurred in connection herewith, will be and will continue to be, Solvent. No transfer of property is being made by any Loan Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party.
4.21 Regulation H. No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has not been made available under the National Flood Insurance Act of 1968.

4.22 Designated Senior Indebtedness. The Loan Documents and all of the Obligations have been deemed “Designated Senior Indebtedness” or a similar concept thereto, if applicable, for purposes of any other Indebtedness of the Loan Parties.

4.23 [Reserved].

4.24 Insurance. All insurance maintained by the Loan Parties is in full force and effect, all premiums have been duly paid, no Loan Party has received notice of violation or cancellation thereof, and there exists no default under any requirement of such insurance. Each Loan Party maintains insurance with financially sound and reputable insurance companies on all its property in at least such amounts and against at least such risks (but including in any event public liability, product liability, and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business.

4.25 No Casualty. No Loan Party has received any notice of, nor does any Loan Party have any knowledge of, the occurrence or pendency or contemplation of any Casualty Event affecting all or any material portion of its property.

4.26 Recurring Revenue.

(a) For any Eligible Customer Account in any RR calculation, all statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing such Eligible Customer Accounts are and shall be true and correct in all material respects and all such invoices, instruments and other documents, and all of the Group Members’ books and records are genuine and in all material respects what they purport to be.

(b) All sales and other transactions underlying or giving rise to each Eligible Customer Account shall comply in all material respects with all Requirements of Law. The Loan Parties have no knowledge of any actual or imminent Insolvency Proceeding of any customer whose Eligible Customer Accounts are used in any RR calculation. To the best of the Loan Parties’ knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Eligible Customer Accounts are genuine, and all such documents, instruments and agreements are legally enforceable in accordance with their terms. The Group Members are the owner of and have the legal right to sell, transfer, assign and encumber its rights with respect to each Eligible Customer Account, and there are no defenses, offsets, counterclaims or agreements for which the Account Debtor may claim any deduction or discount.

4.27 Capitalization. Schedule 4.27 sets forth the beneficial owners which hold an aggregate amount in excess of 3% of all Capital Stock of Holdings and its consolidated Subsidiaries (on a fully diluted basis), and the amount of Capital Stock held by each such owner, as of the Closing Date.

4.28 OFAC. Neither Holdings, nor any of its Subsidiaries, nor, to the knowledge of Holdings or any such Subsidiary, any director, officer, employee, agent, affiliate or representative thereof, is an individual or an entity that is, or is owned or controlled by an individual or entity that is (a) currently the subject of any Sanctions, or (b) located, organized or resident in a Designated Jurisdiction.
4.29 Anti-Corruption Laws. Each of Holdings and its Subsidiaries has conducted its business in compliance in all material respects with applicable anti-corruption laws and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

4.30 Holding Company. Holdings is a holding company and, after giving effect to the Closing Date, does not have any material liabilities (other than liabilities arising under the Loan Documents), own any material assets (other than the Capital Stock of its Subsidiaries) or engage in any operations or business (other than the ownership of Capital Stock of its Subsidiaries and all activities incidental thereto) other than as required for compliance with this Agreement and other Loan Documents or other permitted Indebtedness, financial reporting and the engagement of third party advisors in connection therewith, and incidental corporate operations.

SECTION 5
CONDITIONS PRECEDENT

5.1 Conditions to Initial Extension of Credit. The effectiveness of this Agreement and the obligation of each Lender to make its initial extension of credit hereunder shall be subject to the satisfaction or waiver, prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(a) Loan Documents. The Administrative Agent shall have received each of the following, each of which shall be in form and substance satisfactory to the Administrative Agent:

(i) this Agreement, executed and delivered by the Administrative Agent, Holdings, the Borrower and each Lender listed on Schedule 1.1A;

(ii) the Collateral Information Certificate executed by a Responsible Officer of Holdings;

(iii) if required by any Revolving Lender, a Revolving Loan Note executed by the Borrower in favor of such Revolving Lender;

(iv) if required by the Swingline Lender, the Swingline Loan Note executed by the Borrower in favor of such Swingline Lender;

(v) the Guarantee and Collateral Agreement, executed and delivered by each Grantor named therein;

(vi) each other Security Document, executed and delivered by the applicable Loan Party party thereto;

(vii) a completed Compliance Certificate dated as of the last day of the fiscal month of Holdings ended on May 31, 2019;

(viii) a completed Borrowing Base Certificate dated as of the Closing Date; and
(ix) the Flow of Funds Agreement, approved by the Borrower.

(b) Projected Pro Forma Financial Statements; Financial Statements; Projections. The Lenders shall have received the Projected Pro Forma Financial Statements and the other Financial Statements set forth in Section 4.1.

(c) Approvals. Except for the Governmental Approvals described on Schedule 4.4, all Governmental Approvals and consents and approvals of, or notices to, any other Person (including the holders of any Capital Stock issued by any Loan Party) required in connection with the execution and performance of the Loan Documents, and the consummation of the transactions contemplated hereby, shall have been obtained and be in full force and effect.

(d) Secretary’s or Managing Member’s Certificates; Certified Operating Documents; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date and executed by the Secretary, Managing Member or equivalent officer of such Loan Party, substantially in the form of Exhibit C, with appropriate insertions and attachments, including (A) the Operating Documents of such Loan Party, (B) the relevant board resolutions or written consents of such Loan Party adopted by such Loan Party for the purposes of authorizing such Loan Party to enter into and perform the Loan Documents to which such Loan Party is party and (C) the names, titles, incumbency and signature specimens of those representatives of such Loan Party who have been authorized by such resolutions and/or written consents to execute Loan Documents on behalf of such Loan Party, and (ii) a good standing certificate for each Loan Party from its respective jurisdiction of organization and the State of California.

(e) Responsible Officer’s Certificates.

(i) The Administrative Agent shall have received a certificate signed by a Responsible Officer of Holdings, in form and substance reasonably satisfactory to it, either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required.

(ii) The Administrative Agent shall have received a certificate signed by a Responsible Officer of Holdings, dated as of the Closing Date and in form and substance reasonably satisfactory to it, certifying (A) that the conditions specified in Sections 5.2(a) and (d) have been satisfied, and (B) that there has been no event or circumstance since June 30, 2018, that has had or that could reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(f) Patriot Act, etc. The Administrative Agent and each Lender shall have received, prior to the Closing Date, all documentation and other information requested to comply with applicable “know your customer” and anti-money-laundering rules and regulations, including the Patriot Act, and a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party.

(g) Due Diligence Investigation. The Administrative Agent shall have completed a due diligence investigation of the Borrower and its Subsidiaries in scope, and with results, reasonably satisfactory to the Administrative Agent and shall have been given such access to the management, records, books of account, contracts and properties of Holdings and its Subsidiaries and shall have received such financial, business and other information regarding each of the foregoing Persons and businesses as it shall have reasonably requested.
The Administrative Agent shall have received, in form and substance reasonably satisfactory to it, all asset appraisals, field audits, and such other reports and certifications, as it has reasonably requested.

(i) **Existing Credit Facility, Etc.** (A) The Administrative Agent shall have received a duly executed copy of the Payoff Letter, and (B) all obligations of the Group Members in respect of the Existing Credit Facility shall, substantially contemporaneously with the funding of the Loan proceeds on the Closing Date have been paid in full.

(j) **Collateral Matters.**

(i) **Lien Searches.** The Administrative Agent shall have received the results of recent lien, judgment and litigation searches in each of the jurisdictions reasonably required by the Administrative Agent, and such searches shall reveal no liens on any of the assets of the Loan Parties except for Liens permitted by Section 7.3, or Liens to be discharged on or prior to the Closing Date.

(ii) **Pledged Stock; Stock Powers; Pledged Notes.** The Administrative Agent shall have received (A) the certificates representing the shares of Capital Stock pledged to the Administrative Agent (for the benefit of the Secured Parties) pursuant to the Guarantee and Collateral Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof, and (B) each promissory note (if any) pledged to the Administrative Agent (for the benefit of the Secured Parties) pursuant to the Guarantee and Collateral Agreement, endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(iii) **Filings, Registrations, Recordings, Agreements, Etc.** Subject to the provisions of Section 5.3, each document (including any UCC financing statements) required by the Security Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded to create in favor of the Administrative Agent (for the benefit of the Secured Parties), a perfected Lien on the Collateral described therein, prior and superior in right and priority to any Lien in the Collateral held by any other Person (other than with respect to Liens expressly permitted by Section 7.3), shall have been executed and delivered to the Administrative Agent or, as applicable, be in proper form for filing, registration or recordation.

(k) **Insurance.** The Administrative Agent shall have received evidence of customary insurance naming the Administrative Agent as an additional insured and/or lender loss payee, as the case may be, under all property and liability insurance policies maintained with respect to the Collateral, except to the extent permitted to be delivered after the Closing Date under Section 5.3(b).

(l) **Fees.** The Lenders and the Administrative Agent shall have received all fees required to be paid on or prior to the Closing Date (including pursuant to the Fee Letter), and all reasonable and documented fees and expenses for which invoices have been presented (including the reasonable and documented fees and expenses of legal counsel to the Administrative Agent) for payment on or before the Closing Date.

(m) **Legal Opinions.** The Administrative Agent shall have received the executed legal opinion of Orrick, Herrington & Sutcliffe LLP, counsel to the Loan Parties, in form and substance reasonably satisfactory to the Administrative Agent.
(n) **Borrowing Notices.** The Administrative Agent shall have received, in respect of any Revolving Loans to be made on the Closing Date, a completed Notice of Borrowing executed by the Borrower and otherwise complying with the requirements of Section 2.5.

(o) **Solvency Certificate.** The Administrative Agent shall have received a Solvency Certificate from the chief financial officer or treasurer of Holdings.

(p) **No Material Adverse Effect.** There shall not have occurred since June 30, 2018, any event or condition that has had or could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(q) **No Litigation.** No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of any Group Member, threatened, that could reasonably be expected to have a Material Adverse Effect.

For purposes of determining compliance with the conditions specified in this Section 5.1, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter either sent (or made available) by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction, or required thereunder to be consented to or approved by or acceptable or satisfactory to such Lender, unless an officer of the Administrative Agent responsible for the transactions contemplated by the Loan Documents shall have received notice from such Lender prior to the Closing Date specifying such Lender’s objection thereto and either such objection shall not have been withdrawn by notice to the Administrative Agent to that effect on or prior to the Closing Date.

### 5.2 Conditions to Each Extension of Credit

The agreement of each Lender to make any extension of credit requested to be made by it on any date (including its initial extension of credit) is subject to the satisfaction of the following conditions precedent:

(a) **Representations and Warranties.** Each of the representations and warranties made by each Loan Party in or pursuant to any Loan Document (i) that is qualified by materiality shall be true and correct, and (ii) that is not qualified by materiality, shall be true and correct in all material respects, in each case, on and as of such date as if made on and as of such date, except to the extent any such representation and warranty expressly relates to an earlier date, in which case such representation and warranty shall have been true and correct in all material respects as of such earlier date.

(b) **Availability.** With respect to any requests for any Revolving Extensions of Credit, after giving effect to such Revolving Extension of Credit, the availability and borrowing limitations specified in Section 2.4 shall be complied with.

(c) **Notices of Borrowing.** The Administrative Agent shall have received a Notice of Borrowing in connection with any such request for extension of credit which complies with the requirements hereof.

(d) **No Default.** No Default or Event of Default shall have occurred and be continuing as of or on such date or after giving effect to the extensions of credit requested to be made on such date.

Each borrowing by and issuance of a Letter of Credit on behalf of the Borrower hereunder and each Revolving Loan Conversion shall constitute a representation and warranty by the Borrower as of the date of such extension of credit, or Revolving Loan Conversion, as applicable, that the conditions contained in this Section 5.2 have been satisfied.
5.3 Post-Closing Conditions Subsequent. The Borrower shall satisfy each of the conditions subsequent to the Closing Date specified in this Section 5.3 to the reasonable satisfaction of the Administrative Agent, in each case, by no later than the date specified for such condition below (or such later date as the Administrative Agent shall agree in its sole but reasonable discretion):

(a) Within thirty (30) days after the Closing Date, the Loan Parties shall have delivered Control Agreements with respect to each Deposit Account or Securities Account (other than Deposit Accounts maintained with SVB, Excluded Accounts (as defined in the Guarantee and Collateral Agreement), and Deposit Accounts and Securities Accounts not required to be subject to a Control Agreement pursuant to Section 6.10).

(b) Within thirty (30) days after the Closing Date, the Loan Parties shall have delivered evidence of customary insurance naming the Administrative Agent as an additional insured and/or lender loss payee, as the case may be, under all property and liability insurance policies maintained with respect to the Collateral, in each case, in form and substance reasonably satisfactory to the Administrative Agent.

(c) Within thirty (30) days after the Closing Date, the Loan Parties shall have used commercially reasonable efforts to deliver any landlord’s agreement or bailee letter required under Section 6.12(e).

SECTION 6
AFFIRMATIVE COVENANTS

Holdings and the Borrower hereby jointly and severally agree that, at all times prior to the Discharge of Obligations, each of the Loan Parties shall, and, where applicable, shall cause each of its Subsidiaries to:

6.1 Financial Statements. Furnish to the Administrative Agent for distribution to each Lender:

(a) as soon as available, but in any event within one hundred twenty (120) days (or after a Qualified IPO, ninety (90) days) after the end of each fiscal year of Holdings, a copy of the audited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such fiscal year and the related audited consolidated statements of income and of cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous year, reported on without a “going concern” (other than with respect to the impending maturity of the Loans) or like qualification or exception, or qualification arising out of the scope of the audit, by Ernst & Young, LLP or other independent certified public accountants of nationally recognized standing and reasonably acceptable to the Administrative Agent; and

(b) (i) prior to a Qualified IPO, as soon as available, but in any event not later than thirty (30) days after the end of each month occurring during each fiscal year of Holdings, the unaudited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such month and the related unaudited consolidated statements of income and of cash flows for such month and the trailing twelve (12) months, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer of Holdings as being fairly stated in all material respects (subject to normal year-end audit adjustments and the absence of year-end audit footnotes) and (ii) after a Qualified IPO, (A) as soon as available, but in any event not later than forty five (45) days after the end of each
quarter occurring during each fiscal year of Holdings, the unaudited consolidated balance sheet of Holdings and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and of cash flows for such month and the trailing twelve (12) months, setting forth in each case in comparative form the figures for the previous year, certified by a Responsible Officer of Holdings as being fairly stated in all material respects (subject to normal year-end audit adjustments and the absence of year-end audit footnotes), and (iii) as soon as available, but in any event not later than five (5) Business Days after the end of each month, a report demonstrating in reasonable detail the Cash Balance as of the last Business Day of such month.

All such financial statements shall be complete and correct in all material respects (subject, in the case of unaudited financial statements, to normal year-end audit adjustments and the absence of year-end audit footnotes) and shall be prepared in reasonable detail and in accordance with GAAP applied (except as approved by such accountants or officer, as the case may be, and disclosed in reasonable detail therein) consistently throughout the periods reflected therein and with prior periods.

6.2 Certificates; Reports; Other Information. Furnish (or, in the case of clause (a), use commercially reasonable efforts to furnish) to the Administrative Agent, for distribution to each Lender (or, in the case of clause (k), to the relevant Lender):

(a) [reserved];

(b) concurrently with the delivery of any financial statements pursuant to Section 6.1, (i) a certificate of a Responsible Officer of Holdings stating that, to the best of such Responsible Officer’s knowledge, each Loan Party during such period has observed or performed all of its covenants and other agreements, and satisfied every condition contained in this Agreement and the other Loan Documents to which it is a party to be observed, performed or satisfied by it, and that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate, (ii) in the case of financial statements delivered pursuant to Section 6.1(b), (x) a Compliance Certificate containing all information and calculations necessary for determining compliance by each Loan Party with the provisions of this Agreement referred to therein as of the last day of the applicable fiscal period of Holdings, and (y) to the extent not previously disclosed to the Administrative Agent, a description of any change in the jurisdiction of organization of any Loan Party since the date of the most recent report delivered pursuant to this clause (y) (or, in the case of the first such report so delivered, since the Closing Date), and (iii) in the case of financial statements delivered pursuant to Section 6.1(a), a report of a reputable insurance broker with respect to the insurance coverage required to be maintained pursuant to Section 6.6, together with any supplemental reports with respect thereto which the Administrative Agent may reasonably request;

(c) as soon as available, and in any event no later than sixty (60) days after the end of each fiscal year of Holdings, a detailed consolidated budget for the following fiscal year approved by the board of directors or management of Holdings (including a projected consolidated balance sheet of Holdings and its Subsidiaries as of the end of each fiscal quarter of such fiscal year, the related consolidated statements of projected cash flow, projected changes in financial position and projected income and a description of the underlying assumptions applicable thereto), and, as soon as available, significant revisions, if any, of such budget and projections with respect to such fiscal year (collectively, the “Projections”), which Projections shall in each case be accompanied by a certificate of a Responsible Officer of Holdings stating that such Projections are based on reasonable estimates, information and assumptions and that such Responsible Officer has no reason to believe that such Projections are incorrect or misleading in any material respect;
(d) promptly, and in any event within five (5) Business Days after receipt thereof by any Loan Party or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Loan Party or any Subsidiary thereof (other than routine comment letters from the staff of the SEC relating to Holdings’ filings with the SEC);

(e) within five (5) Business Days after the same are sent, copies of each annual report, proxy or financial statement or other material report that Holdings or the Borrower sends to the holders of any class of any Group Member’s debt securities or public equity securities and, within five (5) Business Days after the same are filed, copies of all annual, regular, periodic and special reports and registration statements (other than registration statements filed on a confidential basis) which Holdings or the Borrower may file with the SEC under Section 13 or 15(d) of the Exchange Act, or with any national securities exchange, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(f) upon reasonable request by the Administrative Agent, within five (5) Business Days after the same are sent or received, copies of all correspondence, reports, documents and other filings with any Governmental Authority regarding compliance with or maintenance of Governmental Approvals or Requirements of Law or that could reasonably be expected to have a Material Adverse Effect on any of the Governmental Approvals or otherwise on the operations of the Group Members;

(g) not later than thirty (30) days after the end of each month, (i) a Borrowing Base Certificate accompanied by such supporting detail and documentation as shall be requested by the Administrative Agent in its reasonable discretion, (ii) accounts receivable agings, aged by invoice date, (iii) accounts payable agings, aged by invoice date and outstanding or held check registers, (iv) SaaS and recurring revenue metrics reports, and (v) deferred revenue schedule;

(h) [reserved];

(i) [reserved];

(j) [reserved]; and

(k) promptly, such additional financial and other information as the Administrative Agent or any Lender may from time to time reasonably request with respect to Holdings and its Subsidiaries.

6.3 Collections.

The Borrower shall have the right to collect all Accounts unless and until a Default or Event of Default has occurred and is continuing. The Borrower shall hold all payments on, and proceeds of, its Accounts in trust for the Administrative Agent, and, if requested by the Administrative Agent after the occurrence and during the continuance of a Default or Event of Default, the Borrower shall immediately deliver all such payments and proceeds to the Administrative Agent in their original form, duly endorsed. The Borrower shall deposit all proceeds of such Accounts into one or more lockbox accounts, or such other “blocked accounts” as the Administrative Agent may specify. Any such amounts actually paid to or collected by the Administrative Agent pursuant to this Section 6.3 may, in the discretion of the Administrative Agent, or at the direction of the Required Lenders, shall, be applied by the Administrative Agent to the Obligations at any time during which an Event of Default has occurred and is continuing, as provided by the terms of this Agreement and the Guarantee and Collateral Agreement. Absent an Event of Default, such proceeds shall be transferred to an operating account that the Borrower maintains with the Administrative Agent.
6.4 Payment of Obligations. Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations of whatever nature, except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

6.5 Maintenance of Existence; Compliance. (a)(i) Preserve, renew and keep in full force and effect its organizational existence and (ii) take all reasonable action to maintain or obtain all Governmental Approvals and all other rights, privileges and franchises necessary in the normal conduct of its business or necessary for the performance by such Person of its Obligations under any Loan Document, except, in each case, as otherwise permitted by Section 7.4 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; (b) comply with all Contractual Obligations (including with respect to leasehold interests of the Borrower) and Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect; and (c) comply with all Governmental Approvals, and any term, condition, rule, filing or fee obligation, or other requirement related thereto, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, the Borrower shall, and shall cause each of its ERISA Affiliates to: (1) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code or other Federal or state law; (2) cause each Qualified Plan to maintain its qualified status under Section 401(a) of the Code; (3) make all required contributions to any Plan; (4) not become a party to any Multiemployer Plan; (5) ensure that all liabilities under each Plan are either (x) funded to at least the minimum level required by law or, if higher, to the level required by the terms governing such Plan; (y) insured with a reputable insurance company; or (z) provided for or recognized in the financial statements most recently delivered to the Administrative Agent and the Lenders pursuant hereto; and (6) ensure that the contributions or premium payments to or in respect of each Plan are and continue to be promptly paid at no less than the rates required under the rules of such Plan and in accordance with the most recent actuarial advice received in relation to such Plan and applicable law.

6.6 Maintenance of Property; Insurance. (a) Keep all property necessary in its business in good working order and condition, ordinary wear and tear excepted, (b) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business, and (c) maintain flood insurance on all real property subject to a Mortgage as required under Section 6.12(b).

6.7 Inspection of Property; Books and Records; Discussions. (a) Keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all Requirements of Law shall be made of all dealings and transactions in relation to its business and activities and (b) on three Business Days’ notice (provided that no notice shall be required if an Event of Default has occurred and is continuing) permit representatives and independent contractors of the Administrative Agent on behalf of the Lenders to visit and inspect any of its properties and examine and make abstracts from any of its books and records at any reasonable time during normal business hours and to discuss the business, operations, properties and financial and other condition of the Group Members with officers, directors and employees of the Group Members and with their independent certified public accountants; provided that such inspections shall not be undertaken more frequently than once every twelve (12) months unless an Event of Default has occurred and is continuing.
6.8 Notices. Give prompt written notice to the Administrative Agent of:

(a) the occurrence of any Default or Event of Default;

(b) any (i) default or event of default under any Contractual Obligation of any Group Member or (ii) litigation, investigation or proceeding that may exist at any time between any Group Member and any Governmental Authority, that in either case, if not cured or if adversely determined, as the case may be, could reasonably be expected to have a Material Adverse Effect;

(c) any litigation or proceeding affecting any Group Member (i) in which the amount involved is $500,000 or more and not covered by insurance, (ii) in which injunctive or similar relief is sought against any Group Member, which, if granted, could reasonably be expected to have a Material Adverse Effect or (iii) which relates to any Loan Document;

(d) (i) promptly after the Borrower has knowledge or becomes aware of the occurrence of any of the following ERISA Events affecting the Borrower or any ERISA Affiliate (but in no event more than ten (10) days after such event), the occurrence of any of the following ERISA Events, and shall provide the Administrative Agent with a copy of any notice with respect to such event that may be required to be filed with a Governmental Authority and any notice delivered by a Governmental Authority to the Borrower or any ERISA Affiliate with respect to such event: (A) an ERISA Event, (B) the adoption of any new Pension Plan by the Borrower or any ERISA Affiliate, (C) the adoption of any amendment to a Pension Plan, if such amendment will result in a material increase in contribution obligations or unfunded benefit liabilities (as defined in Section 4001(a)(18) of ERISA), or (D) the commencement of contributions by the Borrower or any ERISA Affiliate to any Plan that is subject to Title IV of ERISA or Section 412 of the Code; and

(ii) (A) promptly after the giving, sending or filing thereof, or the receipt thereof, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by the Borrower or any of its ERISA Affiliates with the IRS with respect to each Pension Plan, (2) all notices received by the Borrower or any of its ERISA Affiliates from a Multiemployer Plan sponsor concerning an ERISA Event, and (3) copies of such other documents or governmental reports or filings relating to any Pension Plan or Multiemployer Plan as the Administrative Agent shall reasonably request; and

(e) unless a Loan Party is a public company or an issuer of securities that are registered with the SEC under Section 12 of the Exchange Act or that is required to file reports under Section 15(d) of the Exchange Act, any changes to the beneficial ownership information set forth in item 37 of the Collateral Information Certificate in the event that (A) any individual shall become the owner, directly or indirectly, of 25% or more of the equity interests of Holdings or (B) the individual identified in the Beneficial Ownership Information section of the Collateral Information Certificate delivered on the Closing Date shall no longer be an individual with significant responsibility for managing the Group Members. The Loan Parties understand and acknowledge that the Secured Parties rely on such true, accurate and up-to-date beneficial ownership information to meet their regulatory obligations to obtain, verify and record information about the beneficial owners of its legal entity customers;

(f) any material change in accounting policies or financial reporting practices by any Loan Party;

(g) the occurrence of any Covenant Trigger Event; and
any development or event that has had or could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section 6.8 shall be accompanied by a statement of a Responsible Officer of Holdings or the Borrower setting forth details of the occurrence referred to therein and stating what action the relevant Group Member proposes to take with respect thereto.

6.9 Environmental Laws.

(a) Except as could not reasonably be expected to result in a Material Adverse Effect, comply with, and ensure compliance by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply with and maintain, and ensure that all tenants and subtenants obtain and comply with and maintain, any and all licenses, approvals, notifications, registrations or permits required by applicable Environmental Laws.

(b) Except as could not reasonably be expected to result in a Material Adverse Effect, conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and promptly comply with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws.

6.10 Operating Accounts. Except as agreed to by the Administrative Agent in its sole discretion, Holdings and its Subsidiaries shall maintain (a) all domestic collection and operating accounts with SVB or with SVB’s Affiliates and (b) at least 50% of all aggregate cash and Cash Equivalents of Holdings and its Subsidiaries in accounts with SVB, another Lender, or their respective Affiliates (subject to a Control Agreement unless maintained with SVB). Holdings and its Subsidiaries may maintain up to the greater of (a) $1,000,000 and (b) 15% of all aggregate cash and Cash Equivalents in accounts not with SVB or subject to a Control Agreement with any other financial institution engaged in banking services in the ordinary of business.

6.11 Audits. At reasonable times, on three (3) Business Days’ notice (provided that no notice is required if an Event of Default has occurred and is continuing), the Administrative Agent, or its agents, shall have the right to inspect the Collateral and the right to audit and copy any and all of any Loan Party’s books and records including ledgers, federal and state tax returns, records regarding assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information. The foregoing inspections and audits shall be at the Borrower’s expense, and the charge therefor shall be $1,000 per person per day (or such higher amount as shall represent the Administrative Agent’s then-current standard charge for the same), plus reasonable out-of-pocket expenses. Such inspections and audits shall not be undertaken more frequently than once every 12 months, unless an Event of Default has occurred and is continuing. In the event the Borrower and the Administrative Agent schedule an audit more than ten (10) days in advance, and the Borrower cancels or seeks to or reschedules the audit with less than ten (10) days written notice to the Administrative Agent (without limiting any of the Administrative Agent’s rights or remedies) then the Borrower shall pay the Administrative Agent a fee of $1,000 plus any out of pocket expenses incurred by the Administrative Agent to compensate the Administrative Agent for the anticipated costs and expenses of the cancellation or rescheduling.
6.12 Additional Collateral, Etc.

(a) With respect to any property (to the extent included in the definition of Collateral and not constituting Excluded Assets (as defined in the Guarantee and Collateral Agreement)) acquired after the Closing Date by any Loan Party (other than (x) any property described in paragraph (b), (c) or (d) below, and (y) any property subject to a Lien expressly permitted by Section 7.3(g)) as to which the Administrative Agent, for the benefit of the Secured Parties, does not have a perfected Lien, promptly (and in any event within three (3) Business Days or such later date as the Administrative Agent may agree in its sole discretion) take all actions necessary or advisable in the reasonable opinion of the Administrative Agent to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected first priority (except as expressly permitted by Section 7.3) security interest and Lien in such property, including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be requested by the Administrative Agent.

(b) With respect to any fee interest in any real property having a fair market value (together with improvements thereof) of at least $2,000,000 acquired after the Closing Date by any Loan Party (other than any such real property subject to a Lien expressly permitted by Section 7.3(g)), promptly (and in any event within sixty (60) days (or such longer time period as the Administrative Agent may agree in its sole discretion)) after such acquisition, to the extent requested by the Administrative Agent, (i) execute and deliver a first priority Mortgage, in favor of the Administrative Agent, for the benefit of the Secured Parties, covering such real property, (ii) if requested by the Administrative Agent, provide the Lenders with title and extended coverage insurance covering such real property in an amount at least equal to the purchase price of such real property or such greater amount as shall be reasonably specified by the Borrower as well as a current ALTA survey thereof, together with a surveyor’s certificate, each of the foregoing in form and substance reasonably satisfactory to the Administrative Agent and (iii) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent. In connection with the foregoing, no later than five (5) Business Days prior to the date on which a Mortgage is executed and delivered pursuant to this Section 6.12, in order to comply with the Flood Laws, the Administrative Agent (for delivery to each Lender) shall have received the following documents (collectively, the “Flood Documents”): (A) a completed standard “life of loan” flood hazard determination form (a “Flood Determination Form”) and such other documents as any Lender may reasonably request to complete its flood due diligence, (B) if the improvement(s) to the applicable real property is located in a special flood hazard area, a notification to the applicable Loan Party (if applicable) (“Loan Party Notice”) that flood insurance coverage under the National Flood Insurance Program (“NFIP”) is not available because the community does not participate in the NFIP, (C) documentation evidencing the applicable Loan Party’s receipt of any such Loan Party Notice (e.g., countersigned Loan Party Notice, return receipt of certified U.S. Mail, or overnight delivery), and (D) if the Loan Party Notice is required to be given and, to the extent flood insurance is required by any applicable Requirement of Law or any Lenders’ written regulatory or compliance procedures and flood insurance is available in the community in which the property is located, a copy of one of the following: the flood insurance policy, the applicable Loan Party’s application for a flood insurance policy plus proof of premium payment, a declaration page confirming that flood insurance has been issued, or such other evidence of flood insurance that complies with all applicable laws and regulations reasonably satisfactory to the Administrative Agent and each Lender (any of the foregoing being “Evidence of Flood Insurance”). Notwithstanding anything contained herein to the contrary, no Mortgage will be executed and delivered until each Lender has confirmed to the Administrative Agent that such Lender has satisfactorily completed its flood insurance due diligence and compliance requirements.

(c) With respect to any new Subsidiary (other than an Excluded Subsidiary) created or acquired after the Closing Date by any Loan Party (including pursuant to a Permitted Acquisition), any Subsidiary formed by a Division or if an Excluded Subsidiary ceases to qualify as an Excluded Subsidiary, then except to the extent compliance with this Section 6.12 is prohibited by existing Contractual Obligations (so long as such prohibition is not incurred in contemplation of such acquisition or the obligations hereunder) or Requirements of Law binding on such Subsidiary or its properties,
promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement as the Administrative Agent reasonably deems necessary or advisable to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected first priority security interest in the Capital Stock of such Subsidiary that is owned directly by such Loan Party, (ii) deliver to the Administrative Agent such documents and instruments as may reasonably be required to grant, perfect, protect and ensure the priority of such security interest, including but not limited to, the certificates representing such Capital Stock (if applicable), together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Loan Party, (iii) cause such Subsidiary (A) to become a party to the Guarantee and Collateral Agreement, (B) to take such actions as are necessary or advisable in the reasonable opinion of the Administrative Agent to grant to the Administrative Agent for the benefit of the Secured Parties a perfected first priority security interest in the Collateral described in the Guarantee and Collateral Agreement, with respect to such Subsidiary, including the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Guarantee and Collateral Agreement or by law or as may be reasonably requested by the Administrative Agent and (C) to deliver to the Administrative Agent a certificate of such Subsidiary, in a form reasonably satisfactory to the Administrative Agent, with appropriate insertions and attachments, and (iv) if requested by the Administrative Agent, deliver to the Administrative Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Administrative Agent; it being agreed that if such Subsidiary is formed by a Division, the foregoing requirements shall be satisfied substantially concurrently with the formation of such Subsidiary.

(d) With respect to any new direct Foreign Subsidiary that is an Excluded Subsidiary but not an Immaterial Subsidiary or any new direct Foreign Subsidiary Holding Company that is an Excluded Subsidiary but not an Immaterial Subsidiary created or acquired after the Closing Date by any Loan Party, then except to the extent compliance with this Section 6.12 (x) is prohibited by existing Contractual Obligations (so long as such prohibition is not incurred in contemplation of such acquisition or the obligations hereunder) or Requirements of Law binding on such Subsidiary or its properties, or (y) could reasonably be expected to result in liability to the directors or officers of any such Foreign Subsidiary under applicable Requirements of Law, promptly (i) execute and deliver to the Administrative Agent such amendments to the Guarantee and Collateral Agreement, as the Administrative Agent deems necessary or advisable to grant to the Administrative Agent, for the benefit of the Secured Parties, a perfected first priority security interest in the Capital Stock of such new Foreign Subsidiary or Foreign Subsidiary Holding Company that is directly owned by any such Loan Party (provided that in no event shall more than 65% of the total outstanding voting Capital Stock of any such new Foreign Subsidiary or Foreign Subsidiary Holding Company be required to be so pledged) and (ii) deliver to the Administrative Agent the certificates representing such Capital Stock (if certificated), together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Loan Party, and take such other action (including, as applicable, the delivery of any foreign law pledge documents reasonably requested by the Administrative Agent) as may be necessary or, in the opinion of the Administrative Agent, desirable to perfect the Administrative Agent’s security interest therein.

(e) At the request of the Administrative Agent, each Loan Party shall use commercially reasonable efforts to obtain a landlord’s agreement or bailee letter, as applicable, from the lessor of each leased property or bailee with respect to any warehouse, processor or converter facility or other location in the United States where Collateral having a book value exceeding $1,000,000 is stored or located, which agreement or letter shall contain a waiver or subordination of all Liens or claims that the landlord or bailee may assert against the Collateral at that location, and shall otherwise be reasonably satisfactory in form and substance to the Administrative Agent. After the Closing Date, no Collateral with a value in excess of $1,000,000 shall be stored at any new location, without the prior written consent of the Administrative Agent unless and until a reasonably satisfactory landlord agreement or bailee letter, as appropriate, shall first have been obtained with respect to such location. Each Group Member shall pay and perform its material obligations under all leases and other agreements with respect to each leased location or public warehouse where any Collateral is or may be located.
(f) Notwithstanding the foregoing, (i) in the case of Foreign Subsidiaries, all guarantees and security shall be subject to any applicable general mandatory statutory limitations, fraudulent preference, equitable subordination, foreign exchange laws or regulations (or analogous restrictions), transfer pricing or “thin capitalization” rules, earnings stripping, exchange control restrictions, applicable maintenance of capital, retention of title claims, employee consultation or approval requirements, corporate benefit, financial assistance, protection of liquidity, and similar laws, rules and regulations and customary guarantee limitation language in the relevant jurisdiction; provided that the relevant Group Member shall use commercially reasonable endeavors to overcome such limitations (including by way of debt pushdown or seeking requisite approvals), and (ii) Subsidiaries may be excluded from the guarantee requirements in circumstances where (1) the Borrower and the Administrative Agent reasonably agree that the cost or other consequence of providing such a guarantee is excessive in relation to the value afforded thereby or (2) in the case of Foreign Subsidiaries, such requirements would contravene any legal prohibition, could reasonably be expected to result in any violation or breach of, or conflict with, fiduciary duties or result in a risk of personal or criminal liability on the part of any officer, director, member or manager of such Subsidiary; provided that the relevant Loan Party shall use commercially reasonable endeavors to overcome such limitations. As a result of the limitations in clause (i) above, the Administrative Agent may elect to waive the requirement to cause a Group Member to become a Guarantor hereunder and such Group Member shall not be a Loan Party for any purposes hereof.

6.13 [Reserved].

6.14 Use of Proceeds. Use the proceeds of each credit extension only for the purposes specified in Section 4.16.

6.15 Designated Senior Indebtedness. Cause the Loan Documents and all of the Obligations to be deemed “Designated Senior Indebtedness” or a similar concept thereto, if applicable, for purposes of any Indebtedness of the Loan Parties.

6.16 Anti-Corruption Laws. Conduct its business in compliance in all material respects with all applicable anti-corruption laws and maintain policies and procedures designated to promote and achieve compliance with such laws.

6.17 Further Assurances. Execute any further instruments and take such further action as the Administrative Agent reasonably deems necessary to perfect, protect, ensure the priority of or continue the Administrative Agent’s Lien on the Collateral or to effect the purposes of this Agreement.

SECTION 7
NEGATIVE COVENANTS

Holdings and the Borrower hereby jointly and severally agree that, at all times prior to the Discharge of Obligations, no Loan Party shall, nor shall any Loan Party permit any of its respective Subsidiaries to, directly or indirectly:
7.1 Financial Condition Covenants. During any Covenant Testing Period, permit the Net Revenue for any fiscal quarter to be less than the applicable minimum Net Revenue set forth opposite such fiscal quarter:

<table>
<thead>
<tr>
<th>Fiscal Quarter Ending</th>
<th>Minimum Net Revenue</th>
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</thead>
<tbody>
<tr>
<td>June 30, 2019</td>
<td>$23,486,000</td>
</tr>
<tr>
<td>September 30, 2019</td>
<td>$25,286,000</td>
</tr>
<tr>
<td>December 31, 2019</td>
<td>$27,227,000</td>
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<tr>
<td>March 31, 2020</td>
<td>$29,688,000</td>
</tr>
<tr>
<td>June 30, 2020</td>
<td>$31,832,000</td>
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<tr>
<td>September 30, 2020</td>
<td>$33,462,000</td>
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<tr>
<td>December 31, 2020</td>
<td>$35,701,000</td>
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<tr>
<td>March 31, 2021</td>
<td>$37,942,000</td>
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<tr>
<td>June 30, 2021</td>
<td>$41,328,000</td>
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<tr>
<td>September 30, 2021</td>
<td>$44,245,000</td>
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<tr>
<td>December 31, 2021</td>
<td>$46,630,000</td>
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<tr>
<td>March 31, 2022</td>
<td>$47,428,000</td>
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<tr>
<td>June 30, 2022</td>
<td>$49,594,000</td>
</tr>
</tbody>
</table>

7.2 Indebtedness. Create, issue, incur, assume, become liable in respect of or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party pursuant to any Loan Document and under any Cash Management Agreement;

(b) Indebtedness of (i) any Loan Party owing to any other Loan Party; (ii) any Group Member (which is not a Loan Party) owing to any other Group Member (which is not a Loan Party); (iii) any Group Member (which is not a Loan Party) owing to any Loan Party, which constitutes an Investment permitted by Section 7.8(f)(iii); provided, that, such Indebtedness owing to a Loan Party in excess of $500,000 shall be evidenced by a master promissory note and such promissory note shall be pledged as Collateral; and (iv) any Loan Party owing to any Group Member (which is not a Loan Party); provided that such Indebtedness is subordinated to the Obligations on terms and conditions acceptable to the Administrative Agent;

(c) Guarantee Obligations (i) of any Loan Party of the Indebtedness of any other Loan Party; (ii) of any Group Member (which is not a Loan Party) of the Indebtedness of any Loan Party; (iii) by any Group Member (which is not a Loan Party) of the Indebtedness of any other Group Member (which is not a Loan Party) or (iv) of any Loan Party of the Indebtedness of any Group Member that is not a Loan Party, so long as the aggregate amount of such Guarantee Obligations is an Investment permitted by Section 7.8(f)(iii); provided that, in any case of clauses (i), (ii), (iii) or (iv), the underlying Indebtedness so guaranteed is otherwise permitted by the terms hereof;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.2(d) and any refinancings, refundings, renewals or extensions thereof (which do not shorten the maturity thereof or increase the principal amount thereof, except by an amount equal to a reasonable premium and other fees and expenses reasonably incurred in connection therewith);

(e) Indebtedness (including, without limitation, Capital Lease Obligations) secured by Liens permitted by Section 7.3(g) in an aggregate principal amount not to exceed $7,000,000 at any one time outstanding (or such greater amount as the Administrative Agent shall agree in its sole discretion) and any refinancings, refundings, renewals or extensions thereof (which do not shorten the maturity thereof or increase the principal amount thereof, except by an amount equal to a reasonable premium and other fees and expenses reasonably incurred in connection therewith);
(f) unsecured Subordinated Indebtedness;

(g) Surety Indebtedness and any other Indebtedness in respect of letters of credit, banker’s acceptances or similar arrangements, provided that the aggregate amount of any such Indebtedness outstanding at any time shall not exceed $1,000,000 (or such greater amount as the Administrative Agent shall agree in its sole discretion);

(h) unsecured Indebtedness of the Borrower and its Subsidiaries in an aggregate principal amount, for all such Indebtedness taken together, not to exceed $1,000,000 at any one time outstanding;

(i) obligations (contingent or otherwise) of the Borrower or any of its Subsidiaries existing or arising under any Swap Agreement, provided that such obligations are (or were) entered into by such Person in accordance with Section 7.13 and not for purposes of speculation;

(j) Indebtedness of a Person (other than a Loan Party or an existing Subsidiary) existing at the time such Person is merged with or into a Loan Party or a Subsidiary or becomes a Subsidiary, provided that (i) such Indebtedness was not, in any case, incurred by such other Person in connection with, or in contemplation of, such merger or acquisition, (ii) such merger or acquisition constitutes a Permitted Acquisition, (iii) with respect to any such Person who becomes a Subsidiary, (A) such Subsidiary and any of its Subsidiaries are the only obligors in respect of such Indebtedness, and (B) to the extent such Indebtedness is permitted to be secured hereunder, only the assets of such Subsidiary and any of its Subsidiaries secure such Indebtedness, and (iv) the aggregate amount of such Indebtedness does not exceed $500,000 in the aggregate (or such greater amount as the Administrative Agent shall agree in its sole discretion);

(k) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(l) Indebtedness in the form of purchase price adjustments, earn outs, deferred compensation, or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with Investments permitted by Section 7.8; provided that the amount of such obligation shall be deemed part of the cost of such Investment (the amount of which shall be deemed to be the amount required to be accrued as a liability in accordance with GAAP or the amount actually paid);

(m) Indebtedness consisting of the financing of insurance premiums; and

(n) Indebtedness not otherwise permitted by this Section in an aggregate amount not to exceed $500,000 at any time outstanding.

7.3 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except:

(a) Liens for taxes not yet due or that are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of the applicable Group Member in conformity with GAAP;

(b) carriers’, warehousmen’s, landlord’s, mechanics’, materialmen’s, repairmen’s or other like Liens arising in the ordinary course of business that are not overdue for a period of more than thirty (30) days or that are being contested in good faith by appropriate proceedings;
(c) pledges or deposits in connection with workers’ compensation, unemployment insurance and other social security legislation;

(d) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business (other than for indebtedness or any Liens arising under ERISA) or deposits made in connection with Permitted Acquisitions;

(e) easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Group Member;

(f) Liens in existence on the date hereof listed on Schedule 7.3(f); provided that (i) no such Lien shall cover any additional property after the Closing Date, (ii) the amount of Indebtedness or obligations secured or benefitted thereby is not increased, (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured thereby is permitted by Section 7.2(d);

(g) Liens securing Indebtedness incurred pursuant to Section 7.2(e) to finance the acquisition of fixed or capital assets; provided that (i) such Liens shall be created substantially simultaneously with, or within one hundred eighty (180) days after, the acquisition of such fixed or capital assets, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, and (iii) the amount of Indebtedness secured thereby is not increased, except by an amount permitted by Section 7.2(e);

(h) Liens created pursuant to the Security Documents;

(i) any interest or title of a lessor or licensor under any lease or license entered into by a Group Member in the ordinary course of its business and covering only the assets so leased or licensed;

(j) judgment Liens that do not constitute a Default or an Event of Default under Section 8.1(h) of this Agreement;

(k) bankers’ Liens, rights of setoff and other similar Liens existing solely with respect to cash, Cash Equivalents, securities, commodities and other funds on deposit in one or more accounts maintained by a Group Member, in each case arising in the ordinary course of business in favor of banks, other depository institutions, securities or commodities intermediaries or brokerages with which such accounts are maintained securing amounts owing to such banks or financial institutions with respect to cash management and operating account management or are arising under Section 4-208 or 4-210 of the UCC on items in the course of collection;

(l) (i) cash deposits and liens on cash and Cash Equivalents pledged to secure Indebtedness permitted under Section 7.2(g), (ii) Liens securing reimbursement obligations with respect to letters of credit permitted by Section 7.2(g) that encumber documents and other property relating to such letters of credit, and (iii) Liens securing Obligations under any Specified Swap Agreements permitted by Section 7.2(i);
(m) Liens on property of a Person existing at the time such Person is acquired by, merged into or consolidated with a Group Member or becomes a Subsidiary of a Group Member or acquired by a Group Member; provided that (i) such Liens were not created in contemplation of such acquisition, merger, consolidation or Investment, (ii) such Liens do not extend to any assets other than those of such Person, and (iii) the applicable Indebtedness or obligation secured by such Lien is permitted under Section 7.2; (n) the replacement, extension or renewal of any Lien permitted by clause (n) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Indebtedness secured thereby; (o) Liens not otherwise permitted by this Section so long as neither (i) the aggregate outstanding principal amount of the obligations secured thereby nor (ii) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds (as to all Group Members) $500,000 at any one time; (p) Liens on insurance proceeds in favor of insurance companies granted solely to secured financed insurance premiums permitted under Section 7.2(m); (q) (i) non-exclusive licenses of patents, trademarks, copyrights, and other Intellectual Property rights in the ordinary course of business; and (ii) licenses of patents, trademarks, copyrights, and other Intellectual Property rights customary for companies of similar size and in the same industry as the Borrower which would not result in a legal transfer of title of such licensed Intellectual Property, but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discrete geographical areas outside of the United States; (r) Liens in favor of custom and revenue authorities arising as a matter of law to secure the payment of custom duties in connection with the importation of goods; and (s) Liens on any earnest money deposits required in connection with a Permitted Acquisition or consisting of earnest money deposits required in connection with an acquisition of property not otherwise prohibited hereunder.

Notwithstanding the foregoing, no Group Member shall permit any Lien on any of its Intellectual Property other than Liens arising by operation of any Requirement of Law and Liens described in Section 7.3(q) that in each case, do not secure any Indebtedness for borrowed money.

