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

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**FORM S-1  
REGISTRATION STATEMENT**

*Under  
The Securities Act of 1933*

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**Dropbox, Inc.**

(Exact name of Registrant as specified in its charter)

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Delaware  
(State or other jurisdiction of  
incorporation or organization)

7372  
(Primary Standard Industrial  
Classification Code Number)

26-0138832  
(I.R.S. Employer  
Identification Number)

Dropbox, Inc.  
333 Brannan Street  
San Francisco, California 94107  
(415) 857-6800

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

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Andrew W. Houston  
Chief Executive Officer  
Dropbox, Inc.  
333 Brannan Street  
San Francisco, California 94107  
(415) 857-6800

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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

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 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, please 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 Exchange Act.

Large accelerated filer  Accelerated filer   
Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company   
Emerging growth company

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

**CALCULATION OF REGISTRATION FEE**

Title of each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price <sup>(1)(2)</sup>	Amount of Registration Fee
Class A Common stock, par value \$0.00001 per share	\$	\$

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) of the Securities Act of 1933, as amended.

(2) Includes the aggregate offering price of additional shares that the underwriters have the option to purchase, if any.

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

The information in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject To Completion. Dated \_\_\_\_\_, 2017.

## Shares



# Dropbox

## Dropbox, Inc.

### Class A Common Stock

This is an initial public offering of shares of Class A common stock of Dropbox, Inc.

Dropbox, Inc. is offering to sell \_\_\_\_\_ shares of Class A common stock in this offering. The selling stockholders identified in this prospectus are offering to sell an additional \_\_\_\_\_ shares of Class A common stock. We will not receive any of the proceeds from the sale of the shares being sold by the selling stockholders.

We have two classes of authorized common stock, Class A common stock and Class B common stock. The rights of the holders of Class A common stock and Class B common stock are identical, except with respect to voting and conversion. Each share of Class A common stock is entitled to one vote per share. Each share of Class B common stock is entitled to \_\_\_\_\_ votes per share and is convertible at any time into one share of Class A common stock. Following this offering, outstanding shares of Class B common stock will represent approximately \_\_\_\_\_ % of the voting power of our outstanding capital stock.

Prior to this offering, there has been no public market for the Class A common stock. It is currently estimated that the initial public offering price per share will be between \$ \_\_\_\_\_ and \$ \_\_\_\_\_. We intend to apply to list the Class A common stock on \_\_\_\_\_ under the symbol "DBX".

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 "[Risk Factors](#)" beginning on page 15 to read about factors you should consider before buying shares of our Class A 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.

	Per share	Total
Initial public offering price	\$ _____	\$ _____
Underwriting discount <sup>(1)</sup>	\$ _____	\$ _____
Proceeds, before expenses, to Dropbox, Inc.	\$ _____	\$ _____
Proceeds, before expenses, to Selling Stockholders	\$ _____	\$ _____

<sup>(1)</sup> See the section titled "Underwriting (Conflicts of Interest)" for a description of the compensation payable to the underwriters.

To the extent that the underwriters sell more than \_\_\_\_\_ shares of Class A common stock, the underwriters have the option to purchase up to an additional \_\_\_\_\_ shares from Dropbox, Inc. and the selling stockholders 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 \_\_\_\_\_, 2017.

**Goldman Sachs & Co. LLC**

**J.P. Morgan**

Prospectus dated \_\_\_\_\_, 2017

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**Through and including \_\_\_\_\_, 2017 (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.**

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Neither we, the selling stockholders, 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, the selling stockholders, 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 current only as of its date, regardless of the time of delivery of this prospectus or of any sale of our Class A common stock.

For investors outside the United States: Neither we, the selling stockholders, nor any of the underwriters have done anything that would permit our initial public 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 Class A common stock and the distribution of this prospectus outside the United States.

## PROSPECTUS SUMMARY

*This summary highlights selected information that is presented in greater detail elsewhere in this prospectus. This summary does not contain all of the information you should consider before investing in our Class A common stock. You should read this entire prospectus carefully, including the sections titled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and our consolidated financial statements, and the related notes included elsewhere in this prospectus, before making an investment decision. Unless the context otherwise requires, the terms “Dropbox,” “the company,” “we,” “us,” and “our” in this prospectus refer to Dropbox, Inc. and its consolidated subsidiaries, and references to our “common stock” include our Class A common stock and Class B common stock.*

### DROPBOX, INC.

#### **Our Business**

Dropbox is a global collaboration platform that’s transforming the way people work together. We serve more than 500 million registered users across 180 countries.

Our modern economy runs on knowledge. Today, knowledge lives in the cloud as digital content, and Dropbox is the place where more and more of this content is created, accessed, and shared with the world.

Dropbox was founded in 2007 with a simple idea: Life would be a lot better if everyone could access their most important information anytime from any device. Over the past decade, we’ve largely accomplished that mission—but along the way we recognized that for most of our users, sharing and collaborating on Dropbox was even more valuable than storing files.

Our market opportunity has grown as we’ve expanded from keeping files in sync to keeping teams in sync. Today, Dropbox is uniquely positioned to reimagine the way work gets done. We’re focused on reducing the inordinate amount of time and energy the world wastes on “work about work”—tedious tasks like searching for content, switching between applications, and managing workflows.

We believe the need for our platform will continue to grow as teams become more fluid and global, and content is increasingly fragmented across incompatible tools and devices. Dropbox breaks down silos by centralizing the flow of information between the products and services our users prefer, even if they’re not our own.

By solving these universal problems, we’ve become invaluable to our users. The popularity of our platform drives viral growth, which has allowed us to scale rapidly and efficiently. We’ve built a thriving global business with 10 million paying users.

Our revenue was \$603.8 million and \$844.8 million in 2015 and 2016, respectively, representing a growth rate of 40%. We generated net losses of \$325.9 million and \$210.2 million in 2015 and 2016, respectively. We also generated positive free cash flow of \$137.4 million in 2016 compared to negative free cash flow of \$63.9 million in 2015.

#### **Our Users**

We’re constantly inspired by the diverse ways people use Dropbox to bring their ideas to life and achieve their missions faster. Here are just a few examples:

- Nobel Prize-winning researchers sync data with collaborators to speed development of new scientific breakthroughs.

- Designers for a sustainable apparel company iterate on new designs and coordinate store openings.
- A commercial construction company shares blueprints with subcontractors on job sites and sends bids to prospective clients.
- A Fortune 500 online travel company keeps its global workforce connected with business partners around the world.
- Pro bono lawyers at a refugee assistance organization collect and share information across continents to save lives.

## **What Sets Us Apart**

Since the beginning, we've focused on simplifying the lives of our users. In a world where business software can be frustrating to use, challenging to integrate, and expensive to sell, we take a different approach.

### ***Simple and intuitive design***

While traditional tools developed in the desktop age have struggled to keep up with evolving user demands, Dropbox was designed for the cloud era. We build simple, beautiful products that bring joy to our users and make it easier for them to do their best work. Unencumbered by legacy features, we can perfect the aspects of our platform that matter most today, such as the mobile experience and the ability to work in teams.

### ***Open ecosystem***

We know people will continue to use a wide variety of tools and platforms. That's why we've built Dropbox to work seamlessly with other products, integrating with everything from Google and Microsoft to Slack and Autodesk. More than 75% of Dropbox Business teams have linked to one or more third-party applications.

### ***Viral, bottom-up adoption***

Our 500 million registered users are our best salespeople. They've spread Dropbox to their friends and brought us into their offices. Every year, millions of individual users sign up for Dropbox at work. Bottom-up adoption within organizations has been critical to our success as users increasingly choose their own tools at work. We generate over 90% of our revenue from self-serve channels—users who purchase a subscription through our app or website.

### ***Performance and security***

Our custom-built infrastructure allows us to maintain high standards of performance, availability, and security. Dropbox is built on proprietary, block-level sync technology to achieve industry-leading performance. In 2016, IDC highlighted our sync performance as best-in-class, outperforming competitors on multiple sync tests, including upload and download speeds for large files. We designed our platform with multiple layers of redundancy to guard against data loss and deliver high availability. We also offer numerous layers of protection, from secure file data transfer and encryption to network configuration and application-level controls.

## **Industry Trends in Our Favor**

### ***Content is increasingly scattered***

The proliferation of devices, operating systems, and applications has dramatically increased the volume and complexity of content in the workplace. Content is now routinely scattered across multiple silos, making it harder to access. According to a 2016 IDC report, more than half of companies ranging from 100 to 5,000+ employees use at least three repositories for accessing documents on a weekly basis.

### ***The tools people use are fragmented***

Content created at work tends to follow a predictable pattern: It's authored, sent out for feedback, and shared or published once it's done. At the same time, teams are organizing that content and coordinating tasks around it. But many of the tools people use today don't work well together and support only one or two steps of the content lifecycle. This requires users to constantly switch between these tools and makes it even harder to get work done.

### ***Teams have become more fluid and global***

Technology hasn't kept up with a modern workforce that's increasingly fluid and mobile. People work together on teams that span different functions, organizations, and geographies. A 2016 study by Deloitte found that 37% of the global workforce is now mobile, 30% of full-time employees primarily work remotely, and 20% of the workforce is made up of temporary workers, contractors, and freelancers. The ability to swiftly disseminate content and its relevant context is critical to keeping teams in sync.

### ***"Work about work" is wasteful and stifles creativity***

The combination of scattered content, fragmented tools, and fluid team structures has led to decreased workplace productivity. According to a report by McKinsey & Company, knowledge workers spend approximately 60% of their time at work on tedious tasks such as searching for content, reviewing email, and re-sharing context to keep team members in the loop—what we call "work about work." This means they spend just 40% of their time doing the jobs they were hired to do.

### ***Individual users are changing the way software is adopted and purchased***

Software purchasing decisions have traditionally been made by an organization's IT department, which often deploys products that employees don't like and many refuse to adopt. As individuals increasingly choose their own tools at work, purchasing power has become more decentralized. A 2017 IDC report noted that new devices and software were being adopted at a faster rate by individual users than by IT departments.

## **Our Solution**

Dropbox allows individuals, teams, and organizations to collaborate more effectively. Anyone can sign up for free through our website or app, and upgrade to a paid subscription plan for premium features. Our platform offers an elegant solution to the challenges described above.

### ***Key elements of our platform***

- *Unified home for content.* We provide a unified home for the world's content and the relevant context around it. To date, our users have added more than 400 billion pieces of content to Dropbox, totaling over an exabyte (more than 1,000,000,000 gigabytes). When users join Dropbox, they gain access to a digital workspace that supports the full content lifecycle—they can create and organize their content, access it from anywhere, share it with internal and external collaborators, and review feedback and history.
- *Global sharing network.* We've built one of the largest collaboration platforms in the world, with more than 4.5 billion connections to shared content. We cater to the needs of dynamic, dispersed teams. The overwhelming majority of our customers use Dropbox to share and collaborate. As we continue to grow, more users benefit from frictionless sharing, and powerful network effects increase the utility and stickiness of our platform.

- *New product experiences.* The insights we glean from our community of users lead us to develop new product experiences, like Paper and Smart Sync. Machine learning further improves the user experience by enabling more intelligent search and better organization of information. This ongoing innovation broadens the value of our platform and deepens user engagement.

These elements reinforce one another to produce a powerful flywheel effect. As users create and share more content with more people, they expand our global sharing network. This network allows us to gather insights and feedback that help us create new product experiences. And with our scale, we can instantly put these innovations in the hands of millions. This, in turn, helps attract more users and content, which further propels the flywheel.

## **Our Growth Strategy**

### ***Increase adoption and paid conversion***

We designed Dropbox to be easy to try, use, and buy. Anyone can create an account and be up and running in minutes. We estimate that 300 million of our registered users have characteristics—including certain email domains, devices, and geographies—that make them more likely to pay over time. With 10 million paying users, we have a significant opportunity to grow our customer base. We reach our users via in-product notifications on our website and across more than 400 million actively connected devices without any external marketing spend.

### ***Upgrade our paying users***

We offer a range of paid subscription plans, from Plus for individuals, to Standard, Advanced, and Enterprise for teams. We analyze usage patterns within our network and run hundreds of targeted marketing campaigns to encourage paying users to upgrade their plans. For example, we prompt individual subscribers who collaborate with others on Dropbox to purchase our Standard or Advanced plans for a better team experience. In the first half of 2017, over 40% of new Dropbox Business teams included a member who was previously a Plus subscriber. With a large majority of individual customers using Dropbox for work, we have an opportunity to significantly increase conversion to Dropbox Business team offerings over time.

### ***Apply insights to build new product experiences***

As our community of users grows, we gain more insight into their needs and pain points. We translate these insights into new product experiences that support the entire content lifecycle. For example, we learned through analytics and research that our users often work with many different types of content in a single Paper doc. As a result, we added the ability to embed rich media in Paper so they can pull everything together in one place—from InVision graphics and Google slides to Spotify tracks and Vimeo clips.

### ***Expand our ecosystem***

Our open and thriving ecosystem fosters deeper relationships with our users and makes Dropbox more valuable to them over time. The scale and reach of our platform is enhanced by a number of third-party applications, developers, and technology partners. As of June 30, 2017, Dropbox was receiving over 50 billion API calls per month, and more than 500,000 developers had registered and built applications on our platform.

## **Our Market Opportunity**

Over the past decade, Dropbox has pioneered the worldwide adoption of file sync and share software. We've since expanded our capabilities and introduced new product experiences to help our users get work done. For the second consecutive year, Gartner has named Dropbox a leader in their Magic Quadrant for Content Collaboration Platforms.



Our addressable market includes collaborative applications, content management, project and portfolio management, and public cloud storage. IDC estimates that investment in these categories will total more than \$50 billion in 2019.

As one of the few large-scale collaboration platforms that serves customers of all sizes, we also have an opportunity to reach a broad population of independent knowledge and creative workers. We believe that this market hasn't traditionally been included in IT spending estimates.

### **Risk Factors Summary**

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:

- Our business depends on our ability to retain and upgrade paying users, and any decline in renewals or upgrades could adversely affect our future results of operations.
- Our future growth could be harmed if we fail to attract new users or convert registered users to paying users.
- Our revenue growth rate has declined in recent periods and may continue to slow in the future.
- We have a history of net losses, we anticipate increasing expenses in the future, and we may not be able to achieve or maintain profitability.
- Our business could be damaged, and we could be subject to liability if there is any unauthorized access to our data or our users' content, including through privacy and data security breaches.
- Our business could be harmed by any significant disruption of service on our platform or loss of content.
- We generate revenue from sales of subscriptions to our platform, and any decline in demand for our platform or for content collaboration solutions in general could negatively impact our business.
- Our business depends upon the interoperability of our platform across devices, operating systems, and third-party applications that we do not control.
- We operate in competitive markets, and we must continue to compete effectively.
- We may not be able to respond to rapid technological changes, extend our platform, or develop new features.
- We may not successfully manage our growth or plan for future growth.
- The dual class structure of our common stock will have the effect of concentrating voting control with those stockholders who held our capital stock prior to the completion of this offering, and it may depress the trading price of our Class A common stock.

### **Channels for Disclosure of Information**

Investors, the media, and others should note that, following the completion of this offering, we intend to announce material information to the public through filings with the Securities and Exchange Commission, or the SEC, the investor relations page on our website, press releases, public conference calls, webcasts, our company news site at [dropbox.com/news](https://dropbox.com/news), and our corporate blog at [blogs.dropbox.com](https://blogs.dropbox.com).

The information disclosed by the foregoing channels could be deemed to be material information. As such, we encourage investors, the media, and others to follow the channels listed above and to review the information disclosed through such channels.

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**

We were incorporated in May 2007 as Evenflow, Inc., a Delaware corporation, and changed our name to Dropbox, Inc. in October 2009. Our principal executive offices are located at 333 Brannan Street, San Francisco, California, 94107, and our telephone number is (415) 857-6800. Our website address is [www.dropbox.com](http://www.dropbox.com). Information contained on, or that can be accessed through, our website does not constitute part of this prospectus and inclusions of our website address in this prospectus are inactive textual references only.