7.4 Fundamental Changes. Consummate any merger, consolidation, amalgamation, Division of or by a limited company, or an allocation of assets to a series of a limited liability company (or the unwinding of such Division or allocation), or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its property or business, except that:

(a) (i) any Group Member that is not a Loan Party may be merged, amalgamated or consolidated with or into (A) any Loan Party (provided that a Loan Party shall be the continuing or surviving Person, or the continuing or surviving Person shall become a Loan Party substantially contemporaneous with such merger, amalgamation or consolidation) or (B) any Group Member that is not a Loan Party, and (ii) any Loan Party may be merged, amalgamated or consolidated with or into with any other Loan Party other than Holdings (provided that if such merger, amalgamation or consolidation involves the Borrower, the Borrower shall be the continuing or surviving Person);

(b) (i) any Group Member that is not a Loan Party may Dispose of any or all of its assets (including upon voluntary liquidation, dissolution or otherwise) (A) to any other Group Member or (B) pursuant to a Disposition permitted by Section 7.5; and (ii) any Loan Party (other than the Borrower or Holdings) may Dispose of any or all of its assets (including upon voluntary liquidation, dissolution or otherwise) (A) to any other Loan Party or (B) pursuant to a Disposition permitted by Section 7.5; and
7.5 Disposition of Property. Dispose of any of its property, whether now owned or hereafter acquired, or, in the case of any Subsidiary of Holdings, issue or sell any shares of such Subsidiary’s Capital Stock to any Person, except:

(a) Dispositions of obsolete, worn out or surplus property in the ordinary course of business;
(b) Dispositions of Inventory in the ordinary course of business;
(c) Dispositions permitted by Sections 7.4(b)(i)(A) and (b)(ii)(A);
(d) the sale or issuance of the Capital Stock of a Subsidiary of Holdings (i) to the Borrower or any other Loan Party, or (ii) by a Subsidiary that is not a Loan Party to another Subsidiary that is not a Loan Party or (iii) in connection with any transaction that does not result in a Change of Control;
(e) the use or transfer of money, cash or Cash Equivalents in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents;
(f) the non-exclusive licensing of patents, trademarks, copyrights, and other Intellectual Property rights in the ordinary course of business; and
(ii) licensing of patents, trademarks, copyrights, and other Intellectual Property rights customary for companies of similar size and in the same industry as Borrower which would not result in a legal transfer of title of such licensed Intellectual Property, but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discrete geographical areas outside of the United States;
(g) the Disposition of property (i) from any Loan Party to any other Loan Party (other than Holdings), and (ii) from any Group Member (which is not a Loan Party) to any other Group Member; provided that in each case in which there is a Lien over the relevant property in favor of the Administrative Agent in advance of the Disposition, an equivalent Lien will be granted to the Administrative Agent by the Group Member which acquires the property;
(h) Dispositions of property subject to a Casualty Event;
(i) leases or subleases of real property;
(j) the sale or discount without recourse of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof.
(k) Dispositions of other property having a book value not to exceed $1,000,000 in the aggregate for any fiscal year of Holdings, provided that at the time of any such Disposition, no Event of Default shall have occurred and be continuing or would result from such Disposition; and
(l) Restricted Payments permitted by Section 7.6, Investments permitted by Section 7.8 and Liens permitted by Section 7.3.
provided, however, that any Disposition made pursuant to this Section 7.5 (other than Dispositions (x) solely between Loan Parties, (y) Dispositions solely between Group Members that are not Loan Parties or (z) Dispositions between a Loan Party and a Group Member that is not a Loan Party in which the terms thereof in favor of a Loan Party are at least arm’s length terms) shall be made in good faith on an arm’s length basis for fair value.

7.6 Restricted Payments. Pay any earn-out payment, seller debt or deferred purchase price payments, declare or pay any dividend (other than dividends payable solely in Capital Stock (other than Disqualified Stock) of the Person making such dividend) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of any Group Member, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of any Group Member (collectively, "Restricted Payments"), except that, so long as no Event of Default shall have occurred and be continuing at the time of any action described below or would result therefrom:

(a) any Group Member may make Restricted Payments to any Loan Party (other than Holdings) and any Group Member that is not a Loan Party may make Restricted Payments to any other Group Member;

(b) each Loan Party may, (i) purchase Capital Stock from present or former officers, directors or employees of any Group Member upon the death, disability or termination of employment of such officer, director or employee; provided that the aggregate amount of payments made under this clause (i) shall not exceed $1,000,000 (or such greater amount as the Administrative Agent shall agree in its sole discretion) during any fiscal year of Holdings, and (ii) declare and make dividend payments or other distributions payable solely in Capital Stock (other than Disqualified Stock) of Holdings;

(c) any Group Member may pay dividends to Holdings to permit Holdings to (i) pay corporate overhead expenses incurred in the ordinary course of business not to exceed $250,000 in any fiscal year and (ii) pay any taxes that are due and payable by Holdings, including by Holdings and the Borrower as part of a consolidated group;

(d) each Group Member may purchase, redeem or otherwise acquire Capital Stock issued by it with the proceeds received from the substantially concurrent issue of new shares of its Capital Stock (other than Disqualified Stock); provided that any such issuance is otherwise permitted hereunder;

(e) each Group Member may deliver its common Capital Stock upon conversion of any convertible Indebtedness having been issued by the Borrower; provided that such Indebtedness is otherwise permitted by Section 7.2, and

(f) the Group Members may make earn-out payments, payments in respect of seller debt or deferred purchase price payments in connection with a Permitted Acquisition so long as immediately after giving effect to such payment the Cash Balance as of the date of such payment shall equal or exceed the Cash Balance Threshold.
7.8 Investments. Make any advance, loan, extension of credit (by way of guarantee or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or any assets constituting a business unit of, or make any other investment in, any Person (all of the foregoing, “Investments”), except:

(a) extensions of trade credit in the ordinary course of business;
(b) Investments in cash and Cash Equivalents;
(c) Guarantee Obligations permitted by Section 7.2;
(d) loans and advances to employees, officers, consultants and directors of any Group Member in the ordinary course of business (including for travel, entertainment and relocation expenses) in an aggregate amount for all Group Members not to exceed $500,000 at any one time outstanding (or such greater amount as the Administrative Agent shall agree in its sole discretion);
(e) Investments existing on the Closing Date and set forth on Schedule 7.8(e);
(f) intercompany Investments by (i) any Loan Party in any other Loan Party or (ii) any Group Member that is not a Loan Party in any other Group Member, or (iii) any Loan Party in any Group Member that is not a Loan Party to the extent (x) no Default or Event of Defaults exists or would result therefrom and (y) such Investments do not exceed $500,000 in any fiscal year (or such greater amount as the Administrative Agent shall agree in its sole discretion);
(g) Investments in the ordinary course of business consisting of endorsements of negotiable instruments for collection or deposit;
(h) Investments received in settlement of amounts due to any Group Member effected in the ordinary course of business or owing to such Group Member as a result of Insolvency Proceedings involving an Account Debtor or upon the foreclosure or enforcement of any Lien in favor of such Group Member;
(i) Investments held by any Person as of the date such Person is acquired in connection with a Permitted Acquisition, provided that (A) such Investments were not made, in any case, by such Person in connection with, or in contemplation of, such Permitted Acquisition, and (B) with respect to any such Person which becomes a Subsidiary as a result of such Permitted Acquisition, such Subsidiary remains the only holder of such Investment (except in the case of Cash Equivalents);
(j) so long as no Event of Default exists at the time of such Investment or immediately after giving effect thereto, in addition to Investments otherwise expressly permitted by this Section, any Investments in an aggregate amount not to exceed $1,000,000 in any fiscal year;
(k) deposits made to secure the performance of leases, licenses or contracts in the ordinary course of business, and other deposits made in connection with the incurrence of Liens permitted under Section 7.3;
(l) the licensing or contribution of Intellectual Property pursuant to joint marketing or joint venture arrangements with other Persons in the ordinary course of business;
(m) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 7.5, to the extent not exceeding the limits specified therein with respect to the receipt of non-cash consideration in connection with such Dispositions; and
(n) purchases or other acquisitions by any Group Member of the Capital Stock in a Person that, upon the consummation thereof, will be a Subsidiary (including as a result of a merger or consolidation) or all or substantially all of the assets of, or assets constituting one or more business units of, any Person (each, a “Permitted Acquisition”); provided that, with respect to each such purchase or other acquisition:
(i) the newly-created or acquired Subsidiary (or assets acquired in connection with such asset sale) shall be (x) in the same or a related line of business as that conducted by the Borrower on the date hereof, or (y) in a business permitted by Section 7.17;

(ii) all transactions related to such purchase or acquisition shall be consummated in all material respects in accordance with all Requirements of Law;

(iii) no Loan Party shall, as a result of or in connection with any such purchase or acquisition, assume or incur any direct or contingent liabilities (whether relating to environmental, tax, litigation or other matters) that, as of the date of such purchase or acquisition, could reasonably be expected to result in the existence or incurrence of a Material Adverse Effect;

(iv) the Borrower shall give the Administrative Agent at least twenty (20) Business Days’ prior written notice of the closing (or if execution of the Acquisition Agreement will occur simultaneously with closing, then ten (10) Business Days prior notice, or such shorter period as the Administrative Agent may agree to) of any such purchase or acquisition;

(v) the Borrower shall provide to the Administrative Agent as soon as available but in any event not later than five (5) Business Days after the execution thereof, a copy of any executed purchase agreement or similar agreement with respect to any such purchase or acquisition;

(vi) any such newly-created or acquired Subsidiary, or the Loan Party that is the acquirer of assets in connection with an asset acquisition, shall comply or be prepared to comply with the requirements of Section 6.12, except to the extent compliance with Section 6.12 is prohibited by pre-existing Contractual Obligations or Requirements of Law binding on such Subsidiary or its properties;

(vii) the Cash Balance shall equal or exceed the Cash Balance Threshold before and immediately after giving effect to such purchase or other acquisition;

(viii) immediately before and immediately after giving effect to any such purchase or other acquisition, no Default or Event of Default shall have occurred and be continuing;

(ix) no Indebtedness is assumed or incurred in connection with any such purchase or acquisition other than Indebtedness permitted by the terms of Section 7.2;

(x) such purchase or acquisition shall not constitute an Unfriendly Acquisition;

(xi) each such purchase or acquisition is of a Person organized under the laws of the United States and engaged in business activities primarily conducted within the United States; and

(xii) the Borrower shall have delivered to the Administrative Agent, at least five (5) Business Days prior to the date on which any such purchase or other acquisition is to be consummated (or such later date as is agreed by the Administrative Agent in its sole discretion), a certificate of a Responsible Officer of Holdings or the Borrower, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this definition have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition.
7.9 ERISA. The Borrower shall not, and shall not permit any of its ERISA Affiliates to: (a) terminate any Pension Plan so as to result in any material liability to the Borrower or any ERISA Affiliate, (b) permit to exist any ERISA Event, or any other event or condition, which presents the risk of a material liability to any ERISA Affiliate, (c) make a complete or partial withdrawal (within the meaning of ERISA Section 4201) from any Multiemployer Plan so as to result in any material liability to the Borrower or any ERISA Affiliate, (d) enter into any new Pension Plan or Multiemployer Plan or modify any existing Pension Plan or Multiemployer Plan so as to increase its obligations thereunder which could be reasonably likely to result in material liability to any ERISA Affiliate or permit the present value of all nonforfeitable accrued benefits under any Plan (using the actuarial assumptions utilized by the PBGC upon termination of a Plan) materially to exceed the fair market value of Plan assets allocable to such benefits, all determined as of the most recent valuation date for each such Plan, or (e) engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by the Administrative Agent or any Lender of any of its rights under this Agreement, any Note or the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under Section 406 of ERISA or Section 4975 of the Code with respect to a Plan.

7.10 Optional Payments and Modifications of Certain Preferred Stock and Debt Instruments. (a) Amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of the Preferred Stock (i) that would move to an earlier date the scheduled redemption date (but only to the extent that moving any such scheduled redemption date would result in the redemption to be prior to ninety-one (91) days after the Revolving Termination Date) or increase the amount of any scheduled redemption payment or increase the rate or move to an earlier date any date for payment of dividends thereon or (ii) that could reasonably be expected to be otherwise materially adverse to any Lender or any other Secured Party; or (b) other than pursuant to any refinancing or replacement of Indebtedness permitted by Section 7.2, amend, modify, waive or otherwise change, or consent or agree to any amendment, modification, waiver or other change to, any of the terms of any Indebtedness permitted by Section 7.2 (other than Indebtedness pursuant to any Loan Document and Subordinated Indebtedness which is addressed in Section 7.22) that would shorten the maturity (but only to the extent such shortening, would result in the maturity of such Indebtedness to be prior to ninety-one (91) days after the Revolving Termination Date) or increase the amount of any payment of principal thereof or the rate of interest thereon or shorten any date for payment of interest thereon or that could reasonably be expected to be otherwise materially adverse to any Lender or any other Secured Party.

7.11 Transactions with Affiliates. Enter into any transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than any other Loan Party) unless such transaction is (a) (i) otherwise permitted under this Agreement, (ii) in the ordinary course of business of the relevant Group Member and (iii) upon fair and reasonable terms no less favorable to the relevant Group Member than it would obtain in a comparable arm’s length transaction with a Person that is not an Affiliate, (b) a Restricted Payment permitted by Section 7.6 or (c) reasonable and customary indemnification arrangements, employee benefits, compensation arrangements (including equity-based compensation and bonuses), and reimbursement of expenses of employees, consultants, officers, and directors, in each case, approved by the board of directors or management of Holdings or its Subsidiaries except for (i) reasonable and customary fees paid to members of the board of directors of Borrower or any of its Subsidiaries in the ordinary course of business, (ii) bona fide equity and unsecured bridge financings with existing investors so long as any such Indebtedness is Subordinated Indebtedness, (iii) reasonable and customary employment compensation arrangements with executive officers in the ordinary course of business approved by the applicable Loan Party’s board of directors, (iv) non-cash 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 or such Subsidiary’s board of directors, (v) Permitted Investments, and (vi) the transactions described in and permitted by Section 7.6 of this Agreement.
7.12 Sale Leaseback Transactions. Enter into any Sale Leaseback Transaction, except in connection with transactions that would be permitted under Sections 7.2(e) and 7.3(g).

7.13 Swap Agreements. Enter into any Swap Agreement, except Swap Agreements which are entered into by a Group Member to (a) hedge or mitigate risks to which such Group Member has actual exposure, or (b) effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of such Group Member.

7.14 Accounting Changes. Make any change in its (a) accounting policies or reporting practices, except as required by GAAP or permitted under newly announced GAAP, or (b) fiscal year.

7.15 Negative Pledge Clauses. Enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of any Loan Party to create, incur, assume or suffer to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired, to secure its Obligations under the Loan Documents to which it is a party, other than (a) this Agreement and the other Loan Documents, (b) any agreements governing any purchase money Liens or Capital Lease Obligations otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby), (c) customary restrictions on the assignment of leases, licenses and other agreements, (d) any agreement in effect at the time any Subsidiary becomes a Subsidiary of a Loan Party, so long as such agreement was not entered into solely in contemplation of such Person becoming a Subsidiary or, in any such case, that is set forth in any agreement evidencing any amendments, restatements, supplements, modifications, extensions, renewals and replacements of the foregoing, so long as such amendment, restatement, supplement, modification, extension, renewal or replacement applies only to such Subsidiary and does not otherwise expand in any material respect the scope of any restriction or condition contained therein, and (e) any restriction pursuant to any document, agreement or instrument governing or relating to any Lien permitted under Sections 7.3(c), (d), (f), (g), (l), (m), (n) or (s) or any agreement or option to Dispose any asset of any Group Member, the Disposition of which is permitted by any other provision of this Agreement (in each case, provided that any such restriction relates only to the assets or property subject to such Lien or being Disposed).

7.16 Clauses Restricting Subsidiary Distributions. Enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary of Holdings to (a) make Restricted Payments in respect of any Capital Stock of such Subsidiary held by, or to pay any Indebtedness owed to, any other Group Member, (b) make loans or advances to, or other Investments in, any other Group Member, or (c) transfer any of its assets to any other Group Member, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to a Subsidiary imposed pursuant to an agreement that has been entered into in connection with a Disposition permitted hereby of all or substantially all of the Capital Stock or assets of such Subsidiary, (iii) customary restrictions on the assignment of leases, licenses and other agreements, (iv) restrictions of the nature referred to in clause (c) above under agreements governing purchase money liens or Capital Lease Obligations otherwise permitted hereby which restrictions are only effective against the assets financed thereby, (v) any agreement in effect at the time any Subsidiary becomes a Subsidiary of a Borrower, so long as such agreement applies only to such Subsidiary, was not entered into solely in contemplation of such Person becoming a Subsidiary or, in each case that is set forth in any agreement evidencing any amendments, restatements, supplements, modifications, extensions, renewals and replacements of the foregoing, so long as such amendment, restatement, supplement, modification, extension, renewal or replacement is not as a whole materially less
favorable to such Subsidiary, (vi) restrictions under any Subordinated Debt Documents, (vii) restrictions on the transfer of any asset pending the close of the sale of such asset and customary restrictions contained in purchase agreements and acquisition agreements (including by way of merger, acquisition or consolidation), to the extent in effect pending the consummation of such transaction, (viii) customary net worth provisions or similar financial maintenance provisions contained in real property leases entered into by a Foreign Subsidiary, so long as the Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of Holdings and its Subsidiaries to meet their ongoing obligations under the Loan Documents, (ix) applicable law, (x) restrictions on cash or other deposits or net worth imposed under agreements entered into in the ordinary course of business, (xi) provisions in joint venture agreements and other similar agreements (including equity holder agreements) relating to such joint venture or its members or entered into in the ordinary course of business or (xii) any restriction pursuant to any document, agreement or instrument governing or relating to any Lien permitted under Sections 7.3(c), (d), (f), (g), (l), (m), (n) or (a) (provided that any such restriction relates only to the assets or property subject to such Lien or being Disposed).

7.17 Lines of Business. Enter into any business, either directly or through any Subsidiary, except for those businesses in which Holdings and its Subsidiaries are engaged on the date of this Agreement or that are reasonably related, ancillary or incidental thereto.

7.18 Designation of other Indebtedness. Designate any Indebtedness or indebtedness other than the Obligations as “Designated Senior Indebtedness” or a similar concept thereto, if applicable.

7.19 [Reserved].

7.20 Organizational Agreements; Material Contracts. (a) Amend or permit any amendments to any Loan Party’s Operating Documents, if such amendment could reasonably be expected to be materially adverse to Administrative Agent or the Lenders or (b) amend or permit any amendments to, or terminate or waive any provision of, any material Contractual Obligation if such amendment, termination, or waiver could reasonably be expected to have a Material Adverse Effect.

7.21 Use of Proceeds. Use the proceeds of any Loan or extension of credit hereunder, whether directly or indirectly, (a) to purchase or carry margin stock (within the meaning of Regulation U of the Board) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case in violation of, or for a purpose which violates, or would be inconsistent with, Regulation T, U or X of the Board; (b) to finance an Unfriendly Acquisition; (c) to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swingline Lender, or otherwise) of Sanctions (or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity in violation of the foregoing); or (d) for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, or other similar legislation in other jurisdictions.

7.22 Subordinated Indebtedness.

(a) Amendments. Amend, modify, supplement, waive compliance with, or consent to noncompliance with, any Subordinated Debt Document (if any), unless the amendment, modification, supplement, waiver or consent is in compliance with the subordination provisions therein and any subordination agreement with respect thereto in favor of the Administrative Agent and the Lenders.
(b) Payments. Make any payment, prepayment or repayment on, redemption, exchange or acquisition for value of, or any sinking fund or similar payment with respect to, any Subordinated Indebtedness, except as expressly permitted by the subordination provisions in the applicable Subordinated Debt Documents and any subordination agreement with respect thereto in favor of the Administrative Agent and the Lenders.

7.23 Anti-Terrorism Laws. Conduct, deal in or engage in or permit any Affiliate or agent of any Loan Party within its control to conduct, deal in or engage in any of the following activities:

(a) conduct any business or engage in any transaction or dealing with any person blocked pursuant to Executive Order No. 13224 (a “Blocked Person”), including the making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person; (b) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (c) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or the Patriot Act.

SECTION 8
EVENTS OF DEFAULT

8.1 Events of Default. The occurrence of any of the following shall constitute an Event of Default:

(a) the Borrower shall fail to pay any amount of principal of any Loan when due in accordance with the terms hereof; or the Borrower shall fail to pay any amount of interest on any Loan, or any other amount payable hereunder or under any other Loan Document, within three (3) Business Days after any such interest or other amount becomes due in accordance with the terms hereof; or

(b) any representation or warranty made or deemed made by any Loan Party hereunder or in any other Loan Document or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document (i) if qualified by materiality, shall be incorrect or misleading when made or deemed made, or (ii) if not qualified by materiality, shall be incorrect or misleading in any material respect when made or deemed made; or

(c) any Loan Party shall default in the observance or performance of any agreement contained in, Section 5.3, Section 6.1, Section 6.2, Section 6.3, Section 6.5, Section 6.6, Section 6.8, Section 6.10, Section 6.16 or Section 7 of this Agreement; or

(d) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document (other than as provided in paragraphs (a) through (c) of this Section), and such default shall continue unremedied for a period of thirty (30) days thereafter; provided, however, that if the default cannot by its nature be cured within the thirty (30) day period or cannot after diligent attempts by the Borrower be cured within such thirty (30) day period, and such default is likely to be cured within a reasonable time as reasonably determined by the Administrative Agent, then the Borrower shall have an additional period (which shall not in any case exceed sixty (60) 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 additional cure period); or
(e) (i) any Group Member shall (A) default in making any payment of any principal of any Indebtedness (including any Guarantee Obligation, but excluding the Loans) on the scheduled or original due date with respect thereto (taking into account all applicable extension periods); (B) default in making any payment of any interest, fees, costs or expenses on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; (C) default in making any payment or delivery under any such Indebtedness constituting a Swap Agreement beyond the period of grace, if any, provided in such Swap Agreement; or (D) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to (1) cause, or to permit the holder or beneficiary of, or, in the case of any such Indebtedness constituting a Swap Agreement, counterparty under, such Indebtedness (or a trustee or agent on behalf of such holder, beneficiary, or counterparty) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or (in the case of any such Indebtedness constituting a Guarantee Obligation) to become payable or (in the case of any such Indebtedness constituting a Swap Agreement) to be terminated, or (2) to cause, with the giving of notice if required, any Group Member to purchase, redeem, mandatorily prepay or make an offer to purchase, redeem or mandatorily prepay such Indebtedness prior to its stated maturity; provided that, unless such Indebtedness constitutes a Specified Swap Agreement, a default, event or condition described in clauses (A), (B), (C), or (D) of this Section 8.1(e) shall not at any time constitute an Event of Default unless, at such time, one or more defaults, events or conditions of the type described in any of clauses (A), (B), (C), or (D) of this Section 8.1(e) shall have occurred with respect to Indebtedness, the outstanding principal amount (and, in the case of Swap Agreements, other than Specified Swap Agreements, the Swap Termination Value) of which, individually or in the aggregate for all such Indebtedness, exceeds $5,000,000 or (ii) any default or event of default (however designated) shall occur with respect to any Subordinated Indebtedness of any Group Member in an aggregate principal amount exceeding $1,000,000; provided, however, that the Event of Default under this Section 8.1(e) caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon the Administrative Agent receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) the Administrative Agent has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith business judgment of the Administrative Agent be materially less advantageous to the Borrower or any Guarantor; or

(f) (i) any Group Member shall commence any case, proceeding or other action (a) under any Debtor Relief Law seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (b) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or any Group Member shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any Group Member any case, proceeding or other action of a nature referred to in clause (i) above that (x) results in the entry of an order for relief or any such adjudication or appointment or (y) remains undismissed, undischarged or unbonded for a period of sixty (60) days (provided that, during such sixty (60) day period, no Loan shall be advanced or Letters of Credit issued hereunder); or (iii) there shall be commenced against any Group Member any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof (provided that, during such sixty (60) day period, no Loan shall be advanced or Letters of Credit issued hereunder); or (iv) any Group Member shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) any Group Member shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or
(g) there shall occur on or more ERISA Events which individually or in the aggregate results in or otherwise is associated with liability of any Loan Party or any ERISA Affiliate thereof in excess of $5,000,000 during the term of this Agreement; or there exists an amount of unfunded benefit liabilities (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans (excluding for purposes of such computation any Pension Plans with respect to which assets exceed benefit liabilities) which exceeds $5,000,000; or

(h) there is entered against any Group Member (i) one or more final judgments or orders for the payment of money involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has acknowledged coverage) of $5,000,000 or more, or (ii) one or more non-monetary final judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within forty five (45) days from the entry thereof; or

(i) (i) any of the Security Documents shall cease, for any reason (other than as a result of the action or inaction of the Administrative Agent or any Lender), to be in full force and effect (other than pursuant to the terms thereof), or any Loan Party shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby; or

(ii) any court order enjoins, restrains or prevents a Loan Party from conducting all or any material part of its business; or

(j) the guarantee contained in Section 2 of the Guarantee and Collateral Agreement shall cease, for any reason, to be in full force and effect or any Loan Party shall so assert; or

(k) a Change of Control shall occur; or

(l) Holdings shall (i) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than those incidental to its ownership of the Capital Stock of its Subsidiaries, (ii) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (x) nonconsensual obligations imposed by operation of law, (y) obligations pursuant to the Loan Documents to which it is a party, and (z) obligations with respect to its Capital Stock or other Indebtedness permitted hereunder, or (iii) own, lease, manage or otherwise operate any properties or assets other than the ownership of shares of Capital Stock of its Subsidiaries; or

(m) any of the Governmental Approvals necessary for any of the Group Members to operate its respective business shall have been (i) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (ii) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of the Governmental Approvals or that could result in the Governmental Authority taking any of the actions described in clause (i) above, and such decision or such revocation, rescission, suspension, modification or nonrenewal (x) has, or could reasonably be expected to have, a Material Adverse Effect, or (y) materially adversely affects the legal qualifications of any Group Member to hold any material Governmental Approval in any applicable jurisdiction and such materially adverse effect on the legal qualifications of any such Group Member to hold any material Governmental Approval in any applicable jurisdiction could reasonably be expected to have a Material Adverse Effect; or
(n) any Loan Document (including the subordination provisions of any subordination agreement or intercreditor agreement governing Subordinated Indebtedness) not otherwise referenced in Section 8.1(i) or (j), at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or the Discharge of Obligations, ceases to be in full force and effect; (other than as a result of the action or inaction of the Administrative Agent or any Lender); or any Loan Party or any other Person contests in any manner the validity or enforceability of any Loan Document; or any Loan Party denies that it has any liability or obligation under any Loan Document to which it is a party, or purports to revoke, terminate or rescind any such Loan Document; or

(o) the Administrative Agent determines, in its good faith business judgment, that a Material Adverse Effect has occurred.

8.2 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

(a) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (f) of Section 8.1 with respect to the Borrower, the Commitments shall immediately terminate automatically and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall automatically immediately become due and payable, and

(b) if such event is any other Event of Default, any of the following actions may be taken: (i) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower declare the Revolving Commitments, the Swingline Commitments and the L/C Commitments to be terminated forthwith, whereupon the Revolving Commitments, the Swingline Commitments and the L/C Commitments shall immediately terminate; (ii) with the consent of the Required Lenders, the Administrative Agent may, or upon the request of the Required Lenders, the Administrative Agent shall, by notice to the Borrower, declare the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable; (iii) any Cash Management Bank may terminate any Cash Management Agreement then outstanding and declare all Obligations then owing by the Loan Parties under any such Cash Management Agreements then outstanding and declare all Obligations then owning by the Loan Parties under any such Cash Management Agreements then outstanding to be due and payable forthwith, whereupon the same shall immediately become due and payable; and (iv) the Administrative Agent may exercise on behalf of it, any Cash Management Bank, the Lenders and the Issuing Lender all rights and remedies available to it, any such Cash Management Bank, the Lenders and the Issuing Lender under the Loan Documents.

With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall Cash Collateralize an amount equal to 105% of the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts so Cash Collateralized shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay other Obligations of the Borrower hereunder and under the other Loan Documents in accordance with Section 8.3.
In addition, (x) the Borrower shall also cash collateralize the full amount of any Swingline Loans then outstanding, and (y) to the extent elected by any applicable Cash Management Bank, the Borrower shall also Cash Collateralize the amount of any Obligations in respect of Cash Management Services then outstanding, which Cash Collateralized amounts shall be applied by the Administrative Agent to the payment of all such outstanding Cash Management Services, and any unused portion thereof remaining after all such Cash Management Services shall have been fully paid and satisfied in full shall be applied by the Administrative Agent to repay other Obligations of the Loan Parties hereunder and under the other Loan Documents in accordance with the terms of Section 8.3.

(c) After all such Letters of Credit and Cash Management Agreements shall have been terminated, expired or fully drawn upon, as applicable, and all amounts drawn under any such Letters of Credit shall have been reimbursed in full and all other Obligations of the Borrower and the other Loan Parties (including any such Obligations arising in connection with Cash Management Services) shall have been paid in full, the balance, if any, of the funds having been so Cash Collateralized shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto). Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived by the Borrower.

8.3 Application of Funds. After the exercise of remedies provided for in Section 8.2, any amounts received by the Administrative Agent on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to the payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest but including any Collateral-Related Expenses, fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Sections 2.19, 2.20 and 2.21 (including interest thereon)) payable to the Administrative Agent, in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, and Letter of Credit Fees) payable to the Lenders, the Issuing Lender (including any Letter of Credit Fronting Fees and Issuing Lender Fees), and any Qualified Counterparty and any applicable Cash Management Bank (in its respective capacity as a provider of Cash Management Services), and the reasonable and documented out-of-pocket fees, charges and disbursements of counsel to the respective Lenders and the Issuing Lender, and amounts payable under Sections 2.19, 2.20 and 2.21, in each case, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to the extent that the Swingline Lender has advanced any Swingline Loans that have not been refunded by each Lender’s Swingline Participation Amount, payment to the Swingline Lender of that portion of the Obligations constituting the unpaid principal of and interest upon the Swingline Loans advanced by the Swingline Lender;

Fourth, to the payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest in respect of any Cash Management Services and on the Loans and L/C Disbursements which have not yet been converted into Revolving Loans, and to payment of premiums and other fees (including any interest thereon) under any Specified Swap Agreements and any Cash Management Agreements, in each case, ratably among the Lenders, any applicable Cash Management Bank (in its respective capacity as a provider of Cash Management Services), and any Qualified Counterparties, in each case, ratably among them in proportion to the respective amounts described in this clause Fourth payable to them;
Fifth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Disbursements which have not yet been converted into Revolving Loans, and settlement amounts, payment amounts and other termination payment obligations under any Specified Swap Agreements and Cash Management Agreements, in each case, ratably among the Lenders, any applicable Cash Management Bank (in its respective capacity as a provider of Cash Management Services), and any applicable Qualified Counterparties, in each case, ratably among them in proportion to the respective amounts described in this clause Fifth and payable to them;

Sixth, to the Administrative Agent for the account of the Issuing Lender, to Cash Collateralize that portion of the L/C Exposure comprised of the aggregate undrawn amount of Letters of Credit pursuant to Section 3.10;

Seventh, for the account of any applicable Qualified Counterparty and any applicable Cash Management Bank, to any settlement amounts, payment amounts and other termination payment obligations under any Specified Swap Agreements and Cash Management Agreements not paid pursuant to clause Fifth and to cash collateralize Obligations arising under any then outstanding Specified Swap Agreements and Cash Management Services, in each case, ratably among them in proportion to the respective amounts described in this clause Seventh payable to them;

 Eighth, to the payment of all other Obligations of the Loan Parties that are then due and payable to the Administrative Agent and the other Secured Parties on such date, in each case, ratably among them in proportion to the respective aggregate amounts of all such Obligations described in this clause Eighth and payable to them;

Last, the balance, if any, after the Discharge of Obligations, to the Borrower or as otherwise required by Law.

Subject to Sections 2.24(a), 3.4, 3.5 and 3.10, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Sixth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral for Letters of Credit after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Notwithstanding the foregoing, no Excluded Swap Obligation of any Guarantor shall be paid with amounts received from such Guarantor or from any Collateral in which such Guarantor has granted to the Administrative Agent a Lien (for the benefit of the Secured Parties) pursuant to the Guarantee and Collateral Agreement; provided, however, that each party to this Agreement hereby acknowledges and agrees that appropriate adjustments shall be made by the Administrative Agent (which adjustments shall be controlling in the absence of manifest error) with respect to payments received from other Loan Parties to preserve the allocation of such payments to the satisfaction of the Obligations in the order otherwise contemplated in this Section 8.3.

SECTION 9
THE ADMINISTRATIVE AGENT

9.1 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints SVB to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto.
(b) The provisions of Section 9 are solely for the benefit of the Administrative Agent, the Lenders, the Issuing Lender, and the Swingline Lender, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or obligations, except those expressly set forth herein and in the other Loan Documents, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise against the Administrative Agent. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(c) The Administrative Agent shall also act as the collateral agent under the Loan Documents, and each of the Lenders (in their respective capacities as a Lender and, as applicable, Qualified Counterparty and provider of Cash Management Services) hereby irrevocably (i) authorizes the Administrative Agent to enter into all other Loan Documents, as applicable, including the Guarantee and Collateral Agreement and any Subordination Agreements, and (ii) appoints and authorizes the Administrative Agent to act as the agent of the Secured Parties for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. The Administrative Agent, as collateral agent and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.2 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Section 9 and Section 10 (including Section 9.7, as though such co-agents, sub-agents and attorneys-in-fact were the collateral agent under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Administrative Agent is further authorized on behalf of all the Lenders, without the necessity of any notice to or further consent from the Lenders, from time to time to take any action, or permit the any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent to take any action, with respect to any Collateral or the Loan Documents which may be necessary to perfect and maintain perfected the Liens upon any Collateral granted pursuant to any Loan Document.

9.2 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facilities provided for herein as well as activities as the Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.3 Exculpatory Provisions. The Administrative Agent shall have no duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder and thereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent shall not:
(a) be subject to any fiduciary or other implied duties, regardless of whether any Default or any Event of Default has occurred and is continuing;

(b) have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), as applicable; provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and the Administrative Agent shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by any Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 8.2 and 10.1), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Section 5.1, Section 5.2 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for any of the Loan Parties), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes.
unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or such other number or percentage of Lenders as shall be provided for herein or in the other Loan Documents) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or such other number or percentage of Lenders as shall be provided for herein or in the other Loan Documents), and such request and any action taken or failure to act pursuant thereto shall be binding upon the Lenders and all future holders of the Loans.

9.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has received notice in writing from a Lender, Holdings, or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all Lenders); provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action or refrain from taking such action with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

9.6 Non-Reliance on Administrative Agent and Other Lenders. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys in fact or Affiliates has made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of a Group Member or any Affiliate of a Group Member, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties, and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, operations, property, financial and other condition and creditworthiness of the Group Members and their Affiliates and made its own credit analysis and decision to make its Loans hereunder and enter into this Agreement. Each Lender also agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, the other Loan Documents or any related agreement or any document furnished hereunder or thereunder, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Group Members and their Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall have no duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Group Member or any Affiliate of a Group Member that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys in fact or Affiliates.

9.7 Indemnification. Each of the Lenders agrees to indemnify each of the Administrative Agent, the Issuing Lender and the Swingline Lender and each of its Related Parties in its capacity as such (to the extent not reimbursed by Holdings, the Borrower or any other Loan Party and without limiting the
obligation of Holdings, the Borrower or any other Loan Party to do so) according to its Aggregate Exposure Percentage in effect on the date on which indemnification is sought under this Section 9.7 (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, in accordance with its Aggregate Exposure Percentage immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against the Administrative Agent or such other Person in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Administrative Agent or such other Person under or in connection with any of the foregoing and any other amounts not reimbursed by Holdings, the Borrower or such other Loan Party; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted primarily from the Administrative Agent’s or such other Person’s gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder.

9.8 Agent in Its Individual Capacity. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower, Holdings or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

9.9 Successor Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.
(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Secured Parties under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed and such collateral security is assigned to such successor Administrative Agent) and (ii) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent’s resignation or removal hereunder and under the other Loan Documents, the provisions of Section 9 and Section 10.5 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as the Administrative Agent.

9.10 Collateral and Guaranty Matters.

(a) The Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion,

(i) to release any Lien on any Collateral or other property granted to or held by the Administrative Agent under any Loan Document (i) upon the Discharge of Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable Issuing Lender shall have been made), (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document, or (iii) subject to Section 10.1, if approved, authorized or ratified in writing by the Required Lenders;

(ii) to subordinate any Lien on any Collateral or other property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Sections 7.3 (g) and (i); and

(iii) to release any Guarantor from its obligations under the Guarantee and Collateral Agreement if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent’s authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the guaranty pursuant to this Section 9.10.

(b) The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent’s Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.
(c) Notwithstanding anything contained in any Loan Document, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any guaranty of the Obligations (including any such guaranty provided by the Guarantors pursuant to the Guarantee and Collateral Agreement), it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof; provided that, for the avoidance of doubt, in no event shall a Secured Party be restricted hereunder from filing a proof of claim on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law or any other judicial proceeding. In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Secured Party may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Administrative Agent, as agent for and representative of such Secured Party (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Administrative Agent on behalf of the Secured Parties at such sale or other disposition. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the guarantees of the Obligations provided by the Loan Parties under the Guarantee and Collateral Agreement, to have agreed to the foregoing provisions. In furtherance of the foregoing, and not in limitation thereof, no Specified Swap Agreement and no Cash Management Agreement, the Obligations under which constitute Obligations, will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the Obligations of any Loan Party under any Loan Document except as expressly provided herein or in the Guarantee and Collateral Agreement. By accepting the benefits of the Collateral and of the guarantees of the Obligations provided by the Loan Parties under the Guarantee and Collateral Agreement, any Secured Party that is a Cash Management Bank or a Qualified Counterparty shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and to have agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

9.11 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or Obligation in respect of any Letter of Credit shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Obligations in respect of any Letter of Credit and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.9 and 10.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;
and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.9 and 10.5.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

9.12 No Other Duties, etc. Anything herein to the contrary notwithstanding, the Lead Arranger listed on the cover page hereof shall not have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender, the Issuing Lender or the Swingline Lender hereunder.

9.13 Cash Management Bank and Qualified Counterparty Reports. Each Cash Management Bank and each Qualified Counterparty agrees to furnish to the Administrative Agent, as frequently as the Administrative Agent may reasonably request, with a summary of all Obligations in respect of Cash Management Services and/or Specified Swap Agreements, as applicable, due or to become due to such Cash Management Bank or Qualified Counterparty, as applicable. In connection with any distributions to be made hereunder, the Administrative Agent shall be entitled to assume that no amounts are due to any Cash Management Bank or Qualified Counterparty (in its capacity as a Cash Management Bank or Qualified Counterparty and not in its capacity as a Lender) unless the Administrative Agent has received written notice thereof from such Cash Management Bank or Qualified Counterparty and if such notice is received, the Administrative Agent shall be entitled to assume that the only amounts due to such Cash Management Bank or Qualified Counterparty on account of Cash Management Services or Specified Swap Agreements are set forth in such notice.

9.14 Survival. This Section 9 shall survive the Discharge of Obligations.

SECTION 10
MISCELLANEOUS

10.1 Amendments and Waivers.

(a) Neither this Agreement, any other Loan Document (other than any L/C Related Document), nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.1. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Administrative Agent and each Loan Party party to the relevant Loan Document may, from time to time, (i) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights of the Lenders or of the Loan Parties hereunder or thereunder or (ii) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided that no such waiver and no such amendment, supplement or modification shall (A) forgive the principal amount or extend the final scheduled date of maturity of any Loan, reduce the stated rate of any interest or fee payable hereunder (except that no amendment or modification of defined terms used in the financial covenants in this
Agreement or waiver of any Default or Event of Default or the right to receive the Default Rate shall constitute a reduction in the rate of interest or fees for purposes of this clause (A)) or extend the scheduled date of any payment thereof, or increase the amount or extend the expiration date of any Lender’s Revolving Commitment, in each case, without the written consent of each Lender directly affected thereby (except that no waiver of any Overadvance repayment shall be considered such an extension); (B) eliminate or reduce the voting rights of any Lender under this Section 10.1 without the written consent of such Lender; (C) reduce any percentage specified in the definition of Required Lenders, consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement and the other Loan Documents, release all or substantially all of the Collateral or release all or substantially all the value of the guarantees (taken as a whole) of the Guarantors from their obligations under the Guarantee and Collateral Agreement, in each case without the written consent of all Lenders; (D) (i) amend, modify or waive the pro rata requirements of Section 2.18 or any other provision of the Loan Documents requiring pro rata treatment of the Lenders in a manner that adversely affects Revolving Lenders without the written consent of each Revolving Lender or (ii) amend, modify or waive the pro rata requirements of Section 2.18 or any other provision of the Loan Documents requiring pro rata treatment of the Lenders in a manner that adversely affects the L/C Lenders without the written consent of each L/C Lender; (E) amend or otherwise modify the definition of the term “Borrowing Base” or any component definition thereof if, as a result thereof, the amounts available to be borrowed by the Borrower would be increased, without the written consent of all Lenders; (F) amend, modify or waive any provision of Section 9 without the written consent of the Administrative Agent; (G) amend, modify or waive any provision of Section 2.6 or 2.7 without the written consent of the Swingline Lender; (H) amend, modify or waive any provision of Section 3 without the written consent of the Issuing Lender; or (I) (i) amend or modify the application of payments set forth in Section 8.3 in a manner that adversely affects Revolving Lenders without the written consent of each affected Revolving Lender, (ii) amend or modify the application of payments set forth in Section 8.3 in a manner that adversely affects L/C Lenders without the written consent of the L/C Lenders, or (iii) amend or modify the application of payments provisions set forth in Section 8.3 in a manner that adversely affects the Issuing Lender, any Cash Management Bank or any Qualified Counterparty, as applicable, without the written consent of the Issuing Lender, such Cash Management Bank or any such Qualified Counterparty, as applicable. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Administrative Agent, the Issuing Lender, each Cash Management Bank, each Qualified Counterparty, and all future holders of the Loans. In the case of any waiver, the Loan Parties, the Lenders and the Administrative Agent shall be restored to their former position and rights hereunder and under the other Loan Documents, and any Default or Event of Default waived shall be deemed to be cured during the period such waiver is effective; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. Notwithstanding the foregoing, the Issuing Lender may amend any of the L/C Documents without the consent of the Administrative Agent or any other Lender and the Issuing Lender, Administrative Agent and the Borrower may make customary technical amendments if any Letter of Credit shall be issued hereunder in a currency other than U.S. Dollars. Notwithstanding the foregoing, the Issuing Lender may amend any of the L/C-Related Documents without the consent of the Administrative Agent or any other Lender. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Revolving Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.
(b) Notwithstanding anything to the contrary contained in Section 10.1(a) above, in the event that the Borrower requests that this Agreement or any of the other Loan Documents be amended or otherwise modified in a manner which would require the consent of all of the Lenders and such amendment or other modification is agreed to by the Borrower, the Required Lenders and the Administrative Agent, then, with the consent of the Borrower, the Administrative Agent and the Required Lenders, this Agreement or such other Loan Document may be amended without the consent of the Lender or Lenders who are unwilling to agree to such amendment or other modification (each, a “Minority Lender”), to provide for:

(i) the termination of the Commitment of each such Minority Lender;

(ii) the assumption of the Loans and Commitment of each such Minority Lender by one or more Replacement Lenders pursuant to the provisions of Section 2.23; and

(iii) the payment of all interest, fees and other obligations payable or accrued in favor of each Minority Lender and such other modifications to this Agreement or to such Loan Documents as the Borrower, the Administrative Agent and the Required Lenders may determine to be appropriate in connection therewith.

(c) [Reserved]

(d) Notwithstanding any provision herein to the contrary, any Cash Management Agreement may be amended or otherwise modified by the parties thereto in accordance with the terms thereof without the consent of the Administrative Agent or any Lender.

(e) Notwithstanding any provision herein or in any other Loan Document to the contrary, no Cash Management Bank and no Qualified Counterparty shall have any voting or approval rights hereunder (or be deemed a Lender) solely by virtue of its status as the provider or holder of Cash Management Services or Specified Swap Agreements or Obligations owing thereunder, nor shall the consent of any such Cash Management Bank or Qualified Counterparty, as applicable, be required for any matter, other than in their capacities as Lenders, to the extent applicable.

(f) Notwithstanding any other provision, no consent of any Lender (or other Secured Party other than the Administrative Agent) shall be required to effectuate any amendment to implement any Increase permitted by Section 2.27.

(g) The Administrative Agent may, with the consent of the Loan Parties only, amend, modify or supplement this Agreement or any of the Loan Documents to cure any omission, mistake or defect.

10.2 Notices.

(a) All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile or electronic mail), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three (3) Business Days after being deposited in the mail, postage prepaid, or, in the case of facsimile or electronic mail notice, when received, addressed as follows in the case of the Borrower, Holdings and the Administrative Agent, and as set forth in an administrative questionnaire delivered to the Administrative Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto:
Borrower/Holdings: Bill.com, LLC
c/o BDC Payments Holdings, Inc.
1810 Embarcadero Road
Palo Alto, CA 94303
Attention: Doug Reed
E-Mail: dreed@hq.bill.com

with a copy to:
Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105-2669
Attention: Dolph Hellman
E-Mail: dolphhellman@orrick.com

Administrative Agent: Silicon Valley Bank
505 Howard St Floor 3,
San Francisco, CA 94105
Attn: Christopher Vind
E-Mail: CVind@svb.com

with a copy (which shall not constitute notice) to:
Morrison & Foerster LLP
200 Clarendon Street
Boston, MA 02116
Attention: Charles Stavros
E-Mail: CStavros@mofo.com

provided that any notice, request or demand to or upon the Administrative Agent or the Lenders shall not be effective until received.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including email and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender pursuant to Section 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or any Loan Party may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an email address shall be deemed received upon the sender’s receipt of an acknowledgment from the intended recipient (such as by the “return receipt requested” function, as available, return email or other written acknowledgment); and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its email address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.
(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) (i) Each Loan Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Issuing Lender and the other Lenders by posting the Communications on the Platform.

(ii) The Platform is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower or the other Loan Parties, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower’s, any Loan Party’s or the Administrative Agent’s transmission of communications through the Platform. “Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or the Issuing Lender by means of electronic communications pursuant to this Section, including through the Platform.

10.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

10.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Loan Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans and other extensions of credit hereunder.

10.5 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the Facilities, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, and (iii) all out-of-pocket expenses incurred by the Administrative Agent or any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent and the Lenders and, if reasonably necessary, local counsel for the Administrative Agent and the Lenders in any relevant jurisdiction (and of such other counsel in the event of a conflict)), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued or participated in hereunder, including all such documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.
(b) **Indemnification by the Borrower.** The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender (including the Issuing Lender), and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable, documented, out-of-pocket fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Materials of Environmental Concern on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee’s obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 10.5(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) **Reimbursement by Lenders.** To the extent that the Borrower for any reason fails indefeasibly to pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the Issuing Lender, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the Issuing Lender, the Swingline Lender or such Related Party, as the case may be, such Lender’s pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender’s share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the Issuing Lender or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), the Issuing Lender or the Swingline Lender in connection with such capacity. The obligations of the Lenders under this paragraph (c) are subject to the provisions of Sections 2.1, 2.4 and 2.20(e).
(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Borrower and each other Loan Party shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit, or the use of the proceeds thereof. No Indemnitee referred to in paragraph (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable promptly after written demand therefor.

(f) Survival. Each party’s obligations under this Section shall survive the Discharge of Obligations.

10.6 Successors and Assigns; Participations and Assignments.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (which, for purposes of this Section 10.6, shall include any Cash Management Bank and any Qualified Counterparty, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of Section 10.6(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.6(e) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender’s Commitment and/or the Loans at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date”
is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than $5,000,000, unless each of the Administrative Agent and, so long as no Default or Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment, or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of the Revolving Facility if such assignment is to a Person that is not a Lender with a Revolving Commitment; and

(C) the consent of the Issuing Lender and the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent any such administrative questionnaire as the Administrative Agent may request.

(v) No Assignment to Certain Persons. No such assignment shall be made to

(A) the Borrower or any of the Borrower’s Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B) or (C) any Excluded Lender.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural Person (or a holding company, investment vehicle or trust established for, or owned and operated for the primary benefit of, a natural Person).

(vii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of
the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Lender, the Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Revolving Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.19, 2.20, 2.21 and 10.5 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender’s having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

(c) **Register.** The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in California a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) **Participations.** Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, a holding company, investment vehicle or trust established for, or owned and operated for the primary benefit of, a natural Person, or the Borrower or any of the Borrower’s Affiliates or Subsidiaries) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereof for the performance of such obligations, and (iii) the Borrower, the Administrative Agent, the Issuing Lender and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnities under Sections 2.20(e) and 9.7 with respect to any payments made by such Lender to its Participant(s).
Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver which affects such Participant and for which the consent of such Lender is required (as described in Section 10.1). The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.19, 2.20 and 2.21 (subject to the requirements and limitations therein, including the requirements under Section 2.20(f) (it being understood that the documentation required under Section 2.20(f) shall be delivered by such Participant to the Lender granting such participation)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.6(b); provided that such Participant (A) agrees to be subject to the provisions of Sections 2.23 as if it were an assignee under Section 10.6(b); and (B) shall not be entitled to receive any greater payment under Sections 2.19 or 2.20, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in any Requirement of Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower’s request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.23 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.7 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.18(k) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Notes. The Borrower, upon receipt by the Borrower of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in Section 10.6.

(g) Representations and Warranties of Lenders. Each Lender, upon execution and delivery hereof or upon succeeding to an interest in the Commitments or Loans, as the case may be, represents and warrants as of the Closing Date or as of the effective date of the applicable Assignment and Assumption that (i) it is an Eligible Assignee; (ii) it has experience and expertise in the making of or investing in commitments, loans or investments such as the Commitments and Loans; and (iii) it will make or invest in its Commitments and Loans for its own account in the ordinary course of its business and without a view to distribution of such Commitments and Loans within the meaning of the Securities Act or the Exchange Act, or other federal securities laws (it being understood that, subject to the provisions of this Section 10.6, the disposition of such Commitments and Loans or any interests therein shall at all times remain within its exclusive control).
10.7 Adjustments; Set-off.

(a) Except to the extent that this Agreement expressly provides for payments to be allocated to a particular Lender or to the Lenders under a particular Facility, if any Lender (a “Benefitted Lender”) shall receive any payment of all or part of the Obligations owing to it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 8.1(f), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of the Obligations owing to such other Lender, such Benefitted Lender shall purchase for cash from the other Lenders a participating interest in such portion of the Obligations owing to each such other Lender, or shall provide such other Lenders with the benefits of any such collateral, as shall be necessary to cause such Benefitted Lender to share the excess payment or benefits of such collateral ratably with each of the Lenders; provided that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest.

(b) Upon (i) the occurrence and during the continuance of any Event of Default and (ii) obtaining the prior written consent of the Administrative Agent, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, without prior notice to Holdings, the Borrower or any other Loan Party, any such notice being expressly waived by Holdings, the Borrower and each Loan Party, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final), in any currency, at any time held or owing, and any other credits, indebtedness, claims or obligations, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender, its Affiliates or any branch or agency thereof to or for the credit or the account of Holdings, the Borrower or any other Loan Party, as the case may be, against any and all of the obligations of Holdings, the Borrower or such other Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or its Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of Holdings, the Borrower or such other Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender or any of its Affiliates shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.23 and, pending such payment, shall be segregated by such Defaulting Lender or Affiliate thereof from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender or Affiliate thereof as to which it exercised such right of setoff. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application made by such Lender or any of its Affiliates; provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of each Lender and its Affiliates under this Section 10.7 are in addition to other rights and remedies (including other rights of set-off) which such Lender or its Affiliates may have.
10.8 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any Insolvency Proceeding or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Effective Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the Discharge of Obligations.

10.9 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Counterparts; Electronic Execution of Assignments.

(a) This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile or other electronic mail transmission shall be effective as delivery of an original executed counterpart hereof. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

(b) The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption 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 or 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 the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

10.11 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.11, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited under or in connection with any Insolvency Proceeding, as determined in good faith by the Administrative Agent or the Issuing Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.
10.12 Integration. This Agreement and the other Loan Documents represent the entire agreement of Holdings, the Borrower, the other Loan Parties, the Administrative Agent and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by the Administrative Agent or any Lender relative to the subject matter hereof not expressly set forth or referred to herein or in the other Loan Documents.

10.13 GOVERNING LAW. THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, AND ANY CLAIM, CONTROVERSY, DISPUTE, CAUSE OF ACTION, OR PROCEEDING (WHETHER BASED IN CONTRACT, TORT, OR OTHERWISE) BASED UPON, ARISING OUT OF, CONNECTED WITH, OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO AND THERETO, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. This Section 10.13 shall survive the Discharge of Obligations.

10.14 Submission to Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

(a) agrees that all disputes, controversies, claims, actions and other proceedings involving, directly or indirectly, any matter in any way arising out of, related to, or connected with, this Agreement, any other Loan Document, any contemplated transactions related hereto or thereto, or the relationship between any Loan Party, on the one hand, and the Administrative Agent or any Lender or any other Secured Party, on the other hand, and any and all other claims of the Borrower or any other Group Member against the Administrative Agent or any Lender or any other Secured Party of any kind, shall be brought only in a state court located in the Borough of Manhattan, or, to the extent permitted by law, in a federal court sitting in the Borough of Manhattan; provided that nothing in this Agreement shall be deemed to operate to preclude the Administrative Agent or any Lender or any other Secured Party 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 Administrative Agent or such Lender or any other Secured Party, to the extent permitted by law. Holdings and the Borrower, on behalf of themselves and each other Loan Party (i) expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court and to the selection of any referee referred to below, (ii) 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, and (iii) agrees that it shall not file any motion or other application seeking to change the venue of any such suit or other action. Holdings and the Borrower, on behalf of themselves and each other Loan Party, hereby waives personal service of any summons, complaints, and other process issued in any such action or suit and agrees that service of any such summons, complaints, and other process may be made by registered or certified mail addressed to the Borrower at the address set forth in Section 10.2 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of the Borrower’s actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid;

(b) WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ITS RIGHT TO A JURY TRIAL OF ANY CLAIM, CAUSE OF ACTION, OR PROCEEDING (WHETHER BASED IN CONTRACT, TORT, OR OTHERWISE) BASED UPON, ARISING OUT OF, CONNECTED WITH, OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT, OR ANY TRANSACTION CONTEMPLATED HEREBY AND THEREBY, AMONG ANY OF THE PARTIES HERETO AND THERETO, THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS. HOLDINGS AND THE BORROWER HAS REVIEWED THIS WAIVER WITH ITS COUNSEL; and
(c) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

This Section 10.14 shall survive the Discharge of Obligations.

10.15 Acknowledgements. Each of Holdings and the Borrower hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;

(b) none of the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Group Member arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Administrative Agent and Lenders, on one hand, and the Group Members, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Group Members and the Lenders.

10.16 Releases of Guarantees and Liens.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.1) to take any action requested by the Borrower having the effect of releasing any Collateral or guarantee obligations (1) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 10.1 or (2) under the circumstances described in Section 10.16(b) below.

(b) Upon the Discharge of Obligations, the Collateral (other than any cash collateral securing any Specified Swap Agreements, any Cash Management Services or outstanding Letters of Credit) shall be released from the Liens created by the Security Documents and Cash Management Agreements (other than any Cash Management Agreements used to Cash Collateralize any Obligations arising in connection with Cash Management Agreements), and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Security Documents and Cash Management Agreements (other than any Cash Management Agreements used to cash collateralize any Obligations arising in connection with Cash Management Agreements) shall terminate, all without delivery of any instrument or performance of any act by any Person.

10.17 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent and each Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any
self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party hereto; (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement, or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Facilities or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Facilities; (h) with the consent of the Borrower; or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower. In addition, the Administrative Agent, the Lenders, and any of their respective Related Parties, may (A) disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent or the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments; and (B) use any information (not constituting Information subject to the foregoing confidentiality restrictions) related to the syndication and arrangement of the credit facilities contemplated by this Agreement in connection with marketing, press releases, or other transactional announcements or updates provided to investor or trade publications, including the placement of “tombstone” advertisements in publications of its choice at its own expense.

Notwithstanding anything herein to the contrary, any party to this Agreement (and any employee, representative, or other agent of any party to this Agreement) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure. However, any such information relating to the tax treatment or tax structure is required to be kept confidential to the extent necessary to comply with any applicable federal or state securities laws, rules, and regulations.

For purposes of this Section, “Information” means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a non-confidential basis prior to disclosure by the Borrower or any of its Subsidiaries; provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as proprietary or confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential or proprietary information.

10.18 Automatic Debits. With respect to any principal, interest, fee, or, with prior notice to the Borrower, any other cost or expense (including attorney costs of the Administrative Agent or any Lender payable by the Borrower hereunder) due and payable to the Administrative Agent or any Lender under the Loan Documents, the Borrower hereby irrevocably authorizes the Administrative Agent to debit any deposit account of the Borrower maintained with the Administrative Agent in an amount such that the aggregate amount debited from all such deposit accounts does not exceed such principal, interest, fee or other cost or expense. If there are insufficient funds in such deposit accounts to cover the amount then due, such debits will be reversed (in whole or in part, in the Administrative Agent’s sole discretion) and such amount not debited shall be deemed to be unpaid. No such debit under this Section 10.18 shall be deemed a set-off.
10.19 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Borrower and each other Loan Party in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under any other Loan Document shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from any Borrower or any other Loan Party in the Agreement Currency, such Borrower and each other Loan Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Borrower or other Loan Party, as applicable (or to any other Person who may be entitled thereto under applicable law).

10.20 Patriot Act; Other Regulations. Each Lender and the Administrative Agent (for itself and not on behalf of any other party) hereby notifies each Loan Party that, pursuant to the requirements of “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and 31 C.F.R. § 1010.230, it is required to obtain, verify and record information that identifies each Loan Party and certain related parties thereto, which information includes the names and addresses and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party and certain of their beneficial owners and other officers in accordance with the Patriot Act and 31 C.F.R. § 1010.230. Each Loan Party will, and will cause each of their respective Subsidiaries to, provide, to the extent commercially reasonable or required by any Requirement of Law, such information and documents and take such actions as are reasonably requested by the Administrative Agent or any Lender to assist the Administrative Agent and the Lenders in maintaining compliance with “know your customer” requirements under the PATRIOT Act, 31 C.F.R. § 1010.230 or other applicable anti-money laundering laws.

10.21 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution;
(b) a conversion of all, or a portion of, such liability into Capital Stock in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such Capital Stock will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(c) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

HOLDINGS:

BDC PAYMENTS HOLDINGS, INC.

By: /s/ John Rettig  
Name: John Rettig  
Title: Chief Financial Officer

BORROWER:

BILL.COM, LLC

By: /s/ John Rettig  
Name: John Rettig  
Title: Chief Financial Officer

[Signature Page to Credit Agreement]
ADMINISTRATIVE AGENT:
SILICON VALLEY BANK

By: /s/ Chris Vine
Name: Chris Vine
Title: Vice President

[Signature Page to Credit Agreement]
LENDERS:

SILICON VALLEY BANK,
as Issuing Lender, Swingline Lender
and as a Lender

By:  /s/ Chris Vine
Name:  Chris Vine
Title:  Vice President

[Signature Page to Credit Agreement]
<table>
<thead>
<tr>
<th>Lender</th>
<th>Revolving Commitment</th>
<th>Revolving Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Silicon Valley Bank</td>
<td>$50,000,000</td>
<td>100.000000000%</td>
</tr>
<tr>
<td>Total</td>
<td>$50,000,000</td>
<td>100.000000000%</td>
</tr>
</tbody>
</table>

**L/C COMMITMENT**

<table>
<thead>
<tr>
<th>Lender</th>
<th>L/C Commitment</th>
<th>L/C Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Silicon Valley Bank</td>
<td>$10,000,000</td>
<td>100.000000000%</td>
</tr>
<tr>
<td>Total</td>
<td>$10,000,000</td>
<td>100.000000000%</td>
</tr>
</tbody>
</table>

**SWINGLINE COMMITMENT**

<table>
<thead>
<tr>
<th>Lender</th>
<th>Swingline Commitment</th>
<th>Exposure Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Silicon Valley Bank</td>
<td>$10,000,000</td>
<td>100.000000000%</td>
</tr>
<tr>
<td>Total</td>
<td>$10,000,000</td>
<td>100.000000000%</td>
</tr>
</tbody>
</table>
SCHEDULE 1.1B

EXISTING LETTERS OF CREDIT

Letter of Credit issued by Silicon Valley Bank in the amount of $550,000.
SCHEDULE 4.4

GOVERNMENTAL APPROVALS, CONSENTS, AUTHORIZATIONS, FILINGS AND NOTICES

None.
SCHEDULE 4.13

ERISA PLANS

None.
## SCHEDULE 4.15

### SUBSIDIARIES

<table>
<thead>
<tr>
<th>Group Member</th>
<th>Jurisdiction</th>
<th>Ownership Percentage</th>
<th>Record Owner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrower</td>
<td>Delaware</td>
<td>100%</td>
<td>Holdings</td>
</tr>
</tbody>
</table>
SCHEDULE 4.17

ENVIRONMENTAL MATTERS

None.
SCHEDULE 4.19(a)

FINANCING STATEMENTS AND OTHER FILINGS

_UCC Financing Statements:_

<table>
<thead>
<tr>
<th>GRANTOR</th>
<th>JURISDICTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Holdings</td>
<td>Delaware</td>
</tr>
<tr>
<td>Borrower</td>
<td>Delaware</td>
</tr>
</tbody>
</table>

_Intellectual Property:_

The UCC-1 financing locations listed above and filings with the United States Patent and Trademark Office.

_Deposit Accounts:_

Control Agreements for deposit accounts and securities accounts listed in Schedule 2 of the Guarantee and Collateral Agreement.
SCHEDULE 4.27

CAPITALIZATION

See Attached.
# SCHEDULE 7.2(d)

## EXISTING INDEBTEDNESS

<table>
<thead>
<tr>
<th>Loan Party</th>
<th>Description of Liens</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrower</td>
<td>City National Bank – Obligations related to letter of credit in the amount of $221,000</td>
</tr>
<tr>
<td>Borrower</td>
<td>Silicon Valley Bank – Obligations related to letter of credit in the amount of $550,000</td>
</tr>
<tr>
<td>Borrower</td>
<td>Bank of America Merrill Lynch- Cash Collateral in Restricted Account 1416309343 for potential losses in the amount of $10,000</td>
</tr>
<tr>
<td>Borrower</td>
<td>The Bancorp Bank – Cash collateral in Restricted Account 001 1153 189 for potential losses in the amount of $25,000</td>
</tr>
</tbody>
</table>
## SCHEDULE 7.3(f)

### EXISTING LIENS

<table>
<thead>
<tr>
<th>Loan Party</th>
<th>Description of Liens</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrower</td>
<td>City National Bank – Cash collateral securing a letter of credit in the amount of $221,000</td>
</tr>
<tr>
<td>Borrower</td>
<td>Bank of America Merrill Lynch – Cash Collateral for potential losses in the amount of $10,000</td>
</tr>
<tr>
<td>Borrower</td>
<td>Silicon Valley Bank – Cash collateral securing a letter of credit in the amount of $550,000</td>
</tr>
<tr>
<td>Borrower</td>
<td>The Bancorp Bank – Cash collateral for potential losses in the amount of $25,000</td>
</tr>
</tbody>
</table>
Holdings owns 1 unit of ownership interest (100% of the ownership interests) of Borrower.
OFFICE LEASE
by and between
EOSII PALO ALTO TECHNOLOGY CENTER, LLC
a Delaware limited liability company
(“Landlord”)
and
BILL.COM, INC.
a Delaware corporation
(“Tenant”)
Dated as of
December 2, 2013
OFFICE LEASE

THIS OFFICE LEASE is made between EOSII PALO ALTO TECHNOLOGY CENTER, LLC, a Delaware limited liability company ("Landlord"), and the Tenant described in Item 1 of the Basic Lease Provisions.

LEASE OF PREMISES

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, subject to all of the terms and conditions set forth herein, those certain premises (the "Premises") described in Item 3 of the Basic Lease Provisions and as shown in the drawing attached hereto as Exhibit A-1. The Premises are located in the Building described in Item 2 of the Basic Lease Provisions. The Building is located in that certain multi-building project as more particularly described on Exhibit A-2 attached hereto, which is also improved with landscaping, parking facilities and other improvements, fixtures and common areas and appurtenances now or hereafter placed, constructed or erected on the Land (sometimes referred to herein as the “Project”).

BASIC LEASE PROVISIONS

1. Tenant: BILL.COM, INC., a Delaware corporation ("Tenant")

2. Building: 1810 Embarcadero Road
   Palo Alto, California 94303

3. Description of Premises:
   Suite: 100B, 101A & 101B
   Rentable Area: 22,683 square feet
   Building Size: 32,943 square feet (subject to Paragraph 18)
   Project Size: 259,586 square feet (subject to Paragraph 18)

4. Tenant’s Proportionate Share of Building: 68.8553% (22,683 rsf / 32,943 rsf) (See Paragraph 3)
   Tenant’s Proportionate Share of Project: 8.7381% (22,683 rsf / 259,586 rsf) (See Paragraph 3)

5. Basic Annual Rent: (See Paragraph 2)
   Months 1 to 12, inclusive:
   Monthly Installment: $73,719.75* ($3.25/square foot of Rentable Area/month)
   *Provided that Tenant is not in default past applicable notice and cure periods, during the initial nine (9) months following the Commencement Date the Basic Annual Rent payable shall be partially abated so that during this time period the Basic Annual Rent payable by Tenant shall be equal to $52,744.25 per month (i.e., the partial abatement received by Tenant during this time period shall equal $20,975.50 per month). During this time period Tenant shall be responsible for the payment of Additional Rent in full.
   Monthly Installment: $75,988.05 ($3.35/square foot of Rentable Area/month)

1
6. **Installment Payable Upon Execution:** $78,234.25 (to be applied towards the monthly installment of Basic Annual Rent and Additional Rent due for Month 1 of the Initial Term)

7. **Security Deposit Payable Upon Execution:** $663,477.75, in the form of a letter of credit (See Paragraph 2(c))

8. **Initial Estimated Amount of Tenant’s Proportionate Share of Operating Costs:** Estimated to be $25,490.00 per month for the calendar year 2014, payable in advance, subject to periodic adjustments (See Paragraph 3)

9. **Initial Term:** Sixty (60) months, commencing on the Commencement Date and ending on the day immediately preceding the sixtieth (60th) month anniversary of the Commencement Date (See Paragraph 1)

10. **Estimated Commencement Date:** January 1, 2014

11. **Estimated Termination Date:** December 31, 2018

12. **Broker(s) (See Paragraph 19(k)):**
   - **Landlord’s Broker:** Cornish & Carey Commercial Newmark Knight Frank
     245 Lytton Avenue, Suite 150
     Palo Alto, California 94301
   - **Tenant’s Broker:** Cornish & Carey Commercial Newmark Knight Frank
     245 Lytton Avenue, Suite 150
     Palo Alto, California 94301

13. **Number of Parking Spaces:** A total of seventy-three (73) parking spaces allocated as follows: (i) four (4) of such parking spaces shall be reserved visitor parking spaces in the location shown in Exhibit I attached hereto and incorporated herein for all purposes at no additional charge to Tenant throughout the Initial Term, and (ii) sixty-nine (69) of such parking spaces shall be uncovered, unreserved parking spaces at no additional charge to Tenant throughout the Initial Term (See Paragraph 18)

14. **Addresses for Notices:**
   - **To: TENANT:**
   - **To: LANDLORD:**

2
Prior to occupancy of the Premises:
Bill.com, Inc.
3200 Ash Street
Palo Alto, California 94306
Attn: Ramesh Sethuraman

Project Management Office:
c/o CBRE, Inc.
1804 Embarcadero Road, Suite 202
Palo Alto, California 94303
Attention: Property Manager

After occupancy of the Premises:
Bill.com, Inc.
1810 Embarcadero Road, Suite 100B
Palo Alto, California 94303
Attn: Ramesh Sethuraman

With a copy to:
KBS Realty Advisors, LLC
620 Newport Center Drive, Suite 1300
Newport Beach, California 92660
Attn: Brent Carroll

15. **Place of Payment:**
All payments payable under this Lease shall be sent to Landlord at the Project Management Office at the address specified in Item 14 or to such other address as Landlord may designate in writing.

16. **Guarantor:**
None

17. **Date of this Lease:**
See cover page

18. **Landlord’s Construction Allowance:**
Up to $737,197.50 ($32.50 per square foot) (See Exhibit B)

19. **The “State” is the State of California.**

This Lease consists of the foregoing introductory paragraphs and Basic Lease Provisions, the provisions of the Standard Lease Provisions (the “Standard Lease Provisions”) (consisting of Paragraphs 1 through Paragraph 19 which follow) and Exhibits A-1 through Exhibit A-2 and Exhibits B through Exhibit J, and the following Addenda: Addendum One: One Renewal Option at Market and Addendum Two: Right of First Offer, all of which are incorporated herein by this reference. In the event of any conflict between the provisions of the Basic Lease Provisions and the provisions of the Standard Lease Provisions, the Standard Lease Provisions shall control.
1. **TERM**

   (a) The Initial Term of this Lease and the Rent (defined below) shall commence on the later to occur of (i) the earlier to occur of (A) the date that the Tenant Improvements are Substantially Completed, or (B) the date that the Tenant Improvements would have been Substantially Completed except for Tenant Delays, or (C) the date that Tenant, or any person occupying any of the Premises with Tenant’s permission, commences business operations from the Premises, or (ii) January 1, 2014 (such later date being the “Commencement Date”). Unless earlier terminated in accordance with the provisions hereof, the Initial Term of this Lease shall be the period shown in Item 9 of the Basic Lease Provisions. As used herein, “Lease Term” shall mean the Initial Term referred to in Item 9 of the Basic Lease Provisions, subject to any extension of the Initial Term hereof exercised in accordance with the terms and conditions expressly set forth herein. This Lease shall be a binding contractual obligation effective upon execution hereof by Landlord and Tenant, notwithstanding the later commencement of the Initial Term of this Lease. The terms “Tenant Improvements” and “Substantial Completion” or “Substantially Completed” are defined in the attached Exhibit B Work Letter. “Tenant Delays” consist of those delays defined in Exhibit B.

   (b) The Premises will be delivered to Tenant when the Tenant Improvements have been Substantially Completed. If the Commencement Date is delayed or otherwise does not occur on the Estimated Commencement Date, set forth in Item 10 of the Basic Lease Provisions, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom. Commencing on a date no earlier than thirty (30) days prior to the date on which the Landlord estimates the Commencement Date will occur (such date being referred to herein as the “Pre-Term Access Commencement Date”) and ending on the day immediately preceding the Commencement Date (such period being referred to as the “Pre-Term Access Period”), Tenant, and Tenant’s contractors reasonably approved by Landlord, may access the Premises (the “Pre-Term Access”) for the sole purpose of installing Tenant’s furniture, equipment, computer and phone cabling and wiring systems, in the Premises; provided, however, Tenant and/or Tenant’s contractors, must coordinate all access to the Premises during such Pre-Term Access Period with the property manager of the Building prior to such access. Except for the payment of Basic Annual Rent or Additional Rent under this Lease, all other terms, conditions, rules, regulations and obligations of Tenant, as set forth in this Lease, shall apply during the Pre-Term Access Period. Tenant, and its approved contractors, shall not interfere with the completion of construction of the Tenant Improvements or cause any labor dispute as a result of such Pre-Term Access, and Tenant hereby agrees to indemnify, defend, and hold Landlord harmless from any loss or damage to such property, and all liability, loss, or damage arising from any injury to the Building or the property of Landlord, its contractors, subcontractors, or materialmen, and any death or personal injury to any person or persons arising out of such Pre-Term Access, EVEN IF SUCH LOSS, DAMAGE, LIABILITY, DEATH, OR PERSONAL INJURY WAS CAUSED SOLELY OR IN PART BY LANDLORD’S NEGLIGENCE, BUT NOT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD. Any such Pre-Term Access shall be subject to Tenant providing to Landlord satisfactory evidence of insurance for personal injury and property damage related to such Pre-Term Access Period prior to the commencement of the Pre-Term Access Period, including such insurance from Tenant’s contractors, as required by Landlord for third party contractors working in the Building. Any delay in putting Tenant in possession of the Premises due to such Pre-Term Access Period shall not serve to extend the term of this Lease or to make Landlord liable for any damages arising therefrom.

   (c) Upon Substantial Completion of the Tenant Improvements, Landlord shall prepare and deliver to Tenant, a Tenant Commencement Certificate in the form of Exhibit F attached hereto (the “Certificate”) which Tenant shall acknowledge by executing a copy and returning it to Landlord. If Tenant fails to sign and return the Certificate to Landlord within ten (10) business days of its receipt from Landlord, the Certificate as sent by Landlord shall be deemed to have correctly set forth the Commencement Date and the other matters addressed in the Certificate. Failure of Landlord to send the Certificate shall have no effect on the Commencement Date.

2. **BASIC ANNUAL RENT AND SECURITY DEPOSIT**

   (a) Tenant agrees to pay during each Lease Year (defined below) of the Lease Term as Basic Annual Rent (“Basic Annual Rent”) for the Premises the sums shown for such periods in Item 5 of the Basic Lease Provisions. For purposes of this Lease, a “Lease Year” shall be each twelve (12) calendar month period commencing on the Commencement Date (or anniversary thereof).
(b) Except as expressly provided to the contrary herein, Basic Annual Rent shall be payable in equal consecutive monthly installments, in advance, without demand, deduction or offset, commencing on the Commencement Date and continuing on the first day of each calendar month thereafter until the expiration of the Lease Term. The first full monthly installment of Basic Annual Rent shall be payable upon Tenant’s execution of this Lease. The obligation of Tenant to pay Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. If the Commencement Date is a day other than the first day of a calendar month, or the Lease Term expires on a day other than the last day of a calendar month, then the Rent for such partial month shall be calculated on a per diem basis. In the event Landlord delivers possession of the Premises to Tenant prior to the Commencement Date, Tenant agrees it shall be bound by and subject to all terms, covenants, conditions and obligations of this Lease during the period between the date possession is delivered and the Commencement Date, other than the payment of Basic Annual Rent, in the same manner as if delivery had occurred on the Commencement Date.

(c) Within five (5) business days following the full execution of this Lease, Tenant shall deliver to Landlord a Letter of Credit (the “Letter of Credit”), in form and substance as set forth in Exhibit H attached hereto or otherwise satisfactory to Landlord in its reasonable discretion, from City National Bank or another bank acceptable to Landlord in Landlord’s reasonable determination in the initial amount of the Security Deposit, as set forth in Item 7 of the Basic Lease Provisions, as security for the performance of the provisions hereof by Tenant, if applicable. At a minimum the Letter of Credit shall provide for the following: (i) it shall terminate no sooner than thirty days following the actual expiration date of the Lease Term, or, if it shall terminate earlier, the Letter of Credit shall provide that it will automatically renew or be replaced annually unless Landlord (the beneficiary thereof) is notified in writing by the issuer at least thirty (30) days prior to the expiry date that the Letter of Credit will not be renewed or replaced; and if Landlord is so notified of such non-renewal/non-replacement and Tenant does not replace the Letter of Credit with a new letter of credit from a bank or financial institution reasonably acceptable to Landlord and otherwise in compliance with this Paragraph 2(c) within ten (10) business days prior to the expiration, Landlord (the beneficiary thereof) shall have the right to draw the full amount of such Letter of Credit prior, to such earlier expiry date and the amounts so drawn shall be held by Landlord as a Security Deposit, and applied and disbursed in accordance with the terms of the next following paragraph; (b) it shall be irrevocable, and (c) it shall be transferable to any successor to Landlord’s interest under this Lease. If at any time during the Lease Term the bank or financial institution that issues the letter of credit is declared insolvent, or is placed into receivership by the Federal Deposit Insurance Corporation or any other governmental or quasi-governmental institution, or if there is a material adverse change in the financial or business condition of the bank or financial institution from the date of the Lease as reasonably determined by Landlord, then following written notice from Landlord, Tenant shall have ten (10) business days to replace the Letter of Credit with a new letter of credit from a bank or financial institution acceptable to Landlord in Landlord’s reasonable discretion. If Tenant does not replace the Letter of Credit with a new letter of credit from a bank or financial institution reasonably acceptable to Landlord within such ten (10) business day period, then notwithstanding anything in the Lease to the contrary, Tenant shall be in default, and Landlord shall have the right to draw upon the Letter of Credit for the full amount of the Letter of Credit. Provided no event of default past applicable notice and cure periods by the Tenant has occurred during the thirty-six (36) months following the Commencement date, then effective as of the first day of the thirty-seventh (37th) month following the Commencement Date Landlord agrees to reduce the Security Deposit requirement hereunder and the Letter of Credit deposited by Tenant by the amount of $221,159.25 so that thereafter the total Security Deposit required hereunder and Letter of Credit amount hereunder would be equal to $442,318.50. Provided no event of default past applicable notice and cure periods by the Tenant has occurred during the initial forty-eight (48) months following the Commencement Date and assuming the reduction in the previous sentence has occurred, then effective as of the first day of the forty-ninth (49th) month following the Commencement Date Landlord agrees to reduce the Security Deposit requirement hereunder and the Letter of Credit deposited by Tenant by the amount of $221,159.25 so that thereafter the total Security Deposit required hereunder and Letter of Credit amount hereunder would be equal to $221,159.25. Landlord agrees to authorize such reduction, to the extent permitted, in writing to the issuer of the Letter of Credit.
If Tenant defaults with respect to any provision of this Lease beyond the applicable notice and cure period, including, without limitation, the provisions relating to the payment of Rent or the cleaning of the Premises upon the termination of this Lease, or amounts which Landlord may be entitled to recover pursuant to the provisions of Section 1951.2 of the California Civil Code, Landlord may draw down the Letter of Credit and use, apply or retain such portion of the proceeds from the Letter of Credit as may be necessary (i) for the payment of any Rent or any other sum in default, (ii) for the payment of any other amount which Landlord may spend or become obligated to spend by reason of Tenant’s default hereunder, or (iii) to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant’s default hereunder, including, without limitation, costs and reasonable attorneys’ fees incurred by Landlord to recover possession of the Premises following a default by Tenant hereunder. The use or application of the proceeds from the Letter of Credit or any portion thereof shall not prevent Landlord from exercising any other right or remedy provided hereunder or under any Law and shall not be construed as liquidated damages. In the event Landlord draws down the Letter of Credit pursuant to the terms of this Lease, Landlord shall not be required to keep the proceeds of the Letter of Credit separate from its general funds and Tenant shall not be entitled to interest thereon. In the event of an assignment of the Lease which Landlord has consented to pursuant to the terms of Paragraph 11 of this Lease, the assignee of the Lease shall, contemporaneously with the assignment of the Lease, deposit with Landlord a replacement Letter of Credit in form and substance as set forth in Exhibit H attached hereto or otherwise satisfactory to Landlord in its reasonable discretion, from a bank acceptable to Landlord in Landlord’s reasonable determination in then current amount of the Security Deposit, as security for the performance of the provisions hereof by such assignee as “Tenant” under this Lease. If at any time Landlord draws down the Letter of Credit and does not apply the proceeds, then to the extent Tenant is not then in default under this Lease past applicable notice and cure periods and provided that Tenant delivers to Landlord a replacement Letter of Credit in compliance with all of the terms and conditions of this Paragraph 2(c), then Landlord shall return any unapplied portion of the proceeds of the original letter of credit within thirty (30) days after receipt of the replacement Letter of Credit.

If any portion of the Letter of Credit is so used or applied, Tenant shall, upon demand therefor, replace the Letter of Credit within ten (10) business days to the appropriate amount, as determined hereunder. If Tenant shall fully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant (or, at Landlord’s option, to the last assignee of Tenant’s interest hereunder) within thirty (30) days following the expiration or sooner termination of this Lease; provided, however, that Landlord may retain the Security Deposit until such time as any amount due from Tenant in accordance with Paragraph 3 below has been determined and paid to Landlord in full. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code (excluding subsection (b)). Tenant also waives all provisions of law, now or hereafter in force, which provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Tenant or to clean the Premises, it being agreed that Landlord may, in addition, claim those sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the act or omission of Tenant or any Tenant Affiliates (as defined in Paragraph 6(g)(i) below).

(d) The parties agree that for all purposes hereunder the Premises shall be stipulated to contain the number of square feet of Rentable Area described in Item 3 of the Basic Lease Provisions. Landlord calculated the Rentable Area described in Item 3 of the Basic Lease Provisions using the definition of Rentable Area contained in Exhibit A-3 of this Lease.

3. ADDITIONAL RENT

(a) Tenant shall pay to Landlord each month, as additional rent (“Additional Rent”) an amount equal to Tenant’s Proportionate Share (defined below) of Operating Costs for the Building and Project.

(b) “Tenant’s Proportionate Share” is, subject to the provisions of Paragraph 18, the percentage number described in Item 4 of the Basic Lease Provisions. Tenant’s Proportionate Share represents, subject to the provisions of Paragraph 18, a fraction, the numerator of which is the number of square feet of Rentable Area in the Premises and the denominator of which is the number of square feet of Rentable Area in the Building, as determined by Landlord pursuant to Paragraph 18.
(c) “Operating Costs” means all costs, expenses and obligations incurred or payable by Landlord in connection with the operation, ownership, management, repair or maintenance of the Building and the Project during or allocable to the Lease Term, including without limitation, the following:

(i) Any form of assessment, license fee, business license fee, commercial rental tax, levy, charge, improvement bond, tax, water and sewer rents and charges, utilities and communications taxes and charges or similar or dissimilar imposition imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, or any other governmental charge, general and special, ordinary and extraordinary, foreseen and unforeseen, which may be assessed against any legal or equitable interest of Landlord in the Premises, Building, Common Areas or Project (collectively, (“Real Estate Taxes”). Real Estate Taxes shall also include, without limitation:

(A) any tax on Landlord’s “right” to rent or “right” to other income from the Premises or as against Landlord’s business of leasing the Premises;

(B) any assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessment, tax, fee, levy or charge previously included within the definition of real property tax, it being acknowledged by Tenant and Landlord that Proposition 13 was adopted by the voters of the State of California in the June, 1978 election and that assessments, taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants. It is the intention of Tenant and Landlord that all such new and increased assessments, taxes, fees, levies and charges be included within the definition of “Real Estate Taxes” for the purposes of this Lease;

(C) any assessment, tax, fee, levy or charge allocable to or measured by the area of the Premises or other premises in the Building or the rent payable by Tenant hereunder or other tenants of the Project, including, without limitation, any gross receipts tax or excise tax levied by state, city or federal government, or any political subdivision thereof, with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof but not on Landlord’s other operations;

(D) any assessment, tax, fee, levy or charge upon this transaction or any document to which Tenant is a party, creating or transferring an interest or an estate in the Premises;

(E) any assessment, tax, fee, levy or charge by any governmental agency related to any transportation plan, fund or system (including assessment districts) instituted within the geographic area of which the Project is a part; and/or

(F) any costs and expenses (including, without limitation, reasonable attorneys fees) incurred in attempting to protest, reduce or minimize Real Estate Taxes but only to the extent such costs and expenses result in a reduction or minimization of Real Estate Taxes.

(ii) The cost of utilities (including taxes and other charges incurred in connection therewith) provided to the Premises (other than with respect to electricity and gas provided to the Premises which Tenant shall pay a separate charge to Landlord pursuant to Paragraph 7(c) below), the Building or the Project, fuel, supplies, equipment, tools, materials, service contracts, janitorial services furnished to the common area restrooms in the Building (it being acknowledged that Tenant shall be responsible to furnish its own Premises with janitorial services pursuant to Paragraph 7(f) below), waste and refuse disposal, gardening and landscaping; insurance, including, but not limited to, public liability, fire, property damage, earthquake, flood, rental loss, rent continuation, boiler machinery, business interruption, contractual indemnification and All Risk coverage insurance for up to the full replacement cost of the Project and such other insurance as is customarily carried by operators of other similar class office buildings in the city in which the Project is located, to the extent carried by Landlord in its discretion, and the deductible portion of
any insured loss otherwise covered by such insurance; the cost of compensation, including employment, welfare and social security taxes, paid vacation days, disability, pension, medical and other fringe benefits of all persons (including independent contractors) who perform services connected with the operation, maintenance, repair or replacement of the Project; personal property taxes on and maintenance and repair of equipment and other personal property used in connection with the operation, maintenance or repair of the Project; repair and replacement of window coverings provided by Landlord in the premises of tenants in the Project; such reasonable auditors’ fees and legal fees as are incurred in connection with the operation, maintenance or repair of the Project; reasonable costs incurred for administration and management of the Project, provided, however, such costs shall not exceed three percent (3%) of the gross revenues of the Project; the maintenance of any easements or ground leases benefitting the Project, whether by Landlord or by an independent contractor; a reasonable allowance for depreciation of personal property used in the operation, maintenance or repair of the Project; license, permit and inspection fees; capital improvements and the cost of any capital improvements made to the Project by Landlord (i) required by any new (or change in) laws, rules or regulations of any governmental or quasi-governmental authority which are enacted or made applicable to the Project after the Date of this Lease, (ii) intended to improve life-safety systems, or (iii) to reduce operating expenses, but only to the extent that such operating expenses are actually reduced (such costs to be amortized over such reasonable periods as Landlord shall reasonably determine) (collectively, the “Permitted Capital Improvements”); the cost of plumbing, elevator maintenance, and repair (to include the replacement of components amortized over such reasonable periods as Landlord shall reasonably determine) and other mechanical and electrical systems repair and maintenance (provided, however, Tenant acknowledges that with respect to the repair and maintenance of the HVAC system exclusively serving the Premises, Tenant shall pay directly to Landlord the costs of such repair and maintenance costs pursuant to Paragraph 7(g) below, but if such HVAC system does not exclusively serve the Premises, then Tenant’s obligation with such repair and maintenance costs shall be limited to its pro rata share of such costs based on the total area that is served by such HVAC system); sign maintenance; and Common Area (defined below) repair, resurfacing, operation and maintenance; and the cost of providing security services, if any, deemed appropriate by Landlord.

The following items shall be excluded from Operating Costs:

(A) leasing commissions, attorneys’ fees, costs and disbursements and other expenses incurred in connection with leasing, renovating or improving vacant space in the Project for tenants or prospective tenants of the Project;

(B) costs (including permit, license and inspection fees) incurred in renovating or otherwise improving or decorating, painting or redecorating space for tenants or vacant space;

(C) Landlord’s costs of any services sold to tenants for which Landlord is entitled to be reimbursed by such tenants as an additional charge or rental over and above the Basic Annual Rent and Operating Costs payable under the lease with such tenant or other occupant;

(D) any depreciation or amortization of the Project except as expressly permitted herein;

(E) costs incurred due to a violation of Law (defined below) by Landlord relating to the Project;

(F) interest on debt or amortization payments on any mortgages or deeds of trust or any other debt for borrowed money;

(G) all items and services for which Tenant or other tenants reimburse Landlord outside of Operating Costs;

(H) repairs or other work occasioned by fire, windstorm or other work paid for through insurance or condemnation proceeds (excluding any deductible);
(I) repairs resulting from any defect in the original design or construction of the Project;
(J) rent paid to any ground lessor;
(K) repairs covered by proceeds of insurance or from funds provided by Tenant or any other tenant of the Project (or where any other tenant of the Project is obligated to make such repairs or pay the cost of same) other than as a reimbursement of Operating Costs;
(L) repairs, alterations, additions, improvements, or replacements needed to rectify or correct any defects in the original design, materials, or workmanship of Project or common areas;
(M) executive salaries or salaries of service personnel to the extent that such personnel perform services not in connection with the management, operation, repair, or maintenance of the Project;
(N) Landlord’s general overhead expenses not related to the Project;
(O) legal fees, accountants’ fees, and other expenses incurred in connection with disputes of tenants or other occupants of the Project or associated with the enforcement of the terms of any leases with tenants or the defense of Landlord’s title to or interest in the Project or any part thereof;
(P) costs incurred due to a violation by Landlord or any other tenant of the Project of the terms and conditions of a lease;
(Q) any costs incurred to make any alterations or improvements to the Building or Park necessary to acquire any certification as “green” or sustainable, or other similar certifications, and any costs for such certification, provided, however, Landlord shall be permitted to pass through costs relating to maintaining such certifications once the certifications have been acquired;
(R) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal, state and local income taxes, and other taxes applied or measured by Landlord’s general or net income (as opposed to rents, receipts, or income attributable to operations at the Building) unless such taxes are in lieu of or in substitution of any Real Estate Taxes;
(S) a penalty fee imposed as a result of Landlord’s failure to pay Real Estate Taxes or other amounts when due;
(T) reserves;
(U) Real Estate Taxes in excess of the amount which would be payable if such Real Estate Taxes were paid in installments over the longest permitted term;
(V) any portion of the deductible for earthquake insurance in excess of $50,000 in any calendar year; and
(W) costs of capital improvements, except Permitted Capital Improvements as provided above.

(d) Any portion of Operating Costs which shall vary based on occupancy for any calendar year during which actual occupancy of the Building or Project is less than ninety-five percent (95%) of the Rentable Area of the Building or Project shall be appropriately adjusted to reflect ninety-five percent (95%) occupancy of the existing Rentable Area of the Building or Project during such period. In determining Operating Costs, if any services or utilities are separately charged to tenants of the Building or Project or others, Operating Costs shall be adjusted by Landlord to reflect the amount of expense which would have been incurred for such services or utilities on a full
time basis for normal Building or Project operating hours. In the event (i) the Commencement Date shall be a date other than January 1, (ii) the date fixed for the expiration of the Lease Term shall be a date other than December 31, (iii) of any early termination of this Lease, or (iv) of any increase or decrease in the size of the Premises, then in each such event, an appropriate adjustment in the application of this Paragraph 3 shall, subject to the provisions of this Lease, be made to reflect such event on a basis reasonably determined by Landlord to be consistent with the principles underlying the provisions of this Paragraph 3.

(c) Prior to the commencement of each calendar year of the Lease Term following the Commencement Date, Landlord shall have the right to give to Tenant a written estimate of Tenant’s Proportionate Share of the projected excess, if any, of the Operating Costs for the Project for the ensuing year. Tenant shall pay such estimated amount to Landlord in equal monthly installments, in advance on the first day of each month. Within a reasonable period after the end of each calendar year, Landlord shall furnish Tenant a statement indicating in reasonable detail the Operating Costs for such period and the parties shall, within thirty (30) days thereafter, make any payment or allowance necessary to adjust Tenant’s estimated payments to Tenant’s actual share of such Operating Costs as indicated by such annual statement. Any payment due Landlord shall be payable by Tenant on demand from Landlord. Any amount due Tenant shall be credited against installments next becoming due under this Paragraph 3(f) or refunded to Tenant, if requested by Tenant.

(f) All capital levies or other taxes assessed or imposed on Landlord upon the rents payable to Landlord under this Lease and any excise, transaction, sales, gross receipts, or privilege tax, assessment, levy or charge measured by or based, in whole or in part, upon such rents from the Premises and/or the Project or any portion thereof shall be paid by Tenant to Landlord monthly in estimated installments or upon demand, at the option of Landlord, as additional rent to be allocated to monthly Operating Costs.

(g) Tenant shall pay ten (10) days before delinquency, all taxes and assessments (i) levied against any personal property, tenant improvements or trade fixtures of Tenant in or about the Premises and (ii) based upon this Lease or any document to which Tenant is a party creating or transferring an interest in this Lease or an estate in all or any portion of the Premises. If any such taxes or assessments are levied against Landlord or Landlord’s property or if the assessed value of the Project is increased by the inclusion therein of a value placed upon such personal property or trade fixtures, Tenant shall upon demand reimburse Landlord for the taxes and assessments so levied against Landlord, or such taxes, levies and assessments resulting from such increase in assessed value.