“Dropbox,” “Dropbox Paper,” “Dropbox Smart Sync,” our logo, and our other registered or common law trademarks, service marks, or trade names appearing in this prospectus are the property of Dropbox, Inc. We refer to Dropbox Paper as Paper, and Dropbox Smart Sync as Smart Sync, in this prospectus. Other trademarks and trade names referred to in this prospectus are the property of their respective owners.

### **JOBS Act**

We are an “emerging growth company,” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies. We may take advantage of these exemptions for so long as we are an emerging growth company, which could be as long as five years following the completion of this offering.

**THE OFFERING**

Class A common stock offered by us	shares
Class A common stock offered by the selling stockholders	shares
Class A common stock to be outstanding after this offering	shares
Class B common stock to be outstanding after this offering	shares
Total Class A common stock and Class B common stock to be outstanding after this offering	shares
Option to purchase additional shares of Class A common stock from us	shares
Option to purchase additional shares of Class A common stock from the selling stockholders	shares

## Use of proceeds

We estimate that the net proceeds to us from the sale of shares of our Class A common stock in this offering will be approximately \$ (or approximately \$ if the underwriters' option to purchase additional shares of our Class A common stock from us and the selling stockholders is exercised in full), based upon the assumed initial public offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The principal purposes of this offering are to increase our capitalization and financial flexibility, create a public market for our Class A common stock, and enable access to the public equity markets for us and our stockholders. We intend to use a portion of the net proceeds we receive from this offering to repay \$ that is expected to be outstanding immediately prior to the completion of this offering under our revolving credit facility, which we intend to draw down prior to the completion of this offering to satisfy tax withholding and remittance obligations of \$ related to the settlement of certain restricted stock units, or RSUs, for which the service condition was satisfied as of June 30, 2017, and for which we expect the liquidity event-related performance vesting condition, or the Performance Vesting Condition, to be satisfied upon the effectiveness of our registration statement related to this offering. This amount is based upon the assumed initial public offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus. We also intend to

Voting rights	<p>use the net proceeds we receive from this offering for general corporate purposes, including working capital, operating expenses, and capital expenditures. Additionally, we may use a portion of the net proceeds we receive from this offering to acquire businesses, products, services, or technologies. However, we do not have agreements or commitments for any material acquisitions at this time. We will not receive any of the proceeds from the sale of Class A common stock in this offering by the selling stockholders. See “Use of Proceeds” for additional information.</p> <p>Shares of our Class A common stock are entitled to one vote per share.</p> <p>Shares of our Class B common stock are entitled to            votes per share.</p> <p>Holders of our Class A common stock and Class B common stock will generally vote together as a single class, unless otherwise required by law or our amended and restated certificate of incorporation. The holders of our outstanding Class B common stock will hold approximately    % of the voting power of our outstanding capital stock following this offering and will have the ability to control the outcome of matters submitted to our stockholders for approval, including the election of our directors and the approval of any change in control transaction. Additionally, our executive officers, directors, and holders of 5% or more of our common stock will hold, in the aggregate, approximately    % of the voting power of our outstanding capital stock following this offering. See “Principal and Selling Stockholders” and “Description of Capital Stock” for additional information.</p>
Proposed ticker symbol	“DBX”
Conflict of interest	<p>Affiliates of Goldman Sachs &amp; Co. LLC and J.P. Morgan Securities LLC, underwriters in this offering, will receive at least 5% of the net proceeds of this offering in connection with the repayment of \$            that is expected to be outstanding immediately prior to the completion of this offering under our revolving credit facility. See “Use of Proceeds.” Accordingly, this offering is being made in compliance with the requirements of FINRA Rule 5121. This rule requires, among other things, that a “qualified independent underwriter” has participated in the preparation of, and has exercised the usual standards of “due diligence” with respect to, the registration statement.            has agreed to act as qualified independent underwriter for this offering and to undertake the legal responsibilities and liabilities of an underwriter under the Securities Act of 1933, as amended, or the Securities Act.</p>

The number of shares of our Class A common stock and Class B common stock that will be outstanding after this offering is based on 13,168,617 shares of our Class A common stock and 532,410,747 shares of our Class B common stock as of June 30, 2017, and reflects:

- (i) 387,934 shares of preferred stock and 3,914,934 shares of Class B common stock that will convert into Class A common stock immediately prior to the completion of this offering pursuant to the terms of certain transfer agreements, and (ii) 220,965,979 shares of preferred stock that will automatically convert into shares of Class B common stock immediately prior to the completion of this offering pursuant to the terms of our amended and restated certificate of incorporation, which we refer to, collectively, as the Capital Stock Conversions; and
- 37,072,440 shares of our Class B common stock subject to RSUs, for which the service condition was satisfied as of June 30, 2017, and for which we expect the Performance Vesting Condition to be satisfied upon the effectiveness of our registration statement related to this offering (which RSUs are expected to be net settled by us), or the RSU Settlement.

The shares of our Class A common stock and Class B common stock outstanding as of June 30, 2017 excludes the following:

- 7,549,977 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock outstanding as of June 30, 2017, with a weighted-average exercise price of \$7.10 per share;
- 15,057,045 shares of our Class A common stock and 35,925,585 shares of our Class B common stock subject to RSUs outstanding, but for which the service condition was not satisfied, as of June 30, 2017;
- 10,520,260 shares of our Class A common stock subject to RSUs granted after June 30, 2017; and
- shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - shares of our Class A common stock to be reserved for future issuance under our 2018 Equity Incentive Plan, or our 2018 Plan, which will become effective prior to the completion of this offering;
  - shares of our Class A common stock reserved for future issuance under our 2017 Equity Incentive Plan, or our 2017 Plan, which number of shares will be added to the shares of our Class A common stock to be reserved for future issuance under our 2018 Plan upon its effectiveness; and
  - shares of our Class A common stock to be reserved for future issuance under our 2018 Employee Stock Purchase Plan, or our ESPP, which will become effective prior to the completion of this offering, but no offering periods under the ESPP will commence unless and until otherwise determined by our Board of Directors.

Our 2018 Plan and ESPP each provides for annual automatic increases in the number of shares of our Class A common stock reserved thereunder, and our 2018 Plan also provides for increases to the number of shares of our Class A common stock that may be granted thereunder based on shares under our 2008 Equity Incentive Plan, or our 2008 Plan, and 2017 Plan that expire, are forfeited, or otherwise repurchased by us, as more fully described in the section titled “Executive Compensation—Employee Benefits and Stock Plans.”

Except as otherwise indicated, all information in this prospectus assumes:

- the Capital Stock Conversions will occur immediately prior to the completion of this offering;

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- the filing and effectiveness of our amended and restated certificate of incorporation in Delaware and the effectiveness of our amended and restated bylaws, each of which will occur immediately prior to the completion of this offering;
- the conversion of shares of our Class B common stock held by certain selling stockholders into an equivalent number of shares of our Class A common stock upon the sale by the selling stockholders in this offering;
- no exercise of outstanding stock options or settlement of outstanding RSUs subsequent to June 30, 2017, other than the RSU Settlement; and
- no exercise by the underwriters of their option to purchase up to an additional                      shares of our Class A common stock from us and the selling stockholders.

## SUMMARY CONSOLIDATED FINANCIAL AND OTHER DATA

The following summary consolidated financial data should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the consolidated financial statements and related notes thereto included elsewhere in this prospectus. The consolidated statements of operations data for each of the years ended December 31, 2015 and 2016, are derived from our audited consolidated financial statements that are included elsewhere in this prospectus. The consolidated statements of operations data for the six months ended June 30, 2016 and 2017, and the consolidated balance sheet data as of June 30, 2017, have been derived from our unaudited consolidated financial statements appearing elsewhere in this prospectus. We have prepared the unaudited 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 financial information set forth in those statements. Our historical results are not necessarily indicative of our future results, and the results of operations for the six months ended June 30, 2017, are not necessarily indicative of the results to be expected for the full year or any other period. The summary consolidated financial data in this section are not intended to replace the consolidated financial statements and related notes thereto included elsewhere in this prospectus and are qualified in their entirety by the consolidated financial statements and related notes thereto included elsewhere in this prospectus.