(h) Any delay or failure of Landlord in (i) delivering any estimate or statement described in this Paragraph 3, or (ii) computing or billing Tenant’s Proportionate Share of Operating Costs shall not constitute a waiver of its right to require an increase in Rent, or in any way impair, the continuing obligations of Tenant under this Paragraph 3; provided, that Landlord hereby waives its right to collect, and Tenant shall have no obligation to pay, Additional Rent that is not billed to Tenant within twelve (12) calendar months after the end of the calendar year when such Additional Rent accrued. In the event of any dispute as to any Additional Rent due under this Paragraph 3, Tenant, an officer of Tenant or Tenant’s certified public accountant (but (a) in no event shall Tenant hire or employ an accounting firm of accountants or any person to audit Landlord as set forth under this Paragraph who is compensated or paid for such audit on a contingency basis and (b) in the event Tenant hires or employs an independent party to perform such audit, Tenant shall provide Landlord with a copy of the engagement letter) shall have the right after reasonable notice and at reasonable times to inspect Landlord’s accounting records at Landlord’s accounting office. If after such inspection, Tenant still disputes such Additional Rent, upon Tenant’s written request therefor, a certification as to the proper amount of Operating Costs and the amount due to or payable by Tenant shall be made by an independent certified public accountant mutually agreed to by Landlord and Tenant. If Landlord and Tenant cannot mutually agree to an independent certified public accountant, then the parties agree that Landlord shall choose an independent certified public accountant to conduct the certification as to the proper amount of Tenant’s Proportionate Share of Operating Costs due by Tenant for the period in question; provided, however, such certified public accountant shall not be the accountant who conducted Landlord’s initial calculation of Operating Costs to which Tenant is now objecting. Such certification shall be final and conclusive as to all parties. If the certification reflects that Tenant has overpaid Tenant’s Proportionate Share of Operating Costs for the period in question, then Landlord shall credit such excess to Tenant’s next payment of Operating Costs or, at the request of Tenant, promptly refund such excess to Tenant and conversely, if Tenant has underpaid Tenant’s Proportionate Share of Operating Costs, Tenant shall promptly pay such additional Operating Costs to Landlord. Tenant agrees to
pay the cost of such certification and the investigation with respect thereto; provided, however if it is determined that Landlord’s original statement was in error in Landlord’s favor by more than five percent (5%), then Landlord shall reimburse Tenant up to $5,000 towards the cost of such certification. Tenant waives the right to dispute any matter relating to the calculation of Operating Costs or Additional Rent under this Paragraph 3 if any claim or dispute is not asserted in writing to Landlord within one hundred eighty (180) days after delivery to Tenant of the original billing statement with respect thereto. Notwithstanding the foregoing, Tenant shall maintain strict confidentiality of all of Landlord’s accounting records and shall not disclose the same to any other person or entity except for Tenant’s professional advisory representatives (such as Tenant’s employees, accountants, advisors, attorneys and consultants) with a need to know such accounting information, who agree to similarly maintain the confidentiality of such financial information.

(i) Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant’s Proportionate Share of Operating Costs for the year in which this Lease terminates, Tenant shall promptly pay any increase due over the estimated Operating Costs paid, and conversely, any overpayment made by Tenant shall be promptly refunded to Tenant by Landlord.

(j) The Basic Annual Rent, as adjusted pursuant to Paragraphs 2, 3 and 7, and other amounts required to be paid by Tenant to Landlord hereunder, are sometimes collectively referred to as, and shall constitute, “Rent”.

4. IMPROVEMENTS AND ALTERATIONS

(a) Landlord’s sole construction obligation under this Lease is set forth in this Paragraph 4(a) and in the Work Letter attached hereto as Exhibit B. Upon the Substantial Completion of the Tenant Improvements, the Premises shall be in good working condition, including, but not limited to, the roof, HVAC, electrical, plumbing and lighting. In addition, Landlord is in the process of replacing the HVAC system serving the Building and shall use commercially reasonable efforts to cause such replacement to be completed contemporaneously with the construction of the Tenant Improvements. In the event that the replacement of the HVAC system serving the Building is not completed as of the date that is three (3) months after the Commencement Date and the existing HVAC system is not functioning or in good working condition then Tenant shall receive one day of free Basic Annual Rent for every day thereafter until such time as the HVAC system is replaced.

(b) Any alterations, additions, or improvements made by or on behalf of Tenant to the Premises (“Alterations”) shall be subject to Landlord’s prior written consent, such consent not to be unreasonably withheld or delayed. Notwithstanding anything herein to the contrary, Tenant, may, without Landlord’s prior consent, but with prior written notice to Landlord and provided that Tenant complies with all Building rules and regulations affecting Alterations, install cosmetic, non-structural Alterations which do not affect the HVAC, plumbing or electrical systems of the Building and which cost $50,000 or less in any calendar year. Notwithstanding the foregoing to the contrary, Tenant shall not make (i) any structural alterations, improvements or additions to the Premises, or (ii) any alterations, improvements or additions to the Premises which (a) will adversely impact the Building’s mechanical, electrical or heating, ventilation or air conditioning systems, or (b) will adversely impact the structure of the Building, or (c) are visible from the exterior of the Premises, or (d) which will result in the penetration or puncturing of the roof or floor, without, in each case, first obtaining Landlord’s prior written consent or approval to such Alterations (which consent or approval shall be in the Landlord’s sole and absolute discretion). Tenant shall cause, at its sole cost and expense, all Alterations to comply with insurance requirements and with Laws and shall construct, at its sole cost and expense, any alteration or modification required by Laws as a direct result of any Alterations. All Alterations shall be constructed at Tenant’s sole cost and expense and in a good and workmanlike manner by contractors reasonably acceptable to Landlord and only good grades of materials shall be used. All plans and specifications for any Alterations shall be submitted to Landlord for its approval, which approval will not be unreasonably withheld, delayed or conditioned. Landlord may monitor construction of the Alterations. Tenant shall reimburse Landlord for all out-of-pocket sums, if any, paid by Landlord for third party examination of Tenant’s plans and specifications for any Alterations. Landlord’s right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with applicable laws, codes, rules and regulations. Landlord shall have the right, in its sole discretion, to instruct Tenant to remove those improvements or Alterations from the Premises which (i) were not approved in advance by Landlord, (ii) were not built in conformance with the plans and specifications
approved by Landlord, or (iii) Landlord specified during its review of plans and specifications for Alterations would need to be removed by Tenant upon the expiration of this Lease. If Landlord approved the construction of Alterations, then Tenant shall not be obligated to remove such Alterations at the expiration of this Lease. Landlord shall not unreasonably withhold or delay its approval with respect to what improvements or Alterations Landlord may require Tenant to remove at the expiration of the Lease. If Landlord requires during its review of plans and specifications for Alterations Tenant to remove such Alterations from the Premises upon the termination of the Lease, then Tenant, at Tenant’s sole cost and expense, shall remove such Alterations at the expiration or earlier termination of the Lease and Tenant shall repair and restore the Premises to its original condition prior to the installation of such Alteration, reasonable wear and tear, casualty and condemnation excepted. Any Alterations remaining in the Premises following the expiration of the Lease Term or following the surrender of the Premises from Tenant to Landlord, shall become the property of Landlord unless Landlord notifies Tenant otherwise. Tenant shall provide Landlord with the identities and mailing addresses of all persons performing work or supplying materials, prior to beginning such construction, and Landlord may post on and about the Premises and record any notices of non-responsibility pursuant to applicable law. Tenant shall assure payment for the completion of all work free and clear of liens and shall provide certificates of insurance for worker’s compensation and other coverage in amounts and from an insurance company reasonably satisfactory to Landlord protecting Landlord against bodily injury or property damage during construction. Upon completion of any Alterations and upon Landlord’s reasonable request, Tenant shall deliver to Landlord sworn statements setting forth the names of all contractors and subcontractors who did work on the Alterations and final lien waivers from all such contractors and subcontractors. Tenant shall pay to Landlord, as additional rent, the actual out-of-pocket costs of Landlord’s engineers and other consultants (but not Landlord’s on-site management personnel) for review of all plans, specifications and working drawings for the Alterations and for the incorporation of such Alterations in the Landlord’s master Building drawings, within ten (10) business days after Tenant’s receipt of invoices either from Landlord or such consultant. In addition to such costs, Tenant shall pay to Landlord, within ten (10) business days after completion of any Alterations, the actual, reasonable costs incurred by Landlord for services rendered by Landlord’s management personnel and engineers to coordinate and/or supervise any of the Alterations to the extent such services are provided in excess of or after the normal on-site hours of such engineers and management personnel.

(c) Tenant shall keep the Premises, the Building and the Project free from any and all liens arising out of any Alterations, work performed, materials furnished, or obligations incurred by or for Tenant. In the event that Tenant shall not, within ten (10) days following the imposition of any such lien, cause the same to be released of record by payment or posting of a bond in a form and issued by a surety acceptable to Landlord, Landlord shall have the right, but not the obligation, to cause such lien to be released by such means as it shall deem proper (including payment of or defense against the claim giving rise to such lien); in such case, Tenant shall reimburse Landlord for all amounts so paid by Landlord in connection therewith, together with all of Landlord’s costs and expenses, with interest thereon at the Default Rate (defined below) and Tenant shall indemnify each and all of the Landlord Indemnitees (defined below) against any damages, losses or costs arising out of any such claim. Tenant’s indemnification of Landlord contained in this Paragraph shall survive the expiration or earlier termination of this Lease. Such rights of Landlord shall be in addition to all other remedies provided herein or by law.

(d) NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT, OR TO ANYONE HOLDING THE PREMISES THROUGH OR UNDER TENANT, AND THAT NO MECHANICS’ OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN THE PREMISES.

5. REPAIRS

(a) Landlord shall make all necessary repairs, within a reasonable period following receipt of notice of the need therefor from Tenant, to the Building HVAC system serving the Premises, exterior walls, exterior doors, exterior locks on exterior doors and windows of the Building, and to the Common Areas and to public corridors and other public areas of the Project not constituting a portion of any tenant’s premises and shall keep all Building standard equipment used by Tenant in common with other tenants in good condition and repair and to replace same at the end of such equipment’s normal and useful life, reasonable wear and tear and
casualty loss excepted. Except as expressly provided in Paragraph 9 of this Lease, there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant’s business arising from the making of any repairs, alterations or improvements in or to any portion of the Premises, the Building or the Project. Tenant waives the right to make repairs at Landlord’s expense under any law, statute or ordinance now or hereafter in effect (including the provisions of California Civil Code Section 1942 and any successive sections or statues of a similar nature).

(b) Tenant, at its expense, (i) shall keep the Premises and all fixtures contained therein in a safe, clean and neat condition, and (ii) shall bear the cost of maintenance and repair, by contractors reasonably approved by Landlord, of all facilities which are not expressly required to be maintained or repaired by Landlord and which are located in the Premises, including, without limitation, lavatory, shower, toilet, wash basin and kitchen facilities and supplemental heating and air conditioning systems (including all plumbing connected to said facilities or systems installed by or on behalf of Tenant or existing in the Premises at the time of Landlord’s delivery of the Premises to Tenant). Tenant shall make all repairs to the Premises not required to be made by Landlord under subparagraph (a) above with replacements of any materials to be made by use of materials of equal or better quality. Tenant shall do all decorating, remodeling, alteration and painting required by Tenant during the Lease Term. Tenant shall pay for the cost of any repairs to the Premises, the Building or the Project made necessary by any negligence or willful misconduct of Tenant or any of its assignees, subtenants, employees or their respective agents, representatives, contractors, or other persons permitted in or invited to the Premises or the Project by Tenant. If Tenant fails to make such repairs or replacements within fifteen (15) business days after written notice from Landlord, Landlord may at its option make such repairs or replacements, and Tenant shall upon demand pay Landlord for the cost thereof.

(c) Upon the expiration or earlier termination of this Lease, Tenant shall surrender the Premises in a safe, clean and neat condition, normal wear and tear excepted. Prior to the expiration or earlier termination of this Lease, Tenant shall remove from the Premises (i) all trade fixtures, furnishings and other personal property of Tenant, except as otherwise set forth in Paragraph 4(b) of this Lease, and (ii) all computer and phone cabling and wiring from the Premises, and Tenant shall repair all damage caused by such removal, and shall restore the Premises to its original condition, reasonable wear and tear excepted. In addition to all other rights Landlord may have, in the event Tenant does not so remove any such fixtures, furnishings or personal property, Tenant shall be deemed to have abandoned the same, in which case Landlord may store the same at Tenant’s expense, appropriate the same for itself, and/or sell the same in its discretion.

6. USE OF PREMISES

(a) Tenant shall use the Premises only for general office uses, research and development and other related ancillary uses and shall not use the Premises or permit the Premises to be used for any other purpose. Landlord shall have the right to deny its consent to any change in the permitted use of the Premises in its sole and absolute discretion.

(b) Tenant shall not at any time use or occupy the Premises, or permit any act or omission in or about the Premises in violation of any law, statute, ordinance or any governmental rule, regulation or order (collectively, “Law” or “Laws”) and Tenant shall, upon written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority to be a violation of Law. If any Law shall, by reason of the nature of Tenant’s specific use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to (i) modification or other maintenance of the Premises, the Building or the Project, or (ii) the use, alteration or occupancy thereof, Tenant shall comply with such Law at Tenant’s sole cost and expense. This Lease shall be subject to and Tenant shall comply with all financing documents encumbering the Building or the Project and all covenants, conditions and restrictions affecting the Premises, the Building or the Project, including, but not limited to, Tenant’s execution of any subordination agreements requested by a mortgagee of the Premises, the Building or the Project which is reasonably approved by Tenant.

(c) Tenant shall not at any time use or occupy the Premises in violation of the certificates of occupancy issued for or restrictive covenants pertaining to the Building or the Premises, and in the event that any architectural control committee or department of the State or the city or county in which the Project is located shall at any time contend or declare that the Premises are used or occupied in violation of such certificate or certificates of
occupancy or restrictive covenants, Tenant shall, upon five (5) days’ notice from Landlord or any such governmental agency, immediately discontinue such use of the Premises (and otherwise remedy such violation). The failure by Tenant to discontinue such use shall be considered a default under this Lease and Landlord shall have the right to exercise any and all rights and remedies provided herein or by Law. Any statement in this Lease of the nature of the business to be conducted by Tenant in the Premises shall not be deemed or construed to constitute a representation or guaranty by Landlord that such business will continue to be lawful or permissible under any certificate of occupancy issued for the Building or the Premises, or otherwise permitted by Law.

(d) Tenant shall not do or permit to be done anything which may invalidate or increase the cost of any fire, All Risk or other insurance policy covering the Building, the Project and/or property located therein and shall comply with all rules, orders, regulations and requirements of the appropriate fire codes and ordinances or any other organization performing a similar function. In addition to all other remedies of Landlord, Landlord may require Tenant, promptly upon demand, to reimburse Landlord for the full amount of any additional premiums charged for such policy or policies by reason of Tenant’s failure to comply with the provisions of this Paragraph 6.

(e) Tenant shall not in any way interfere with the rights or quiet enjoyment of other tenants or occupants of the Premises, the Building or the Project. Tenant shall not use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Tenant cause, maintain, or permit any nuisance in, on or about the Premises, the Building or the Project. Tenant shall not place weight upon any portion of the Premises exceeding the structural floor load (per square foot of area) which such area was designated (and is permitted by Law) to carry or otherwise use any Building system in excess of its capacity or in any other manner which may damage such system or the Building. Tenant shall not create within the Premises a working environment with a density of greater than the lesser of (i) the density permitted under applicable laws or (ii) one hundred seventy-five (175) persons in the aggregate in the Premises. Business machines and mechanical equipment shall be placed and maintained by Tenant, at Tenant’s expense, in locations and in settings sufficient in Landlord’s reasonable judgment to absorb and prevent vibration, noise and annoyance. Tenant shall not commit or suffer to be committed any waste in, on, upon or about the Premises, the Building or the Project.

(f) Tenant shall take all reasonable steps necessary to adequately secure the Premises from unlawful intrusion, theft, fire and other hazards, and shall keep and maintain any and all security devices in or on the Premises in good working order, including, but not limited to, exterior door locks for the Premises and smoke detectors and burglar alarms located within the Premises and shall cooperate with Landlord and other tenants in the Project with respect to access control and other safety matters.

(g) As used herein, the term “Hazardous Material” means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State or the United States Government, including, without limitation, any material or substance which is (A) defined or listed as a “hazardous waste,” “pollutant,” “extremely hazardous waste,” “restricted hazardous waste,” “hazardous substance” or “hazardous material” under any applicable federal, state or local Law or administrative code promulgated thereunder, (B) petroleum, or (C) asbestos.

(i) Tenant agrees that all operations or activities upon, or any use or occupancy of the Premises, or any portion thereof, by Tenant, its assignees, subtenants, and their respective agents, servants, employees, representatives and contractors (collectively referred to herein as “Tenant Affiliates”), throughout the term of this Lease, shall be in all respects in compliance with all federal, state and local Laws then governing or in any way relating to the generation, handling, manufacturing, treatment, storage, use, transportation, release, spillage, leakage, dumping, discharge or disposal of any Hazardous Materials.

(ii) Tenant agrees to indemnify, defend and hold Landlord and its Affiliates (defined below) harmless for, from and against any and all claims, actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses, including reasonable attorneys’ fees and expenses, court costs, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature that arise during or after the Lease Term directly or indirectly from or in connection with the presence, suspected presence, or release of any Hazardous Material in or into the air, soil, surface water or groundwater at, on, about, under or within the Premises, or any portion thereof caused by Tenant or Tenant Affiliates.
(iii) In the event any investigation or monitoring of site conditions or any clean-up, containment, restoration, removal or other remedial work (collectively, the “Remedial Work”) is required under any applicable federal, state or local Law, by any judicial order, or by any governmental entity as the result of operations or activities upon, or any use or occupancy of any portion of the Premises by Tenant or Tenant Affiliates, Landlord shall perform or cause to be performed the Remedial Work in compliance with such Law or order at Tenant’s sole cost and expense. All Remedial Work shall be performed by one or more contractors, selected and approved by Landlord, and under the supervision of a consulting engineer, selected by Tenant and approved in advance in writing by Landlord. All costs and expenses of such Remedial Work shall be paid by Tenant, including, without limitation, the charges of such contractor(s), the consulting engineer, and Landlord’s reasonable attorneys’ fees and costs incurred in connection with monitoring or review of such Remedial Work.

(iv) Each of the covenants and agreements of Tenant set forth in this Paragraph 6(g) shall survive the expiration or earlier termination of this Lease.

7. UTILITIES AND SERVICES

(a) Landlord shall furnish, or cause to be furnished to the Premises, the utilities and services described in Exhibit C attached hereto, subject to the conditions and in accordance with the standards set forth therein and in this Lease.

(b) Tenant agrees to cooperate fully at all times with Landlord and to comply with all regulations and requirements which Landlord may from time to time prescribe for the use of the utilities and services described herein and in Exhibit C. Landlord shall not be liable to Tenant for the failure of any other tenant, or its assignees, subtenants, employees, or their respective invitees, licensees, agents or other representatives to comply with such regulations and requirements.

(c) Landlord shall install, at its sole cost and expense, separate meters and/or submeters in order to measure the electricity and gas utilized in the Premises by Tenant. Landlord shall thereafter bill Tenant for the electricity and gas consumed at the Premises and Tenant shall pay such charges to Landlord within thirty (30) days after receipt of Landlord’s bill with respect to the same. Tenant shall pay for the costs to repair, replace and maintain the separate meters and/or submeters for gas and electricity to the Premises. In connection with water consumed in the Premises, Tenant acknowledges that water shall not be separately metered and that Tenant shall be responsible for Tenant’s Proportionate Share of water consumed at the Building. In the event that Tenant shall require additional electric current, water or gas for use in the Premises and if, in Landlord’s judgment, such excess requirements cannot be furnished unless additional risers, conduits, feeders, switchboards and/or appurtenances are installed in the Building, subject to the conditions stated below, Landlord shall proceed to install the same at the sole cost of Tenant, payable upon demand in advance. The installation of such facilities shall be conditioned upon Landlord’s consent, and a determination that the installation and use thereof (i) shall be permitted by applicable Law and insurance regulations, (ii) shall not cause permanent damage or injury to the Building or adversely affect the value of the Building or the Project, and (iii) shall not cause or create a dangerous or hazardous condition or interfere with or disturb other tenants in the Building. Subject to the foregoing, Landlord shall, upon reasonable prior notice by Tenant, furnish to the Premises additional elevator, heating, air conditioning and/or cleaning services upon such reasonable terms and conditions as shall be determined by Landlord, including payment of Landlord’s reasonable charge therefor.

(d) Landlord shall not be liable for, and Tenant shall not be entitled to, any damages, abatement or reduction of Rent, or other liability by reason of any failure to furnish any services or utilities described herein or in Exhibit C for any reason (other than Landlord’s gross negligence or willful misconduct), including, without limitation, when caused by accident, breakage, repairs, Alterations or other improvements to the Project, strikes, lockouts or other labor disturbances or labor disputes of any character, governmental regulation, moratorium or other governmental action, inability to obtain electricity, water or fuel, or any other cause beyond Landlord’s
control. Landlord shall be entitled to cooperate with the energy conservation efforts of governmental agencies or utility suppliers. No such failure, stoppage or interruption of any such utility or service shall be construed as an eviction of Tenant, nor shall the same relieve Tenant from any obligation to perform any covenant or agreement under this Lease. In the event of any failure, stoppage or interruption thereof, Landlord shall use reasonable efforts to attempt to restore all services promptly. No representation is made by Landlord with respect to the adequacy or fitness of the Building’s ventilating, air conditioning or other systems to maintain temperatures as may be required for the operation of any computer, data processing or other special equipment of Tenant. Notwithstanding anything in this Paragraph 7 to the contrary, if an interruption or cessation of a utility service to the Premises from a cause within the reasonable control of Landlord results in the Premises being unusable by Tenant for the conduct of Tenant’s business, then Basic Annual Rent shall be abated commencing on that date which is five (5) consecutive business days following the date Tenant delivers written notice to Landlord of such interruption and continuing until either such utility service to the Premises is restored or the Premises is again usable for the conduct of Tenant’s business. If, however, Tenant reoccupies any portion of the Premises during such abatement period, the Basic Annual Rent allocable to such reoccupied portion, based on the proportion that the Rentable Area of such reoccupied portion of the Premises bears to the total Rentable Area of the Premises, shall be payable by Tenant from the date Tenant reoccupies such portion of the Premises. Such right to abate Basic Annual Rent shall be Tenant’s sole and exclusive remedy at law or in equity in the event of an interruption or cessation of a utility service to the Premises. Tenant hereby waives the provisions of California Civil Code Section 1932(1) or any other applicable existing or future law, ordinance or governmental regulation permitting the termination of this Lease due to an interruption, failure or inability to provide any services.

(c) Landlord reserves the right from time to time to make reasonable and nondiscriminatory modifications to the above standards (including, without limitation, those described in Exhibit C) for utilities and services.

(f) Notwithstanding anything herein to the contrary, Tenant shall be responsible for providing janitorial services to the Premises, at Tenant’s sole cost and expense. Tenant shall only be permitted to use such janitorial service providers that Landlord may approve in its reasonable judgment.

(g) Landlord shall repair and maintain the Building HVAC systems serving the Premises (but Tenant shall be responsible for repairing and maintaining any supplemental HVAC systems installed by Tenant), which such repair and maintenance may include periodically scheduled maintenance/service contracts. In connection with such maintenance and repair costs of the Building HVAC system, Tenant shall reimburse Landlord for such costs within thirty (30) days after receipt of an invoice from Landlord.

8. NON-LIABILITY AND INDEMNIFICATION OF LANDLORD; INSURANCE

(a) Landlord shall not be liable for any injury, loss or damage suffered by Tenant or to any person or property occurring or incurred in or about the Premises, the Building or the Project from any cause, EVEN IF SUCH LIABILITIES ARE CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OF ANY LANDLORD INDEMNITEE (DEFINED BELOW), BUT NOT TO THE EXTENT SUCH LIABILITIES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY SUCH LANDLORD INDEMNITEE (DEFINED BELOW). Without limiting the foregoing, neither Landlord nor any of its partners, officers, trustees, affiliates, directors, employees, contractors, agents or representatives (collectively, “Affiliates”) shall be liable for and there shall be no abatement of Rent (except as set forth in Paragraph 7(d) or except in the event of a casualty loss or a condemnation as set forth in Paragraphs 9 and 10 of this Lease) for (i) any damage to Tenant’s property stored with or entrusted to Affiliates of Landlord, (ii) loss of or damage to any property by theft or any other wrongful or illegal act, or (iii) any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Building or the Project or from the pipes, appliances, appurtenances or plumbing works therein or from the roof, street or sub-surface or from any other place or resulting from dampness or any other cause whatsoever or from the acts or omissions of other tenants, occupants or other visitors to the Building or the Project or from any other cause whatsoever, (iv) any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Building, whether within or outside of the Project, or (v) any latent or other defect in the Premises, the Building or the Project. Tenant shall give prompt notice to Landlord in the event of (i) the occurrence of a fire or accident in the Premises or in the Building, or (ii) the discovery of a defect therein or in the fixtures or equipment thereof. This Paragraph 8(a) shall survive the expiration or earlier termination of this Lease.
(b) Tenant hereby agrees to indemnify, protect, defend and hold harmless Landlord and its designated property management company, and their respective partners, members, affiliates and subsidiaries, and all of their respective officers, directors, shareholders, employees, servants, partners, representatives, insurers and agents (collectively, “Landlord Indemnitees”) for, from and against all liabilities, claims, fines, penalties, costs, damages or injuries to persons, damages to property, losses, liens, causes of action, suits, judgments and expenses (including court costs, attorneys’ fees, expert witness fees and costs of investigation), of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (in whole or part) (1) Tenant’s construction of or use, occupancy or enjoyment of the Premises, (2) any activity, work or other things done, permitted or suffered by Tenant and its agents and employees in or about the Premises, (3) any breach or default in the performance of any of Tenant’s obligations under this Lease, (4) any act, omission, negligence or willful misconduct of Tenant or any of its agents, contractors, employees, business invitees or licensees, or (5) any damage to Tenant’s property, or the property of Tenant’s agents, employees, contractors, business invitees or licensees, located in or about the Premises (collectively, “Liabilities”); EVEN IF SUCH LIABILITIES ARE CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OF ANY LANDLORD INDEMNITEE, BUT NOT TO THE EXTENT SUCH LIABILITIES ARE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY SUCH LANDLORD INDEMNITEE. This Paragraph 8(b) shall survive the expiration or earlier termination of this Lease.

(c) Tenant shall promptly advise Landlord in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and Tenant, at Tenant’s expense, shall assume on behalf of each and every Landlord Indemnitee and conduct with due diligence and in good faith the defense thereof with counsel reasonably satisfactory to Landlord; provided, however, that any Landlord Indemnitee shall have the right, at its option, to be represented therein by advisory counsel of its own selection and at its own expense. In the event of failure by Tenant to fully perform in accordance with this Paragraph, Landlord, at its option, and without relieving Tenant of its obligations hereunder, may so perform, but all costs and expenses so incurred by Landlord in that event shall be reimbursed by Tenant to Landlord, together with interest on the same from the date any such expense was paid by Landlord until reimbursed by Tenant, at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of this Lease is subject. The indemnification provided in Paragraph 8(b) shall not be limited to damages, compensation or benefits payable under insurance policies, workers’ compensation acts, disability benefit acts or other employees’ benefit acts.

(d) Insurance.

(i) Tenant at all times during the Lease Term shall, at its own expense, keep in full force and effect (A) commercial general liability insurance providing coverage against bodily injury and disease, including death resulting therefrom, bodily injury and property damage to a combined single limit of $3,000,000 to one or more than one person as the result of any one accident or occurrence, which shall include provision for contractual liability coverage insuring Tenant for the performance of its indemnity obligations set forth in this Paragraph 8 and in Paragraph 6(g)(ii) of this Lease, (B) worker’s compensation insurance to the statutory limit, if any, and employer’s liability insurance to the limit of $1,000,000 per occurrence, and (C) All Risk or Causes of Loss – Special Form property insurance, including fire and extended coverage, sprinkler leakage (including earthquake, sprinkler leakage), vandalism, malicious and mischief, covering full replacement value of all of Tenant’s personal property, trade fixtures and improvements in the Premises installed after the Commencement Date. Landlord and its designated property management firm shall be named an additional insured on each of said policies (excluding the worker’s compensation policy) and said policies shall be issued by an insurance company or companies authorized to do business in California and which have policyholder ratings not lower than “A-” and financial ratings not lower than “VII” in Best’s Insurance Guide (latest edition in effect as of the Date of Lease and subsequently in effect as of the date of renewal of the required policies). EACH OF SAID POLICIES SHALL ALSO INCLUDE A WAIVER OF SUBROGATION PROVISION OR ENDORSEMENT IN FAVOR OF LANDLORD, AND AN ENDORSEMENT PROVIDING THAT LANDLORD SHALL RECEIVE THIRTY (30) DAYS PRIOR WRITTEN NOTICE OF ANY
CANCELLATION OF, NONRENEWAL OF, REDUCTION OF COVERAGE OR MATERIAL CHANGE IN COVERAGE ON SAID POLICIES. Tenant hereby waives its right of recovery against any Landlord Indemnitee of any amounts paid by Tenant or on Tenant’s behalf to satisfy applicable worker’s compensation laws. The policies or duly executed certificates showing the material terms for the same, together with satisfactory evidence of the payment of the premiums therefor, shall be deposited with Landlord on the date Tenant first occupies the Premises and upon renewals of such policies not less than ten (10) days prior to the expiration of the term of such coverage. If certificates are supplied rather than the policies themselves, Tenant shall allow Landlord, at all reasonable times, to inspect the policies of insurance required herein.

(ii) It is expressly understood and agreed that the coverages required represent Landlord’s minimum requirements and such are not to be construed to void or limit Tenant’s obligations contained in this Lease, including without limitation Tenant’s indemnity obligations hereunder. Neither shall (A) the insolvency, bankruptcy or failure of any insurance company carrying Tenant, (B) the failure of any insurance company to pay claims occurring nor (C) any exclusion from or insufficiency of coverage be held to affect, negate or waive any of Tenant’s indemnity obligations under this Paragraph 8 and Paragraph 6(g)(ii) or any other provision of this Lease. With respect to insurance coverages, except worker’s compensation, maintained hereunder by Tenant and insurance coverages separately obtained by Landlord, all insurance coverages afforded by policies of insurance maintained by Tenant shall be primary insurance as such coverages apply to Landlord, and such insurance coverages separately maintained by Landlord shall be excess, and Tenant shall have its insurance policies so endorsed. The amount of liability insurance under insurance policies maintained by Tenant shall not be reduced by the existence of insurance coverage under policies separately maintained by Landlord. Tenant shall be solely responsible for any premiums, assessments, penalties, deductible assumptions, retentions, audits, retrospective adjustments or any other kind of payment due under its policies.

(iii) Tenant’s occupancy of the Premises without delivering the certificates of insurance shall not constitute a waiver of Tenant’s obligations to provide the required coverages. If Tenant provides to Landlord a certificate that does not evidence the coverages required herein, or that is faulty in any respect, such shall not constitute a waiver of Tenant’s obligations to provide the proper insurance.

(iv) Throughout the Lease Term, Landlord agrees to maintain (i) fire and extended coverage insurance, and, at Landlord’s option earthquake damage coverage and such additional property insurance coverage as Landlord deems appropriate, on the insurable portions of Building and the remainder of the Project in an amount not less than the fair replacement value thereof, subject to reasonable deductibles (ii) boiler and machinery insurance amounts and with deductibles that would be considered standard for similar class office building in Palo Alto, California metropolitan area and (iii) commercial general liability insurance with a combined single limit coverage of at least $1,000,000.00 per occurrence. All such insurance shall be obtained from insurers Landlord reasonably believes to be financially responsible in light of the risks being insured. The premiums for any such insurance shall be a part of Operating Costs.

(e) Mutual Waivers of Recovery. Landlord, Tenant, and all parties claiming under them, each mutually release and discharge each other from responsibility for that portion of any loss or damage paid or reimbursed by an insurer of Landlord or Tenant under any fire, extended coverage or other property insurance policy maintained by Tenant with respect to its Premises or by Landlord with respect to the Building or the Project (or which would have been paid had the insurance required to be maintained hereunder been in full force and effect), no matter how caused, including negligence, and each waives any right of recovery from the other including, but not limited to, claims for contribution or indemnity, which might otherwise exist on account thereof. Any fire, extended coverage or property insurance policy maintained by Tenant with respect to the Premises, or Landlord with respect to the Building or the Project, shall contain, in the case of Tenant’s policies, a waiver of subrogation provision or endorsement in favor of Landlord, and in the case of Landlord’s policies, a waiver of subrogation provision or endorsement in favor of Tenant, or, in the event that such insurers cannot or shall not include or attach such waiver of subrogation provision or endorsement, Tenant and Landlord shall obtain the approval and consent of their respective insurers, in writing, to the terms of this Lease. Tenant agrees to indemnify, protect, defend and hold harmless each and all of the Landlord Indemnitees from and against any claim, suit or cause of action asserted or
brought by Tenant’s insurers for, on behalf of, or in the name of Tenant, including, but not limited to, claims for contribution, indemnity or subrogation, brought in contravention of this paragraph. The mutual releases, discharges and waivers contained in this provision shall apply EVEN IF THE LOSS OR DAMAGE TO WHICH THIS PROVISION APPLIES IS CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OF LANDLORD OR TENANT.

(f) **Business Interruption.** Landlord shall not be responsible for, and Tenant releases and discharges Landlord from, and Tenant further waives any right of recovery from Landlord for, any loss for or from business interruption or loss of use of the Premises suffered by Tenant in connection with Tenant’s use or occupancy of the Premises, EVEN IF SUCH LOSS IS CAUSED SOLELY OR IN PART BY THE NEGLIGENCE OF LANDLORD.

(g) **Adjustment of Claims.** Tenant shall cooperate with Landlord and Landlord’s insurers in the adjustment of any insurance claim pertaining to the Building or the Project or Landlord’s use thereof.

(h) **Increase in Landlord’s Insurance Costs.** Tenant agrees to pay to Landlord any increase in premiums for Landlord’s insurance policies resulting from Tenant’s use or occupancy of the Premises.

(i) **Failure to Maintain Insurance.** Any failure of Tenant to obtain and maintain the insurance policies and coverages required hereunder or failure by Tenant to meet any of the insurance requirements of this Lease shall constitute an event of default hereunder, and such failure shall entitle Landlord to pursue, exercise or obtain any of the remedies provided for in Paragraph 12(b), and Tenant shall be solely responsible for any loss suffered by Landlord as a result of such failure. In the event of failure by Tenant to maintain the insurance policies and coverages required by this Lease or to meet any of the insurance requirements of this Lease, Landlord, at its option, and without relieving Tenant of its obligations hereunder, may obtain said insurance policies and coverages or perform any other insurance obligation of Tenant, but all costs and expenses incurred by Landlord in obtaining such insurance or performing Tenant’s insurance obligations shall be reimbursed by Tenant to Landlord, together with interest on same from the date any such cost or expense was paid by Landlord until reimbursed by Tenant, at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of this Lease is subject.

9. **FIRE OR CASUALTY**

(a) Subject to the provisions of this **Paragraph 9**, in the event the Premises, or access thereto, is wholly or partially destroyed by fire or other casualty, Landlord shall (to the extent permitted by Law and covenants, conditions and restrictions then applicable to the Project) rebuild, repair or restore the Premises and access thereto to substantially the same condition as existing immediately prior to such destruction and this Lease shall continue in full force and effect. Notwithstanding the foregoing, (i) Landlord’s obligation to rebuild, repair or restore the Premises shall not apply to any personal property, above-standard tenant improvements installed by or on behalf of Tenant or other items installed or contained in the Premises, and (ii) Landlord shall have no obligation whatsoever to rebuild, repair or restore the Premises with respect to any damage or destruction occurring during the last twelve (12) months of the term of this Lease or any extension of the term.

(b) Landlord may elect to terminate this Lease in any of the following cases of damage or destruction to the Premises, the Building or the Project: (i) where the cost of rebuilding, repairing and restoring (collectively, “Restoration”) of the Building or the Project, would, regardless of the lack of damage to the Premises or access thereto, in the reasonable opinion of Landlord, exceed thirty-five percent (35%) of the then replacement cost of the Building; (ii) where, in the case of any damage or destruction to any portion of the Building or the Project by uninsured casualty, the cost of Restoration of the Building or the Project, in the reasonable opinion of Landlord, exceeds $500,000; or (iii) where, in the case of any damage or destruction to the Premises or access thereto by uninsured casualty, the cost of Restoration of the Premises or access thereto, in the reasonable opinion of Landlord, exceeds thirty-five percent (35%) of the replacement cost of the Premises; or (iv) if Landlord has not obtained appropriate zoning approvals for reconstruction of the Project, Building or Premises. Any such termination shall be made by thirty (30) days’ prior written notice to Tenant given within sixty (60) days of the date of such damage or destruction. If this Lease is not terminated by Landlord and as the result of any damage or destruction, the Premises, or a portion thereof, are rendered untenable, the Basic Annual Rent shall abate reasonably during the period of
Restoration (based upon the extent to which such damage and Restoration materially interfere with Tenant’s business in the Premises); provided however, Tenant shall have the right to terminate this Lease if more than fifty percent (50%) of the Premises are rendered untenantable for a period of two hundred seventy (270) days after the date of damage or destruction (the “270 Day Period”) by delivering written notice to Landlord of its intent to terminate this Lease after the 270 Day Period but prior to the substantial completion of the Restoration of the Building. In addition, within sixty (60) days of the date of damage or destruction Landlord shall provide Tenant with a good faith estimate of the time period in which the Premises shall be restored. In the event the estimate provides that the Premises will not be restored within the 270 Day Period, then Tenant may terminate the Lease by providing Landlord with written notice within thirty (30) days after Tenant’s receipt of Landlord’s estimate. In the event the casualty to the Premises occurs during the last twelve (12) months of the Lease Term the Premises cannot be restored (in the opinion of Landlord’s third party architect) in ninety (90) days from the date of the casualty, then Tenant shall be permitted to terminate the Lease within thirty (30) days of the date of the casualty by providing written notice to Landlord. This Lease shall be considered an express agreement governing any case of damage to or destruction of the Premises, the Building or the Project. This Lease sets forth the terms and conditions upon which this Lease may terminate in the event of any damage or destruction. Accordingly, the parties hereby waive the provisions of California Civil Code Section 1932, Subsection 2, and Section 1933, Subsection 4 (and any successor statutes thereof permitting the parties to terminate this Lease as a result of any damage or destruction).

10. EMINENT DOMAIN

In the event the whole of the Premises, the Building or the Project shall be taken under the power of eminent domain, or sold to prevent the exercise thereof (collectively, a “Taking”), this Lease shall automatically terminate as of the date of such Taking. In the event a Taking of a portion of the Project, the Building or the Premises shall, in the reasonable opinion of Landlord, substantially interfere with Landlord’s operation thereof, Landlord may terminate this Lease upon thirty (30) days’ written notice to Tenant given at any time within sixty (60) days following the date of such Taking. For purposes of this Lease, the date of Taking shall be the earlier of the date of transfer of title resulting from such Taking or the date of transfer of possession resulting from such Taking. In the event that a portion of the Premises is so taken and this Lease is not terminated, Landlord shall, with reasonable diligence, use commercially reasonable efforts to proceed to restore (to the extent permitted by Law and covenants, conditions and restrictions then applicable to the Project) the Premises (other than Tenant’s personal property and fixtures, and above-standard tenant improvements) to a complete, functioning unit. In such case, the Basic Annual Rent shall be reduced proportionately based on the portion of the Premises so taken. If all or any portion of the Premises is the subject of a temporary Taking, this Lease shall remain in full force and effect and Tenant shall continue to perform each of its obligations under this Lease; in such case, Tenant shall be entitled to receive the entire award allocable to the temporary Taking of the Premises. Except as provided herein, Tenant shall not assert any claim against Landlord or the condemning authority for, and hereby assigns to Landlord, any compensation in connection with any such Taking, and Landlord shall be entitled to receive the entire amount of any award therefor, without deduction for any estate or interest of Tenant. Nothing contained in this Paragraph 10 shall be deemed to give Landlord any interest in, or prevent Tenant from seeking any award against the condemning authority for the Taking of personal property, fixtures, above standard tenant improvements of Tenant or for relocation or moving expenses recoverable by Tenant from the condemning authority. This Paragraph 10 shall be Tenant’s sole and exclusive remedy in the event of a Taking. This Lease sets forth the terms and conditions upon which this Lease may terminate in the event of a taking. Accordingly, the parties waive the provisions of the California Code of Civil Procedure Section 1265.130 and any successor or similar statutes permitting the parties to terminate this Lease as a result of a taking.

11. ASSIGNMENT AND SUBLETTING

(a) Tenant shall not directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, assign, sublet, mortgage, hypothecate or otherwise encumber all or any portion of its interest in this Lease or in the Premises or grant any license in or suffer any person other than Tenant or its employees to use or occupy the Premises or any part thereof without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld. Any such attempted assignment, subletting, license, mortgage, hypothecation, other encumbrance or other use or occupancy without the consent of Landlord shall be null and void and of no effect. Any mortgage, hypothecation or encumbrance of all or any portion of Tenant’s interest in this Lease or in the
Premises and any grant of a license or sufferance of any person other than Tenant or its employees to use or occupy the Premises or any part thereof shall be deemed to be an “assignment” of this Lease. In addition, as used in this Paragraph 11, the term “Tenant” shall also mean any entity that has guaranteed Tenant’s obligations under this Lease, and the restrictions applicable to Tenant contained herein shall also be applicable to such guarantor. Landlord’s agreement to not unreasonably withhold its consent shall only apply to the first assignment or sublease under the Lease. Provided no event of default has occurred and is continuing under this Lease, upon ten (10) days prior written notice to Landlord (provided, however, if such prior notice cannot be provided due to applicable laws or written confidentiality agreements, then such notice shall be provided no later than ten (10) days after the date that such assignment occurs), Tenant may, without Landlord’s prior written consent, assign this Lease to an entity into which Tenant is merged or consolidated or to an entity to which substantially all of Tenant’s assets are transferred or to an entity controlled by or is commonly controlled with Tenant (a “Permitted Transferee”), provided (i) such merger, consolidation, or transfer of assets is for a good business purpose and not principally for the purpose of transferring Tenant’s leasehold estate, and (ii) the assignee or successor entity has a tangible net worth, calculated in accordance with generally accepted accounting principles (and evidenced by financial statements in form reasonably satisfactory to Landlord) at least equal to the tangible net worth of Tenant immediately prior to such merger, consolidation, or transfer. The term “controlled by” or “commonly controlled with” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such controlled person or entity, or the ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or possession of the right to vote, in the ordinary direction of its affairs, at least fifty-one percent (51%) of the voting interest in, any person or entity.

(b) No permitted assignment or subletting shall relieve Tenant of its obligation to pay the Rent and to perform all of the other obligations to be performed by Tenant hereunder. The acceptance of Rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease or to be a consent to any subletting or assignment. Consent by Landlord to one subletting or assignment shall not be deemed to constitute a consent to any other or subsequent attempted subletting or assignment. If Tenant desires at any time to assign this Lease or to sublet the Premises or any portion thereof, it shall first notify Landlord of its desire to do so and shall submit in writing to Landlord all pertinent information relating to the proposed assignee or sublessee, all pertinent information relating to the proposed assignment or sublease, and all such financial information as Landlord may reasonably request concerning the proposed assignee or subtenant. Any approved assignment or sublease shall be expressly subject to the terms and conditions of this Lease.

(c) In the event Tenant seeks to assign the Lease or sublease at least fifty percent (50%) of the Premises for more than fifty percent (50%) of the then remaining Lease Term then at any time within twenty (20) days after Landlord’s receipt of the information specified in subparagraph (b) above, Landlord may by written notice to Tenant elect to terminate this Lease as to the portion of the Premises so proposed to be subleased or assigned (which may include all of the Premises), with a proportionate abatement in the Rent payable hereunder.

(d) Tenant acknowledges that it shall be reasonable for Landlord to withhold its consent to a proposed assignment or sublease in any of the following instances:

(i) The assignee or sublessee is not, in Landlord’s reasonable opinion, sufficiently creditworthy to perform the obligations such assignee or sublessee will have under this Lease;

(ii) The intended use of the Premises by the assignee or sublessee is not the same as set forth in this Lease or otherwise reasonably satisfactory to Landlord;

(iii) The intended use of the Premises by the assignee or sublessee would materially increase the pedestrian or vehicular traffic to the Premises or the Building;

(iv) Occupancy of the Premises by the assignee or sublessee would, in the good faith judgment of Landlord, violate any agreement binding upon Landlord, the Building or the Project with regard to the identity of tenants, usage in the Building, or similar matters;
(v) The assignee or sublessee is then negotiating with Landlord or has negotiated with Landlord within the previous three (3) months, or is a current tenant or subtenant within the Building or Project;

(vi) The identity or business reputation of the assignee or sublessee will, in the good faith judgment of Landlord, tend to damage the goodwill or reputation of the Building or Project;

(vii) the proposed sublease would result in more than three subleases of portions of the Premises being in effect at any one time during the Lease Term; or

(viii) In the case of a sublease, the subtenant has not acknowledged that the sublease shall remain subject and subordinate to this Lease.

The foregoing criteria shall not exclude any other reasonable basis for Landlord to refuse its consent to such assignment or sublease.

(e) Notwithstanding any assignment or subletting, Tenant and any guarantor or surety of Tenant’s obligations under this Lease shall at all times during the initial term and any subsequent renewals or extensions remain fully responsible and liable for the payment of the rent and for compliance with all of Tenant’s other obligations under this Lease. In the event that the Rent due and paid by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment, plus any bonus or other consideration therefor or incident thereto) exceeds the Rent payable under this Lease after deducting Tenant’s reasonable out-of-pocket costs and expenses in connection with such assignment or sublease, then Tenant shall be bound and obligated to pay Landlord, as additional rent hereunder, fifty percent (50%) of such excess Rent and other excess consideration within thirty (30) days following receipt thereof by Tenant.

(f) If this Lease is assigned or if the Premises is subleased (whether in whole or in part), or in the event of the mortgage, pledge, or hypothecation of Tenant’s leasehold interest, or grant of any concession or license within the Premises, or if the Premises are occupied in whole or in part by anyone other than Tenant, then upon a default by Tenant hereunder Landlord may collect Rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and, except to the extent set forth in the preceding paragraph, apply the amount collected to the next Rent payable hereunder; and all such Rent collected by Tenant shall be held in deposit for Landlord and immediately forwarded to Landlord. No such transaction or collection of Rent or application thereof by Landlord, however, shall be deemed a waiver of these provisions or a release of Tenant from the further performance by Tenant of its covenants, duties, or obligations hereunder.

(g) If Tenant effects an assignment or sublease or requests the consent of Landlord to any proposed assignment or sublease, then Tenant shall, upon demand, pay Landlord a non-refundable administrative fee of One Thousand Dollars ($1,000.00), plus any reasonable attorneys’ and paralegal fees and costs incurred by Landlord in connection with such assignment or sublease or request for consent. Acceptance of the One Thousand Dollar ($1,000.00) administrative fee and/or reimbursement of Landlord’s attorneys’ and paralegal fees shall in no event obligate Landlord to consent to any proposed assignment or sublease.

(h) Notwithstanding any provision of this Lease to the contrary, in the event this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute the property of Tenant or Tenant’s estate within the meaning of the Bankruptcy Code. All such money and other consideration not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and shall be promptly paid or delivered to Landlord.
12. **DEFAULT**

(a) **Events of Default.** The occurrence of any one or more of the following events shall constitute an event of default (herein so called) under this Lease by Tenant: (i) the failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, where such failure continues for five (5) days after written notice thereof from Landlord that such payment was not received; (ii) the failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Lease to be observed or performed by Tenant, other than monetary failures as specified in clause (i) **Paragraphs 12(a)(i) above,** where such failure shall continue for a period of twenty (20) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant’s default is such that more than twenty (20) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said twenty (20) day period and thereafter diligently prosecute such cure to completion, which completion shall occur not later than sixty (60) days from the date of such notice from Landlord; (iii) the making by Tenant or any guarantor hereof of any general assignment for the benefit of creditors, (iv) the filing by or against Tenant or any guarantor hereof of a petition to have Tenant or any guarantor hereof adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant or any guarantor hereof, the same is dismissed within sixty (60) days), (v) the appointment of a trustee or receiver to take possession of substantially all of Tenant’s assets located at the Premises or of Tenant’s interest in this Lease or of substantially all of guarantor’s assets, where possession is not restored to Tenant or guarantor within sixty (60) days, or (vi) the attachment, execution or other judicial seizure of substantially all of Tenant’s assets located at the Premises or of substantially all of guarantor’s assets or of Tenant’s interest in this Lease where such seizure is not discharged within sixty (60) days; (vii) any material representation or warranty made by Tenant or guarantor in this Lease or any other document delivered in connection with the execution and delivery of this Lease or pursuant to this Lease proves to be incorrect in any material respect; or (viii) Tenant or guarantor shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution.

Any notice sent by Landlord to Tenant pursuant to this **Paragraph 12(a)** shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure Section 1161.

(b) **Landlord’s Remedies; Termination.** In the event of any event of default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant:

(i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(ii) the worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant’s failure to perform its obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom including, but not limited to: unamortized Tenant Improvement costs; attorneys’ fees; brokers’ commissions; the costs of refurbishment, alterations, renovation and repair of the Premises; and removal (including the repair of any damage caused by such removal) and storage (or disposal) of Tenant’s personal property, equipment, fixtures, Tenant Changes, Tenant Improvements and any other items which Tenant is required under this Lease to remove but does not remove.

As used in subparagraphs (i) and (ii) of **Paragraph 12(b) above,** the “worth at the time of award” is computed by allowing interest at the Default Rate (as defined below). As used in subparagraph (iii) of **Paragraph 12(b) above,** the “worth at the time of award” is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%). The term “Default Rate” as used in this Lease shall mean the lesser of (A) the rate announced from time to time by Wells Fargo Bank or, if Wells Fargo bank ceases to exist or ceases to publish such rate, then the rate announced from time to time by the largest (as measured by deposits) chartered bank operating in California, as its “prime rate” or “reference rate”, plus five percent (5%), or (B) the maximum rate of interest permitted by applicable law.

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23
(c) **Landlord’s Remedies; Re-Entry Rights.** In the event of any event of default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall also have the right, with or without terminating this Lease, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed, stored and/or disposed of pursuant to Paragraph 5(c) of this Lease or any other procedures permitted by applicable law. No re-entry or taking possession of the Premises by Landlord pursuant to this Paragraph 12(c), and no acceptance of surrender of the Premises or other action on Landlord’s part, shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction.

(d) **Continuation of Lease.** Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee’s breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any event of default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

(e) **Landlord’s Right to Perform.** Except as specifically provided otherwise in this Lease, all covenants and agreements by Tenant under this Lease shall be performed by Tenant at Tenant’s sole cost and expense and without any abatement or offset of rent. If Tenant shall fail to pay any sum of money (other than Monthly Basic Rent) or perform any other act on its part to be paid or performed hereunder and such failure shall continue for three (3) days with respect to monetary obligations (or twenty (20) days with respect to non-monetary obligations, except in case of emergencies, in which such case, such shorter period of time as is reasonable under the circumstances) after Tenant’s receipt of written notice thereof from Landlord, Landlord may, without waiving or releasing Tenant from any of Tenant’s obligations, make such payment or perform such other act on behalf of Tenant. All sums so paid by Landlord and all necessary incidental costs incurred by Landlord in performing such other acts shall be payable by Tenant to Landlord within five (5) days after demand therefor as additional rent.

(f) **Interest.** If any monthly installment of Rent or Operating Expenses, or any other amount payable by Tenant hereunder is not received by Landlord by the date when due, it shall bear interest at the Default Rate from the date due until paid. All interest, and any late charges imposed pursuant to Paragraph 12(g) below, shall be considered additional rent due from Tenant to Landlord under the terms of this Lease.

(g) **Late Charges.** Tenant acknowledges that, in addition to interest costs, the late payments by Tenant to Landlord of any monthly installment of Basic Annual Rent, Additional Rent or other sums due under this Lease will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impractical to fix. Such other costs include, without limitation, processing, administrative and accounting charges and late charges that may be imposed on Landlord by the terms of any mortgage, deed of trust or related loan documents encumbering the Premises, the Building or the Project. Accordingly, if any monthly installment of Annual Basic Rent, Additional Rent or any other amount payable by Tenant hereunder is not received by Landlord by the due date thereof, Tenant shall pay to Landlord an additional sum of five percent (5%) of the overdue amount as a late charge, but in no event more than the maximum late charge allowed by law. The parties agree that such late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of any late payment as hereinabove referred to by Tenant, and the payment of late charges and interest are distinct and separate in that the payment of interest is to compensate Landlord for the use of Landlord’s money by Tenant, while the payment of late charges is to compensate Landlord for Landlord’s processing, administrative and other costs incurred by Landlord as a result of Tenant’s delinquent payments. Acceptance of a late charge or interest shall not constitute a waiver of Tenant’s default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies available to Landlord under this Lease or at law or in equity now or hereafter in effect. Notwithstanding the foregoing, Landlord will not assess a late charge until Landlord has not given written notice of such late payment for the first last payment in any twelve (12) month period and after Tenant has not cured such late payment within three (3) days from receipt of such notice. No other notices will be required during the following twelve (12) months for a late charge to be incurred.
(h) Rights and Remedies Cumulative. All rights, options and remedies of Landlord contained in this Paragraph 12 and elsewhere in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. Nothing in this Paragraph 12 shall be deemed to limit or otherwise affect Tenant’s indemnification of Landlord pursuant to any provision of this Lease.

(i) Tenant’s Waiver of Redemption. Tenant hereby waives and surrenders for itself and all those claiming under it, including creditors of all kinds, (i) any right and privilege which it or any of them may have under any present or future law to redeem any of the Premises or to have a continuance of this Lease after termination of this Lease or of Tenant’s right of occupancy or possession pursuant to any court order or any provision hereof, and (ii) the benefits of any present or future law which exempts property from liability for debt or for distress for rent.

(j) Costs Upon Default and Litigation. Tenant shall pay to Landlord and its mortgagees as additional rent all the expenses incurred by Landlord or its mortgagees in connection with any default by Tenant hereunder or the exercise of any remedy by reason of any default by Tenant hereunder, including reasonable attorneys’ fees and expenses. If Landlord or its mortgagees shall be made a party to any litigation commenced against Tenant or any litigation pertaining to this Lease or the Premises, at the option of Landlord and/or its mortgagees, Tenant, at its expense, shall provide Landlord and/or its mortgagees with counsel approved by Landlord and/or its mortgagees and shall pay all costs incurred or paid by Landlord and/or its mortgagees in connection with such litigation.

13. ACCESS; CONSTRUCTION

Landlord reserves the right to use the roof and exterior walls of the Premises and the area beneath, adjacent to and above the Premises, together with the right to install, use, maintain, repair, replace and relocate equipment, machinery, meters, pipes, ducts, plumbing, conduits and wiring through the Premises, which serve other portions of the Building or the Project in a manner and in locations which do not unreasonably interfere with Tenant’s use of the Premises. In addition, Landlord shall have free access to any and all mechanical installations of Landlord or Tenant, including, without limitation, machine rooms, telephone rooms and electrical closets. Tenant agrees that there shall be no construction of partitions or other obstructions which materially interfere with or which threaten to materially interfere with Landlord’s free access thereto, or materially interfere with the moving of Landlord’s equipment to or from the enclosures containing said installations. Upon at least twenty-four (24) hours’ prior notice (except in the event of an emergency, when no notice shall be necessary), Landlord reserves and shall at any time and all times have the right to enter the Premises to inspect the same, to supply janitorial service and any other service to be provided by Landlord to Tenant hereunder, to exhibit the Premises to prospective purchasers, lenders or tenants, to post notices of non-responsibility, to alter, improve, restore, rebuild or repair the Premises or any other portion of the Building, or to do any other act permitted or contemplated to be done by Landlord hereunder, all without being deemed guilty of an eviction of Tenant and without liability for abatement of Rent or otherwise. For such purposes, Landlord may also erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed. Landlord shall conduct all such inspections and/or improvements, alterations and repairs so as to minimize, to the extent reasonably practical and without additional expense to Landlord, any interruption of or interference with the business of Tenant. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant’s business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of such purposes, Landlord shall have and retain a key with which to unlock all of the doors in, upon and about the Premises (excluding Tenant’s vaults and safes, access to which shall be provided by Tenant upon Landlord’s reasonable request). Landlord shall have the right to use any and all means which Landlord may deem proper in an emergency in order to obtain entry to the Premises or any portion thereof, and Landlord shall have the right, at any time during the Lease Term, to provide whatever access control measures it deems reasonably necessary to the Project, without any interruption or abatement in the payment of Rent by Tenant. Any entry into the Premises obtained by Landlord by any of such means shall not under any circumstances be construed to be a forcible or unlawful entry into, or a detainer of, the Premises, or any eviction of Tenant from the Premises or any portion thereof. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, Alterations or decorations to the Premises or the Project except as otherwise expressly agreed to be performed by Landlord pursuant to the provisions of this Lease.
14. **BANKRUPTCY**

(a) If at any time on or before the Commencement Date there shall be filed by or against Tenant in any court, tribunal, administrative agency or any other forum having jurisdiction, pursuant to any applicable law, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee or conservator of all or a portion of Tenant’s property, or if Tenant makes an assignment for the benefit of creditors, this Lease shall ipso facto be canceled and terminated and in such event neither Tenant nor any person claiming through or under Tenant or by virtue of any applicable law or by an order of any court, tribunal, administrative agency or any other forum having jurisdiction, shall be entitled to possession of the Premises and Landlord, in addition to the other rights and remedies given by Paragraph 12 hereof or by virtue of any other provision contained in this Lease or by virtue of any applicable law, may retain as damages any Rent, Security Deposit or moneys received by it from Tenant or others on behalf of Tenant.

(b) If, after the Commencement Date, or if at any time during the term of this Lease, there shall be filed against Tenant in any court, tribunal, administrative agency or any other forum having jurisdiction, pursuant to any applicable law, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee or conservator of all or a portion of Tenant’s property, and the same is not dismissed after sixty (60) calendar days, or if Tenant makes an assignment for the benefit of creditors, this Lease, at the option of Landlord exercised within a reasonable time after notice of the happening of any one or more of such events, may be canceled and terminated and in such event neither Tenant nor any person claiming through or under Tenant or by virtue of any statute or of an order of any court shall be entitled to possession or to remain in possession of the Premises, but shall forthwith quit and surrender the Premises, and Landlord, in addition to the other rights and remedies granted by Paragraph 12 hereof or by virtue of any other provision contained in this Lease or by virtue of any applicable law, may retain as damages any Rent, Security Deposit or moneys received by it from Tenant or others on behalf of Tenant.

(c) In the event of the occurrence of any of those events specified in this Paragraph 14, if Landlord shall not choose to exercise, or by applicable law, shall not be able to exercise, its rights hereunder to terminate this Lease upon the occurrence of such events, then, in addition to any other rights of Landlord hereunder or by virtue of applicable law, (i) Landlord shall not be obligated to provide Tenant with any of the utilities or services specified in Paragraph 7, unless Landlord has received compensation in advance for such utilities or services, and the parties agree that Landlord’s reasonable estimate of the compensation required with respect to such services shall control, and (ii) neither Tenant, as debtor-in-possession, nor any trustee or other person (hereinafter collectively referred to as the “Assuming Tenant”) shall be entitled to assume this Lease unless on or before the date of such assumption, the Assuming Tenant (x) cures, or provides adequate assurance that the latter will promptly cure, any existing default under this Lease, (y) compensates, or provides adequate assurance that the Assuming Tenant will promptly compensate Landlord for any pecuniary loss (including, without limitation, attorneys’ fees and disbursements) resulting from such default, and (z) provides adequate assurance of future performance under this Lease, it being covenanted and agreed by the parties that, for such purposes, any cure or compensation shall be effected by the immediate payment of any monetary default or any required compensation, or the immediate correction or bonding of any nonmonetary default. For purposes of this Lease, (i) any “adequate assurance” of such cure or compensation shall be effected by the establishment of an escrow fund for the amount at issue or by the issuance of a bond, and (ii) “adequate assurance” of future performance shall be effected by the establishment of an escrow fund for the amount at issue or by the issuance of a bond.

15. **INTENTIONALLY DELETED**

16. **SUBORDINATION; ATTORNMENT; ESTOPPEL CERTIFICATES**

(a) Tenant agrees that this Lease and the rights of Tenant hereunder shall be subject and subordinate to any and all deeds of trust, security interests, mortgages, master leases, ground leases or other security documents and any and all modifications, renewals, extensions, consolidations and replacements thereof (collectively, “Security Documents”) which now or hereafter constitute a lien upon or affect the Project, the Building or the Premises. Such subordination shall be effective without the necessity of the execution by Tenant of any additional document for the purpose of evidencing or effecting such subordination. In addition, Landlord shall have the right to subordinate or
cause to be subordinated any such Security Documents to this Lease and in such case, in the event of the termination or transfer of Landlord’s estate or interest in the Project by reason of any termination or foreclosure of any such Security Documents, Tenant shall, notwithstanding such subordination, attorn to and become the Tenant of the successor in interest to Landlord at the option of such successor in interest. Furthermore, Tenant shall within fifteen (15) days of demand therefor execute any instruments or other documents which may be required by Landlord or the holder of any Security Document and specifically shall execute, acknowledge and deliver within fifteen (15) days of demand therefor a subordination of lease or subordination of deed of trust, in the form required by the holder of the Security Document requesting the document and reasonably approved by Tenant; provided, however, the new landlord or the holder of any Security Document shall agree that Tenant’s quiet enjoyment of the Premises shall not be disturbed as long as Tenant is not in default under this Lease. Landlord agrees to use commercially reasonable efforts to obtain and provide to Tenant a Subordination, Non-Disturbance and Attornment Agreement (“SNDA”) in substantially the form of the agreement used by the lender holding any existing or future mortgage encumbering the Building or lessor under an existing or future ground lease; provided, however, in no event shall Landlord be in default under this Lease, and in no event shall Tenant be entitled to terminate this Lease, if Landlord is unable to provide Tenant with such SNDA. Tenant shall reimburse Landlord upon demand for any costs, including attorneys fees, that Landlord incurs in seeking to obtain an SNDA for Tenant.

(b) If any proceeding is brought for default under any ground or master lease to which this Lease is subject or in the event of foreclosure or the exercise of the power of sale under any mortgage, deed of trust or other Security Document made by Landlord covering the Premises for which the holder of such mortgage, deed of trust or other Security Document has executed an SNDA with Tenant, at the election of such ground lessor, master lessor or purchaser at foreclosure, Tenant shall attorn to and recognize the same as Landlord under this Lease, provided such successor expressly agrees in writing to be bound to all future obligations by the terms of this Lease, and if so requested, Tenant shall enter into a new lease with that successor on the same terms and conditions as are contained in this Lease (for the unexpired term of this Lease then remaining). Subject to the foregoing condition, Tenant hereby waives its rights under any current or future law which gives or purports to give Tenant any right to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any such foreclosure proceeding or sale.

(c) [Intentionally Deleted].

(d) Tenant shall, upon not less than fifteen (15) days’ prior notice by Landlord, execute, acknowledge and deliver to Landlord a statement in writing certifying to those facts for which certification has been requested by Landlord or any current or prospective purchaser, holder of any Security Document, ground lessor or master lessor, including, but without limitation, that (i) this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the Basic Annual Rent, Additional Rent and other charges hereunder have been paid, if any, and (iii) whether or not to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Tenant may have knowledge. The form of the statement attached hereto as Exhibit E is hereby approved by Tenant for use pursuant to this subparagraph (d); however, at Landlord’s option, Landlord shall have the right to use other forms for such purpose. Tenant’s failure to execute and deliver such statement within such time shall be conclusive upon Tenant that this Lease is in full force and effect without modification except as may be represented by Landlord in any such certificate prepared by Landlord and delivered to Tenant for execution. Any statement delivered pursuant to this Paragraph 16 may be relied upon by any prospective purchaser of the fee of the Building or the Project or any mortgagee, ground lessor or other like encumbrancer thereof or any assignee of any such encumbrance upon the Building or the Project.

17. SALE BY LANDLORD; TENANT’S REMEDIES; NONRECOURSE LIABILITY

(a) In the event of a sale or conveyance by Landlord of the Building or the Project, Landlord shall be released from any and all liability under this Lease. If the Security Deposit has been made by Tenant prior to such sale or conveyance, Landlord shall transfer the Security Deposit to the purchaser, and upon delivery to Tenant of notice thereof, Landlord shall be discharged from any further liability in reference thereto.
(b) Landlord shall not be in default of any obligation of Landlord hereunder unless Landlord fails to perform any of its obligations under this Lease within thirty (30) days after receipt of written notice of such failure from Tenant; provided, however, that if the nature of Landlord’s obligation is such that more than thirty (30) days are required for its performance, Landlord shall not be in default if Landlord commences to cure such default within the thirty (30) day period and thereafter diligently prosecutes the same to completion. All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter. All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for breach of Landlord’s obligations hereunder.

(c) Notwithstanding anything contained in this Lease to the contrary, the obligations of Landlord under this Lease (including any actual or alleged breach or default by Landlord) do not constitute personal obligations of the individual partners, directors, officers, members or shareholders of Landlord or Landlord’s members or partners, and Tenant shall not seek recourse against the individual partners, directors, officers, members or shareholders of Landlord or against Landlord’s members or partners or against any other persons or entities having any interest in Landlord, or against any of their personal assets for satisfaction of any liability with respect to this Lease. Any liability of Landlord for a default by Landlord under this Lease, or a breach by Landlord of any of its obligations under the Lease, shall be limited solely to its interest in the Project and all rents, incomes, proceeds and awards derived therefrom, and in no event shall any personal liability be asserted against Landlord and/or any Landlord Indemnitee in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord, its partners, directors, officers, members, shareholders or any other persons or entities having any interest in Landlord. Tenant’s sole and exclusive remedy for a default or breach of this Lease by Landlord shall be either (i) an action for damages, or (ii) an action for injunctive relief; Tenant hereby waiving and agreeing that Tenant shall have no offset rights or right to terminate this Lease on account of any breach or default by Landlord under this Lease. Under no circumstances whatsoever shall Landlord ever be liable for punitive, consequential or special damages or loss of profits under this Lease and Tenant waives any rights it may have to such damages under this Lease in the event of a breach or default by Landlord under this Lease.

(d) As a condition to the effectiveness of any notice of default given by Tenant to Landlord, Tenant shall also concurrently give such notice under the provisions of Paragraph 17(b) to each beneficiary under a Security Document encumbering the Project of whom Tenant has received written notice (such notice to specify the address of the beneficiary). Each such beneficiary shall have an additional thirty (30) days within which to cure such default, or if such default cannot reasonably be cured within such period, then each such beneficiary shall have such additional time as shall be necessary to cure such default, provided that within such thirty (30) day period, such beneficiary has commenced and is diligently pursuing the remedies available to it which are necessary to cure such default (including, without limitation, as appropriate, commencement of foreclosure proceedings).

18. PARKING; COMMON AREAS

(a) Tenant shall have the right to the nonexclusive use of the number of parking spaces located in the parking areas of the Project specified in Item 13 of the Basic Lease Provisions for the parking of operational motor vehicles used by Tenant, its officers and employees only. Landlord reserves the right, at any time upon written notice to Tenant, to designate the location of Tenant’s parking spaces as determined by Landlord in its reasonable discretion. The use of such spaces shall be subject to the reasonable rules and regulations adopted by Landlord from time to time for the use of the parking areas. Landlord further reserves the right to make such changes to the parking system as Landlord may deem necessary or reasonable from time to time; i.e., Landlord may provide for one or a combination of parking systems, including, without limitation, self-parking, single or double stall parking spaces, and valet assisted parking and in such case the costs therefor shall be considered an Operating Cost. Tenant agrees that Tenant, its officers and employees shall not be entitled to park in any reserved or specially assigned areas designated by Landlord from time to time in the Project’s parking areas. Landlord may require execution of an agreement with respect to the use of such parking areas by Tenant and/or its officers and employees in form satisfactory to Landlord as a condition of any such use by Tenant, its officers and employees. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant’s officers, employees, suppliers, shippers, customers or invitees to be loaded, unloaded or parked in areas other than those designated by Landlord for such activities. If Tenant permits or allows any of the prohibited activities described in this Paragraph, then Landlord shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost shall be immediately payable upon demand by Landlord.
(b) Subject to subparagraph (c) below and the remaining provisions of this Lease, Tenant shall have the nonexclusive right, in common with others, to the use of such entrances, lobbies, restrooms, elevators, ramps, drives, stairs, and similar access ways and service ways and other common areas and facilities in and adjacent to the Building and the Project as are designated from time to time by Landlord for the general nonexclusive use of Landlord, Tenant and the other tenants of the Project and their respective employees, agents, representatives, licensees and invitees (“Common Areas”). The use of such Common Areas shall be subject to the reasonable rules and regulations contained herein and the provisions of any covenants, conditions and restrictions affecting the Building or the Project. Tenant shall keep all of the Common Areas free and clear of any obstructions created or permitted by Tenant or resulting from Tenant’s operations, and shall use the Common Areas only for normal activities, parking and ingress and egress by Tenant and its employees, agents, representatives, licensees and invitees to and from the Premises, the Building or the Project. If, in the reasonable opinion of Landlord, unauthorized persons are using the Common Areas by reason of the presence of Tenant in the Premises, Tenant, upon demand of Landlord, shall correct such situation by appropriate action or proceedings against all such unauthorized persons. Nothing herein shall affect the rights of Landlord at any time to remove any such unauthorized persons from said areas or to prevent the use of any of said areas by unauthorized persons. Landlord reserves the right to make such changes, alterations, additions, deletions, improvements, repairs or replacements in or to the Building, the Project (including the Premises) and the Common Areas as Landlord may reasonably deem necessary or desirable, including, without limitation, constructing new buildings and making changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading areas, landscaped areas and walkways; provided, however, that there shall be no unreasonable permanent obstruction of access to or use of the Premises resulting therefrom. In the event that the Project is not completed on the date of execution of this Lease, Landlord shall have the sole judgment and discretion to determine the architecture, design, appearance, construction, workmanship, materials and equipment with respect to construction of the Project. Notwithstanding any provision of this Lease to the contrary, the Common Areas shall not in any event be deemed to be a portion of or included within the Premises leased to Tenant and the Premises shall not be deemed to be a portion of the Common Areas. This Lease is granted subject to the terms hereof, the rights and interests of third parties under existing liens, ground leases, easements and encumbrances affecting such property, all zoning regulations, rules, ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction over the Project or any part thereof.

(c) Notwithstanding any provision of this Lease to the contrary, Landlord specifically reserves the right to redefine the term “Project” for purposes of allocating and calculating Operating Costs so as to include or exclude areas as Landlord shall from time to time determine or specify (and any such determination or specification shall be without prejudice to Landlord’s right to revise thereafter such determination or specification). In addition, Landlord shall have the right to contract or otherwise arrange for amenities, services or utilities (the cost of which is included within Operating Costs) to be on a common or shared basis to both the Project (i.e., the area with respect to which Operating Costs are determined) and adjacent areas not included within the Project, so long as the basis on which the cost of such amenities, services or utilities is allocated to the Project is determined on an arms-length basis or some other basis reasonably determined by Landlord. In the case where the definition of the Project is revised, Tenant’s Proportionate Share shall be appropriately revised to equal the percentage share of all Rentable Area contained within the Project (as then defined) represented by the Premises. Landlord shall have the sole right to determine which portions of the Project and other areas, if any, shall be served by common management, operation, maintenance and repair. Landlord shall also have the right, in its sole discretion, to allocate and prorate any portion or portions of the Operating Costs on a building-by-building basis, on an aggregate basis of all buildings in the Project, or any other reasonable manner, and if allocated on a building-by-building basis, then Tenant’s Proportionate Share shall, as to the portion of the Operating Costs so allocated, be based on the ratio of the Rentable Area of the Premises to the Rentable Area of the Building.
19. MISCELLANEOUS

(a) Attorneys’ Fees. In the event of any legal action or proceeding brought by either party against the other arising out of this Lease, the prevailing party shall be entitled to recover reasonable attorneys’ fees and costs (including, without limitation, court costs and expert witness fees) incurred in such action. Such amounts shall be included in any judgment rendered in any such action or proceeding.

(b) Waiver. No waiver by either party of any provision of this Lease or of any breach by the other party hereunder shall be deemed to be a waiver of any other provision hereof, or of any subsequent breach by the other party. Landlord’s consent to or approval of any act by Tenant requiring Landlord’s consent or approval under this Lease shall not be deemed to render unnecessary the obtaining of Landlord’s consent to or approval of any subsequent act of Tenant. No act or thing done by Landlord or Landlord’s agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, unless in writing signed by Landlord. The delivery of the keys to any employee or agent of Landlord shall not operate as a termination of the Lease or a surrender of the Premises. The acceptance of any Rent by Landlord following a breach of this Lease by Tenant shall not constitute a waiver by Landlord of such breach or any other breach unless such waiver is expressly stated in a writing signed by Landlord.

(c) Notices. Any notice, demand, request, consent, approval, disapproval or certificate (“Notice”) required or desired to be given under this Lease shall be in writing and given by certified mail, return receipt requested, by personal delivery or by Federal Express or a similar nationwide overnight delivery service providing a receipt for delivery. Notices may not be given by facsimile. The date of giving any Notice shall be deemed to be the date upon which delivery is actually made by one of the methods described in this Section 19(c) (or attempted if said delivery is refused or rejected). If a Notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day. All notices, demands, requests, consents, approvals, disapprovals, or certificates shall be addressed at the address specified in Item 14 of the Basic Lease Provisions or to such other addresses as may be specified by written notice from Landlord to Tenant and if to Tenant, at the Premises. Either party may change its address by giving reasonable advance written Notice of its new address in accordance with the methods described in this Paragraph; provided, however, no notice of either party’s change of address shall be effective until fifteen (15) days after the addressee’s actual receipt thereof.

(d) Access Control. Landlord shall be the sole determinant of the type and amount of any access control or courtesy guard services to be provided to the Project, if any. IN ALL EVENTS, LANDLORD SHALL NOT BE LIABLE TO TENANT, AND TENANT HEREBY WAIVES ANY CLAIM AGAINST LANDLORD, FOR (I) ANY UNAUTHORIZED OR CRIMINAL ENTRY OF THIRD PARTIES INTO THE PREMISES, THE BUILDING OR THE PROJECT, (II) ANY DAMAGE TO PERSONS, OR (III) ANY LOSS OF PROPERTY IN AND ABOUT THE PREMISES, THE BUILDING OR THE PROJECT, BY OR FROM ANY UNAUTHORIZED OR CRIMINAL ACTS OF THIRD PARTIES, REGARDLESS OF ANY ACTION, INACTION, FAILURE, BREAKDOWN, MALFUNCTION AND/OR INSUFFICIENCY OF THE ACCESS CONTROL OR COURTESY GUARD SERVICES PROVIDED BY LANDLORD.

(e) Storage. Any storage space at any time leased to Tenant hereunder shall be used exclusively for storage. Notwithstanding any other provision of this Lease to the contrary, (i) Landlord shall have no obligation to provide heating, cleaning, water or air conditioning therefor, and (ii) Landlord shall be obligated to provide to such storage space only such electricity as will, in Landlord’s judgment, be adequate to light said space as storage space.

(f) Holding Over. If Tenant retains possession of the Premises after the termination of the Lease Term, unless otherwise agreed in writing, such possession shall be subject to immediate termination by Landlord at any time, and all of the other terms and provisions of this Lease (excluding any expansion or renewal option or other similar right or option) shall be applicable during such holdover period, except that Tenant shall pay Landlord from time to time, upon demand, as Basic Annual Rent for the holdover period, an amount equal to one hundred fifty percent (150%) of the Basic Annual Rent in effect on the termination date, computed on a monthly basis for each month or part thereof during such holding over; provided, however, during such holdover period if Landlord recovers legal possession of the Premises free of any claim by Tenant during such holdover period in which Tenant has paid Basic Annual Rent for the entirety of such month, Landlord shall provide Tenant with a refund of the pro-rated
portion of such rent attributable to the portion of the month after the date that Landlord has received legal possession of the Premises free of Tenant’s claims with respect thereto. All other payments shall continue under the terms of this Lease. In addition, Tenant shall be liable for all damages incurred by Landlord as a result of such holding over, including, without limitation, any claim made by any succeeding tenant based thereon. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Paragraph shall not be construed as consent for Tenant to retain possession of the Premises.

(g) **Condition of Premises.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS LEASE, LANDLORD HEREBY DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT’S INTENDED PURPOSE OR USE, WHICH DISCLAIMER IS HEREBY ACKNOWLEDGED BY TENANT. THE TAKING OF POSSESSION BY TENANT SHALL BE CONCLUSIVE EVIDENCE THAT TENANT:

(i) ACCEPTS THE PREMISES, THE BUILDING AND LEASEHOLD IMPROVEMENTS AS SUITABLE FOR THE PURPOSES FOR WHICH THE PREMISES WERE LEASED;

(ii) ACCEPTS THE PREMISES AND PROJECT IN ITS AS-IS, WHERE-IS CONDITION;

(iii) WAIVES ANY DEFECTS IN THE PREMISES AND ITS APPURTENANCES EXISTING NOW OR IN THE FUTURE, EXCEPT THAT TENANT’S TAKING OF POSSESSION SHALL NOT BE DEEMED TO WAIVE LANDLORD’S COMPLETION OF MINOR FINISH WORK ITEMS THAT DO NOT INTERFERE WITH TENANT’S OCCUPANCY OF THE PREMISES OR ANY PUNCH LIST ITEMS PURSUANT TO EXHIBIT B HEREOF OR ANY HVAC WORK PURSUANT TO PARAGRAPH 4(A) HEREOF; AND

(iv) WAIVES ALL CLAIMS BASED ON ANY IMPLIED WARRANTY OF SUITABILITY OR HABITABILITY.

(h) **Quiet Possession.** Upon Tenant’s paying the Rent reserved hereunder and observing and performing all of the covenants, conditions and provisions on Tenant’s part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the term hereof without hindrance or ejection by any person lawfully claiming under Landlord, subject to the provisions of this Lease and to the provisions of any (i) covenants, conditions and restrictions, (ii) master lease, or (iii) Security Documents to which this Lease is subordinate or may be subordinated.

(i) **Matters of Record.** Except as otherwise provided herein, this Lease and Tenant’s rights hereunder are subject and subordinate to all matters affecting Landlord’s title to the Project recorded in the Real Property Records of the County in which the Project is located, prior to and subsequent to the date hereof, including, without limitation, all covenants, conditions and restrictions. Tenant agrees for itself and all persons in possession or holding under it that it will comply with and not violate any such covenants, conditions and restrictions or other matters of record. Landlord reserves the right, from time to time, to grant such easements, rights and dedications as Landlord deems necessary or desirable, and to cause the recordation of parcel maps and covenants, conditions and restrictions affecting the Premises, the Building or the Project, as long as such easements, rights, dedications, maps, and covenants, conditions and restrictions do not materially interfere with the use of the Premises by Tenant. At Landlord’s request, Tenant shall join in the execution of any of the aforementioned documents.

(j) **Successors and Assigns.** Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns. Tenant shall attorn to each purchaser, successor or assignee of Landlord.

(k) **Brokers.** Landlord has entered into an agreement with Landlord’s Broker specified in Item 12 of the Basic Lease Provision as representing Landlord, and Landlord shall pay any commissions or fees that are payable to Landlord’s Broker with respect to this Lease in accordance with the provisions of a separate commission agreement.
contract. Landlord shall have no further or separate obligation for payment of commissions or fees to any other real estate broker, finder or intermediary. Tenant represents that it has not had any dealings with any real estate broker, finder or intermediary with respect to this Lease, other than Landlord’s Broker and Tenant’s Broker specified in Item 12 of the Basic Lease Provision as representing Tenant. Any commissions or fees payable to Tenant’s Broker with respect to this Lease shall be paid exclusively by Landlord’s Broker. Each party represents and warrants to the other, that, to its knowledge, no other broker, agent or finder (a) negotiated or was instrumental in negotiating or consummating this Lease on its behalf, and (b) is or might be entitled to a commission or compensation in connection with this Lease. Tenant shall indemnify, protect, defend (by counsel reasonably approved in writing by Landlord) and hold Landlord harmless from and against any and all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys’ fees and court costs) resulting from any breach by Tenant of the foregoing representation, including, without limitation, any claims that may be asserted against Landlord by any broker, agent or finder undisclosed by Tenant herein. Landlord shall indemnify, protect, defend (by counsel reasonably approved in writing by Tenant) and hold Tenant harmless from and against any and all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys’ fees and court costs) resulting from any breach by Landlord of the foregoing representation, including, without limitation, any claims that may be asserted against Tenant by any broker, agent or finder undisclosed by Landlord herein. The foregoing indemnities shall survive the expiration or earlier termination of this Lease.

(l) Name. Landlord shall have the exclusive right at all times during the Lease Term to change, modify, add to or otherwise alter the name, number, or designation of the Building and/or the Project, and Landlord shall not be liable for claims or damages of any kind which may be attributed thereto or result therefrom.

(m) Examination of Lease. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease, and it is not effective as a lease or otherwise until execution by and delivery to both Landlord and Tenant.

(n) Time. Time is of the essence of this Lease and each and all of its provisions.

(o) Defined Terms and Marginal Headings. The words “Landlord” and “Tenant” as used herein shall include the plural as well as the singular and for purposes of Articles 5, 7, 13 and 18, the term Landlord shall include Landlord, its employees, contractors and agents. If more than one person is named as Tenant the obligations of such persons are joint and several. The marginal headings and titles to the articles of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

(p) Conflict of Laws; Prior Agreements; Separability. This Lease shall be governed by and construed pursuant to the laws of the State of California. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease. No prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. The illegality, invalidity or unenforceability of any provision of this Lease shall in no way impair or invalidate any other provision of this Lease, and such remaining provisions shall remain in full force and effect.

(q) Authority. If Tenant is a corporation, each individual executing this Lease on behalf of Tenant hereby covenants and warrants that Tenant is a duly authorized and existing corporation, and Tenant has and is qualified to do business in the State, that the corporation has full right and authority to enter into this Lease, and that each person signing on behalf of the corporation is authorized to do so. If Tenant is a partnership or trust, each individual executing this Lease on behalf of Tenant hereby covenants and warrants that he is duly authorized to execute and deliver this Lease on behalf of Tenant in accordance with the terms of such entity’s partnership or trust agreement. Tenant shall provide Landlord on demand with such evidence of such authority as Landlord shall reasonably request, including, without limitation, resolutions, certificates and opinions of counsel.

(r) Joint and Several Liability. If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each such individual, corporation, partnership or other business association to pay Rent and perform all other obligations hereunder shall be deemed to be joint and several, and all notices, payments and agreements given or
made by, with or to any one of such individuals, corporations, partnerships or other business associations shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other business association, the members of which are, by virtue of statute or federal law, subject to personal liability, then the liability of each such member shall be joint and several.

(s) Rental Allocation. For purposes of Section 467 of the Internal Revenue Code of 1986, as amended from time to time, Landlord and Tenant hereby agree to allocate all Rent to the period in which payment is due, or if later, the period in which Rent is paid.

(t) Rules and Regulations. Tenant agrees to comply with all rules and regulations of the Building and the Project imposed by Landlord as set forth on Exhibit D attached hereto, as the same may be reasonably changed from time to time upon reasonable notice to Tenant. Landlord shall not be liable to Tenant for the failure of any other tenant or any of its assignees, subtenants, or their respective agents, employees, representatives, invitees or licensees to conform to such rules and regulations. In the event of a conflict between this Lease and the rules and regulations, this Lease shall control.

(u) Joint Product. This Agreement is the result of arms-length negotiations between Landlord and Tenant and their respective attorneys. Accordingly, neither party shall be deemed to be the author of this Lease and this Lease shall not be construed against either party.

(v) Financial Statements. Upon Landlord’s written request, but no more than twice per year, Tenant shall promptly furnish Landlord, from time to time, with the most current audited financial statements prepared in accordance with generally accepted accounting principles, certified by Tenant and an independent auditor to be true and correct, reflecting Tenant’s then current financial condition.

(w) Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorism, terrorist activities, inability to obtain services, labor, or materials or reasonable substitutes therefore, governmental actions, civil commotions, fire, flood, earthquake or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease and except as to Tenant’s obligations under Article 6 and Article 8 of this Lease and Section 19(f) of this Lease and any extension of the Construction Termination Date as set forth in Paragraph (d) of Exhibit B to this Lease (collectively, a “Force Majeure”), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party’s performance caused by a Force Majeure.

(x) Submission of Lease. Submission of this instrument for examination or signature by Tenant does not constitute a reservation of, option for or option to lease, and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

(y) [Intentionally Deleted].

(z) Office and Communication Services. Landlord has advised Tenant that certain office and communications services may be offered to tenants of the Building by a concessionaire under contract to Landlord ("Provider"). Tenant shall be permitted to contract with Provider for the provision of any or all of such services on such terms and conditions as Tenant and Provider may agree. Tenant acknowledges and agrees that: (i) Landlord has made no warranty or representation to Tenant with respect to the availability of any such services, or the quality, reliability or suitability thereof; (ii) the Provider is not acting as the agent or representative of Landlord in the provision of such services, and Landlord shall have no liability or responsibility for any failure or inadequacy of such services, or any equipment or facilities used in the furnishing thereof, or any act or omission of Provider, or its agents, employees, representatives, officers or contractors; (iii) Landlord shall have no responsibility or liability for the installation, alteration, repair, maintenance, furnishing, operation, adjustment or removal of any such services, equipment or facilities; and (iv) any contract or other agreement between Tenant and Provider shall be independent of this Lease, the obligations of Tenant hereunder, and the rights of Landlord hereunder, and, without limiting the
foregoing, no default or failure of Provider with respect to any such services, equipment or facilities, or under any contract or agreement relating thereto, shall have any effect on this Lease or give to Tenant any offset or defense to the full and timely performance of its obligations hereunder, or entitle Tenant to any abatement of Basic Annual Rent or Additional Rent or any other payment required to be made by Tenant hereunder, or constitute any accrual or constructive eviction of Tenant, or otherwise give rise to any other claim of any nature against Landlord.

(aa) **Counterparts.** This Lease may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

(bb) **Waiver of Jury Trial.** TENANT AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

(cc) **OFAC Compliance.**

(i) **Certification.** Tenant certifies, represents, warrants and covenants that:

(A) It is not acting and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, “Specially Designated National and Blocked Person”, or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and

(B) It is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation.

(ii) **Indemnity.** Tenant hereby agrees to defend (with counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord and the Landlord Indemnitees from and against any and all Claims arising from or related to any such breach of the foregoing certifications, representations, warranties and covenants.

(dd) **CASp Disclosure.** As of the Date of this Lease, the Project has not undergone inspection by a Certified Access Specialist (CASp).

(ec) **Signage.** Provided that (x) Tenant is the Tenant originally named herein or a Permitted Transferee, (y) Tenant or a Permitted Transferee is leasing and actually occupies the Premises initially leased hereunder, and (z) no event of material default or event which but for the passage of time or the giving of notice, or both, would constitute a material event of default has occurred and is continuing, then, subject to the further terms of this Paragraph 19(ee) and all applicable laws, ordinances, restrictions, rules and regulations, as well as all applicable covenants, restrictions or deed restrictions affecting the Project (collectively, the “Applicable Rules and Restrictions”), Tenant shall have the right throughout the Lease Term to install its signage in a location near the main entrance to the Premises ("Fascia Sign") provided that Landlord, acting reasonably, approves the Fascia Sign (including all structural engineering and aesthetic aspects thereof) and the exact location where the same is to be installed. The engineering, manufacture, installation, maintenance and removal of, and the procurement of all required approvals for, the Fascia Sign shall be at Tenant’s sole cost and expense. Notwithstanding the foregoing to the contrary, Landlord approves of the logo and appearance of the sign set forth in Exhibit J attached hereto; provided, however, the exact location and size of such sign is still subject to Landlord’s prior approval. The installation of the Fascia Sign shall be in compliance with all Applicable Rules and Restrictions. Prior to the manufacturing or installing the Fascia Sign, Tenant shall submit to Landlord, for Landlord’s approval which shall not be unreasonably withheld, delayed or, except as expressly provided herein, conditioned, (i) a report from a structural engineer reasonably acceptable to Landlord providing that (A) the Building can adequately support the installation of the Fascia Sign, and (B) the Fascia Sign can and will be installed in a manner that will not damage, or otherwise affect or diminish the structural integrity of, the Building, and (ii) a detailed drawing indicating the size, layout, design, configuration,
lettering and/or graphics and color of the proposed Fascia Sign, together with the proposed location where the Fascia Sign is to be installed. In the event Landlord approves the structural report, the Fascia Sign and the location, Landlord shall evidence such approval in writing. Tenant shall install, repair, maintain, and remove the Fascia Sign with contractors approved by Landlord. Any such contractors shall satisfy Landlord’s insurance and indemnification requirements prior to performing any work. Tenant agrees that the installation, maintenance, repair and removal of the Fascia Sign shall be at Tenant’s sole risk. Tenant agrees to maintain the Fascia Sign in good condition and repair and, prior to the expiration of the Lease Term or the earlier termination of this Lease or Tenant’s right of possession under this Lease, Tenant shall remove the Fascia Sign at its sole cost and expense. In the event Tenant fails to repair or remove the Fascia Sign, Landlord shall have the right to repair or remove the Fascia Sign, as the case may be, and Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith, plus an additional charge equal to ten percent (10%) of such costs incurred by Landlord as a coordination fee, and upon any such removal Landlord shall have the right to dispose of the same in any manner Landlord so desires without any liability to Tenant therefor. TENANT AGREES TO INDEMNIFY AND HOLD LANDLORD HARMLESS FROM AND AGAINST ANY AND ALL LIENS, CLAIMS, DEMANDS, LIABILITIES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY’S FEES) INCURRED OR SUFFERED BY LANDLORD AND EXISTING OUT OF OR IN ANY WAY RELATED TO THE INSTALLATION, MAINTENANCE, REPAIR OR REMOVAL OF THE FASCIA SIGN, EVEN IF THE SAME IS CAUSED IN PART (BUT NOT SOLELY) BY THE NEGLIGENCE OF LANDLORD, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES. Notwithstanding anything herein to the contrary, Landlord shall have the right to terminate Tenant’s rights under this Paragraph 19(ee) by providing written notice of termination to Tenant if, at any time, Tenant (1) assigns this Lease, (2) subleases any portion of the Premises, or (3) suffers an event of default of any term or condition of this Lease. In the event Landlord terminates Tenant’s rights under this Paragraph 19(ee) as provided for in the immediately preceding sentence, Tenant shall remove the Fascia Sign from the Building and repair any damage to the Building caused by the installation, maintenance and/or removal thereof within thirty (30) days following receipt of Landlord’s written notice of termination, and, in the event Tenant fails to timely remove the Fascia Sign and/or repair such damage, Landlord shall have the right to do the same and Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith, plus an additional charge equal to ten percent (10%) of such costs incurred by Landlord as a coordination fee (and Tenant shall be deemed to have abandoned the Fascia Sign and Landlord shall have the right to dispose of the Fascia Sign in any manner Landlord shall choose in its sole discretion without any liability whatsoever to Tenant with respect thereto).

(ff) Bicycles. Tenant shall be permitted to bring onto the Premises bicycles.
SIGNATURE PAGE TO OFFICE LEASE
BY AND BETWEEN
EOSII PALO ALTO TECHNOLOGY CENTER, LLC, AS LANDLORD, AND
BILL.COM, INC., AS TENANT

IN WITNESS WHEREOF, the parties have executed this Lease to be effective as of the Date of this Lease.