### Consolidated Statements of Operations Data

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions, except for per share amounts)</i>			
Revenue	\$ 603.8	\$ 844.8	\$ 385.8	\$514.6
Cost of revenue <sup>(1)</sup>	407.4	390.6	202.5	185.7
Gross profit	196.4	454.2	183.3	328.9
Operating expenses: <sup>(1)</sup>				
Research and development	201.6	289.7	140.5	179.1
Sales and marketing	193.1	250.6	131.3	136.4
General and administrative	107.9	107.4	43.7	73.5
Total operating expenses	502.6	647.7	315.5	389.0
Loss from operations	(306.2)	(193.5)	(132.2)	(60.1)
Interest expense, net	(15.2)	(16.4)	(8.3)	(7.2)
Other income (expense), net	(4.2)	4.9	4.1	8.1
Loss before income taxes	(325.6)	(205.0)	(136.4)	(59.2)
Provision for income taxes	(0.3)	(5.2)	(2.1)	(0.7)
Net loss	<u>\$ (325.9)</u>	<u>\$ (210.2)</u>	<u>\$ (138.5)</u>	<u>\$ (59.9)</u>
Net loss per share attributable to common stockholders, basic and diluted <sup>(2)</sup>	<u>\$ (1.18)</u>	<u>\$ (0.74)</u>	<u>\$ (0.49)</u>	<u>\$ (0.21)</u>
Weighted-average shares used in computing net loss per share attributable to common stockholders, basic and diluted	<u>276.8</u>	<u>283.7</u>	<u>281.0</u>	<u>291.7</u>
Pro forma net loss per share attributable to common stockholders, basic and diluted <sup>(2)</sup>		<u>\$ (0.39)</u>		<u>\$ (0.11)</u>
Weighted-average shares used in computing pro forma net loss per share attributable to common stockholders, basic and diluted		<u>535.4</u>		<u>549.0</u>

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

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions)</i>			
Cost of revenue	\$ 2.6	\$ 8.2	\$ 3.5	\$ 6.4
Research and development	36.1	72.7	33.6	43.5
Sales and marketing	19.8	44.6	31.0	15.4
General and administrative	7.6	22.1	8.2	12.2
<b>Total stock-based compensation</b>	<b>\$66.1</b>	<b>\$147.6</b>	<b>\$ 76.3</b>	<b>\$ 77.5</b>

- (2) See Note 12, “Net Loss Per Share” 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 common share attributable to common stockholders and Note 13, “Unaudited Pro Forma Net Loss Per Share” for an explanation of the method used to calculate pro forma net loss per common share attributable to common stockholders.

### Consolidated Balance Sheet Data

	As of June 30, 2017		
	Actual	Pro forma(1)	Pro forma as adjusted(2)(3)
	<i>(In millions)</i>		
Cash and cash equivalents	\$ 395.7		
Working capital	(197.3)		
Property and equipment, net	377.6		
Total assets	987.0		
Total deferred revenue	387.0		
Total capital lease obligations	208.4		
Revolving credit facility	—		
Total stockholders’ equity	129.9		

- (1) The pro forma column in the balance sheet data table above reflects (a) the Capital Stock Conversions, as if such conversions had occurred on June 30, 2017, (b) the filing and effectiveness of our amended and restated certificate of incorporation in Delaware that will become effective immediately prior to the completion of this offering, (c) stock-based compensation expense of \$420.8 million associated with the RSU Settlement, (d) the net issuance of \_\_\_\_\_ shares of our Class B common stock upon the RSU Settlement, (e) the borrowing of \$ \_\_\_\_\_ million under our revolving credit facility to satisfy our tax withholding and remittance obligations related to the RSU Settlement, and (f) a cash payment of \$ \_\_\_\_\_ to satisfy our tax withholding and remittance obligations related to the RSU Settlement, which amounts in (e) and (f) are based upon the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus.
- (2) The pro forma as adjusted column in the balance sheet data table above gives effect to (a) the pro forma adjustments set forth above, (b) the sale and issuance by us of \_\_\_\_\_ shares of our Class A common stock in this offering, based upon the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, and (c) the use of proceeds from the offering to repay \$ \_\_\_\_\_ drawn down under our revolving credit facility to satisfy our tax withholding and remittance obligations related to the RSU Settlement.
- (3) Each \$1.00 increase or decrease in the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, (a) the amount of our pro forma as adjusted cash and cash equivalents, working capital, total assets, and total stockholders’ equity by \$ \_\_\_\_\_, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting estimated underwriting discounts and commissions payable by us, (b) the



amount we would be required to draw down under our revolving credit facility to satisfy our tax withholding and remittance obligations related to the RSU Settlement by \$ , and (c) the amount we would be required to pay to satisfy our tax withholding and remittance obligations related to the RSU Settlement by \$ . An increase or decrease of 1.0 million shares in the number of shares offered by us would increase or decrease, as applicable, the amount of our pro forma as adjusted cash and cash equivalents, working capital, total assets, and total stockholders' equity by \$ , assuming the assumed initial public offering price remains the same, and after deducting estimated underwriting discounts and commissions payable by us.

**Key Business Metrics**

We review a number of operating and financial metrics, including the following key metrics to evaluate our business, measure our performance, identify trends affecting our business, formulate business plans, and make strategic decisions.

***Paying users***

We define paying users as the number of users who have active paid licenses for access to our platform as of the end of the period. One person would count as multiple paying users if the person had more than one active license. For example, a 50-person Dropbox Business team would count as 50 paying users, and an individual Dropbox Plus user would count as one paying user. If that individual Dropbox Plus user was also part of the 50-person Dropbox Business team, we would count the individual as two paying users.

The below table sets forth the number of paying users as of December 31, 2015, December 31, 2016, and June 30, 2017:

	As of December 31,		As of
	2015	2016	June 30, 2017
Paying users	6.5	8.8	9.9

*(In millions)*

***Average revenue per paying user***

We define average revenue per paying user, or ARPU, as our revenue for the period presented divided by the average paying users during the same period. For interim periods, we use annualized revenue, which is calculated by dividing the revenue for the particular period by the number of days in that period and multiplying this value by 365 days, or 366 days during a leap year. Average paying users are calculated based on adding the number of paying users as of the beginning of the period to the number of paying users as of the end of the period, and then dividing by two.

The below table sets forth our ARPU for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2016 and 2017.

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
ARPU	\$113.5	\$110.5	\$109.8	\$111.0

***Free cash flow***

We define free cash flow, or FCF, as net cash provided by operating activities less capital expenditures.

The following is a reconciliation of FCF to the most comparable GAAP measure, net cash provided by operating activities:

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions)</i>			
Net cash provided by operating activities	\$ 14.8	\$ 252.6	\$119.9	\$147.7
Capital expenditures	(78.7)	(115.2)	(89.6)	(8.8)
Free cash flow	<u>\$(63.9)</u>	<u>\$ 137.4</u>	<u>\$ 30.3</u>	<u>\$138.9</u>

See the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measure” for additional information.

## RISK FACTORS

*Investing in our Class A 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 the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and related notes, before making a decision to invest in our Class A common stock. Our business, results of operations, financial condition, or prospects could also be harmed by risks and uncertainties that are not presently known to us or that we currently believe are not material. If any of the risks actually occur, our business, results of operations, financial condition, and prospects could be materially and adversely affected. In that event, the market price of our Class A common stock could decline, and you could lose all or part of your investment.*

### **Risks Related to Our Business and Our Industry**

***Our business depends on our ability to retain and upgrade paying users, and any decline in renewals or upgrades could adversely affect our future results of operations.***

Our business depends upon our ability to maintain and expand our relationships with our users. Our business is subscription based, and paying users are not obligated to and may not renew their subscriptions after their existing subscriptions expire. As a result, we cannot provide assurance that paying users will renew their subscriptions utilizing the same tier of our products or upgrade to premium offerings. Renewals of subscriptions to our platform may decline or fluctuate because of several factors, such as dissatisfaction with our products and support, a user no longer having a need for our products, or the perception that competitive products provide better or less expensive options. In addition, some paying users downgrade or do not renew their subscriptions.