“LANDLORD”
EOSII PALO ALTO TECHNOLOGY CENTER, LLC,
a Delaware limited liability company

By: KBS Capital Advisors, LLC,
a Delaware limited liability company, as agent

By: /s/ Brent Carroll
Name: Brent Carroll
Senior Vice President
12/2/13

“TENANT”
BILL.COM, INC.,
a Delaware corporation

By: /s/ Mark Orttung
Name: Mark Orttung
Title: President & COO

36
The term “Rentable Area” as used in the Lease shall mean:

(a) As to each floor of the Building on which the entire space rentable to tenants is or will be leased to one tenant (hereinafter referred to as “Single Tenant Floor”), Rentable Area shall be the entire area bounded by the inside surface of the four exterior glass walls (or the inside surface of the permanent exterior wall where there is no glass) on such floor, including (i) all areas used for elevator lobbies, corridors, or special stairways, restrooms, mechanical rooms, electrical rooms and telephone closets, without deduction for columns, and other structural portions of the Building or vertical penetrations that are included for the special use of Tenant and (ii) if the Building has more than one floor, a pro rata portion (calculated on the basis of the entire Rentable Area of the Building) of the area of the mailroom premises and entry lobby located on the first floor of the Building (as bounded by the inside surface of the walls thereof, but excluding the area contained within the exterior walls of the Building stairs, fire towers, vertical ducts, elevator shafts, flues, vents, stacks and pipe shafts).

(b) As to each floor of the Building on which space is or will be leased to more than one tenant (hereinafter referred to as “Multi-Tenant Floor”), Rentable Area attributable to each such lease shall be the total of (i) the entire area included within the Premises covered by such lease, being the area bounded by the inside surface of any exterior glass walls (or the inside surface of the permanent exterior wall where there is no glass) of the Building bounding such Premises, the exterior of all walls separating such Premises from public corridors or other public areas on such floor, and the centerline of all walls separating such Premises from other areas leased or to be leased to other tenants on such floor, (ii) a pro rata portion (calculated on the basis of the Rentable Area of the floor) of the area covered by the elevator lobbies, corridors, restrooms, mechanical rooms, electrical rooms and telephone closets situated on such floor and (iii) if the Building has more than one floor, a pro rata portion (calculated on the basis of the entire Rentable Area of the Building) of the area of the mailroom premises and entry lobby located on the main entry floor of the Building (as bounded by the inside surface of the walls thereof).

(c) As to any storage space leased to a tenant, the Rentable Area shall be the entire area included within the storage space covered by such lease, being the area bounded by the inside surface of any permanent exterior wall of the Building bounding such storage space, the exterior of all walls separating such storage space from public corridors or other public areas on such floor, and the centerline of all walls separating such storage space from other areas leased or to be leased to other tenants on such floor. The Rentable Area of storage space shall not be included within the Premises for purposes of determining Tenant’s Proportionate Share of Operating Costs.
THIS WORK LETTER is attached as Exhibit B to the Office Lease between EOSII PALO ALTO TECHNOLOGY CENTER, LLC, as Landlord, and BILL.COM, INC., as Tenant, and constitutes the further agreement between Landlord and Tenant as follows:

(a) **Tenant Improvements.** Landlord, at Tenant’s sole cost and expense, agrees to furnish or perform those items of construction and those improvements (the “Tenant Improvements”) specified in the Final Plans to be agreed to by Landlord and Tenant as set forth in Paragraph (b) below; provided, however, Landlord shall pay for the cost of such Tenant Improvements up to the extent of Landlord’s Construction Allowance as set forth in Paragraph (e) below.

(b) **Space Planner.** Landlord has retained a space planner (the “Space Planner”) to prepare certain plans, drawings and specifications (the “Temporary Plans”) for the construction of the Tenant Improvements to be installed in the Premises by a general contractor selected by Landlord pursuant to this Work Letter. Landlord and Tenant have each approved of the preliminary space plan attached hereto as Exhibit B-1. Tenant shall deliver to Space Planner within ten (10) days after the execution of this Lease any and all necessary information required by the Space Planner to complete the Temporary Plans which shall be based on the preliminary space plan attached hereto as Exhibit B-1. Tenant shall have five (5) business days after its receipt of the proposed Temporary Plans to review the same and notify Landlord in writing of any comments or required changes, or to otherwise give its approval or disapproval of such proposed Temporary Plans. If Tenant fails to give written comments to or approve the Temporary Plans within such five (5) business day period, then Tenant shall be deemed to have approved the Temporary Plans as submitted. Landlord shall have five (5) business days following its receipt of Tenant’s comments and objections to redraw the proposed Temporary Plans in compliance with Tenant’s request and to resubmit the same for Tenant’s final review and approval or comment within five (5) business days of Tenant’s receipt of such revised plans. Such process shall be repeated twice and provided that the Space Planner has addressed, responded and/or provided a good faith objection to Tenant’s previous comments, then if at such time final approval by Tenant of the proposed Temporary Plans has not been obtained, then Landlord shall complete such Temporary Plans, at Tenant’s sole cost and expense, and it shall be deemed that Tenant has approved the Temporary Plans. Once Tenant has approved or has been deemed to have approved the Temporary Plans, then the approved (or deemed approved) Temporary Plans shall be thereafter known as the “Final Plans”. The Final Plans shall include the complete and final layout, plans and specifications for the Premises showing all doors, light fixtures, electrical outlets, telephone outlets, wall coverings, plumbing improvements (if any), data systems wiring, floor coverings, wall coverings, painting, any other improvements to the Premises beyond the shell and core improvements provided by Landlord and any demolition of existing improvements in the Premises. The improvements shown in the Final Plans shall (i) utilize Landlord’s building standard materials and methods of construction, (ii) be compatible with the shell and core improvements and the design, construction and equipment of the Premises, and (iii) comply with all applicable laws, rules, regulations, codes and ordinances.

(c) **Bids.** As soon as practicable following the approval of the Final Plans, Landlord shall (i) obtain three (3) written non-binding itemized estimates of the costs of all Tenant Improvements shown in the Final Plans as prepared by three (3) general contractors selected by Landlord, and (ii) if required by applicable law, codes or ordinances, submit the Final Plans to the appropriate governmental agency for the issuance of a building permit or other required governmental approvals prerequisite to commencement of construction of such Tenant Improvements (“Permits”). Tenant acknowledges that any cost estimates are prepared by the general contractors and Landlord shall not be liable to Tenant for any inaccuracy in any such estimates. Within five (5) business days after receipt of the written non-binding cost estimates prepared by the general contractors, Tenant shall either (A) give its written approval with respect to the lowest qualifying estimate and authorization to proceed with construction or (B) immediately request the Space Planner to modify or revise the Plans in any manner desired by Tenant to decrease the cost of the Tenant Improvements. If Tenant is silent during such five (5) business day period, then Tenant shall be deemed to have approved the lowest qualifying non-binding cost estimate as set forth in Clause (A) above. If the Final Plans are revised pursuant to Clause (B) above, then Landlord shall request that the general contractors provide revised cost estimates to Tenant based upon the revisions to the Final Plans. Such modifications and revisions shall be subject to Landlord’s reasonable approval and shall be in accordance with the standards set forth.
in **Paragraph (b)** of this Work Letter. Within ten (10) business days after receipt of the general contractors’ original written cost estimate and the description, if any, of any Tenant Delay, Tenant shall give its final approval of the Final Plans to Landlord which shall constitute authorization to commence the construction of the Tenant Improvements in accordance with the Final Plans, as modified or revised. Tenant shall signify its final approval by signing a copy of each sheet or page of the Final Plans and delivering such signed copy to Landlord.

(d) **Construction.** Landlord shall commence construction of the Tenant Improvements within ten (10) days following the later of (i) the approval of the Final Plans, or (ii) Landlord’s receipt of any necessary Permits. Landlord shall diligently pursue completion of the Tenant Improvements and use its commercially reasonable efforts to complete construction of the Tenant Improvements as soon as reasonably practicable. Notwithstanding anything in this Lease or in this Work Letter to the contrary, Landlord’s Construction Allowance, as specified in **Item 18** of the Basic Lease Provisions, shall be used only for the construction of the Tenant Improvements, and if construction of the Tenant Improvements is not completed by December 31, 2014 (“Construction Termination Date”) due to Tenant Delays, then Landlord’s obligation to provide the Landlord’s Construction Allowance, as specified in **Item 18** of the Basic Lease Provisions, shall terminate and become null and void, and Tenant shall be deemed to have waived its rights in and to said Landlord’s Construction Allowance. In the event any unused balance of the Landlord’s Construction Allowance remains upon the Substantial Completion of the Tenant Improvements, Tenant hereby acknowledges that such unused balance shall be the sole property of Landlord.

(c) **Landlord’s Construction Allowance.** Subject to the terms and provisions of this Work Letter, Landlord shall pay the cost of the Tenant Improvements (“Work”) up to the amount of the Landlord’s Construction Allowance. If the amount of the lowest qualified bid to perform the Work exceeds the Landlord’s Construction Allowance, Tenant shall bear the cost of such excess and shall pay the estimated cost of such excess to Landlord prior to commencement of construction of such Tenant Improvements and a final adjusting payment based upon the actual costs of the Tenant Improvements shall be made when the Tenant Improvements are completed. If the cost of the Work is less than such amount, then Tenant shall not receive any credit whatsoever for the difference between the actual cost of the Work and Landlord’s Construction Allowance. All remaining amounts due to Landlord shall be paid upon the earlier of Substantial Completion of the Tenant Improvements or presentation of a written statement of the sums due, which statement may be an estimate of the cost of any component of the Work. The cost of the permits, working drawings, hard construction costs, mechanical and electrical planning, fees, permits, general contract overhead, and a coordination fee payable to Landlord equal to five percent (5%) of the actual costs of construction and such costs or permits, fees, planning and contractor overhead shall be payable out of the Landlord’s Construction Allowance and shall be included in the cost of the Work. The cost of the Work shall not include any other fees payable to Landlord.

(f) **Change Order.** If Tenant shall desire any changes to the Final Plans, Tenant shall so advise Landlord in writing and Landlord shall determine whether such changes can be made in a reasonable and feasible manner. Any and all costs of reviewing any requested changes, and any and all costs of making any changes to the Tenant Improvements which Tenant may request and which Landlord may agree to shall be at Tenant’s sole cost and expense and shall be paid to Landlord upon demand and before execution of the change order. In no event shall Landlord be obligated to perform any Tenant Improvements which would extend the construction period past the Construction Termination Date, unless such extension was mutually agreed to in writing by Landlord and Tenant prior to the commencement of said construction. If Landlord approves Tenant’s requested change, addition, or alteration, the Space Planner, at Tenant’s sole cost and expense, shall complete all working drawings necessary to show the change, addition or alteration being requested by Tenant.

(g) **Substantial Completion.** “Substantial Completion” of construction of the Tenant Improvements shall be defined as the date upon which the Space Planner or other consultant engaged by Landlord determines that the Tenant Improvements have been substantially completed in accordance with the Final Plans except for Punch List items (defined below), unless the completion of such improvements was delayed due to any Tenant Delay (defined below), in which case the date of Substantial Completion shall be the date such improvements would have been completed, but for the Tenant Delays. The term “Punch List” items shall mean items that constitute minor defects or adjustments which can be completed after occupancy without causing any material interference with Tenant’s use of the Premises. After the completion of the Tenant Improvements, Tenant shall, upon demand, execute and deliver to Landlord a letter of acceptance of improvements performed on the Premises. The term
“Tenant Delay” shall include, without limitation, any delay in the completion of construction of Tenant Improvements resulting from (i) Tenant’s failure to comply with the provisions of this Work Letter, (ii) any additional time as reasonably determined by Landlord required for ordering, receiving, fabricating and/or installing items or materials or other components of the construction of Tenant Improvements, including, without limitation, mill work, (iii) delay in work caused by submission by Tenant of a request for any change order (defined below) following Tenant’s approval of the Final Plans, or for the implementation of any change order, or (iv) any delay by Tenant in timely submitting comments or approvals to the Temporary Plans or Final Plans. The failure of Tenant to take possession of or to occupy the Premises shall not serve to relieve Tenant of obligations arising on the Commencement Date or delay the payment of Rent by Tenant.

(h) **Additional TI Allowance.** Provided that the costs to construct the Tenant Improvements exceed Landlord’s Construction Allowance, then Landlord agrees to provide Tenant with an additional allowance (the “Additional TI Allowance”) of up to $272,196.00 (which is equal to $12.00 per square foot of Rentable Area contained within the Premises) to be used by Tenant solely towards paying for that portion of the cost of constructing the Tenant Improvements in excess of Landlord’s Construction Allowance. In the event Tenant desires to utilize any portion of the Additional TI Allowance, then Tenant shall make a one-time request on or before the Commencement Date, indicating in such request the amount of such Additional TI Allowance Tenant desires that Landlord disburse. Landlord and Tenant hereby agree that in the event Tenant notifies Landlord in writing that Tenant desires any portion of the Additional TI Allowance, such portion requested by Tenant shall be amortized (at a rate of interest equal to eight percent (8%) per annum) over the period commencing on the date(s) that such sums were advanced or disbursed by Landlord (to the parties entitled to receive any such amounts) and ending on the expiration of the Initial Term of the Lease, and the monthly installments of Basic Annual Rent payable by Tenant hereunder shall be increased by the monthly amount necessary to so amortize such Additional TI Allowance so disbursed by Landlord. Tenant agrees to execute promptly an amendment to the Lease reflecting the increase in the Basic Annual Rent as described above.

(i) **Americans With Disabilities Act.** Landlord agrees that any repairs or alterations required to the common area restrooms or existing restrooms located in the Premises due to the Americans With Disabilities Act which are solely triggered by the Tenant Improvements being constructed pursuant to this Exhibit B (provided such improvements are standard general office improvements) shall be constructed by Landlord at its sole cost and expense. Notwithstanding the foregoing, Landlord shall not be responsible for any such alterations or improvements to such restrooms if the improvements being constructed pursuant to this Exhibit B are not standard general office improvements. In addition, Landlord’s obligation to perform such work to such restrooms shall only be applicable with respect to the improvements being constructed in the Premises pursuant to this Exhibit B and shall not apply with respect to any future improvements or alterations constructed after the Commencement Date.

(j) **No Removal of Tenant Improvements.** Notwithstanding anything to the contrary, Tenant shall have no obligation to remove the Tenant Improvements and restore the Premises to a condition existing prior to the installation of the Tenant Improvements upon the expiration or earlier termination of this Lease.

(k) **Asbestos Abatement.** Landlord, at its sole cost and expense, agrees to abate any asbestos in the existing floor tiles. Such abatement work shall be performed in conjunction with the construction of the Tenant Improvements. The cost of such abatement work shall be at Landlord’s expense and shall not be deducted from the Landlord’s Construction Allowance.
The following are the Project Standards for Utilities and Services. Landlord reserves the right to adopt such reasonable, nondiscriminatory modifications and additions hereto as it deems appropriate.

1. Landlord shall, subject to the limitations and provisions hereinafter set forth in this Exhibit C:
   (a) Provide automatic elevator facilities on Monday through Friday from 8:00 A.M. to 6:00 P.M. and Saturday from 9:00 A.M. to 1:00 P.M., excepting state and federal holidays (hereinafter referred to as “Business Hours”), and provide one (1) automatic elevator at all other times.
   (b) Provide to the Premises, during Business Hours (and at other times for an additional charge to be fixed by Landlord), heating, ventilation, and air conditioning (HVAC), when and to the extent, in the judgment of Landlord, any of such services may be required for the comfortable occupancy of the Premises for general office purposes. Landlord shall not be responsible for room temperatures and conditions in the Premises if the lighting and receptacle load for Tenant’s equipment and fixtures exceed those listed in paragraph (c) hereof, if the Premises are used for other than general office purposes or if the Building standard blinds or curtains in the Premises are not closed so as to screen the sun’s rays.
   (c) Furnish to the Premises electric current for routine lighting and the operation of general office machines such as typewriters, dictating equipment, desk model adding machines, and the like, which use 110 volt electric power, not to exceed the reasonable capacity of Building standard office lighting and receptacles, and not in excess of limits imposed or recommended by governmental authority.
   (d) Provide janitorial services to the common area restrooms in the Building Monday through Friday (except state and federal holidays). Tenant shall pay to Landlord the cost of removal of any of Tenant’s refuse and rubbish, to the extent that the same exceeds the refuse and rubbish which generally would be produced by the use of the Premises for general office purposes.

2. No data processing equipment, other special electrical equipment (excluding personal computers utilizing 110 volt electric power, office equipment and standard office server equipment), air conditioning or heating units, or plumbing additions shall be installed, nor shall any changes to the Building HVAC, electrical or plumbing systems be made without the prior written consent of Landlord, which consent shall be subject to Landlord’s sole and absolute discretion. In the case of any such change, Landlord reserves the right to designate and/or approve the contractor to be used. Any permitted installations shall be made under Landlord’s supervision.

3. Landlord shall not provide reception outlets or television or radio antennas for television or radio broadcast reception, and Tenant shall not install any such equipment without prior written approval from Landlord.

4. Tenant will not, without the prior written consent of Landlord, use any apparatus, machine or device in the Premises, including, without limitation, duplicating machines, electronic data processing machines, punch card machines and machines using current in excess of 110 volts, which will in any way increase the amount of electricity or water usually furnished or supplied for use of the Premises as general office space, nor connect with electric current, except through existing electrical outlets in the Premises, any apparatus or device for the purpose of using electric current in excess of that usually furnished or supplied for use of the Premises as general office space.

5. Tenant agrees to cooperate fully at all times with Landlord, and to abide by all regulations and requirements which Landlord may prescribe for the proper functioning and protection of the Building HVAC, electrical, plumbing and other systems. Tenant shall comply with all laws, statutes, ordinances and governmental rules and regulations now in force or which may hereafter be enacted or promulgated in connection with Building services furnished to the Premises, including, without limitation, any governmental rule or regulation relating to the heating and cooling of the Building.
EXHIBIT D
BUILDING RULES AND REGULATIONS

1. The sidewalks, entrances, passages, courts, elevators, vestibules, stairways and corridors of halls shall not be obstructed or used for any purpose other than ingress and egress. The halls, passages, entrances, elevators, stairways, balconies and roof are not for the use of the general public, and the Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence, in the judgment of the Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom the Tenant normally deals only for the purpose of conducting its business in the Premises (such as clients, customers, office suppliers and equipment vendors, and the like) unless such persons are engaged in illegal activities. No tenant and no employees of any tenant shall go upon the roof of the Building without the written consent of Landlord.

2. No awnings or other projections shall be attached to the outside walls of the Building. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises other than Landlord standard window coverings. All electrical ceiling fixtures hung in offices or spaces along the perimeter of the Building must be fluorescent, of a quality, type, design and bulb color approved by Landlord. Neither the interior nor the exterior of any windows shall be coated or otherwise sunscreened without the written consent of Landlord. The Building is a “no smoking building” and Landlord shall have the right to enforce a no smoking rule within the Building and Project, except that Landlord agrees to designate certain areas outside the Building, but within the Project, as designated smoking areas.

3. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by any tenant on, about or from any part of the Premises, the Building or the Project without the prior written consent of the Landlord. If the Landlord shall have given such consent at the time, whether before or after the execution of this Lease, such consent shall in no way operate as a waiver or release of any of the provisions hereof or of this Lease, and shall be deemed to relate only to the particular sign, advertisement or notice so consented to by the Landlord and shall not be construed as dispensing with the necessity of obtaining the specific written consent of the Landlord with respect to each and every such sign, advertisement or notice other than the particular sign, advertisement or notice, as the case may be, so consented to by the Landlord. In the event of the violation of the foregoing by any tenant, Landlord may remove or stop same without any liability, and may charge the expense incurred in such removal or stopping to such tenant. Interior signs on doors and the directory tablet shall be inscribed, painted or affixed for each tenant by the Landlord at the expense of such tenant, and shall be of a size, color and style acceptable to the Landlord. The directory tablet will be provided exclusively for the display of the name and location of tenants only and Landlord reserves the right to exclude any other names therefrom. Nothing may be placed on the exterior of corridor walls or corridor doors other than Landlord’s standard lettering.

4. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into halls, passageways or other public places in the Building shall not be covered or obstructed by any tenant, nor shall any bottles, parcels or other articles be placed on the window sills. Tenant shall see that the windows, transoms and doors of the Premises are closed and securely locked before leaving the Building and must observe strict care not to leave windows open when it rains. Tenant shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Tenant or Tenant’s employees leave the Building, and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage. Tenant shall cooperate with Landlord in obtaining maximum effectiveness of the cooling system by closing window coverings when the sun’s rays fall directly on the windows of the Premises. Tenant shall not tamper with or change the setting of any thermostats or temperature control valves.

5. The toilet rooms, water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were considered, and no sweepings, rubbish, rags or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by the tenant who, or whose subtenants, assignees or any of their servants, employees, agents, visitors or licensees shall have caused the same.
6. No tenant shall mark, paint, drill into, or in any way deface any part of the Premises, the Building or the Project. No boring, cutting or stringing of wires or laying of linoleum or other similar floor coverings shall be permitted, except with the prior written consent of the Landlord and as the Landlord may direct.

7. No bicycles, vehicles, birds or animals of any kind shall be brought into or kept in or about the Premises, and no cooking shall be done or permitted by any tenant on the Premises, except that the preparation of coffee, tea, hot chocolate and similar items (including those suitable for microwave heating) for tenants and their employees shall be permitted, provided that the power required therefor shall not exceed that amount which can be provided by a 30 amp circuit. No tenant shall cause or permit any unusual or objectionable odors to be produced or permeate the Premises. Smoking or carrying lighted cigars, cigarettes or pipes in the Building is prohibited.

8. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the permitted use of the Premises. No tenant shall occupy or permit any portion of the Premises to be occupied as an office for a public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco (except by a cigarette vending machine for use by Tenant’s employees) in any form, or as a medical office, or as a barber or manicure shop, or as an employment bureau, without the express written consent of Landlord. No tenant shall engage or pay any employees on the Premises except those actually working for such tenant on the Premises nor advertise for laborers giving an address at the Premises. The Premises shall not be used for lodging or sleeping or for any immoral or illegal purposes.

9. No tenant shall make, or permit to be made any unseemly or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or premises or those having business with them, whether by the use of any musical instrument, radio, phonograph, unusual noise, or in any other way. No tenant shall throw anything out of doors, windows or skylights or down the passageways.

10. No tenant, subtenant or assignee nor any of their servants, employees, agents, visitors or licensees shall at any time bring or keep upon the Premises any inflammable, combustible or explosive fluid, chemical or substance.

11. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any tenant, nor shall any changes be made in existing locks or the mechanisms thereof. Each tenant must, upon the termination of his tenancy, restore to Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, such tenant and in the event of the loss of keys so furnished, such tenant shall pay to Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.

12. All removals, or the carrying in or out of any safes, freight, furniture, or bulky matter of any description must take place during the hours which Landlord shall determine from time to time, without the express written consent of Landlord. The moving of safes or other fixtures or bulky matter of any kind must be done upon previous notice to the Project Management Office and under its supervision, and the persons employed by any tenant for such work must be acceptable to the Landlord. Landlord reserves the right to inspect all safes, freight or other bulky articles to be brought into the Building and to exclude from the Building all safes, freight or other bulky articles which violate any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part. Landlord reserves the right to prescribe the weight and position of all safes, which must be placed upon supports approved by Landlord to distribute the weight.

13. No tenant shall purchase spring water, ice, towel, janitorial maintenance or other similar services from any person or persons not approved by Landlord.

14. Landlord shall have the right to prohibit any advertising by any tenant which, in Landlord’s opinion, tends to impair the reputation of the Building or the Project or its desirability as an office location, and upon written notice from Landlord, any tenant shall refrain from or discontinue such advertising.

15. Landlord reserves the right to exclude from the Building between the hours of 6:00 P.M. and 8:00 A.M. and at all hours on Saturday, Sunday and legal holidays all persons who do not present a pass or card key.
to the Building approved by the Landlord. Each tenant shall be responsible for all persons who enter the Building with or at the invitation of such tenant and shall be liable to Landlord for all acts of such persons. Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of an invasion, mob riot, public excitement or other circumstances rendering such action advisable in Landlord’s opinion, Landlord reserves the right, without abatement of Rent, to require all persons to vacate the Building and to prevent access to the Building during the continuance of the same for the safety of the tenants, the protection of the Building, and the property in the Building.

16. Any persons employed by any tenant to do janitorial work shall, while in the Building and outside of the Premises, be subject to and under the control and direction of the Project Management Office (but not as an agent or servant of said Office or of the Landlord), and such tenant shall be responsible for all acts of such persons.

17. All doors opening onto public corridors shall be kept closed, except when in use for ingress and egress.

18. The requirements of Tenant will be attended to only upon application to the Project Management Office.

19. Canvassing, soliciting and peddling in the Building are prohibited and each tenant shall report and otherwise cooperate to prevent the same.

20. All office equipment of any electrical or mechanical nature shall be placed by Tenant in the Premises in settings approved by Landlord, to absorb or prevent any vibration, noise or annoyance.

21. No air conditioning unit or other similar apparatus shall be installed or used by any tenant without the written consent of Landlord.

22. There shall not be used in any space, or in the public halls of the Building, either by any tenant or others, any hand trucks, except those equipped with rubber tires and rubber side guards.

23. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

24. The scheduling of tenant move-ins shall be subject to the reasonable discretion of Landlord.

25. If the Tenant desires telephone or telegraph connections, the Landlord will direct electricians as to where and how the wires are to be introduced. No boring or cutting for wires or otherwise shall be made without direction from the Landlord.

26. The term “personal goods or services vendors” as used herein means persons who periodically enter the Building of which the Premises are a part for the purpose of selling goods or services to a tenant, other than goods or services which are used by the Tenant only for the purpose of conducting its business in the Premises. “Personal goods or services” include, but are not limited to, drinking water and other beverages, food, barbering services and shoeshining services. Landlord reserves the right to prohibit personal goods and services vendors from access to the Building except upon Landlord’s prior written consent and upon such reasonable terms and conditions, including, but not limited to, the payment of a reasonable fee and provision for insurance coverage, as are related to the safety, care and cleanliness of the Building, the preservation of good order thereon, and the relief of any financial or other burden on Landlord or other tenants occasioned by the presence of such vendors or the sale by them of personal goods or services to the Tenant or its employees. If necessary for the accomplishment of these purposes, Landlord may exclude a particular vendor entirely or limit the number of vendors who may be present at any one time in the Building.

D-3
EXHIBIT E
FORM ESTOPPEL CERTIFICATE

The undersigned, _______, a _______ ("Tenant"), the tenant under that certain Office Lease dated _______, between Tenant and _______, a _______, as landlord ("Landlord") hereby certifies as follows:

1. The Premises (the “Premises”) under the Lease is Suite ____, __________.

2. The Lease is in full force and effect and has not been modified or amended in any respect except by amendments dated _______ (copies of which are attached).

3. The Lease has not been assigned, encumbered, subleased or transferred in any manner other than:

4. The Commencement Date of the Lease is _______ and the expiration date of the Lease is _______. There are no options to extend the term of the Lease beyond such expiration date other than ________.

5. The present monthly rental under the Lease is $. ______. The sum of $____, representing ____ month’s Rent has been paid in advance.

6. The security deposit held by Landlord under the Lease is $____.

7. Rent under the Lease has been paid through the month of __________. Tenant’s estimated share of Operating Costs payment have been paid through __________.

8. The Premises are presently occupied by Tenant.

9. Tenant has accepted the Premises without condition or qualification under the Lease and Landlord has completed and complied with all conditions of such acceptance.

10. To Tenant’s actual knowledge without investigation, neither it nor the Landlord is in default (or will be in default following the delivery of notice, the passage of time, or both) or claims a default by the other under the Lease, or has any claims, defenses, or rights of offset against payment of Rent under the Lease, except as follows:

11. Tenant acknowledges that Landlord has the right to assign the Lease and the Rent thereunder and to sell, assign, transfer, mortgage or otherwise encumber the Project without the consent of Tenant.

12. Tenant makes this statement for the benefit and protection of _________ with the understanding that _________ intends to rely on this statement in connection with _________.

E-1
IN WITNESS WHEREOF, this certificate has been executed and delivered by the authorized officers or representatives of the undersigned as of ________.  

“TENANT”

______________________________

a ____________________________

By: ___________________________
Name: _________________________
Title: __________________________

E-2
EXHIBIT F

TENANT COMMENCEMENT CERTIFICATE

To: ___________________________________________ (“Landlord”)

From: ___________________________________________ (“Tenant”)

Date: ______________________, 20__

RE: Property Address: ___________________________________________

The undersigned, as an authorized representative of the Tenant under that certain Lease (the “Lease”) dated ______, 20__, as modified (if applicable) by amendment(s) dated ______, 20__, hereby certified that:

1. Tenant has accepted possession and entered into occupancy of the Premises described in the Lease as of ______, 20__.
2. The Commencement Date of the Lease [or the commencement of the term for the expansion of the Premises] was/is: ______, 20__.
3. The Termination Date of the Lease is: ______, 20__.
4. The Lease is in full force and effect.

Very truly yours,

TENANT

[Signature]

a ____________________________

By: ____________________________
Name: __________________________
Title: __________________________

F-1
EXHIBIT G

AMERICANS WITH DISABILITIES ACT

Tenant agrees to comply with all requirements of the Americans With Disabilities Act of 1990 (Public Law 101-336 {July 26, 1990}), and any other applicable or related law, code or ordinance applicable to the Premises and the Project, as the same are amended from time to time (collectively, the “Disability Acts”), to accommodate its employees, invitees and customers. Tenant acknowledges that it shall be wholly responsible for any accommodations or alterations which need to be made to the Premises to cause the same to comply with the Disability Acts. No provision in this Lease should be construed in any manner as permitting, consenting to or authorizing Tenant to violate requirements under any of the Disability Acts and any provision to the Lease which could arguably be construed as authorizing a violation of any of the Disability Acts shall be interpreted in a manner which permits compliance with such Disability Acts. Notwithstanding anything herein to the contrary, in the event of a conflict between the Lease and the terms of this Exhibit G, the terms of the Lease shall control and govern.

G-1
EXHIBIT H
FORM OF LETTER OF CREDIT

(CITY NATIONAL BANK LETTERHEAD)

ISSUE DATE: ________

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: ________

BENEFICIARY: (COMPLETE NAME AND ADDRESS)

APPLICANT: (COMPLETE NAME AND ADDRESS)

AMOUNT: (CURRENCY AND AMOUNT OF LC)

EXPIRY DATE AND PLACE: (INSERT DATE) AT CITY NATIONAL BANK, INTERNATIONAL DEPARTMENT, LOS ANGELES, CALIFORNIA

LADIES/GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN FAVOR OF THE ABOVE NAMED BENEFICIARY AVAILABLE BY PAYMENT OF YOUR DRAFT(S) AT SIGHT IN THE FORM ATTACHED HERETO AS EXHIBIT 1 WITH APPROPRIATE INSERTIONS AND ACCOMPANIED BY DOCUMENTS AS SPECIFIED BELOW:

1. THIS ORIGINAL STANDBY LETTER OF CREDIT, AND AMENDMENT(S), IF ANY.

2. BENEFICIARY’S SIGNED AND DATED STATEMENT WORDED AS FOLLOWS:

   “I, (INSERT NAME OF SIGNER), AN AUTHORIZED SIGNER FOR ________ (‘BENEFICIARY’) CERTIFY THAT THE AMOUNT OF THE ATTACHED DRAFT REPRESENTS FUNDS DUE AND PAYABLE TO BENEFICIARY PURSUANT TO THAT CERTAIN LEASE AGREEMENT BY AND BETWEEN ________, AS LANDLORD AND ________, AS TENANT, DATED (INSERT DATE OF LEASE). BENEFICIARY FURTHER CERTIFIES THAT AN EVENT OF DEFAULT BY THE TENANT IN THE PERFORMANCE OF ANY OF THE TERMS, PROVISIONS AND CONDITIONS OF THE LEASE HAS OCCURRED AND HAS NOT BEEN CORRECTED BEYOND ANY PERIODS OF NOTICE AND GRACE. THEREFORE, WE ARE DRAWING THE AMOUNT OF (INSERT AMOUNT OF DRAFT) UNDER CITY NATIONAL BANK LETTER OF CREDIT NUMBER (LC number).”

   OR,

   “I, (INSERT NAME OF SIGNER), AN AUTHORIZED SIGNER FOR (NAME OF BENEFICIARY), CERTIFY THAT WE ARE IN RECEIPT OF A WRITTEN NOTICE FROM CITY NATIONAL BANK OF ITS ELECTION NOT TO EXTEND THE FOLLOWING REFERENCED LETTER OF CREDIT FOR AN ADDITIONAL PERIOD OF ONE YEAR, AND AS OF THE DATE OF THIS DRAWING, WE HAVE NOT RECEIVED AN ACCEPTABLE REPLACEMENT LETTER OF CREDIT FROM (NAME OF APPLICANT) (‘TENANT’). THEREFORE, PURSUANT TO THE LEASE, WE ARE DRAWING THE AMOUNT OF (INSERT AMOUNT OF DRAFT) UNDER CITY NATIONAL BANK LETTER OF CREDIT NUMBER (LC NUMBER).”

SPECIAL CONDITIONS:

1. PARTIAL DRAWINGS ARE ALLOWED.

2. MULTIPLE DRAWINGS ARE ALLOWED.

3. IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE
DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR AN ADDITIONAL PERIOD OF ONE (1) YEAR FROM THE EXPIRY DATE HEREOF OR ANY FUTURE EXPIRY DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY EXPIRATION DATE, WE SHALL NOTIFY THE BENEFICIARY BY OVERNIGHT COURIER SERVICE AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT FOR ANY SUCH ADDITIONAL PERIOD. HOWEVER, IN THE EVENT SUCH NOTICE IS GIVEN, YOU MAY DRAW THE THEN FULL AVAILABLE AMOUNT OF THIS LETTER OF CREDIT IN ACCORDANCE WITH THE TERMS HEREIN. IN NO EVENT SHALL THIS LETTER OF CREDIT BE EXTENDED BEYOND (FINAL EXPIRY DATE), THE FINAL EXPIRATION DATE.

4. PROVIDED THIS LETTER OF CREDIT IS EXTENDED IN ACCORDANCE WITH SPECIAL CONDITION NUMBER 3, THE AVAILABLE AMOUNT OF THIS LETTER OF CREDIT DURING ANY AVAILABILITY PERIOD SHALL BE THE LESSER OF,

(A) THE EXISTING AVAILABLE AMOUNT OF THE CREDIT AS A RESULT OF ANY PRIOR DRAWINGS PAID UNDER THIS CREDIT, OR

(B) THE BELOW SCHEDULED AVAILABLE AMOUNT FOR THAT AVAILABILITY PERIOD.

THE SCHEDULED AVAILABLE AMOUNT OF THE LETTER OF CREDIT IS AS FOLLOWS:

<table>
<thead>
<tr>
<th>AVAILABILITY PERIOD</th>
<th>AVAILABLE AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM LC ISSUE DATE THROUGH</td>
<td></td>
</tr>
<tr>
<td>THROUGH</td>
<td></td>
</tr>
<tr>
<td>THROUGH</td>
<td></td>
</tr>
<tr>
<td>THROUGH</td>
<td></td>
</tr>
</tbody>
</table>

5. THIS LETTER OF CREDIT IS TRANSFERABLE IN ITS ENTIRETY BY THE BENEFICIARY. TRANSFER OF THIS LETTER OF CREDIT IS SUBJECT TO CITY NATIONAL BANK’S RECEIPT OF AND AGREEMENT TO THE BENEFICIARY’S INSTRUCTIONS IN THE FORM ATTACHED HERETO AS EXHIBIT ‘A’, ACCOMPANIED BY THE ORIGINAL OF THIS LETTER OF CREDIT AND AMENDMENT(S), IF ANY. SUCH TRANSFER REQUEST BY THE BENEFICIARY SHALL BE EFFECTIVE BY CITY NATIONAL BANK’S ENDORSEMENT OF THE TRANSFER ON THE ORIGINAL LETTER OF CREDIT AND ITS DELIVERY BY US TO THE TRANSFEREE. TRANSFER FEES ARE FOR ACCOUNT OF THE APPLICANT.

WE HEREBY ENGAGE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED IF PRESENTED FOR PAYMENT AT THE OFFICE OF CITY NATIONAL BANK, INTERNATIONAL DEPARTMENT, 555 SOUTH FLOWER STREET, 24TH FLOOR, LOS ANGELES, CALIFORNIA 90071 ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED, THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998 (“ISP98”), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590.

SHOULD YOU HAVE OCCASION TO COMMUNICATE WITH US REGARDING THIS LETTER OF CREDIT, KINDLY DIRECT YOUR COMMUNICATION TO THE ATTENTION OF OUR STANDBY LETTER OF CREDIT DEPARTMENT AT THE ABOVE ADDRESS OR PHONE (213) 673-8640, MAKING SPECIFIC REFERENCE TO OUR LETTER OF CREDIT NUMBER (LC NUMBER).

SINCERELY,
CITY NATIONAL BANK

AUTHORIZED SIGNATURE
NAME AND TITLE OF SIGNER

AUTHORIZED SIGNATURE
NAME AND TITLE OF SIGNER
DATE: __________

TO: CITY NATIONAL BANK
    555 SOUTH FLOWER STREET, 24TH FLOOR
    LOS ANGELES, CALIFORNIA 90071
    ATTN: INTERNATIONAL DEPARTMENT

AT SIGHT, PAY TO THE ORDER OF: ________________________________

THE SUM OF ________________________________ U.S. DOLLARS
(USD ________)

DRAWN UNDER LETTER OF CREDIT NO. (LC NUMBER) OF CITY NATIONAL BANK, LOS ANGELES, CALIFORNIA.

(INsert NAME OF BENEFICIARY)

BY: __________________________
    (SIGNATURE)

NAME: __________________________
    (PRINTED NAME)

TITLE: __________________________

PAYMENT OF THE AMOUNT SPECIFIED IN THIS DRAFT SHOULD BE MADE BY WIRE TRANSFER TO THE ACCOUNT OF BENEFICIARY AT:

NAME OF BANK: __________________________ WITH ABA NUMBER: ________

ACCOUNT NAME OF BENEFICIARY: __________

ACCOUNT NUMBER OF BENEFICIARY: __________

H-3
EXHIBIT ‘A’

THIS EXHIBIT IS AN INTEGRAL PART OF CITY NATIONAL BANK IRREVOCABLE STANDBY LETTER OF CREDIT NO.

TRANSFER INSTRUCTIONS FORM

TO: 
City National Bank
International Department
555 South Flower Street, 24th Floor
Los Angeles, California 90071

DATE:

RE: City National Bank Letter of Credit No. 
Dated

Ladies/Gentlemen:
For value received, the undersigned beneficiary hereby irrevocably transfers to:

(Name of Transferee)

(Address of Transferee)

all rights of the undersigned beneficiary to draw under the above-referenced Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of the Letter of Credit is returned herewith together with any and all amendments, and we ask you to endorse the transfer on the reverse of the Letter of Credit, and forward it direct to the transferee with your customary notice of transfer.

Beneficiary name: 
Signature Guaranteed
The beneficiary’s signature with title conforms with that on file with us and as such is authorized for the execution of this document.

Authorized Signature: 
Name of Bank:

Name of signer: 
Authorized Signature:

Title of signer: 
Telephone number:

H-4
ADDENDUM ONE
ONE RENEWAL OPTION AT MARKET
ATTACHED TO AND A PART OF THE LEASE AGREEMENT
BY AND BETWEEN

EOSII PALO ALTO TECHNOLOGY CENTER, LLC

and

BILL.COM, INC.

(a) Provided that as of the time of the giving of the Extension Notice and the Commencement Date of the Extension Term (as such terms are defined below), (x) Tenant is the Tenant originally named herein or a Permitted Transferee (as defined in Paragraph 11(a)), (y) Tenant actually occupies all of the Premises initially demised under this Lease and any space added to the Premises, and (z) no event of default exists beyond applicable notice and cure periods; then Tenant shall have the right to extend the Lease Term for an additional term of two (2) years (such additional term is hereinafter called the “Extension Term”) commencing on the day following the expiration of the Lease Term (hereinafter referred to as the “Commencement Date of the Extension Term”). Tenant must give Landlord notice (hereinafter called the “Extension Notice”) of its election to extend the term of the Lease Term at least nine (9) months, but not more than twelve (12) months, prior to the scheduled expiration date of the Lease Term.

(b) The Basic Annual Rent payable by Tenant to Landlord during the Extension Term shall be the Fair Market Rent, as defined and determined pursuant to Paragraph (c), Paragraph (d), and Paragraph (e) below.

(c) The term “Fair Market Rent” shall mean the Basic Annual Rent, expressed as an annual rent per square foot of Rentable Area, which Landlord would have received from leasing the Premises for the Extension Term to an unaffiliated person which is not then a tenant in the Project, assuming that such space were to be delivered in “as-is” condition, and taking into account the rental which such other tenant would most likely have paid for such premises, including market escalations. Fair Market Rent means only the rent component defined as Basic Annual Rent in the Lease and does not include reimbursements and payments by Tenant to Landlord with respect to operating expenses and other items payable or reimbursable by Tenant under the Lease (provided however, such amounts may be used in determined the Fair Market Rent for the Extension Term). In addition to its obligation to pay Basic Annual Rent (as determined herein), Tenant shall continue to pay and reimburse Landlord as set forth in the Lease with respect to such operating expenses and other items with respect to the Premises during the Extension Term. The arbitration process described below shall be limited to the determination of the Basic Annual Rent and shall not affect or otherwise reduce or modify the Tenant’s obligation to pay or reimburse Landlord for such operating expenses and other reimbursable items.

(d) Landlord shall notify Tenant of its determination of the Fair Market Rent (which shall be made in Landlord’s sole and good faith discretion) for the Extension Term, and Tenant shall advise Landlord of any objection within thirty (30) days of receipt of Landlord’s notice. Failure to respond within the thirty (30) day period shall constitute Tenant’s deemed objection of such Fair Market Rent. If Tenant objects (or is deemed to have objected), Landlord and Tenant shall commence negotiations to attempt to agree upon the Fair Market Rent within thirty (30) days of Landlord’s receipt of Tenant’s notice (or, to the extent Tenant is deemed to have objected, the parties shall commence such negotiation after the expiration of the thirty (30) day period following Tenant’s receipt of Landlord’s notice). If the parties cannot agree, each acting in good faith but without any obligation to agree, then the arbitration procedure provided below to determine the Fair Market Rent.

(e) Arbitration to determine the Fair Market Rent shall be in accordance with the Real Estate Valuation Arbitration Rules of the American Arbitration Association. Unless otherwise required by state law, arbitration shall be conducted in the metropolitan area where the Project is located by a single arbitrator unaffiliated with either party. Either party may elect to arbitrate by sending written notice to the other party and the Regional Office of the American Arbitration Association within five (5) days after the thirty (30) day negotiating period provided in Paragraph (d), invoking the binding arbitration provisions of this paragraph. Landlord and Tenant shall
each submit to the arbitrator their respective proposal of Fair Market Rent. The arbitrator must choose between the Landlord’s proposal and the Tenant’s proposal and may not compromise between the two or select some other amount. The cost of the arbitration shall be paid by Landlord if the Fair Market Rent is that proposed by Tenant and by Tenant if the Fair Market Rent is that proposed by Landlord; and shall be borne equally otherwise. If the arbitrator has not determined the Fair Market Rent as of the end of the Lease Term, Tenant shall pay one hundred five percent (105%) of the Basic Annual Rent in effect under the Lease as of the end of the Lease Term until the Fair Market Rent is determined as provided herein. Upon such determination, Landlord and Tenant shall make the appropriate adjustments to the payments between them.

(f) The parties consent to the jurisdiction of any appropriate court to enforce the arbitration provisions of this Addendum One and to enter judgment upon the decision of the arbitrator.

(g) Except for the Basic Annual Rent as determined above, Tenant’s occupancy of the Premises during the Extension Term shall be on the same terms and conditions as are in effect immediately prior to the expiration of the initial Lease Term; provided, however, Tenant shall have no further right to extend the Lease Term pursuant to this Addendum One or to any allowances, credits or abatements or options to expand, contract, renew or extend the Lease.

(h) If Tenant does not send the Extension Notice within the period set forth in Paragraph (a), Tenant’s right to extend the Lease Term shall automatically terminate. Time is of the essence as to the giving of the Extension Notice and the notice of Tenant’s objection under Paragraph (d).

(i) Landlord shall have no obligation to refurbish or otherwise improve the Premises for the Extension Term. The Premises shall be tendered on the Commencement Date of the Extension Term in “as-is” condition.

(j) If the Lease is extended for the Extension Term, then Landlord shall prepare and Tenant shall execute an amendment to the Lease confirming the extension of the Lease Term and the other provisions applicable thereto.

(k) If Tenant exercises its right to extend the term of the Lease for the Extension Term pursuant to this Addendum One, the term “Lease Term” as used in the Lease, shall be construed to include, when practicable, the Extension Term except as provided in Paragraph (g) above.

Addendum One-2
ADDENDUM TWO
RIGHT OF FIRST OFFER
ATTACHED TO AND A PART OF THE LEASE AGREEMENT
BY AND BETWEEN

EOSII PALO ALTO TECHNOLOGY CENTER, LLC

and

BILL.COM, INC.

(a) “Offered Space” shall mean that certain 10,260 square feet of Rentable Area being the remaining portion of that certain building located at 1810 Embarcadero Road, Palo Alto, California.

(b) Provided that as of the date of the giving of the First Offer Notice, (i) Tenant is the Tenant originally named herein or a Permitted Transferee (as defined in Paragraph 11(a)), (ii) Tenant actually occupies all of the Premises originally demised under this Lease and any premises added to the Premises, and (iii) no event of default exists beyond the applicable notice and cure period, if at any time during the Lease Term any portion of the Offered Space is vacant and unencumbered by any rights of any third party, then Landlord, before offering such Offered Space to anyone, other than the tenant then occupying such space (or its affiliates), shall offer to Tenant the right to include the Offered Space within the Premises on the same terms and conditions upon which Landlord intends to offer the Offered Space for lease; provided, however, in the event the First Offer Notice is delivered during the initial twenty-four (24) month period following the Commencement Date, then the Lease Term with respect to the Offered Space shall be coterminous with the Lease Term for the Premises and the terms with respect to the Offered Space shall be prorated accordingly. Notwithstanding anything to the contrary in the Lease, the right of first offer granted to Tenant under this Addendum Two shall be subject and subordinate to (i) the rights of all tenants at the Project under existing leases, and (ii) the herein reserved right of Landlord to renew or extend the term of any lease with the tenant then occupying such space (or any of its affiliates), whether pursuant to a renewal or extension option in such lease or otherwise.