We encourage paying users to upgrade to our premium offerings by recommending additional features and through in-product prompts and notifications. Additionally, we seek to expand within organizations through viral means by adding new users, having workplaces purchase additional products, or expanding the use of Dropbox into other departments within a workplace. We often see enterprise IT decision-makers deciding to adopt Dropbox after noticing substantial organic adoption by individuals and teams within the organization. If our paying users fail to renew or cancel their subscriptions, or if we fail to upgrade our paying users to premium offerings or expand within organizations, our business, results of operations, and financial condition may be harmed.

Although it is important to our business that our users renew their subscriptions after their existing subscriptions expire and that we expand our commercial relationships with our users, given the volume of our users, we do not track the retention rates of our individual users. As a result, we may be unable to address any retention issues with specific users in a timely manner, which could harm our business.

***Our future growth could be harmed if we fail to attract new users or convert registered users to paying users.***

We must continually add new users to grow our business beyond our current user base and to replace users who choose not to continue to use our platform. Historically, our revenue has been driven by our self-serve model, and we generate more than 90% of our revenue from self-serve channels. Any decrease in user satisfaction with our products or support could harm our brand, word-of-mouth referrals, and ability to grow.

Additionally, many of our users initially access our platform free of charge. We strive to demonstrate the value of our platform to our registered users, thereby encouraging them to convert to paying users through in-product prompts and notifications, and time-limited trials of paid subscription plans. As of June 30, 2017, we served over 500 million registered users but only 9.9 million paying users. The actual number of unique users may also be lower than we report as one person may register more than once and therefore have more than one active license. As a result, we may have fewer opportunities to convert registered users to paying users than we expect. A majority of our registered users never convert to a paid subscription to our platform.

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In addition, our user growth rate may slow in the future as our market penetration rates increase and we turn our focus to converting registered users to paying users rather than growing the total number of registered users. If we are not able to continue to expand our user base or fail to convert our registered users to paying users, demand for our paid services and our revenue may grow more slowly than expected or decline.

### ***Our revenue growth rate has declined in recent periods and may continue to slow in the future.***

We have experienced significant revenue growth in prior periods. However, our rates of revenue growth are slowing and may continue to slow in the future. Many factors may contribute to declines in our growth rates, including higher market penetration, increased competition, slowing demand for our platform, a decrease in the growth of the overall content collaboration market, a failure by us to continue capitalizing on growth opportunities, and the maturation of our business, among others. You should not rely on the revenue growth of any prior quarterly or annual period as an indication of our future performance. If our growth rates decline, investors' perceptions of our business and the trading price of our Class A common stock could be adversely affected.

### ***We have a history of net losses, we anticipate increasing expenses in the future, and we may not be able to achieve or maintain profitability.***

We have incurred net losses on an annual basis since our inception. We incurred net losses of \$325.9 million and \$210.2 million in 2015 and 2016, respectively, and \$59.9 million for the six months ended June 30, 2017, and we had an accumulated deficit of \$997.9 million as of June 30, 2017. As we strive to grow our business, we expect expenses to increase in the near term, particularly as we continue to make investments to scale our business. For example, we will need an increasing amount of technical infrastructure to continue to satisfy the needs of our user base. We also expect our research and development expenses to increase as we plan to continue to hire employees for our engineering, product, and design teams to support these efforts. In addition, we will incur additional general and administrative expenses to support both the growth of the company as well as our transition to being a publicly traded company. These investments may not result in increased revenue or growth in our business. We may encounter unforeseen or unpredictable factors, including unforeseen operating expenses, complications, or delays, which may result in increased costs. Furthermore, it is difficult to predict the size and growth rate of our market, user demand for our platform, user adoption and renewal of our platform, the entry of competitive products and services, or the success of existing competitive products and services. As a result, we may not achieve or maintain profitability in future periods. If we fail to grow our revenue sufficiently to keep pace with our investments and other expenses, our results of operations and financial condition would be adversely affected.

### ***Our business could be damaged, and we could be subject to liability if there is any unauthorized access to our data or our users' content, including through privacy and data security breaches.***

The use of our platform involves the transmission, storage, and processing of user content, some of which may be considered personally identifiable, confidential, or sensitive. We face security threats from malicious third parties that could obtain unauthorized access to our systems and networks. We anticipate that these threats will continue to grow in scope and complexity over time. For example, in 2016, we learned that an old set of Dropbox user credentials for approximately 68 million accounts was released. These credentials consisted of email addresses and passwords protected by a cryptographic algorithm known as hashing and salting. We believe these Dropbox user credentials were obtained in 2012 and related to a security incident we disclosed to users. In response, we notified all existing users we believed to be affected and completed a password reset for anyone who had not updated their password since mid-2012. We have responded to this event by expanding our security team and data monitoring capabilities and continuing to work on features such as two-factor authentication to increase protection of user information. While we believe our corrective actions will reduce the likelihood of similar incidents occurring in the future, third parties might use techniques that we are unable to defend against to compromise and infiltrate our systems and networks. We may fail to detect the existence of a breach of user

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content and be unable to prevent unauthorized access to user and company content. The techniques used to obtain unauthorized access, disable or degrade service, or sabotage systems change frequently and are often not recognized until launched against a target. They may originate from less regulated or remote areas around the world, or from state-sponsored actors. If our security measures are breached, or our users' content is otherwise accessed through unauthorized means, or if any such actions are believed to occur, our platform may be perceived as insecure, and we may lose existing users or fail to attract and retain new users.

We may rely on third parties when deploying our infrastructure, and in doing so, expose it to security risks outside of our direct control. We rely on outside vendors and contractors to perform services necessary for the operation of the business, and they may fail to adequately secure our user and company content.

Third parties may attempt to compromise our employees and their privileged access into internal systems to gain access to accounts, our information, our networks, or our systems. Employee error, malfeasance, or other errors in the storage, use, or transmission of personal information could result in an actual or perceived breach of user privacy. Our users may also disclose or lose control of their passwords, or use the same or similar passwords on third parties' systems, which could lead to unauthorized access to their accounts on our platform.

Any unauthorized or inadvertent access to, or an actual or perceived security breach of, our systems or networks could result in an actual or perceived loss of, or unauthorized access to, our data or our users' content, regulatory investigations and orders, litigation, indemnity obligations, damages, penalties, fines, and other costs in connection with actual and alleged contractual breaches, violations of applicable laws and regulations, and other liabilities. Any such incident could also materially damage our reputation and harm our business, results of operations, and financial condition, including reducing our revenue, causing us to issue credits to users, negatively impacting our ability to accept and process user payment information, eroding our users' trust in our services and payment solutions, subjecting us to costly user notification or remediation, harming our ability to retain users, harming our brand, or increasing our cost of acquiring new users. We maintain errors, omissions, and cyber liability insurance policies covering certain security and privacy damages. However, we cannot be certain that our coverage will be adequate for liabilities actually incurred or that insurance will continue to be available to us on economically reasonable terms, or at all. Further, if a high profile security breach occurs with respect to another content collaboration solutions provider, our users and potential users could lose trust in the security of content collaboration solutions providers generally, which could adversely impact our ability to retain users or attract new ones.

### ***Our business could be harmed by any significant disruption of service on our platform or loss of content.***

Our brand, reputation, and ability to attract, retain, and serve our users are dependent upon the reliable performance of our platform, including our underlying technical infrastructure. Our users rely on our platform to store digital copies of their valuable content, including financial records, business information, documents, photos, and other important content. Our technical infrastructure may not be adequately designed with sufficient reliability and redundancy to avoid performance delays or outages that could be harmful to our business. If our platform is unavailable when users attempt to access it, or if it does not load as quickly as they expect, users may not use our platform as often in the future, or at all.

As our user base and the amount and types of information stored, synced, and shared on our platform continues to grow, we will need an increasing amount of technical infrastructure, including network capacity and computing power, to continue to satisfy the needs of our users. During 2015 and 2016, we migrated the vast majority of user content to our own custom-built infrastructure in co-location facilities. As we add to our infrastructure, we may move or transfer additional content.

Further, as we continue to grow and scale our business to meet the needs of our users, we may overestimate or underestimate our infrastructure capacity requirements, which could adversely affect our results of operations. The costs associated with leasing and maintaining our custom-built infrastructure in co-location facilities and

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third-party datacenters already constitute a significant portion of our capital and operating expenses. We continuously evaluate our short- and long-term infrastructure capacity requirements to ensure adequate capacity for new and existing users while minimizing unnecessary excess capacity costs. If we overestimate the demand for our platform and therefore secure excess infrastructure capacity, our operating margins could be reduced. If we underestimate our infrastructure capacity requirements, we may not be able to service the expanding needs of new and existing users, and our hosting facilities, network, or systems may fail.

In addition, the datacenters that we use are vulnerable to damage or interruption from human error, intentional bad acts, earthquakes, floods, fires, war, terrorist attacks, power losses, hardware failures, systems failures, telecommunications failures, and similar events, any of which could disrupt our service, destroy user content, or prevent us from being able to continuously back up or record changes in our users' content. In the event of significant physical damage to one of these datacenters, it may take a significant period of time to achieve full resumption of our services, and our disaster recovery planning may not account for all eventualities. Damage or interruptions to these datacenters could harm our platform and business.

***We generate revenue from sales of subscriptions to our platform, and any decline in demand for our platform or for content collaboration solutions in general could negatively impact our business.***

We generate, and expect to continue to generate, revenue from the sale of subscriptions to our platform. As a result, widespread acceptance and use of content collaboration solutions in general, and our platform in particular, is critical to our future growth and success. If the content collaboration market fails to grow or grows more slowly than we currently anticipate, demand for our platform could be negatively affected.

Changes in user preferences for content collaboration may have a disproportionately greater impact on us than if we offered multiple platforms or disparate products. Demand for content collaboration solutions in general, and our platform in particular, is affected by a number of factors, many of which are beyond our control. Some of these potential factors include:

- awareness of the content collaboration category generally;
- availability of products and services that compete with ours;
- ease of adoption and use;
- features and platform experience;
- performance;
- brand;
- security and privacy;
- customer support; and
- pricing.

The content collaboration market is subject to rapidly changing user demand and trends in preferences. If we fail to successfully predict and address these changes and trends, meet user demands, or achieve more widespread market acceptance of our platform, our business, results of operations, and financial condition could be harmed.

***Our business depends upon the interoperability of our platform across devices, operating systems, and third-party applications that we do not control.***

One of the most important features of our platform is its broad interoperability with a range of diverse devices, operating systems, and third-party applications. Our platform is accessible from the web and from

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devices running Windows, Mac OS, iOS, Android, WindowsMobile, and Linux. We also have integrations with Microsoft, Adobe, Apple, Salesforce, Atlassian, Slack, IBM, Cisco, VMware, Okta, Symantec, Palo Alto Networks, and a variety of other productivity, collaboration, data management, and security vendors. We are dependent on the accessibility of our platform across these third-party operating systems and applications that we do not control. Several of our competitors own, develop, operate, or distribute operating systems, app stores, third-party datacenter services, and other software, and also have material business relationships with companies that own, develop, operate, or distribute operating systems, applications markets, third-party datacenter services, and other software that our platform requires in order to operate. Moreover, some of these competitors have inherent advantages developing products and services that more tightly integrate with their software and hardware platforms or those of their business partners.

Third-party services and products are constantly evolving, and we may not be able to modify our platform to assure its compatibility with that of other third parties following development changes. In addition, some of our competitors may be able to disrupt the operations or compatibility of our platform with their products or services, or exert strong business influence on our ability to, and terms on which we, operate and distribute our platform. For example, we currently offer products that directly compete with several large technology companies that we rely on to ensure the interoperability of our platform with their products or services. As our respective products evolve, we expect this level of competition to increase. Should any of our competitors modify their products or standards in a manner that degrades the functionality of our platform or gives preferential treatment to competitive products or services, whether to enhance their competitive position or for any other reason, the interoperability of our platform with these products could decrease and our business, results of operations, and financial condition could be harmed.

### ***We operate in competitive markets, and we must continue to compete effectively.***

The market for content collaboration platforms is competitive and rapidly changing. Certain features of our platform compete with products offered by Amazon, Apple, Atlassian, Google, and Microsoft. We also compete with smaller private companies that offer point solutions. We believe the principal competitive factors in our markets include the following:

- user-centric design;
- ease of adoption and use;
- scale of user network;
- features and platform experience;
- performance;
- brand;
- security and privacy;
- accessibility across several devices, operating systems, and applications;
- third-party integration;
- customer support;
- continued innovation; and
- pricing.

With the introduction of new technologies and market entrants, we expect competition to intensify in the future. Many of our actual and potential competitors benefit from competitive advantages over us, such as greater name recognition, longer operating histories, more varied products and services, larger marketing budgets, more established marketing relationships, access to larger user bases, major distribution agreements with hardware

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manufacturers and resellers, and greater financial, technical, and other resources. Some of our competitors may make acquisitions or enter into strategic relationships to offer a broader range of products and services than we do. These combinations may make it more difficult for us to compete effectively. We expect these trends to continue as competitors attempt to strengthen or maintain their market positions.

Demand for our platform is also sensitive to price. Many factors, including our marketing, user acquisition and technology costs, and our current and future competitors' pricing and marketing strategies, can significantly affect our pricing strategies. Certain of our competitors offer, or may in the future offer, lower-priced or free products or services that compete with our platform or may bundle and offer a broader range of products and services. Similarly, certain competitors may use marketing strategies that enable them to acquire users at a lower cost than us. There can be no assurance that we will not be forced to engage in price-cutting initiatives or to increase our marketing and other expenses to attract and retain users in response to competitive pressures, either of which could materially and adversely affect our business, results of operations, and financial condition.

### ***We may not be able to respond to rapid technological changes, extend our platform, or develop new features.***

The content collaboration market is characterized by rapid technological change and frequent new product and service introductions. Our ability to grow our user base and increase revenue from existing users will depend heavily on our ability to enhance and improve our platform, introduce new features and products, and interoperate across an increasing range of devices, operating systems, and third-party applications. Users may require features and capabilities that our current platform does not have. We invest significantly in research and development, and our goal is to focus our spending on measures that improve quality and ease of adoption and create organic user demand for our platform. For example, we recently introduced Paper, a new collaborative product experience, and Smart Sync, a new advanced productivity feature, to add additional functionality to our platform. There is no assurance that our enhancements to our platform or our new product experiences, features, or capabilities will be compelling to our users or gain market acceptance. If our research and development investments do not accurately anticipate user demand, or if we fail to develop our platform in a manner that satisfies user preferences in a timely and cost-effective manner, we may fail to retain our existing users or increase demand for our platform.

The introduction of new products and services by competitors or the development of entirely new technologies to replace existing offerings could make our platform obsolete or adversely affect our business, results of operations, and financial condition. We may experience difficulties with software development, design, or marketing that could delay or prevent our development, introduction, or implementation of new product experiences, features, or capabilities. We have in the past experienced delays in our internally planned release dates of new features and capabilities, and there can be no assurance that new product experiences, features, or capabilities will be released according to schedule. Any delays could result in adverse publicity, loss of revenue or market acceptance, or claims by users brought against us, all of which could have a material and adverse effect on our reputation, business, results of operations, and financial condition. Moreover, new productivity features to our platform, such as Smart Sync, may require substantial investment, and we have no assurance that such investments will be successful. If users do not widely adopt our new product experiences, features, and capabilities, we may not be able to realize a return on our investment. If we are unable to develop, license, or acquire new features and capabilities to our platform on a timely and cost-effective basis, or if such enhancements do not achieve market acceptance, our business, results of operations, and financial condition could be adversely affected.