(c) Such offer shall be made by Landlord to Tenant in a written notice (hereinafter called the “First Offer Notice”) which offer shall designate the space being offered and shall specify the terms which Landlord intends to offer with respect to any such Offered Space. Tenant may accept the offer set forth in the First Offer Notice by delivering to Landlord an unconditional acceptance (hereinafter called “Tenant’s Notice”) of such offer within five (5) business days after delivery by Landlord of the First Offer Notice to Tenant. Time shall be of the essence with respect to the giving of Tenant’s Notice. If Tenant does not accept (or fails to timely accept) an offer made by Landlord pursuant to the provisions of this Addendum Two with respect to the Offered Space designated in the First Offer Notice and execute the Amendment (defined below) within thirty (30) days after the delivery of the First Offer Notice, then Landlord shall be under no further obligation with respect to such space by reason of this Addendum Two.

(d) Tenant must accept all Offered Space offered by Landlord at any one time if it desires to accept any of such Offered Space and may not exercise its right with respect to only part of such space. In addition, if Landlord desires to lease more than just the Offered Space to one tenant, Landlord may offer to Tenant pursuant to the terms hereof all such space which Landlord desires to lease, and Tenant must exercise its rights hereunder with respect to all such space and may not insist on receiving an offer for just the Offered Space.

(e) If Tenant at any time declines any Offered Space offered by Landlord, Tenant shall be deemed to have irrevocably waived all further rights under this Addendum Two, and Landlord shall be free to lease the Offered Space to third parties including on terms which may be less favorable to Landlord than those offered to Tenant.

(f) In the event that Tenant exercises its rights to any Offered Space pursuant to this Addendum Two, then Landlord shall prepare, and Tenant shall execute, an amendment to the Lease which confirms such expansion of the Premises and the other provisions applicable thereto (the “Amendment”).

Addendum Two-1
# LEASE OF PREMISES

**BASIC LEASE PROVISIONS**

1. **TERM**

2. **BASIC ANNUAL RENT AND SECURITY DEPOSIT**

3. **ADDITIONAL RENT**

4. **IMPROVEMENTS AND ALTERATIONS**

5. **REPAIRS**

6. **USE OF PREMISES**

7. **UTILITIES AND SERVICES**

8. **NON-LIABILITY AND INDEMNIFICATION OF LANDLORD; INSURANCE**

9. **FIRE OR CASUALTY**

10. **EMINENT DOMAIN**

11. **ASSIGNMENT AND SUBLETTING**

12. **DEFAULT**

13. **ACCESS; CONSTRUCTION**

14. **BANKRUPTCY**

15. **SUBSTITUTION OF PREMISES**

16. **SUBORDINATION; ATTORNMENT; ESTOPEL CERTIFICATES**

17. **SALE BY LANDLORD; TENANT’S REMEDIES; NONRECOURSE LIABILITY**

18. **PARKING; COMMON AREAS**

19. **MISCELLANEOUS**

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## LIST OF EXHIBITS

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
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<tbody>
<tr>
<td>A-1</td>
<td>Floor Plan(s)</td>
</tr>
<tr>
<td>A-2</td>
<td>Site Plan of the Project</td>
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<tr>
<td>A-3</td>
<td>Rentable Area</td>
</tr>
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<tr>
<td>C</td>
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<td>D</td>
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<td>Form of Letter of Credit</td>
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<td>I</td>
<td>Location of Reserved Parking Spaces</td>
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<td>J</td>
<td>Tenant’s Sign</td>
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<tr>
<td>Two</td>
<td>Right of First Offer</td>
</tr>
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FIRST AMENDMENT TO OFFICE LEASE

This First Amendment to Office Lease (this “First Amendment”) by and between EOSII PALO ALTO TECHNOLOGY CENTER, LLC, a Delaware limited liability company (“Landlord”), and BILL.COM, INC., a Delaware corporation (“Tenant”), to be effective on and as of the date that Landlord executes this First Amendment as set forth on the signature page below (the “Effective Date”).

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to that certain Office Lease dated December 2, 2013 (the “Lease”), pursuant to which Tenant is currently leasing certain premises containing a total of 22,683 square feet of Rentable Area designated as Suites 100B, 101A and 101B (the “Existing Premises”) in that certain building located at 1810 Embarcadero Road, Palo Alto, California 94303 (the “1810 Building”), being in that certain multi-building project known as the Palo Alto Technology Center in Palo, Alto, California (the “Project”);

WHEREAS, the Lease Term is currently scheduled to expire on May 29, 2019 (the “Current Expiration Date”); and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to provide for the expansion of the Premises, as more particularly provided herein.

NOW, THEREFORE, pursuant to the foregoing, and in consideration of the mutual covenants and agreements contained in the Lease and herein, the Lease, effective as of the Effective Date, is hereby modified and amended as set out below:

1. Definitions. All capitalized terms used herein shall have the same meaning as defined in the Lease, unless otherwise defined in this First Amendment.

2. Expansion of Premises. Effective on the earliest to occur of (i) the date that is fourteen (14) days following the date that the Tenant Improvements are Substantially Completed, or (ii) the date that is fourteen (14) days following the date that the Tenant Improvements would have been Substantially Completed except for Tenant Delays, or (iii) the date that Tenant, or any person occupying any of the Premises with Tenant’s permission, commences business operations from the Expansion Premises (the earliest of (i) – (iii) being the “Expansion Commencement Date”), the Existing Premises shall be expanded to include that certain 5,985 square feet of Rentable Area designated as Suite 201 (the “Expansion Premises”) in that certain building in the Project located at 1804 Embarcadero Road, Palo Alto, California (the “1804 Building”), as such Expansion Premises is more particularly depicted in Exhibit A attached hereto. The Lease Term with respect to the Expansion Premises shall be coterminous with the Lease Term for the Existing Premises; provided, however, the terms of Paragraph 19(ee) of the Lease shall not be applicable to the Expansion Premises and Tenant shall not receive fascia signage on the 1804 Building. Tenant acknowledges that another tenant currently occupies the Expansion Premises and that Landlord is contemporaneously executing a lease amendment with such existing tenant in order to reduce its premises by the Expansion Premises, however, in no event shall Landlord be liable to Tenant in the event such existing tenant holds over in the Expansion Premises. In the event that such existing tenant does not vacate the Expansion Premises by April 30, 2016, this First Amendment shall be considered null and void and neither party shall have any obligation to the other under this First Amendment. The terms “Tenant Improvements,” “Substantially Completed,” and “Tenant Delays” are defined in the Work Letter attached hereto as Exhibit B.
3. **Basic Annual Rent.** Tenant shall continue to pay Basic Annual Rent with respect to the Existing Premises in accordance with the terms and conditions of the Lease. Commencing on the Expansion Commencement Date and continuing through the expiration of the Lease Term, Tenant shall also pay Basic Annual Rent for the Expansion Premises as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/rsf/month</th>
<th>Monthly Installment</th>
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<tr>
<td>E.C.D.* – 02/28/2017*</td>
<td>$5.50</td>
<td>$32,917.50</td>
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<tr>
<td>03/01/2017 – 02/28/2018</td>
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<td>$6.01</td>
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</table>

*E.C.D. shall mean and refer to the Expansion Commencement Date.

4. **Additional Rent.** Tenant shall continue to pay Additional Rent with respect to the Existing Premises on a triple net basis in accordance with the terms and conditions of the Lease. In addition, Tenant shall also pay Additional Rent with respect to the Expansion Premises; provided, however, with respect to the Additional Rent payable in connection with the Expansion Premises, Tenant shall pay Tenant’s Proportionate Share (defined below) of the Operating Costs attributable to the 1804 Building to the extent such Operating Costs are in excess of the Operating Costs incurred for the calendar year 2016. Because Tenant’s payment of Additional Rent with respect to the Expansion Premises is only to the extent the Operating Costs are in excess of the Operating Costs for the calendar year 2016 (as opposed to on a triple net basis, which is the method in which the Additional Rent payable by Tenant is calculated under the Lease with respect to the Existing Premises), for the purposes of calculating Tenant’s Additional Rent attributable to the Expansion Premises, “Tenant’s Proportionate Share” shall be deemed to be equal to 14.9625% (5,985 rsf / 40,000 rsf). In addition, for purposes of determining Operating Costs with respect to the Expansion Premises, the terms of Paragraph 7 below shall amend the definition of Operating Costs in the Lease, but only as far as Additional Rent is calculated for the Expansion Premises. For the avoidance of doubt, Tenant will not be charged for any Operating Costs with respect to the Expansion Premises for the calendar year 2016.

5. **Condition of Premises.** Notwithstanding anything in the Lease to the contrary, Landlord shall deliver the Expansion Premises to Tenant, and Tenant shall accept the Expansion Premises from Landlord, in its existing “AS-IS”, “WHERE-IS” and “WITH ALL FAULTS” condition, and Landlord shall have no obligation whatsoever to refurbish or otherwise improve the Expansion Premises at any time during the Lease Term; provided, however, Landlord agrees to perform certain improvements to the Expansion Premises in accordance with the terms and conditions of the Work Letter attached hereto as Exhibit B and incorporated herein for all purposes.

6. **Parking.** As of the Expansion Commencement Date, as a result of the expansion into the Expansion Premises, the total number of parking spaces allocated to Tenant in Item 13 of the Basic Lease Provisions of the Lease shall be increased by a total of nineteen (19) unreserved parking spaces.

7. **Basic Services.** Because Tenant is not leasing the Expansion Premises on a triple net basis, for purposes of calculating Additional Rent with respect to the Expansion Premises, the definition of Operating Costs shall be amended as follows (it being agreed that for purposes of calculating Additional Rent payable with respect to the Existing Premises, the following modifications to the Operating Cost definition shall not apply):
(a) **Electricity.** The cost of electricity furnished to the 1804 Building shall be included in Operating Costs for such 1804 Building for purposes of calculating Tenant’s Proportionate Share of Operating Costs for the Expansion Premises. Alternatively, if Landlord reasonably determined that Tenant is using electricity in excess of the electricity used by normal and customary office users, then Landlord may elect to cause the electricity to the Expansion Premises to be separately metered at Tenant’s sole cost and expense, in which case Landlord shall determine and Tenant shall pay the actual amount of Tenant’s equitable share of the monthly charge for such electricity, as Additional Rent, which amount Landlord shall reasonably determine and invoice to Tenant, and in such case the Operating Costs reimbursable by Tenant with respect to the Expansion Premises shall be adjusted accordingly in order to account for the fact that Tenant is paying directly for its electrical usage for the Expansion Premises.

(b) **Janitorial.** Landlord shall provide, as an Operating Cost, janitorial services five (5) days per week, other than holidays, to the Expansion Premises.

(c) **Trash Removal.** Landlord shall contract for trash removal services for the 1804 Building. The cost of such trash removal services for the 1804 Building shall be included in Operating Costs.

(d) **Building HVAC Repairs.** The cost to repair and maintain the Building HVAC system serving the Expansion Premises shall be included in Operating Costs payable by Tenant; provided, however, with respect to any supplemental HVAC system exclusively serving the Premises, Tenant, at its cost and expense, shall perform all repairs, replacements and maintenance for such supplemental HVAC systems.

8. **CASp Inspection.** To Landlord’s current knowledge, as of the Effective Date the Premises has not undergone inspection by a Certified Access Specialist (CASp).

9. **Renewal Option.** To the extent Tenant elects to exercise the renewal option set forth in Addendum One to the Lease, Tenant shall be required to exercise the renewal option with respect to the entirety of the Premises (i.e., inclusive of both the Existing Premises and Expansion Premises).

10. **Broker.** Tenant warrants to Landlord that it has had no dealings with any broker or agent, other than Cornish & Carey Commercial Newmark Knight Frank ("Broker"), in connection with the negotiation or execution of this First Amendment. Tenant agrees to indemnify and hold Landlord harmless from and against any and all costs, expenses or liability for commissions or other compensations or charges claimed by any broker or agent, other than Broker, claiming to have represented Tenant with respect to this First Amendment.

11. **Miscellaneous.** With the exception of those terms and conditions specifically modified and amended herein, the herein referenced Lease shall remain in full force and effect in accordance with all its terms and conditions. In the event of any conflict between the terms and provisions of this First Amendment and the terms and provisions of the Lease, the terms and provisions of this First Amendment shall supersede and control.
12. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this First Amendment, the parties may execute this First Amendment via counterparts and exchange facsimile copies of such executed counterparts via telefax or e-mail, and such telefaxed or e-mailed facsimile counterparts shall serve as originals.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Office Lease as of the Effective Date.

LANDLORD:

EOSII PALO ALTO TECHNOLOGY CENTER LLC, a Delaware limited liability company

By: KBS Capital Advisors LLC
   a Delaware limited liability company
   its authorized agent

By: /s/ Brent Carroll
   Brent Carroll
   Senior Vice President

Date: 2/29/16

TENANT:

BILL.COM, INC., a Delaware corporation

By: /s/ John Rettig

Name: John Rettig
Title: Chief Financial Officer
Date: 02/26/2016
1804 Embarcadero Road
2nd Floor
Palo Alto, CA 94303
EXHIBIT B

WORK LETTER

(a) Landlord agrees to furnish or perform, at Landlord’s sole cost and expense and using building standard materials and methods of construction, those items of construction and those improvements to the Expansion Premises (the “Tenant Improvements”) as specified below:

(i) Professionally clean the Expansion Premises;
(ii) Repair any damaged or stained ceiling tiles in the Expansion Premises;
(iii) Replace any old or burnt out light bulbs in the Expansion Premises with building standard light bulbs;
(iv) Paint the interior walls of the Expansion Premises using building standard paint in a color mutually agreed upon by Landlord and Tenant;
(v) Repair any damaged window blinds in the Expansion Premises;
(vi) Repair/patch damaged carpet in the Expansion Premises; and
(vii) Replace the damaged window film on the exterior double doors.

(b) If Tenant shall desire any changes in the Tenant Improvements, Tenant shall so advise Landlord in writing and Landlord shall determine whether such changes can be made in a reasonable and feasible manner. Any and all costs of reviewing any requested changes, and any and all costs of making any changes to the Tenant Improvements which Tenant may request and which Landlord may agree to shall be at Tenant’s sole cost and expense and shall be paid to Landlord upon demand and before execution of the change order.

(c) Landlord shall proceed with and complete the construction of the Tenant Improvements. As soon as such improvements have been Substantially Completed, Landlord shall notify Tenant in writing of the date that the Tenant Improvements were Substantially Completed. The Tenant Improvements shall be deemed substantially completed (“Substantially Completed”) when, in the opinion of the Landlord’s architect (whether an employee or agent of Landlord or a third party architect) (“Architect”), the Expansion Premises are substantially completed except for punch list items which do not prevent in any material way the use of the Expansion Premises for the purposes for which they were intended. In the event Tenant, its employees, agents, or contractors cause construction of such Tenant Improvements to be delayed, the date of Substantial Completion shall be deemed to be the date that, in the opinion of the Architect, Substantial Completion would have occurred if such delays had not taken place. Without limiting the foregoing, Tenant shall be solely responsible for delays caused by Tenant’s request for any changes in the plans, Tenant’s request for long lead items or Tenant’s interference with the construction of the Tenant Improvements (each of the foregoing, a “Tenant Delay”), and such Tenant Delays shall not cause a deferral of the Expansion Commencement Date beyond what it otherwise would have been. After the Expansion Commencement Date Tenant shall, upon demand, execute and deliver to Landlord a letter of acceptance of delivery of the Premises. In the event of any dispute as to the Tenant Improvements, including the Expansion Commencement Date, the certificate of the Architect shall be conclusive absent manifest error.
(d) The failure of Tenant to take possession of or to occupy the Expansion Premises shall not serve to relieve Tenant of obligations arising on the Expansion Commencement Date or delay the payment of rent by Tenant with respect to the Expansion Premises. Subject to applicable ordinances and building codes governing Tenant’s right to occupy or perform in the Expansion Premises, Tenant shall be allowed to install its tenant improvements, machinery, equipment, fixtures, or other property on the Expansion Premises during the final stages of completion of construction provided that Tenant does not thereby interfere with the completion of construction or cause any labor dispute as a result of such installations, and provided further that Tenant does hereby agree to indemnify, defend, and hold Landlord harmless from any loss or damage to such property, and all liability, loss, or damage arising from any injury to the Project, Building or the property of Landlord, its contractors, subcontractors, or materialmen, and any death or personal injury to any person or persons arising out of such installations, EVEN IF SUCH LOSS, DAMAGE, LIABILITY, DEATH, OR PERSONAL INJURY WAS CAUSED SOLELY OR IN PART BY LANDLORD’S NEGLIGENCE, BUT NOT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD. Any such occupancy or performance in the Expansion Premises shall be in accordance with the provisions governing alterations in the Lease, and shall be subject to Tenant providing to Landlord satisfactory evidence of insurance for personal injury and property damage related to such installations and satisfactory payment arrangements with respect to installations permitted hereunder. Delay in putting Tenant in possession of the Expansion Premises shall not serve to extend the Lease Term or to make Landlord liable for any damages arising therefrom.

(e) Except for incomplete punch list items, Tenant upon the Expansion Commencement Date shall have and hold the Expansion Premises as the same shall then be without any liability or obligation on the part of Landlord for making any further alterations or improvements of any kind in or about the Expansion Premises.
SECOND AMENDMENT TO OFFICE LEASE

This Second Amendment to Office Lease (this “Second Amendment”) by and between EOSII PALO ALTO TECHNOLOGY CENTER, LLC, a Delaware limited liability company (“Landlord”), and BILL.COM, INC., a Delaware corporation (“Tenant”), to be effective on and as of the date that Landlord executes this Second Amendment as set forth on the signature page below (the “Effective Date”).

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to that certain Office Lease dated December 2, 2013 (the “Original Lease”), as amended by that certain First Amendment to Office Lease dated February 29, 2016 (the “First Amendment” the Original Lease, as so amended, being the “Lease”), pursuant to which Tenant is currently leasing certain premises containing a total of 28,668 square feet of Rentable Area (the “Existing Premises”) consisting of (i) that certain 22,683 square feet of Rentable Area designated as Suites 100B, 101A and 101B (the “1810 Embarcadero Portion”) in that certain building located at 1808 – 1810 Embarcadero Road, Palo Alto, California 94803 (the “1808 – 1810 Building”), and (ii) that certain 5,985 square feet of Rentable Area designated as Suite 201 (the “1804 Embarcadero Portion”) in that certain building located at 1804 Embarcadero Road, Palo Alto, California 94803 (the “1804 Building”), all being in that certain multi-building project known as the Palo Alto Technology Center in Palo Alto, California (the “Project”); and

WHEREAS, the Lease Term is currently scheduled to expire on May 29, 2019 (the “Current Expiration Date”); and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to provide for the expansion of the Premises, as more particularly provided herein.

NOW, THEREFORE, pursuant to the foregoing, and in consideration of the mutual covenants and agreements contained in the Lease and herein, the Lease, effective as of the Effective Date, is hereby modified and amended as set out below:

1. Definitions. All capitalized terms used herein shall have the same meaning as defined in the Lease, unless otherwise defined in this Second Amendment.

2. Expansion of Premises. Effective on the earlier to occur of (i) the later to occur of (A) the date that is sixty (60) days following the date that Accellion vacates the Expansion Premises or (B) February 1, 2017, or (ii) the date that Tenant, or any person occupying any of the Expansion Premises with Tenant’s permission, commences business operations from the Expansion Premises (the earlier of (i) and (ii) being the “Expansion Commencement Date”), the Existing Premises shall be expanded to include that certain 10,260 square feet of Rentable Area designated as Suite 100A (the “Expansion Premises”) in that certain 1808 – 1810 Building, as such Expansion Premises is more particularly depicted in Exhibit A attached hereto. The Lease Term with respect to the Expansion Premises shall be coterminous with the Lease Term for the Existing Premises, as such Lease Term is being extended pursuant to Paragraph 3 below. Following the Expansion Commencement Date, the “Premises” under the Lease shall be deemed to contain a total of 38,928 square feet of Rentable Area consisting of the Existing Premises and the Expansion Premises. Tenant acknowledges that another tenant currently occupies the Expansion Premises (“Accellion”) and that Landlord is contemporaneously executing a lease amendment with Accellion in order to reduce its premises by the Expansion Premises, however, in no event shall Landlord be liable to Tenant in the event such existing tenant holds over in the Expansion Premises; provided, however, if Accellion does not vacate the Expansion Premises by February 1, 2017, then Tenant shall be entitled to terminate this
Second Amendment by delivering written notice to Landlord after February 1, 2017 but prior to the date that Accellion actually vacates the Expansion Premises. Following Accellion’s surrender of the Expansion Premises to Landlord, Landlord shall deliver the same to Tenant in order for Tenant to construct the Tenant Improvements pursuant to and in accordance with the terms of Exhibit B attached hereto and incorporated herein for all purposes.

3. **Extension of Lease Term.** The Lease Term, currently scheduled to expire on May 29, 2019, is hereby extended for an additional period of time commencing on May 30, 2019 (the “Extension Term Commencement Date”) and terminating on May 31, 2020 (the “Extension Term”), upon and subject to all of the terms of the Lease, except as otherwise herein amended.

4. **Basic Annual Rent.**
   (a) **Expansion Premises.** Commencing on the Expansion Commencement Date and continuing thereafter for the remainder of the Extension Term, Tenant shall pay Basic Annual Rent for the Expansion Premises as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/rsf/month</th>
<th>Monthly Installment</th>
</tr>
</thead>
<tbody>
<tr>
<td>E.C.D.* – 01/31/2018</td>
<td>$4.15</td>
<td>$42,579.00</td>
</tr>
<tr>
<td>02/01/2018 – 01/31/2019</td>
<td>$4.27</td>
<td>$43,810.20</td>
</tr>
<tr>
<td>02/01/2019 – 01/31/2020</td>
<td>$4.40</td>
<td>$45,144.00</td>
</tr>
<tr>
<td>02/01/2020 – 05/31/2020</td>
<td>$4.53</td>
<td>$46,477.80</td>
</tr>
</tbody>
</table>

*E.C.D. shall mean and refer to the Expansion Commencement Date.

(b) **1810 Embarcadero Portion.** Tenant shall continue to pay Basic Annual Rent with respect to the 1810 Embarcadero Portion in accordance with the terms and conditions of the Lease through the Current Expiration Date. Commencing on the Extension Term Commencement Date and continuing through the expiration of the Extension Term, Tenant shall also pay Basic Annual Rent for the 1810 Embarcadero Portion as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/rsf/month</th>
<th>Monthly Installment</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/30/2019 – 01/31/2020</td>
<td>$4.40</td>
<td>$99,805.20</td>
</tr>
<tr>
<td>02/01/2020 – 05/31/2020</td>
<td>$4.53</td>
<td>$102,753.99</td>
</tr>
</tbody>
</table>

(c) **1804 Embarcadero Portion.** Tenant shall continue to pay Basic Annual Rent with respect to the 1804 Embarcadero Portion in accordance with the terms and conditions of the Lease through the Current Expiration Date. Commencing on the Extension Term Commencement Date and continuing through the expiration of the Extension Term, Tenant shall also pay Basic Annual Rent for the 1804 Embarcadero Portion as follows:

<table>
<thead>
<tr>
<th>Period</th>
<th>Rate/rsf/month</th>
<th>Monthly Installment</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/30/2019 – 01/31/2020</td>
<td>$6.04</td>
<td>$36,149.40</td>
</tr>
<tr>
<td>02/01/2020 – 05/31/2020</td>
<td>$6.17</td>
<td>$36,927.45</td>
</tr>
</tbody>
</table>

5. **Additional Rent.**
   (a) **1804 Embarcadero Portion.** Tenant shall continue to pay Additional Rent throughout the Extension Term with respect to the 1804 Embarcadero Portion in accordance with the terms and conditions of Paragraph 4 of the First Amendment, such that Tenant shall pay Tenant’s
Proportionate Share (as defined in Paragraph 4 of the First Amendment) of the Operating Costs with respect to the 1804 Building to the extent such Operating Costs are in excess of the Operating Costs incurred for the calendar year 2016.

(b) 1810 Embarcadero Portion and Expansion Premises. Tenant shall continue to pay Additional Rent with respect to the 1810 Embarcadero Portion in accordance with the terms and conditions of the Lease; provided, however, commencing on the Expansion Commencement Date and continuing thereafter through the Extension Term, Tenant shall also pay Additional Rent with respect to the Expansion Premises (which such Additional Rent with respect to the Expansion Premises shall be on a triple net basis similar to the 1810 Embarcadero Portion). As a result, for the purposes of calculating Additional Rent with respect to the 1810 Embarcadero Portion and Expansion Premises from and after the Expansion Commencement Date, Tenant’s Proportionate Share with respect to the 1808 – 1810 Building (which was originally set forth in Item 4 of the Basic Lease Provisions of the Original Lease) shall be amended to be 100% (32,943 rsf / 32,943 rsf). For the avoidance of doubt, Paragraph 7 of the First Amendment shall not apply with respect to either the 1810 Embarcadero Portion or the Expansion Premises.

6. Condition of Premises. Notwithstanding anything in the Lease to the contrary, Tenant is currently in possession of the Existing Premises and Tenant agrees to accept the Existing Premises in its existing “AS-IS”, “WHERE-IS” and “WITH ALL FAULTS” condition, and Landlord shall have no obligation whatsoever to refurbish or otherwise improve the Existing Premises at any time during the Lease Term, as herein extended for the Extension Term. Landlord shall deliver the Expansion Premises to Tenant, and Tenant shall accept the Expansion Premises from Landlord, in good working condition, including with the mechanical, electrical, plumbing, lighting, HVAC system and the roof being in good working condition, and otherwise in its “AS-IS” condition, and Landlord shall have no obligation whatsoever to refurbish or otherwise improve the Expansion Premises at any time during the Lease Term, as herein extended; provided, however, Landlord agrees to provide Tenant with a tenant improvement allowance equal to $102,600.00 (which is equal to $10.00 per square foot of Rentable Area in the Expansion Premises) (the “Landlord’s Construction Allowance”), which shall be applied towards the construction of certain improvements to the Expansion Premises in accordance with and subject to the terms and conditions of the Work Letter attached hereto as Exhibit B and incorporated herein for all purposes. Except to the extent it is Tenant’s responsibility under Paragraph 6(b) of the Original Lease, Landlord shall be responsible for all code compliance work for the Common Areas of the Project. Tenant shall have the right to manage its own construction with the Expansion Premises and Landlord’s coordination/management of such construction shall not exceed 3% of the cost of the Tenant Improvements being constructed pursuant to Exhibit B.

7. Basic Services. Following the Expansion Commencement Date Tenant shall lease the entirety of the 1810 Building. As a result, the parties hereby agree that, from and after such date, the services to be provided by Landlord to the 1810 Embarcadero Portion and the Expansion Premises shall be revised as follows:

(a) Utilities. Following the Expansion Commencement Date, Tenant shall cause all utilities serving the 1810 Building to be separately metered in Tenant’s name and Tenant shall pay directly to the utility company for such utility service charges.

(b) Janitorial Service. Because Tenant shall be leasing the entirety of the 1810 Building, Landlord shall have no further responsibility to provide any janitorial service to the 1810 Building (including any restrooms therein) and Tenant shall be fully responsible for
providing all such janitorial service required to the 1810 Building. As such, with respect to calculating Tenant’s Proportionate Share of Operating Costs as it relates to the 1810 Embarcadero Portion and the Expansion Premises, in no event shall the janitorial services referenced in Paragraph 3(c)(ii) of the Original Lease include janitorial costs attributable to cleaning the interior of any other tenant’s or occupant’s premises; provided, however, the janitorial costs for the Common Areas of the Project (e.g., dayporter costs, window washing, pressure washing of sidewalks, etc.) shall continue to be included in Operating Costs for purposes of allocating Tenant’s Proportionate Share of Operating Costs attributable to the 1810 Embarcadero Portion and the Expansion Premises.

(c) **HVAC Maintenance.** Commencing on the Expansion Commencement Date, Tenant shall maintain a preventive maintenance contract providing for the regular inspection and maintenance of the heating and air conditioning system serving the 1810 Building by a licensed heating and air conditioning contractor, unless Landlord elects in its sole discretion to maintain such equipment. Tenant shall provide Landlord with written proof of said preventive maintenance contract within thirty (30) days of the Expansion Commencement Date. Any such maintenance and repairs will be performed by Landlord’s contractor, or at Landlord’s option, by such contractor or contractors as Tenant may choose from an approved list to be submitted by Landlord. Tenant agrees to pay all costs and expenses incurred in such maintenance and repair within seven (7) days after billing by such contractor or contractors. Notwithstanding the foregoing, and with respect to the base building HVAC unit for the 1810 Building (i.e., specifically excluding any supplemental HVAC units that may have been installed by Tenant or any predecessor tenant), if Tenant has complied with this Paragraph 7(c) regarding repair and maintenance of the HVAC system and, notwithstanding such compliance, such HVAC unit cannot, in the sole and reasonable business judgment of Landlord, be repaired other than at a cost which is in excess of fifty percent (50%) of the cost of replacing such unit, then the unit will be replaced by Landlord and the cost thereof shall be prorated between the parties as set forth herein over the useful life of the unit per GAAP accounting. Tenant shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the replacement cost per month). The cost shall include a commercially reasonable interest rate on the unamortized balance. Tenant may prepay its obligation at any time. Such payments shall be deemed to be Additional Rent under the Lease. It will be in Landlord’s sole and reasonable discretion to determine the make, model and size of the replacement unit. Replacement of the unit shall not require Landlord to undertake any other work in or about the Premises with respect to the HVAC system.

8. **Parking.** As of the Expansion Commencement Date, as a result of the expansion into the Expansion Premises, the total number of parking spaces allocated to Tenant in Item 13 of the Basic Lease Provisions of the Original Lease (and further amended by Paragraph 6 of the First Amendment) shall be increased by a total of thirty-three (33) unreserved parking spaces.

9. **One Renewal Option at Market.** The renewal option reflected in Addendum One attached to the Original Lease is hereby deleted in its entirety and of no further force effect. Landlord hereby grants to Tenant the option to further extend the Lease Term in accordance with and subject to the terms of Exhibit C attached hereto and incorporated herein for all purposes.

10. **Right of First Offer.** The Right of First Offer attached as Addendum Two to the Lease is hereby deleted in its entirety and of no further force or effect.
11. **CASp Inspection.** To Landlord’s current knowledge, as of the Effective Date the Premises has not undergone inspection by a Certified Access Specialist (CASp).

12. **Broker.** Tenant warrants to Landlord that it has had no dealings with any broker or agent, other than Cornish & Carey Commercial Newmark Knight Frank (“Broker”), in connection with the negotiation or execution of this Second Amendment. Tenant agrees to indemnify and hold Landlord harmless from and against any and all costs, expenses or liability for commissions or other compensations or charges claimed by any broker or agent, other than Broker, claiming to have represented Tenant with respect to this Second Amendment.

13. **Miscellaneous.** With the exception of those terms and conditions specifically modified and amended herein, the herein referenced Lease shall remain in full force and effect in accordance with all its terms and conditions. In the event of any conflict between the terms and provisions of this Second Amendment and the terms and provisions of the Lease, the terms and provisions of this Second Amendment shall supersede and control.

14. **Counterparts.** This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this Second Amendment, the parties may execute this Second Amendment via counterparts and exchange facsimile copies of such executed counterparts via telefax or e-mail, and such telefaxed or e-mailed facsimile counterparts shall serve as originals.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Office Lease as of the Effective Date.

LANDLORD:

EOSII PALO ALTO TECHNOLOGY CENTER LLC, a Delaware limited liability company

By: KBS Capital Advisors LLC
   a Delaware limited liability company
   its authorized agent
   
   By: /s/ Brent Carroll
       Brent Carroll
       Senior Vice President

Date: 11/29/16

TENANT:

BILL.COM, INC.,
a Delaware corporation

By: /s/ John Rettig

Name: John Rettig
Title: CFO
Date: 11/22/2016
EXHIBIT B

WORK LETTER

THIS WORK LETTER is attached as Exhibit B to the Office Lease between EOSII PALO ALTO TECHNOLOGY CENTER, LLC, as Landlord, and BILL.COM, INC., as Tenant, and constitutes the further agreement between Landlord and Tenant as follows:

(a) Tenant Improvements; Landlord’s Construction Allowance. The leasehold improvements to be constructed by Tenant in the Expansion Premises (the “Tenant Improvements”), at Tenant’s sole cost and expense (except for the Landlord’s Construction Allowance, as specified in Paragraph 6 of this Second Amendment), shall be constructed in accordance with the Final Plans to be submitted by Tenant and reviewed and approved by Landlord in accordance with the provisions of Paragraph (b) of this Exhibit B.

Landlord shall have no obligation to construct or to pay for the construction of the Tenant Improvements. However, Landlord agrees to contribute toward the cost of construction of the Tenant Improvements the cash sum of up to the Landlord’s Construction Allowance (as defined in Paragraph 6 of this Second Amendment). Notwithstanding anything in this Second Amendment or in this Work Letter to the contrary, Landlord’s Construction Allowance shall be used only for the construction of the Tenant Improvements, and if construction of the Tenant Improvements is not completed within six (6) months following the Effective Date of this Second Amendment (the “Construction Termination Date”), then Landlord’s obligation to provide the Landlord’s Construction Allowance shall terminate and become null and void, and Tenant shall be deemed to have waived its rights in and to said Landlord’s Construction Allowance. The Landlord’s Construction Allowance will be reduced by any out-of-pocket consulting or architectural fees incurred by Landlord. The construction costs that may be reimbursed from the Landlord’s Construction Allowance shall include only the following: costs of labor, equipment, supplies and materials furnished for construction of the Tenant Improvements; governmental fees and charges for required permits, plan checks, and inspections for the Tenant Improvements; charges of Tenant’s design professionals; and charges of Landlord’s design professionals for review of plans and monitoring of construction or installation of the Tenant Improvements. No other costs, fees or expenses of the Tenant Improvements shall be reimbursable out of the Landlord’s Construction Allowance.

Landlord’s payment of the Landlord’s Construction Allowance, or such portion thereof as Tenant may be entitled to, shall be made within thirty (30) days after each and all of the following conditions shall have been satisfied: (i) the Tenant Improvements shall have been completed in accordance with the Final Plans (as hereinafter defined); (ii) Tenant shall have delivered to Landlord satisfactory evidence that all mechanics’ liens rights of all contractors, suppliers, subcontractors, or materialmen furnishing labor, supplies or materials in the construction or installation of the Tenant Improvements have been unconditionally waived, released, or extinguished; (iii) Tenant shall have delivered to Landlord paid receipts or other written evidence satisfactorily substantiating the actual amount of the construction costs of the Tenant Improvements; (iv) Tenant shall have delivered to Landlord a final certificate of occupancy for the Expansion Premises; (v) Tenant shall not then be in default of any of the provisions of the Lease; and (vi) Tenant shall have occupied and opened for business at the Expansion Premises. If the actual cost of the Tenant Improvements is less than the Landlord’s Construction Allowance, then Tenant shall not receive any credit whatsoever for the difference between the actual cost of the Tenant Improvements and Landlord’s Construction Allowance.

(b) Preparation and Review of Plans for Tenant Improvements. Tenant has retained a space planner (the “Space Planner”), and the Space Planner has prepared (or will prepare) certain plans, drawings and specifications (the “Temporary Plans”) for the construction of the Tenant Improvements in the Expansion Premises. The Space Planner shall submit the Temporary Plans to Landlord for approval, and Tenant shall use the Temporary Plans to construct the Tenant Improvements. Tenant shall be responsible for the cost of design services provided by the Space Planner, and Landlord shall not be responsible for any such costs.
Expansion Premises to be installed in the Expansion Premises by a general contractor selected by Tenant pursuant to this Work Letter. Subject to Landlord’s review and approval of final construction drawings, Landlord approves the floor plan for the Expansion Premises shown in Exhibit B-1 attached hereto and Landlord agrees that (other than the removal of any telephone and data cabling and wiring and Tenant’s furniture, fixtures and equipment), Tenant shall not be required to remove any of the improvements shown therein. Tenant shall deliver the Temporary Plans to Landlord within ten (10) days after the execution of this Second Amendment by Tenant. Landlord shall have five (5) business days after Landlord’s receipt of the proposed Temporary Plans to review the same and notify Tenant in writing of any comments or required changes, or to otherwise give its approval or disapproval of such proposed Temporary Plans. If Landlord fails to give written comments to or approve the Temporary Plans within such five (5) business day period, then Landlord shall be deemed to have rejected the Temporary Plans as submitted. Tenant shall have five (5) business days following its receipt of Landlord’s comments and objections to redraw the proposed Temporary Plans in compliance with Landlord’s request and to resubmit the same for Landlord’s final review and approval or comment within five (5) business days of Landlord’s receipt of such revised plans. Such process shall be repeated twice and if at such time final approval by Landlord of the proposed Temporary Plans has not been obtained, then Landlord shall complete such Temporary Plans, at Tenant’s sole cost and expense, to reflect Landlord’s objections or comments. Once Landlord has approved the Temporary Plans, the approved Temporary Plans shall be thereafter known as the “Final Plans”. The Final Plans shall include the complete and final layout, plans and specifications for the Expansion Premises showing all doors, light fixtures, electrical outlets, telephone outlets, wall coverings, plumbing improvements (if any), data systems wiring, floor coverings, wall coverings, painting, any other improvements to the Expansion Premises beyond the shell and core improvements provided by Landlord and any demolition of existing improvements in the Expansion Premises. The improvements shown in the Final Plans shall (i) utilize Landlord’s building standard materials and methods of construction, (ii) be compatible with the shell and core improvements and the design, construction and equipment of the Expansion Premises, and (iii) comply with all applicable laws, rules, regulations, codes and ordinances. Tenant, using the Space Planner, shall prepare or cause to be prepared and submitted the Final Plans, concurrently, and in each case by receipted courier or delivery service, to Landlord’s construction representative (“Landlord’s Construction Representative”), and Landlord’s offices for Landlord’s review and approval, which shall be consistent with the description of the Tenant Improvements set forth in the Temporary Plans.

Each set of proposed Final Plans furnished by Tenant shall include at least two (2) sets of prints. The Final Plans shall be compatible with the design, construction, and equipment of the Building, and shall be capable of logical measurement and construction. Unless Landlord shall otherwise agree in writing, the Final Plans shall be signed/stamped by the Space Planner, and shall include (to the extent relevant or applicable) such additional plans reasonably requested by Landlord related to the Tenant Improvements, including, without limitation, any and all additional plans related to Tenant’s specific use of the Expansion Premises, or as may be required by local city ordinance or building code.

Tenant shall submit all Final Plans concurrently to Landlord’s construction representative and offices, as designated above, for Landlord’s review and approval. Landlord shall have five (5) business days after Landlord’s receipt of the proposed Final Plans to review the same and notify Tenant in writing of any comments or required changes, or to otherwise give its approval or disapproval of such proposed Final Plans. If Landlord fails to give written comments to or approve the Final Plans within such five (5) business day period, then Landlord shall be deemed to have rejected the Final Plans as submitted. Tenant shall have five (5) business days following its receipt of Landlord’s comments and objections to redraw the proposed Final Plans in compliance with Landlord’s request and to resubmit the same for Landlord’s final review and approval or comment within five (5) business days of Landlord’s receipt of such revised plans. Such process shall be repeated as necessary until final approval by Landlord of the proposed Final Plans has been obtained. Landlord may at any time by written notice given in accordance with the notice
provisions of the Lease change the name and/or address of the designated Landlord’s construction representative to receive plans delivered by Tenant to Landlord. In the event that Tenant disagrees with any of the changes to the proposed Final Plans required by Landlord, then Landlord and Tenant shall consult with respect thereto and each party shall use all reasonable efforts to promptly resolve any disputed elements of such proposed Final Plans. If such Final Plans are not resolved by Landlord and Tenant, then Tenant shall accept Landlord’s final changes to the proposed Final Plans. For purposes hereof, “business days” shall be all calendar days except Saturdays and Sundays and holidays observed by national banks in the State in which the Expansion Premises are situated.

Notwithstanding the preceding provisions of this Paragraph (b), under no circumstances whatsoever shall (i) any combustible materials be utilized above finished ceiling or in any concealed space, (ii) any structural load, temporary or permanent, be placed or exerted on any part of the Building without the prior written approval of Landlord, or (iii) any holes be cut or drilled in any part of the roof or other portion of the Building shell without the prior written approval of Landlord.

In the event that Tenant proposes any changes to the Final Plans (or any portion thereof) after the same have been approved by Landlord, Landlord shall not unreasonably withhold its consent to any such changes, provided the changes do not, in Landlord’s reasonable opinion, adversely affect the Building structure, systems, or equipment, or the external appearance of the Expansion Premises.

As soon as the Final Plans (or a portion thereof sufficient to permit commencement of construction or installation of the Tenant Improvements, if Tenant elects to proceed with a “fast track” construction) are mutually agreed upon, Tenant shall use diligent efforts to obtain all required permits, authorizations, and licenses from appropriate governmental authorities for construction of the Tenant Improvements (or such portion thereof, as applicable). Tenant shall be solely responsible for obtaining any business or other license or permit required for the conduct of its business at the Expansion Premises.

(c) Construction of the Tenant improvements. Construction or installation of the Tenant Improvements shall be performed by a licensed general contractor or contractors selected by Tenant and approved by Landlord, such approval not to be unreasonably withheld or delayed (the “Tenant’s Contractor,” whether one or more), pursuant to a written construction contract negotiated and entered into by and between the Tenant’s Contractor and Tenant and approved by Landlord. Each such contract shall (i) obligate Tenant’s Contractor to comply with all rules and regulations of Landlord relating to construction activities in the Building, (ii) name Landlord as an additional indemnitee under the provisions of the contract whereby the Tenant’s Contractor holds Tenant harmless from and against any and all claims, damages, losses, liabilities and expenses arising out of or resulting from the performance of such work, (iii) name Landlord as a beneficiary of (and a party entitled to enforce) all of the warranties of the Tenant’s Contractor with respect to the work performed thereunder and the obligation of the Tenant’s Contractor to replace defective materials and correct defective workmanship for a period of not less than one (1) year following final completion of the work under such contract, (iv) evidence the agreement of the Tenant’s Contractor that the provisions of the Lease shall control over the provisions of the contract with respect to distribution or use of insurance proceeds, in the event of a casualty during construction, and (v) evidence the waiver and release by the Tenant’s Contractor of any lien or right to assert a lien on all or any portion of the fee estate of Landlord in and to the Building as a result of the work performed or to be performed thereunder (and obligating the Tenant’s Contractor to include a substantially similar release and waiver provision in all subcontracts and purchase orders entered under or pursuant to the contract).

Tenant acknowledges and understands that all roof penetrations involved in the construction of the Tenant Improvements must be performed by the Landlord’s Building roofing contractor. All costs, fees and expenses incurred with such contractor in performing such work shall be a cost of the Tenant Improvements, payable in accordance with the provisions of this Exhibit B. Tenant or Tenant’s Contractor shall be responsible for all water, gas, electricity, sewer or other utilities used or consumed at the Expansion Premises during the construction of the Tenant Improvements.
Tenant specifically agrees to carry, or cause the Tenant’s Contractor to carry, during all such times as the Tenant’s work is being performed, (a) builder’s risk completed value insurance on the Tenant Improvements, in an amount not less than the full replacement cost of the Tenant Improvements, (b) a policy of insurance covering commercial general liability, in an amount not less than One Million Dollars ($1,000,000.00), combined single limit for bodily injury and property damage per occurrence (and combined single limit coverage of $2,000,000.00 in the aggregate), and automobile liability coverage (including owned, non-owned and hired vehicles) in an amount not less than One Million Dollars ($1,000,000.00) combined single limit (each person, each accident), and endorsed to show Landlord as an additional insured, and (c) workers’ compensation insurance as required by law, endorsed to show a waiver of subrogation by the insurer to any claim the Tenant’s Contractor may have against Landlord. Tenant shall not commence construction of the Tenant Improvements until Landlord has issued to Tenant a written authorization to proceed with construction after Tenant has delivered to Landlord’s construction representative (i) certificates of the insurance policies described above, (ii) copies of all permits required for construction of the Tenant Improvements and a copy of the permitted Final Plans as approved by the appropriate governmental agency, and (iii) a copy of each signed construction contract for the Tenant Improvements (a copy of each subsequently signed contract shall be forwarded to Landlord’s construction representative without request or demand, promptly after execution thereof and prior to the performance of any work thereunder). All of the construction work shall be the responsibility of and supervised by Tenant.

(d) Requirements for Tenant’s Work. All of Tenant’s construction with respect to the Expansion Premises shall be performed in substantial compliance with this Exhibit B and the Final Plans therefor previously approved in writing by Landlord (and any changes thereto approved by Landlord as herein provided), and in a good and workmanlike manner, utilizing only new materials. All such work shall be performed by Tenant in strict compliance with all applicable building codes, regulations and all other legal requirements. All materials utilized in the construction of Tenant’s work must be confined within the Expansion Premises. All trash and construction debris not located wholly within the Expansion Premises must be removed each day from the Project at the sole cost and expense of Tenant. Landlord shall have the right at all times to monitor the work for compliance with the requirements of this Exhibit B. If Landlord determines that any such requirements are not being strictly complied with, Landlord may immediately require the cessation of all work being performed in or around the Expansion Premises or the Project until such time as Landlord is satisfied that the applicable requirements will be observed. Any approval given by Landlord with respect to Tenant’s construction or the Temporary Plans or Final Plans therefor, and/or any monitoring of Tenant’s work by Landlord, shall not make Landlord liable or responsible in any way for the condition, quality or function of such matters or constitute any undertaking, warranty or representation by Landlord with respect to any of such matters.