### ***We may not successfully manage our growth or plan for future growth.***

Since our founding in 2007, we have experienced rapid growth. For example, our headcount has grown from 1,285 employees as of June 30, 2015, to 1,814 employees as of June 30, 2017, with employees located both in the United States and internationally. The growth and expansion of our business places a continuous significant strain on our management, operational, and financial resources. Further growth of our operations to support our



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user base or our expanding third-party relationships, our information technology systems, and our internal controls and procedures may not be adequate to support our operations. In addition, as we continue to grow, we face challenges of integrating, developing, and motivating a rapidly growing employee base in various countries around the world. Certain members of our management have not previously worked together for an extended period of time and some do not have experience managing a public company, which may affect how they manage our growth. Managing our growth will also require significant expenditures and allocation of valuable management resources.

In addition, our rapid growth may make it difficult to evaluate our future prospects. Our ability to forecast our future results of operations is subject to a number of uncertainties, including our ability to effectively plan for and model future growth. We have encountered in the past, and may encounter in the future, risks and uncertainties frequently experienced by growing companies in rapidly changing industries. If we fail to achieve the necessary level of efficiency in our organization as it grows, or if we are not able to accurately forecast future growth, our business, results of operations, and financial condition could be harmed.

### ***Our lack of a significant outbound salesforce may limit the potential growth of our business.***

Historically, our business model has been driven by organic adoption and viral growth, with more than 90% of our revenue generated from self-serve channels. As a result, we do not have a significant outbound salesforce, which has enabled us to be more efficient with our sales and marketing spend. Although we believe our business model can continue to scale without a large outbound salesforce, our word-of-mouth and user referral marketing model may not continue to be as successful as we anticipate, and our limited experience selling directly to large organizations through our outbound salesforce may impede our future growth. As we continue to scale our business, an enhanced sales infrastructure could assist in reaching larger organizations and growing our revenue. Identifying and recruiting additional qualified sales personnel and training them would require significant time, expense, and attention, and would significantly impact our business model. Further, adding more sales personnel would change our cost structure and results of operations, and we may have to reduce other expenses in order to accommodate a corresponding increase in sales and marketing expenses. If our limited experience selling and marketing to large organizations prevents us from reaching larger organizations and growing our revenue, and if we are unable to hire, develop, and retain talented sales personnel in the future, our business, results of operations, and financial condition could be adversely affected.

### ***We may expand sales to large organizations, which could lengthen sales cycles and result in greater deployment challenges.***

As our business evolves, we may need to invest more resources into sales to large organizations. Large organizations may undertake a significant evaluation and negotiation process, which can lengthen our sales cycle. We may also face unexpected deployment challenges with large organizations or more complicated deployment of our platform. Large organizations may demand more configuration and integration of our platform or require additional security management or control features. We may spend substantial time, effort, and money on sales efforts to large organizations without any assurance that our efforts will produce any sales. As a result, sales to large organizations may lead to greater unpredictability in our business, results of operations, and financial condition.

### ***Any failure to offer high-quality customer support may harm our relationships with our users and our financial results.***

We have designed our platform to be easy to adopt and use with minimal to no support necessary. Any increased user demand for customer support could increase costs and harm our results of operations. In addition, as we continue to grow our operations and support our global user base, we need to be able to continue to provide efficient customer support that meets our customers' needs globally at scale. Paying users receive additional customer support features and the number of our paying users has grown significantly, which will put additional

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pressure on our support organization. For example, the number of paying users has grown from 6.5 million as of December 31, 2015, to 9.9 million as of June 30, 2017. If we are unable to provide efficient customer support globally at scale, our ability to grow our operations may be harmed and we may need to hire additional support personnel, which could harm our results of operations. Our new user signups are highly dependent on our business reputation and on positive recommendations from our existing users. Any failure to maintain high-quality customer support, or a market perception that we do not maintain high-quality customer support, could harm our reputation, business, results of operations, and financial condition.

### ***Our quarterly results may fluctuate significantly and may not fully reflect the underlying performance of our business.***

Our quarterly results of operations, including our revenue, gross margin, operating margin, profitability, cash flow from operations, and deferred revenue, may vary significantly in the future and period-to-period comparisons of our results of operations may not be meaningful. Accordingly, the results of any one quarter should not be relied upon as an indication of future performance. Our quarterly results of operations may fluctuate as a result of a variety of factors, many of which are outside of our control, and as a result, may not fully reflect the underlying performance of our business. Fluctuation in quarterly results may negatively impact the value of our securities. Factors that may cause fluctuations in our quarterly results of operations include, without limitation, those listed below:

- our ability to retain and upgrade paying users;
- our ability to attract new paying users and convert registered to paying users;
- the timing of expenses and recognition of revenue;
- the amount and timing of operating expenses related to the maintenance and expansion of our business, operations, and infrastructure, as well as entry into operating and capital leases;
- the timing of expenses related to acquisitions;
- any large indemnification payments to our users or other third parties;
- changes in our pricing policies or those of our competitors;
- the timing and success of new product feature and service introductions by us or our competitors;
- network outages or actual or perceived security breaches;
- changes in the competitive dynamics of our industry, including consolidation among competitors;
- changes in laws and regulations that impact our business; and
- general economic and market conditions.

### ***Our results of operations may not immediately reflect downturns or upturns in sales because we recognize revenue from our users over the term of their subscriptions with us.***

We recognize revenue from subscriptions to our platform over the terms of these subscriptions. Our subscription arrangements generally have monthly or annual contractual terms, and we also have a small percentage of multi-year contractual terms. Amounts that have been billed are initially recorded as deferred revenue until the revenue is recognized. As a result, a large portion of our revenue for each quarter reflects deferred revenue from subscriptions entered into during previous quarters, and downturns or upturns in subscription sales, or renewals and potential changes in our pricing policies may not be reflected in our results of operations until later periods. Our subscription model also makes it difficult for us to rapidly increase our revenue through additional sales in any period, as subscription revenue from new users generally is recognized over the applicable subscription term. By contrast, a significant majority of our costs are expensed as incurred, which occurs as soon as a user starts using our platform. As a result, an increase in users could result in our recognition of more costs than revenue in the earlier portion of the subscription term. We may not attain sufficient revenue to maintain positive cash flow from operations or achieve profitability in any given period.

***We depend on our key personnel and other highly qualified personnel, and if we fail to attract, integrate, and retain our personnel, and maintain our unique corporate culture, our business could be harmed.***

We depend on the continued service and performance of our key personnel. In particular, Andrew W. Houston, our President and Chief Executive Officer and one of our co-founders, is critical to our vision, strategic direction, culture, and offerings. Some of our other key personnel have recently joined us and are still being integrated into our company. We may continue to make changes to our management team, which could make it difficult to execute on our business plans and strategies. New hires also require significant training and, in most cases, take significant time before they achieve full productivity. Our failure to successfully integrate these key personnel into our business could adversely affect our business.

We do not have long-term employment agreements with any of our officers or key personnel. In addition, many of our key technologies and systems are custom-made for our business by our key personnel. The loss of key personnel, including key members of our management team, as well as certain of our key marketing, sales, product development, or technology personnel, could disrupt our operations and have an adverse effect on our ability to grow our business.

To execute our growth plan, we must attract and retain highly qualified personnel. Competition for these employees is intense, particularly in the San Francisco Bay Area where our headquarters are located, and we may not be successful in attracting and retaining qualified personnel. We have from time to time in the past experienced, and we expect to continue to experience, difficulty in hiring and retaining highly skilled employees with appropriate qualifications. Our recent hires and planned hires may not become as productive as we expect, and we may be unable to hire, integrate, or retain sufficient numbers of qualified individuals. Many of the companies with which we compete for experienced personnel have greater resources than we have. In addition, in making employment decisions, particularly in the internet and high-technology industries, job candidates often consider the value of the equity they are to receive in connection with their employment. Employees may be more likely to leave us if the shares they own or the shares underlying their equity incentive awards have significantly appreciated or significantly reduced in value. Many of our employees may receive significant proceeds from sales of our equity in the public markets after this offering, which may reduce their motivation to continue to work for us. If we fail to attract new personnel, or fail to retain and motivate our current personnel, our business and growth prospects could be harmed.

Additionally, if we do not maintain and continue to develop our corporate culture as we grow and evolve, it could harm our ability to foster the innovation, creativity, and teamwork we believe that we need to support our growth. Additions of executive-level management and large numbers of employees could significantly and adversely impact our culture.