(e) No Liens; Indemnification. Tenant shall have no authority to place any lien upon the Expansion Premises, or the Building, or any portion thereof or interest therein, nor shall Tenant have any authority in any way to bind Landlord, and any attempt to do so shall be void and of no effect. If, because of any actual or alleged act or omission of Tenant, or Tenant’s Contractor, or any subcontractors or materialmen, any lien, affidavit, charge or order for the payment of money shall be filed against Landlord, the Expansion Premises, the Building, or any portion thereof or interest therein, whether or not such lien, affidavit, charge or order is valid or enforceable, Tenant shall, at its sole cost and expense, cause the same to be discharged of record by payment, bonding or otherwise no later than fifteen (15) days after notice to Tenant of the filing thereof, but in any event prior to the foreclosure thereof. With respect to the contract for labor or materials for construction of the Tenant Improvements, Tenant acts as principal and not as the agent of Landlord. Landlord expressly disclaims liability for the cost of labor performed for or supplies or materials furnished to Tenant. Landlord may post one or more “notices of non-responsibility” for Tenant’s

B-4
work on the Building. No contractor of Tenant is intended to be a third-party beneficiary with respect to the Landlord’s Construction Allowance, or the agreement of Landlord to make such Landlord’s Construction Allowance available for payment of or reimbursement for the costs of construction of the Tenant Improvements. Tenant agrees to indemnify, defend and hold Landlord, the Expansion Premises and the Project, harmless from all claims (including all costs and expenses of defending against such claims) arising or alleged to arise from any act or omission of Tenant or Tenant’s agents, employees, contractor, subcontractors, suppliers, materialmen, architects, designers, surveyors, engineers, consultants, laborers, or invitees, or arising from any bodily injury or property damage occurring or alleged to have occurred incident to any of the work to be performed by Tenant or its contractors or subcontractors with respect to the Expansion Premises. Any Default by Tenant under this Exhibit B shall constitute a default by Tenant under the Lease for all purposes. Additionally, any approval given by Landlord with respect to the Tenant Improvements or the Final Plans and/or any monitoring of the construction of the Tenant Improvements by Landlord shall not make Landlord liable or responsible in any way for the condition, quality or function of such matters or constitute any undertaking, warranty or representation by Landlord with respect to any such matters.

(f) Substantial Completion. “Substantial Completion” of construction of the Tenant Improvements shall be defined as (i) the date upon which Landlord’s Construction Representative (or other consultant engaged by Landlord) determines that the Tenant Improvements have been substantially completed in accordance with the Final Plans, and (ii) the date upon which a temporary certificate of occupancy (or its equivalent) is issued for the Expansion Premises by the appropriate governmental authority. After the completion of the Tenant Improvements, Tenant shall, upon demand, execute and deliver to Landlord a letter of acceptance of improvements performed on the Expansion Premises. The failure of Tenant to take possession of or to occupy the Expansion Premises shall not serve to relieve Tenant of obligations arising on the Expansion Commencement Date or delay the payment of rent by Tenant with respect to the Expansion Premises.

B-5
EXHIBIT B-1

PRE-APPROVED SPACE PLAN FOR EXPANSION PREMISES
One Renewal Option at Market

(a) Provided that as of the time of the giving of the Renewal Notice and the Commencement Date of the Renewal Term (as such terms are defined below), (x) Tenant is the Tenant originally named herein or a Permitted Transferee (as defined in Paragraph 11(a) of the Original Lease), (y) Tenant actually occupies all of the Premises initially demised under this Second Amendment and any space added to the Premises described in this Second Amendment, and (z) no event of default exists beyond applicable notice and cure periods; then Tenant shall have the right to extend the Lease Term for an additional term of two (2) years (such additional term is hereinafter called the “Renewal Term”) commencing on the day following the expiration of the Extension Term (hereinafter referred to as the “Commencement Date of the Renewal Term”). Tenant must give Landlord notice (hereinafter called the “Renewal Notice”) of its election to extend the term of the Lease Term at least nine (9) months, but not more than twelve (12) months, prior to the scheduled expiration date of the Extension Term.

(b) The Basic Annual Rent payable by Tenant to Landlord during the Renewal Term shall be the Fair Market Rent, as defined and determined pursuant to Paragraph (c), Paragraph (d), and Paragraph (e) below.

(c) The term “Fair Market Rent” shall mean the Basic Annual Rent, expressed as an annual rent per square foot of Rentable Area, which Landlord would have received from leasing the Premises for the Renewal Term to an unaffiliated person which is not then a tenant in the Project, assuming that such space were to be delivered in “as-is” condition, and taking into account the rental which such other tenant would most likely have paid for such premises, including market escalations. Fair Market Rent means only the rent component defined as Basic Annual Rent in the Lease and does not include reimbursements and payments by Tenant to Landlord with respect to operating expenses and other items payable or reimbursable by Tenant under the Lease (provided however, such amounts may be used in determined the Fair Market Rent for the Renewal Term). In addition to its obligation to pay Basic Annual Rent (as determined herein), Tenant shall continue to pay and reimburse Landlord as set forth in the Lease with respect to such operating expenses and other items with respect to the Premises during the Renewal Term. The arbitration process described below shall be limited to the determination of the Basic Annual Rent and shall not affect or otherwise reduce or modify the Tenant’s obligation to pay or reimburse Landlord for such operating expenses and other reimbursable items.

(d) Landlord shall notify Tenant of its determination of the Fair Market Rent (which shall be made in Landlord’s sole and good faith discretion) for the Renewal Term, and Tenant shall advise Landlord of any objection within thirty (30) days of receipt of Landlord’s notice. Failure to respond within the thirty (30) day period shall constitute Tenant’s deemed objection of such Fair Market Rent. If Tenant objects (or is deemed to have objected), Landlord and Tenant shall commence negotiations to attempt to agree upon the Fair Market Rent within thirty (30) days of Landlord’s receipt of Tenant’s notice (or, to the extent Tenant is deemed to have objected, the parties shall commence such negotiation after the expiration of the thirty (30) day period following Tenant’s receipt of Landlord’s notice). If the parties cannot agree, each acting in good faith but without any obligation to agree, then the arbitration procedure provided below to determine the Fair Market Rent.

(e) Arbitration to determine the Fair Market Rent shall be in accordance with the Real Estate Valuation Arbitration Rules of the American Arbitration Association. Unless otherwise required by state law, arbitration shall be conducted in the metropolitan area where the Project is located by a single arbitrator unaffiliated with either party. Either party may elect to arbitrate by sending written notice to the other party and the Regional Office of the American Arbitration Association within five (5) days after the thirty (30)
day negotiating period provided in Paragraph (d), invoking the binding arbitration provisions of this paragraph. Landlord and Tenant shall each submit to
the arbitrator their respective proposal of Fair Market Rent. The arbitrator must choose between the Landlord’s proposal and the Tenant’s proposal and may
not compromise between the two or select some other amount. The cost of the arbitration shall be paid by Landlord if the Fair Market Rent is that proposed
by Tenant and by Tenant if the Fair Market Rent is that proposed by Landlord; and shall be borne equally otherwise. If the arbitrator has not determined the
Fair Market Rent as of the end of the Lease Term, Tenant shall pay one hundred five percent (105%) of the Basic Annual Rent in effect under the Lease as
of the end of the Lease Term until the Fair Market Rent is determined as provided herein. Upon such determination, Landlord and Tenant shall make the
appropriate adjustments to the payments between them.

(f) The parties consent to the jurisdiction of any appropriate court to enforce the arbitration provisions of this Exhibit C and to enter judgment upon
the decision of the arbitrator.

(g) Except for the Basic Annual Rent as determined above, Tenant’s occupancy of the Premises during the Renewal Term shall be on the same terms
and conditions as are in effect immediately prior to the expiration of the Extension Term; provided, however, Tenant shall have no further right to extend
the Lease Term pursuant to this Exhibit C or to any allowances, credits or abatements or options to expand, contract, renew or extend the Lease.

(h) If Tenant does not send the Renewal Notice within the period set forth in Paragraph (a), Tenant’s right to extend the Lease Term shall
automatically terminate. Time is of the essence as to the giving of the Renewal Notice and the notice of Tenant’s objection under Paragraph (d).

(i) Landlord shall have no obligation to refurbish or otherwise improve the Premises for the Renewal Term. The Premises shall be tendered on the
Commencement Date of the Renewal Term in “as-is” condition.

(j) If the Lease is extended for the Renewal Term, then Landlord shall prepare and Tenant shall execute an amendment to the Lease confirming the
extension of the Lease Term and the other provisions applicable thereto.

(k) If Tenant exercises its right to extend the term of the Lease for the Renewal Term pursuant to this Exhibit C, the term “Lease Term” as used in the
Lease, shall be construed to include, when practicable, the Renewal Term except as provided in Paragraph (g) above.

C-2
THIRD AMENDMENT TO OFFICE LEASE

This Third Amendment to Office Lease (this “Third Amendment”) is made and entered into by and between EOSII PALO ALTO TECHNOLOGY CENTER, LLC, a Delaware limited liability company (“Landlord”), and BILL.COM, INC., a Delaware corporation (“Tenant”), to be effective on and as of the date that Landlord executes this Third Amendment as set forth on the signature page below (the “Effective Date”).

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to that certain Office Lease dated December 2, 2013 (the “Original Lease”), as amended by (a) that certain First Amendment to Office Lease dated February 29, 2016 (the “First Amendment”) and (b) that certain Second Amendment to Office Lease dated November 29, 2016 (the “Second Amendment”) (the Original Lease, as so amended, hereinafter referred to as the “Lease”), pursuant to which Tenant is currently leasing certain premises containing a total of 38,928 square feet of Rentable Area (herein collectively referred to as the “Existing Premises”) consisting of: (i) that certain 32,943 square feet of Rentable Area designated as Suites 100A, 100B, 101A and 101B (herein collectively referred to as the “1810 Embarcadero Portion”) in that certain building located at 1808 – 1810 Embarcadero Road, Palo Alto, California 94303 (the “1808 – 1810 Building”), and (ii) that certain 5,985 square feet of Rentable Area designated as Suite 201 (the “1804 Embarcadero Portion”) in that certain building located at 1804 Embarcadero Road, Palo Alto, California 94303 (the “1804 Building”), all being in that certain multi-building project known as the Palo Alto Technology Center in Palo Alto, California (the “Project”); and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to expand the “Premises” (as such term is used in the Lease) and modify certain other terms of the Lease, all as more particularly provided herein below.

NOW, THEREFORE, pursuant to the foregoing, and in consideration of the mutual covenants and agreements contained in the Lease and herein, the Lease, as of the Effective Date, is hereby modified and amended as set out below:

1. Definitions. All capitalized terms used herein shall have the same meaning as defined in the Lease, unless otherwise defined in this Third Amendment.

2. Expansion of Premises. Effective on and as of the Third Amendment Expansion Date (hereinafter defined), the “Premises” (as such term is used in the Lease) shall be expanded to include that certain 9,315 square feet of Rentable Area, as more particularly depicted in Exhibit A attached hereto (the “Third Amendment Expansion Premises”), comprising the entire Rentable Area of the 1800 Building (hereinafter defined), upon all of the terms of the Lease, except as otherwise amended herein. The “1800 Building” shall mean that certain building in the Project located at 1800 Embarcadero Road, Palo Alto, California. The “Third Amendment Expansion Date” shall mean the later to occur of (A) the date that the Landlord’s Work (as defined in Paragraph 6 below) is completed or (B) June 1, 2018. The Lease Term with respect to the Third Amendment Expansion Premises shall be co-terminous with the Lease Term for the Existing Premises, which is currently scheduled to expire on May 31, 2020 (herein referred to as the “Current Expiration Date”). The period commencing on the Third Amendment Expansion Date and ending on the Current Expiration Date shall be referred to herein as the “Third Amendment Expansion Term”.
Following the Third Amendment Expansion Date, the “Premises” under the Lease shall be deemed to contain a total of 48,243 square feet of Rentable Area consisting of the Existing Premises and the Third Amendment Expansion Premises, combined. Upon occurrence of the Third Amendment Expansion Date, Landlord may provide a commencement certificate to Tenant, which Tenant shall execute and return within ten (10) days after receipt. Tenant’s failure to execute and return such commencement certificate within such ten (10) day period shall be deemed to be Tenant’s approval of the commencement certificate and the terms set forth therein. Landlord’s failure to send such commencement certificate shall have no effect on the Third Amendment Expansion Date.

3. **Pre-Term Access to Third Amendment Expansion Premises.** Beginning upon the date that Landlord delivers to Tenant the Third Amendment Expansion Premises (which shall occur promptly following full mutual execution of this Third Amendment) (such date being referred to herein as the “Pre-Term Access Commencement Date”) and ending on the day immediately preceding the Third Amendment Expansion Date (such period being referred to as the “Pre-Term Access Period”), Tenant, and Tenant’s contractors reasonably approved by Landlord, may access the Third Amendment Expansion Premises (the “Pre-Term Access”) for the sole purpose of installing Tenant’s furniture, equipment, computer and phone cabling and wiring systems in the Third Amendment Expansion Premises (the “Tenant’s Work”); provided, however, Tenant and/or Tenant’s contractors, must coordinate all access to the Third Amendment Expansion Premises during such Pre-Term Access Period with the property manager of the Project prior to such access. Except for the payment of Basic Annual Rent and Additional Rent for the Third Amendment Expansion Premises, all other terms, conditions, rules, regulations and obligations of Tenant, as set forth in the Lease, shall apply during the Pre-Term Access Period (including, without limitation, the obligation to pay Rent for the Existing Premises). Tenant, and its approved contractors, shall not interfere with the completion of the Landlord’s Work or cause any labor dispute as a result of such Pre-Term Access, and, to the fullest extent permitted by law, Tenant hereby agrees to indemnify, defend, and hold Landlord harmless from any loss or damage to such property, and all liability, loss, or damage arising from any injury to the Project or the property of Landlord, its contractors, subcontractors, or materialmen, and any death or personal injury to any person or persons arising out of such Pre-Term Access, EVEN IF SUCH LOSS, DAMAGE, LIABILITY, DEATH, OR PERSONAL INJURY WAS CAUSED SOLELY OR IN PART BY LANDLORD’S NEGLIGENCE, BUT NOT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD. Any such Pre-Term Access shall be subject to Tenant providing to Landlord satisfactory evidence of insurance for personal injury and property damage related to such Pre-Term Access Period prior to the commencement of the Pre-Term Access Period, including such insurance from Tenant’s contractors, as required by Landlord for third party contractors working in the Project. Any delay in putting Tenant in possession of the Third Amendment Expansion Premises due to such Pre-Term Access Period shall not serve to extend the Lease Term or to make Landlord liable for any damages arising therefrom. Notwithstanding the above, Tenant shall not be responsible under this Lease in any respect whatsoever for any hazardous or toxic materials which may exist as of the date exclusive possession of the Third Amendment Expansion Premises is delivered to Tenant or which may exist during or after the Lease Term and is not caused by Tenant or Tenant’s agents, employees, contractors or sublessees (the “Non-Tenant Caused Hazardous Materials”). For clarity, if during the performance of Tenant’s Work, Tenant or its agents, employees or contractors discover hazardous or toxic materials which are located in the Third Amendment Expansion Premises and predate the Pre-Term Access Commencement Date, then such hazardous or toxic materials shall be considered Non-Tenant Caused Hazardous Materials. Landlord, at its sole cost and expense (not to be included in Operating Costs), shall comply with all applicable laws relating to the abatement, removal, encapsulation or disposal of all such Non-Tenant Caused
4. **Basic Annual Rent.** Tenant shall pay Basic Annual Rent as follows:

(a) **Existing Premises.** Tenant shall continue to pay Basic Annual Rent for the Existing Premises in accordance with the existing terms and provisions of the Lease applicable thereto, including, without limitation, Paragraph 4 of the Second Amendment.

(b) **Third Amendment Expansion Premises.** Commencing on the Third Amendment Expansion Date and continuing thereafter for the remainder of the Lease Term, Tenant shall pay also Basic Annual Rent for the Third Amendment Expansion Premises. The Basic Annual Rent due during the Third Amendment Expansion Term shall be as follows:

<table>
<thead>
<tr>
<th>Period (during Third Amendment Expansion Term)</th>
<th>Rate/RSF/Month (approx. due to rounding)</th>
<th>Monthly Installment</th>
</tr>
</thead>
<tbody>
<tr>
<td>T.A.E.D. – Month 12*</td>
<td>$4.25, plus NNN</td>
<td>$39,588.75, plus NNN</td>
</tr>
<tr>
<td>Month 13 – Month 24</td>
<td>$4.38, plus NNN</td>
<td>$40,776.41, plus NNN</td>
</tr>
<tr>
<td>Month 25 – 05/31/2020**</td>
<td>$4.51, plus NNN</td>
<td>$41,999.70, plus NNN</td>
</tr>
</tbody>
</table>

*“T.A.E.D.” shall refer to the Third Amendment Expansion Date. For purposes of the rent schedule above, the initial period terminates on the last day of the twelfth (12th) full calendar month following the Third Amendment Expansion Date (i.e., such that if the Third Amendment Expansion Date is a day other than the first day of a calendar month, then this period would include the partial month in which the Third Amendment Expansion Date occurred plus the next twelve (12) full calendar months) and the period following thereafter commences on the first day of the thirteenth (13th) full calendar month following the Third Amendment Expansion Date.

** However, in the event that the Third Amendment Expansion Date occurs on or after June 1, 2018, then the rent schedule set forth herein for this period shall be null and void because the Current Expiration Date (i.e., May 31, 2020) would occur prior to Month 25 of the Third Amendment Expansion Term.

5. **Additional Rent.** Tenant shall pay Additional Rent, as follows:

(a) **Existing Premises.** Tenant shall continue to pay Additional Rent (including, without limitation, Tenant’s Proportionate Share of Operating Costs) attributable to the Existing Premises throughout the Lease Term, in accordance with the existing terms and provisions of the Lease applicable thereto (including, without limitation, Paragraph 5 of the Second Amendment).
Third Amendment Expansion Premises. Commencing on the Third Amendment Expansion Date and continuing throughout the Lease Term, Tenant shall also pay Additional Rent (including, without limitation, Tenant’s Proportionate Share of Operating Costs) attributable to the Third Amendment Expansion Premises. Such Additional Rent with respect to the Third Amendment Expansion Premises shall be calculated on a triple net basis similar to the 1810 Embarcadero Portion. Additionally, for the purposes of calculating Additional Rent with respect to the Third Amendment Expansion Premises, Tenant’s Proportionate Share with respect to the 1800 Building shall be equal to 100% (9,315 rsf / 9,315 rsf). For the avoidance of doubt, Paragraph 4 and Paragraph 7 of the First Amendment shall not apply with respect to the Third Amendment Expansion Premises.

Condition of Premises. Notwithstanding anything in the Lease to the contrary, Tenant is currently in possession of the Existing Premises, and Tenant agrees to accept the Existing Premises in its existing “AS-IS”, “WHERE-IS” and “WITH ALL FAULTS” condition, and Landlord shall have no obligation whatsoever to refurbish or otherwise improve the Existing Premises at any time during the Lease Term. Additionally, Landlord shall deliver the Third Amendment Expansion Premises to Tenant in good working condition, including, but not limited to, the roof, HVAC, electrical, plumbing and lighting being in good working condition. Except as provided herein, Tenant shall accept the Third Amendment Expansion Premises from Landlord in its “AS-IS” condition, and, except for any of Landlord’s express repair and maintenance obligations set forth in the Lease, Landlord shall have no obligation whatsoever to refurbish or otherwise improve the Third Amendment Expansion Premises at any time during the Lease Term; provided, however, Landlord, at Landlord’s sole cost, using contractors selected by Landlord, and using Project standard materials, procedures and methods of construction, hereby agrees to perform the following improvements in the Third Amendment Expansion Premises (collectively, the “Landlord’s Work”): (i) professionally clean the Third Amendment Expansion Premises; (ii) paint the interior walls of the restroom in the Third Amendment Expansion Premises using building standard paint and replace the partitions in such restrooms using building standard partitions; and (iii) to the extent required pursuant to Paragraph 3 of this Third Amendment and applicable law, abatement, removal, encapsulation or disposal of any Non-Tenant Caused Hazardous Materials. Notwithstanding anything herein to the contrary, Landlord will not be required to provide any touch-up paint to the interior walls of the Third Amendment Expansion Premises, however, Landlord will provide Tenant with a $5,000 credit applicable to the initial monthly installment of Basic Annual Rent due for the Third Amendment Expansion Premises following the Third Amendment Expansion Date. In the event any code compliance work is required to the restrooms located in the Third Amendment Expansion Premises and such code compliance work is neither triggered by Tenant’s particular use or any alteration or improvement being performed by Tenant, then Landlord agrees to perform such code compliance work at Landlord’s sole cost and expense.

Other than with respect to any of Landlord’s express repair and maintenance obligations set forth in the Lease, Tenant acknowledges and agrees that any and all improvements or allowances required to be performed or provided by Landlord under the Lease have been performed and/or satisfied in their entirety, including, without limitation, those set forth in Paragraph 6 of the Second Amendment and Exhibit B attached thereto, Paragraph 5 of the First Amendment and Exhibit B attached thereto, and Item 18 of the Basic Lease Provisions of the Original Lease and Exhibit B attached thereto.
7. **Basic Services.** Following the Third Amendment Expansion Date, Tenant shall lease the entirety of the 1800 Building. As a result, the parties hereby agree that, notwithstanding anything in the Lease to the contrary, the services to be provided by Landlord to the Third Amendment Expansion Premises shall be as follows:

(a) **Utilities.** Following the Third Amendment Expansion Date, Tenant shall cause all utilities serving the 1800 Building to be separately metered in Tenant’s name and Tenant shall pay directly to the utility company for such utility service charges.

(b) **Janitorial Service.** Because Tenant shall be leasing the entirety of the 1800 Building, Landlord shall have no responsibility to provide any janitorial service to the 1800 Building (including any restrooms therein) and Tenant shall be fully responsible for providing all such janitorial service required to the 1800 Building. As such, with respect to calculating Tenant’s Proportionate Share of Operating Costs as it relates to the Third Amendment Expansion Premises, in no event shall the janitorial services referenced in Paragraph 3(c)(ii) of the Original Lease include janitorial costs attributable to cleaning the interior of any other tenant’s or occupant’s premises; provided, however, the janitorial costs for the Common Areas of the Project (e.g., dayporter costs, window washing, pressure washing of sidewalks, etc.) shall continue to be included in Operating Costs for purposes of allocating Tenant’s Proportionate Share of Operating Costs attributable to the Third Amendment Expansion Premises.

(c) **HVAC Maintenance.** Commencing on the Third Amendment Expansion Date and continuing throughout the Lease Term, Tenant shall maintain a preventive maintenance contract providing for the regular inspection and maintenance of the heating and air conditioning system serving the 1800 Building by a licensed heating and air conditioning contractor, unless Landlord elects in its sole discretion to maintain such equipment. Tenant shall provide Landlord with written proof of said preventive maintenance contract within thirty (30) days of the Third Amendment Expansion Date. Any such maintenance and repairs will be performed by Landlord’s contractor, or at Landlord’s option, by such contractor or contractors as Tenant may choose from an approved list to be submitted by Landlord. Tenant agrees to pay all costs and expenses incurred in such maintenance and repair in accordance with the terms of the preventative maintenance contract. Notwithstanding the foregoing, and with respect to the base building HVAC unit for the 1800 Building (i.e., specifically excluding any supplemental HVAC units that may have been installed by Tenant or any predecessor tenant), if Tenant has complied with this Paragraph 7(c) regarding repair and maintenance of the HVAC system and, notwithstanding such compliance, such HVAC unit cannot, in the sole and reasonable business judgment of Landlord, be repaired other than at a cost which is in excess of fifty percent (50%) of the cost of replacing such unit, then the unit will be replaced by Landlord and, (i) to the extent such replacement occurs during the initial twelve (12) months following the Third Amendment Expansion Date, then Landlord shall be responsible for the replacement cost or (ii) to the extent such replacement occurs following the one (1) year anniversary of the Third Amendment Expansion Date, then the cost thereof shall be prorated between the parties as set forth herein over the useful life of the unit per GAAP accounting. In the event the replacement occurs after the one (1) year anniversary of the Third Amendment Expansion Date, Tenant shall only be obligated to pay, each month during the remainder of the term of the Lease, on the date on which Rent
is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/44th of the replacement cost per month). The cost shall include a commercially reasonable interest rate on the unamortized balance. Tenant may prepay its obligation at any time. Such payments shall be deemed to be Additional Rent under the Lease. It will be in Landlord’s sole and reasonable discretion to determine the make, model and size of the replacement unit so long as such replacement HVAC unit will be comparable to the existing HVAC unit it is replacing. Replacement of the unit shall not require Landlord to undertake any other work in or about the Premises with respect to the HVAC system.

8. **Signage.** Provided that (x) Tenant is the Tenant originally named herein or a Permitted Transferee, (y) Tenant or a Permitted Transferee is leasing and actually occupies at least 48,243 square feet of Rentable Area in the Project, which includes the entirety of the 1800 Building, and (z) no event of material default or event which but for the passage of time or the giving of notice, or both, would constitute a material event of default has occurred and is continuing, then, subject to the further terms of this Paragraph 8 and all applicable laws, codes, ordinances, restrictions, rules and regulations, as well as all applicable covenants, restrictions or deed restrictions affecting the Project (collectively, the “Applicable Rules and Restrictions”), Tenant shall have the right throughout the Lease Term to install eyebrow signage in a location designated by Landlord near the main entrance to the Third Amendment Expansion Premises (“Eyebrow Sign”) provided that Landlord, acting reasonably, approves the Eyebrow Sign (including all structural engineering and aesthetic aspects thereof) and the exact location where the same is to be installed. The engineering, manufacture, installation, maintenance and removal of, and the procurement of all required approvals for, the Eyebrow Sign shall be at Tenant’s sole cost and expense. The installation of the Eyebrow Sign shall be in compliance with all Applicable Rules and Restrictions. Prior to the manufacturing or installing the Eyebrow Sign, Tenant shall submit to Landlord, for Landlord’s approval, (i) a report from a structural engineer reasonably acceptable to Landlord providing that (A) the 1800 Building can adequately support the installation of the Eyebrow Sign, and (B) the Eyebrow Sign can and will be installed in a manner that will not damage, or otherwise affect or diminish the structural integrity of, the 1800 Building, and (ii) a detailed drawing indicating the size, layout, design, configuration, lettering and/or graphics and color of the proposed Eyebrow Sign, together with the proposed location where the Eyebrow Sign is to be installed. In the event Landlord approves the structural report, the Eyebrow Sign and the location, Landlord shall evidence such approval in writing. Tenant shall install, repair, maintain, and remove the Eyebrow Sign with contractors approved by Landlord. Any such contractors shall satisfy Landlord’s insurance and indemnification requirements prior to performing any work. Tenant agrees that the installation, maintenance, repair and removal of the Eyebrow Sign shall be at Tenant’s sole risk. Tenant agrees to maintain the Eyebrow Sign in good condition and repair and, prior to the expiration of the Lease Term or the earlier termination of the Lease or Tenant’s right of possession under the Lease or Tenant’s vacation from any portion of the Third Amendment Expansion Premises, Tenant shall remove the Eyebrow Sign at its sole cost and expense. In the event Tenant fails to repair or remove the Eyebrow Sign, Landlord shall have the right to repair or remove the Eyebrow Sign, as the case may be, and Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith, plus an additional charge equal to ten percent (10%) of such costs incurred by Landlord as a coordination fee, and upon any such removal Landlord shall have the right to dispose of the same in any manner Landlord so desires without any liability to Tenant therefor. TENANT AGREES TO INDEMNIFY AND HOLD LANDLORD HARMLESS FROM AND AGAINST ANY AND ALL LIENS, CLAIMS, DEMANDS, LIABILITIES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY’S FEES) INCURRED OR SUFFERED BY LANDLORD AND EXISTING OUT OF OR IN ANY WAY RELATED TO THE INSTALLATION,
MAINTENANCE, REPAIR OR REMOVAL OF THE EYEBROW SIGN, EVEN IF THE SAME IS CAUSED IN PART (BUT NOT SOLELY) BY THE NEGLIGENCE OF LANDLORD, ITS EMPLOYEES, AGENTS OR REPRESENTATIVES. Notwithstanding anything herein to the contrary, Landlord shall have the right to terminate Tenant’s rights under this Paragraph 8 by providing written notice of termination to Tenant if, at any time, Tenant (1) assigns the Lease (except to a Permitted Transferee), (2) subleases any portion of the Premises, (3) suffers an event of default of any term or condition of the Lease, or (4) cease to lease or occupy the entirety of the 1800 Building. In the event Landlord terminates Tenant’s rights under this Paragraph 8 as provided for in the immediately preceding sentence, Tenant shall remove the Eyebrow Sign from the 1800 Building and repair any damage to the 1800 Building caused by the installation, maintenance and/or removal thereof within thirty (30) days following receipt of Landlord’s written notice of termination, and, in the event Tenant fails to timely remove the Eyebrow Sign and/or repair such damage, Landlord shall have the right to do the same and Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith, plus an additional charge equal to ten percent (10%) of such costs incurred by Landlord as a coordination fee (and Tenant shall be deemed to have abandoned the Eyebrow Sign and Landlord shall have the right to dispose of the Eyebrow Sign in any manner Landlord shall choose in its sole discretion without any liability whatsoever to Tenant with respect thereto). The terms of Paragraph 19(ee) of the Original Lease shall not be applicable to the Third Amendment Expansion Premises, and Tenant shall not receive fascia signage on the 1800 Building.

9. Parking. As of the Third Amendment Expansion Date, as a result of Tenant’s expansion into the Third Amendment Expansion Premises, the total number of parking spaces allocated to Tenant in Item 13 of the Basic Lease Provisions of the Original Lease (and further amended by Paragraph 6 of the First Amendment and Paragraph 8 of the Second Amendment) shall be increased by a total of twenty-nine (29) parking spaces, consisting of (i) one (1) reserved parking space in a location designated by Landlord and (ii) twenty-eight (28) unreserved parking spaces, all at no charge to Tenant through the Current Expiration Date. The initial location of Tenant’s reserved parking space shall be as shown in Exhibit B attached hereto, however, Landlord shall have the right to relocate such reserved parking space from time to time.

10. One Renewal Option at Market. Tenant shall continue to have the right to extend the Lease Term beyond the Current Expiration Date for a period of two (2) years, in accordance with and subject to the terms and conditions set forth in Exhibit C attached to the Second Amendment; provided, however, (i) such renewal option shall be exercisable by Tenant only if Tenant leases and occupies at least 48,243 square feet of Rentable Area in the Project, and (ii) if Tenant exercises said renewal option, such renewal option shall apply to both the Existing Premises and the Third Amendment Expansion Premises combined.

11. CASp Inspection. As of the Effective Date, neither the Existing Premises, the Third Amendment Expansion Premises (the foregoing collectively referred to as the “Premises” for purposes of this Paragraph 12) nor the Project has undergone inspection by a Certified Access Specialist (CASp). A CASp can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, Landlord may not prohibit Tenant from obtaining a CASp inspection of the Premises for the occupancy by Tenant, if requested by Tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises. Except as otherwise expressly agreed upon in writing by Landlord, Landlord has no obligation for the payment of the CASp fee or the cost of making repairs pursuant thereto, nor shall Landlord have
any liability to Tenant arising out of or related to the fact that neither the Premises nor the Project has been inspected by a CASp, and Tenant waives all such liability and acknowledges that Tenant shall have no recourse against Landlord or the Project as a result of or in connection therewith.

12. **Cannabis.** Tenant agrees that the Premises shall not be used for the use, growing, producing, processing, storing (short or long term), distributing, transporting, or selling of cannabis, cannabis derivatives, or any cannabis containing substances ("Cannabis"), or any office uses related to the same, nor shall Tenant permit, allow or suffer, any of Tenant’s officers, employees, agents, servants, licensees, subtenants, concessionaires, contractors and invitees to bring onto the Premises, any Cannabis. Without limiting the foregoing, the prohibitions in this paragraph shall apply to all Cannabis, whether such Cannabis is legal for any purpose whatsoever under state or federal law or both. Notwithstanding anything to the contrary, any failure by Tenant to comply with each of the terms, covenants, conditions and provisions of this paragraph shall automatically and without the requirement of any notice be a default that is not subject to cure, and Tenant agrees that upon the occurrence of any such default, Landlord may elect, in its sole discretion, to exercise all of its rights and remedies under the Lease (as herein amended), at law or in equity with respect to such default.

13. **Broker.** Tenant warrants to Landlord that it has had no dealings with any broker or agent, other than Cornish & Carey Commercial Newmark Knight Frank ("Broker"), in connection with the negotiation or execution of this Third Amendment. Tenant agrees to indemnify and hold Landlord harmless from and against any and all costs, expenses or liability for commissions or other compensations or charges claimed by any broker or agent, other than Broker, claiming to have represented Tenant with respect to this Third Amendment.

14. **OFAC.** Tenant certifies, represents, warrants and covenants that: (i) it is not acting and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, “Specially Designated National and Blocked Person”, or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend (with counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord and its designated property management company, and their respective partners, members, affiliates and subsidiaries, and all of their respective officers, directors, shareholders, employees, servants, partners, representatives, insurers and agents from and against any and all claims or damages arising from or related to any such breach of the foregoing certifications, representations, warranties and covenants.

15. **Miscellaneous.** With the exception of those terms and conditions specifically modified and amended herein, the herein referenced Lease shall remain in full force and effect in accordance with all its terms and conditions. In the event of any conflict between the terms and provisions of this Third Amendment and the terms and provisions of the Lease, the terms and provisions of this Third Amendment shall supersede and control.

16. **Counterparts.** This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this Third Amendment, the parties may execute this Third Amendment via counterparts and exchange facsimile copies of such executed counterparts via telefax or e-mail, and such telefaxed or e-mailed facsimile counterparts shall serve as originals.
IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Office Lease as of the dates set forth below, to be effective for all purposes, however, as of the Effective Date.

LANDLORD:

EOSII PALO ALTO TECHNOLOGY CENTER, LLC, a Delaware limited liability company

By: KBS Capital Advisors LLC, a Delaware limited liability company, its authorized agent

By: /s/ Brent Carroll
    Brent Carroll
    Senior Vice President

Date: 5/21/18

TENANT:

BILL.COM, INC., a Delaware corporation

By: /s/ Raj Aji
    Name: Raj Aji
    Title: SVP, General Counsel
    Date: 5/18/18
SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made as of March 30, 2017, by and among EOSII Palo Alto Technology Center LLC (“Borrower”), AXA EQUITABLE LIFE INSURANCE COMPANY, a New York corporation, (“Lender”), and BILL.COM, INC., a Delaware corporation (“Tenant”),

WITNESSETH:

WHEREAS, Borrower has applied to Lender for a loan that will be secured by a mortgage, deed of trust or other security instrument (the “Mortgage”) from Borrower to Lender, to be recorded in the Official Records of the County of Santa Clara, State of California. The mortgage will encumber the real property (the “Property”) in the County of Santa Clara, State of California, commonly known as 1800, 1804, 1810, 1820, 1830, 1840 and 1850 Embarcadero Road and 2445, 2455 and 2465 Faber, Palo Alto, CA 94303, which is described in Exhibit A attached hereto and made a part hereof. Tenant is the tenant under the Lease (the “Lease”) dated December 2, 2013 as amended by that certain First Amendment to Office Lease dated February 29, 2016 and that certain Second Amendment to Office Lease dated November 29, 2016, between Borrower, as landlord, and Tenant, as tenant. Tenant leases a portion of the Property pursuant to the Lease. As of the date hereof, pursuant to Section 6 of the Lease, there is a Landlord construction allowance for certain tenant improvements in the amount of $102,600. Borrower will assign the Lease to Lender pursuant to the Mortgage. Borrower, Lender and Tenant will subordinate the Lease to the Mortgage, effective as of the date on which the Mortgage is recorded, as provided in this Agreement.

NOW, THEREFORE, Borrower, Lender and Tenant agree as follows:

1. **Subordination.** The Lease is hereby made and shall at all times be subject and subordinate in all respects to the Mortgage and all indebtedness and obligations now or hereafter secured by the Mortgage, including, without limitation, all amendments, modifications, extensions, supplements, substitutions and replacements of the Mortgage and all advances made by Lender to Borrower secured by the Mortgage.
2. **Nondisturbance.** If there is a judicial foreclosure sale, a sale pursuant to the power of sale, or an acceptance of a deed in lieu of foreclosure under the Mortgage (any such event being a “Foreclosure Transfer”), the Lease shall not be terminated (or subject to termination) as a result of the Foreclosure Transfer, nor shall Tenant’s use, possession or enjoyment of the portion of the Property demised by the Lease be disturbed, so long as no default exists and no other event has occurred under the Lease that would give the landlord under the Lease the right to terminate the Lease or would cause automatic termination of the Lease. Tenant agrees that the person or entity, which may include Lender, and its successors and assigns, that acquires title to the Property by reason of a Foreclosure Transfer and succeeds to the interest of Borrower as landlord under the Lease (such person or entity being the “Foreclosure Transferee”) shall not be:

(a) liable for any act or omission of Borrower or any other prior landlord under the Lease,
(b) subject to any claim, charge, offset or defense under the Lease that Tenant might have against Borrower or any such prior landlord based on any act, omission, event or occurrence before the Foreclosure Transfer,
(c) bound by any rent, additional rent or deposit that Tenant might have paid in advance to Borrower or any such prior landlord for more than the current month (or other period for which rent or additional rent is to be paid in advance in accordance with the Lease) in which the Foreclosure Transfer occurs, unless such rent, additional rent or deposit is actually received by the Foreclosure Transferee,
(d) bound by any amendment or modification of the Lease or any termination of the Lease made without Lender’s prior written consent,
(e) responsible for repairing or restoring the Property in the case of damage by fire or other casualty or taking by condemnation,
(f) obligated to perform any construction work required to be done by Borrower or any such prior landlord or to reimburse Tenant for any construction work performed by Tenant, or
(g) bound by any agreement not expressly set forth in the Lease.

3. **Attornment.** If the interest of the landlord under the Lease is transferred by reason of a Foreclosure Transfer, Tenant shall be bound to the Foreclosure Transferee and the Foreclosure Transferee shall be bound to Tenant under the Lease for the balance of the term of the Lease, and any extension thereof which may be effected in accordance with the Lease, with the same force and effect as if the Foreclosure Transferee were the original landlord under the Lease, except as otherwise provided in Paragraph 2 hereof. Tenant hereby adorn to the Foreclosure Transferee as the landlord under the Lease, such attornment to be effective
and self-operative upon the Foreclosure Transfer without the execution of any further agreement. The respective rights and obligations of the Foreclosure Transferee and Tenant upon such attornment, to the extent of such balance of the term of the Lease and any such extension, shall be the same as now set forth in the Lease, except as otherwise provided in Paragraph 2 hereof.

4. **Covenants.** With respect to the assignment of the Lease by Borrower to Lender pursuant to the Mortgage, Tenant shall pay all rent and perform all obligations under the Lease to Borrower until Tenant receives written notice from Lender, in which event Tenant agrees to pay all rent and to perform all obligations under the Lease directly to and for the benefit of Lender or such other party as Lender directs in such notice, and Borrower authorizes Tenant to do so in accordance with the instructions of Lender. Borrower agrees that such payment and performance to and for the benefit of Lender shall satisfy Tenant’s obligations under the Lease. Tenant agrees that Lender assumes no obligations under the Lease by virtue of the assignment of the Lease by Borrower to Lender pursuant to the Mortgage or other loan document and that Lender shall not become liable for any obligations under the Lease until Lender acquires title to the Property as a Foreclosure Transferee at a Foreclosure Transfer. As long as the Mortgage shall encumber the Property:

(a) Tenant shall not pay any rent under the Lease more than one (1) month in advance.

(b) Tenant shall not amend, modify or terminate (except upon default or breach by Borrower, after giving Lender written notice and opportunity to cure pursuant to this Agreement) the Lease without the prior written consent of Lender.

(c) If Borrower defaults under or breaches the Lease, Tenant shall promptly send written notice to Lender describing each such default or breach and give Lender the following opportunity to cure such default or breach:

(i) In the case of a default or breach that is capable of being cured by the payment of money, Lender shall have the cure period available to Borrower under the Lease plus twenty (20) days to cure such default or breach;

(ii) In the case of a non-monetary default or breach that is capable of being cured without possession of the Property, Lender shall have the cure period available to Borrower under the Lease plus sixty (60) days to cure such default or breach; and

(iii) If curing such default or breach requires possession of the Property, Lender shall have sixty (60) days after the date on which Lender obtains possession of the Property to cure such default or breach.

Tenant shall not terminate the Lease because of any such default or breach by Borrower unless Tenant has given such written notice to Lender and Lender has failed to cure such default or breach within the applicable period of time.
Anything in this Subparagraph 4(c) to the contrary notwithstanding, if the default or breach is of such a nature that Lender is not obligated to cure such pursuant to the provisions of Paragraph 2 hereof, Tenant shall not terminate the Lease so long as Lender is diligently moving towards completion of a Foreclosure Transfer, and upon completion of such Foreclosure Transfer, such default or breach shall be deemed waived.

5. **Notices**. All notices under this Agreement shall be properly given only if made in writing and either mailed by certified mail, return receipt requested, postage prepaid, or delivered by hand (including messenger or recognized delivery, courier or air express service) to the party at the address set forth in this paragraph or such other address as such party may designate by notice to the other parties. Such notices shall be effective on the date of receipt (evidenced by the certified mail receipt) if mailed or on the date of delivery if hand delivered. If any such notice is not received or cannot be delivered because the receiving party changed its address and did not give notice of such change to the sending party or due to a refusal to accept such notice by the receiving party, such notice shall be effective on the date delivery is attempted. Any notice under this Agreement may be given on behalf of a party by the attorney for such party.

   (a) The address of Borrower is 800 Newport Center Drive, Suite 700, Newport Beach, CA 92660, attention: Brent Carroll.

   (b) The address of Lender is:

   AXA Equitable Life Insurance Company  
   1290 Avenue of the Americas  
   New York, NY 10104  
   Attention: Real Estate Legal Department

   Quadrant Real Estate Advisors LLC  
   12735 Morris Road, Suite 100  
   Alpharetta, GA 30004  
   Attention: Quadrant Asset Management  
   (Loan No. 16-1064)

   Berkadia Commercial Mortgage LLC  
   323 Norristown Road, Suite 300  
   Ambler, PA 19002  
   Attention: EVP Client Relations  
   (Loan No. 16-1064)

   (c) The address of Tenant is

   ______________________________________________________________________

   ______________________________________________________________________

   ______________________________________________________________________

   attention:___________

   __________
6. **Miscellaneous.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. If there is any conflict or inconsistency between this Agreement and the Lease, this Agreement shall control. This Agreement may be executed in counterparts, each of which shall be an original but all of which together shall constitute this Agreement. This Agreement shall bind and inure to the benefit of Borrower, Lender and Tenant and their respective successors and assigns.

IN WITNESS WHEREOF, Borrower, Lender and Tenant have executed this Agreement as of the date first hereinabove written.

**EOSII PALO ALTO TECHNOLOGY CENTER, LLC,**
a Delaware limited liability company

By: EOS PROPERTIES II, LLC,
a Delaware limited liability company,
its manager

By: EOS INVESTMENT FUND II, L.P.,
a Delaware limited partnership,
its sole member

By: POLIS REALTY ADVISORS II, LTD.,
a British Virgin Islands company,
its general partner

By: See Attached

Charles J. Schreiber, Jr.,
Chief Executive Officer
IN WITNESS WHEREOF, Borrower, Lender and Tenant have executed this Agreement as of the date first hereinabove written.

**EOSII PALO ALTO TECHNOLOGY CENTER, LLC,**
a Delaware limited liability company

By: EOS PROPERTIES II, LLC,
a Delaware limited liability company,
its manager

By: /s/ Charles J. Schreiber, Jr.,
Charles J. Schreiber, Jr.,
Chief Executive Officer

**AXA EQUITABLE LIFE INSURANCE COMPANY,**
a New York Corporation

By: 
Name: 
Title: 

[signature page to Subordination, Nonattornment and Subordination Agreement (AXA/Palo Alto)]
IN WITNESS WHEREOF, Borrower, Lender and Tenant have executed this Agreement as of the date first hereinafore written.

EOSII PALO ALTO TECHNOLOGY CENTER, LLC,
a Delaware limited liability company

By: EOS PROPERTIES II, LLC,
a Delaware limited liability company,
it manager

By: ________________________________

Charles J. Schreiber, Jr.,
Chief Executive Officer

AXA EQUITABLE LIFE INSURANCE COMPANY,
a New York Corporation

By: /s/ Frank S. Linneen
Name: Frank S. Linneen
Title: Investment Officer

[signature page of Tenant follows]

[Signature page to Subordination, Nonattornment and Subordination Agreement (AXA/Palo Alto)]
AXA EQUITABLE LIFE INSURANCE COMPANY, a New York Corporation

By 
Title 

BILL.COM, INC., a Delaware corporation

By /s/ Raj Aji
Title  GENERAL COUNSEL
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

On March 20, 2017 before me, k. Godin, Notary Public

personally appeared Charles J. Schreiber, Jr., who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature /s/ K. Godin

(Seal)
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF GEORGIA

COUNTY OF FULTON

On March 17, 2017, before me, Alicia Shaver, NOTARY PUBLIC, personally appeared FRANK S. LINNEEN, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Georgia that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature /s/ Alicia Shaver (Seal)
My Commission Expires 01/12/2021
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Santa Clara  
On March 28, 207 before me, Grace L. Carino, Notary Public, personally appeared Rajesh (Raj) Aji, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature /s/ Grace L. Carino  
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Loan Number 16-1064 SUBORDINATION NONDISTURBANCE AND ATTORNMENT AGREEMENT  
Document Date: March 28, 2017
Number of Pages: 14  
Signer(s) Other Than Named Above: ________________________________

Capacity(ies) Claimed by Signer(s)

Signer’s Name:  
□ Corporate Officer – Title(s):__________________________  
□ Partner –  □ Limited  □ General  
□ Individual  □ Attorney in Fact  
□ Trustee  □ Guardian or Conservator  
□ Other: ________________________________  
Signer Is Representing: ________________________________

Signer’s Name:  
□ Corporate Officer – Title(s):__________________________  
□ Partner –  □ Limited  □ General  
□ Individual  □ Attorney in Fact  
□ Trustee  □ Guardian or Conservator  
□ Other: ________________________________  
Signer Is Representing: ________________________________

EXHIBIT A
Description of the Property

City of Palo Alto

Parcel 2, as shown on that certain Record of Survey filed October 23, 1967, in Book 229 of Maps, Page 24.

Assessor’s Parcel Number: 008-03-046
## SUBSIDIARIES OF

**BILL.COM HOLDINGS, INC.**

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<th>Name</th>
<th>Ownership</th>
<th>Jurisdiction</th>
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<td>Delaware</td>
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<tr>
<td>1810 Embarcadero</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palo Alto, CA 94303</td>
<td></td>
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</tr>
</tbody>
</table>
Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption “Experts” and to the use of our report dated September 5, 2019, in the Registration Statement (Form S-1) and related Prospectus of Bill.com Holdings, Inc. for the registration of shares of its common stock.

/s/ Ernst & Young LLP

San Francisco, California
November 15, 2019