***Our business depends on a strong brand, and if we are not able to maintain and enhance our brand, our ability to expand our base of users will be impaired and our business, results of operations, and financial condition will be harmed.***

We believe that our brand identity and awareness have contributed to our success and have helped fuel our efficient go-to-market strategy. We also believe that maintaining and enhancing the Dropbox brand is critical to expanding our base of users. We anticipate that, as our market becomes increasingly competitive, maintaining and enhancing our brand may become increasingly difficult and expensive. Any unfavorable publicity or consumer perception of our platform or the providers of content collaboration solutions generally could adversely affect our reputation and our ability to attract and retain users. Additionally, if we fail to promote and maintain the Dropbox brand, or if we incur excessive expenses in this effort, our business, results of operations, and financial condition will be materially and adversely affected.

***We are continuing to expand our operations outside the United States, where we may be subject to increased business and economic risks that could impact our results of operations.***

We have paying users across 180 countries and approximately half of our revenue in the six months ended June 30, 2017 was generated from paying users outside the United States. We expect to continue to expand our international operations, which may include opening offices in new jurisdictions and providing our platform in additional languages. Any new markets or countries into which we attempt to sell subscriptions to our platform may not be receptive. For example, we may not be able to expand further in some markets if we are not able to satisfy certain government- and industry-specific requirements. In addition, our ability to manage our business and conduct our operations internationally requires considerable management attention and resources and is subject to the particular challenges of supporting a rapidly growing business in an environment of multiple languages, cultures, customs, legal and regulatory systems, alternative dispute systems, and commercial markets. International expansion has required, and will continue to require, investment of significant funds and other resources. Operating internationally subjects us to new risks and may increase risks that we currently face, including risks associated with:

- recruiting and retaining talented and capable employees outside the United States, and maintaining our company culture across all of our offices;
- providing our platform and operating our business across a significant distance, in different languages and among different cultures, including the potential need to modify our platform and features to ensure that they are culturally appropriate and relevant in different countries;
- compliance with applicable international laws and regulations, including laws and regulations with respect to privacy, data protection, consumer protection, and unsolicited email, and the risk of penalties to our users and individual members of management or employees if our practices are deemed to be out of compliance;
- management of an employee base in jurisdictions that may not give us the same employment and retention flexibility as does the United States;
- operating in jurisdictions that do not protect intellectual property rights to the same extent as does the United States;
- compliance by us and our business partners with anti-corruption laws, import and export control laws, tariffs, trade barriers, economic sanctions, and other regulatory limitations on our ability to provide our platform in certain international markets;
- foreign exchange controls that might require significant lead time in setting up operations in certain geographic territories and might prevent us from repatriating cash earned outside the United States;
- political and economic instability;
- double taxation of our international earnings and potentially adverse tax consequences due to changes in the income and other tax laws of the United States or the international jurisdictions in which we operate; and
- higher costs of doing business internationally, including increased accounting, travel, infrastructure, and legal compliance costs.

Compliance with laws and regulations applicable to our global operations substantially increases our cost of doing business in international jurisdictions. We may be unable to keep current with changes in laws and regulations as they change. Although we have implemented policies and procedures designed to support compliance with these laws and regulations, there can be no assurance that we will always maintain compliance or that all of our employees, contractors, partners, and agents will comply. Any violations could result in enforcement actions, fines, civil and criminal penalties, damages, injunctions, or reputational harm. If we are unable to comply with these laws and regulations or manage the complexity of our global operations successfully, our business, results of operations, and financial condition could be adversely affected.

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***Our results of operations, which are reported in U.S. dollars, could be adversely affected if currency exchange rates fluctuate substantially in the future.***

We conduct our business across 180 countries around the world. As we continue to expand our international operations, we will become more exposed to the effects of fluctuations in currency exchange rates. This exposure is the result of selling in multiple currencies and operating in foreign countries where the functional currency is the local currency. In 2016, 23% of our sales were denominated in currencies other than U.S. dollars. Our expenses, by contrast, are primarily denominated in U.S. dollars. As a result, any increase in the value of the U.S. dollar against these foreign currencies could cause our revenue to decline relative to our costs, thereby decreasing our gross margins. Our results of operations are primarily subject to fluctuations in the euro and British pound sterling. Because we conduct business in currencies other than U.S. dollars, but report our results of operations in U.S. dollars, we also face remeasurement exposure to fluctuations in currency exchange rates, which could hinder our ability to predict our future results and earnings and could materially impact our results of operations. We do not currently maintain a program to hedge exposures to non-U.S. dollar currencies.

***We depend on our infrastructure and third-party datacenters, and any disruption in the operation of these facilities or failure to renew the services could adversely affect our business.***

We host our services and serve all of our users using a combination of our own custom-built infrastructure that we lease and operate in co-location facilities and third-party datacenter services such as Amazon Web Services. While we typically control and have access to the servers we operate in co-location facilities and the components of our custom-built infrastructure that are located in those co-location facilities, we control neither the operation of these facilities nor our third-party service providers. Furthermore, we have no physical access or control over the services provided by Amazon Web Services.

Datacenter leases and agreements with the providers of datacenter services expire at various times. The owners of these datacenters and providers of these datacenter services may have no obligation to renew their agreements with us on commercially reasonable terms, or at all. Problems faced by datacenters, with our third-party datacenter service providers, with the telecommunications network providers with whom we or they contract, or with the systems by which our telecommunications providers allocate capacity among their users, including us, could adversely affect the experience of our users. Our third-party datacenter operators could decide to close their facilities or cease providing services without adequate notice. In addition, any financial difficulties, such as bankruptcy, faced by our third-party datacenters operators or any of the service providers with whom we or they contract may have negative effects on our business, the nature and extent of which are difficult to predict.

If the datacenters and service providers that we use are unable to keep up with our growing needs for capacity, or if we are unable to renew our agreements with datacenters, and service providers on commercially reasonable terms, we may be required to transfer servers or content to new datacenters or engage new service providers, and we may incur significant costs, and possible service interruption in connection with doing so. Any changes in third-party service levels at datacenters or any real or perceived errors, defects, disruptions, or other performance problems with our platform could harm our reputation and may result in damage to, or loss or compromise of, our users' content. Interruptions in our platform might, among other things, reduce our revenue, cause us to issue refunds to users, subject us to potential liability, harm our reputation, or decrease our renewal rates.

***We have relationships with third parties to provide, develop, and create applications that integrate with our platform, and our business could be harmed if we are not able to continue these relationships.***

We use software and services licensed and procured from third parties to develop and offer our platform. We may need to obtain future licenses and services from third parties to use intellectual property and technology associated with the development of our platform, which might not be available to us on acceptable terms, or at

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all. Any loss of the right to use any software or services required for the development and maintenance of our platform could result in delays in the provision of our platform until equivalent technology is either developed by us, or, if available from others, is identified, obtained, and integrated, which could harm our platform and business. Any errors or defects in third-party software or services could result in errors or a failure of our platform, which could harm our business, results of operations, and financial condition.

We also depend on our ecosystem of developers to create applications that will integrate with our platform. As of June 30, 2017, Dropbox was receiving over 50 billion API calls per month, and more than 500,000 developers had registered and built applications on our platform. Our reliance on this ecosystem of developers creates certain business risks relating to the quality of the applications built using our APIs, service interruptions of our platform from these applications, lack of service support for these applications, and possession of intellectual property rights associated with these applications. We may not have the ability to control or prevent these risks. As a result, issues relating to these applications could adversely affect our business, brand, and reputation.

***We are subject to a variety of U.S. and international laws that could subject us to claims, increase the cost of operations, or otherwise harm our business due to changes in the laws, changes in the interpretations of the laws, greater enforcement of the laws, or investigations into compliance with the laws.***

We are subject to compliance with various laws, including those covering copyright, indecent content, child protection, consumer protection, and similar matters. There have been instances where improper or illegal content has been stored on our platform without our knowledge. As a service provider, we do not regularly monitor our platform to evaluate the legality of content stored on it. While to date we have not been subject to material legal or administrative actions as result of this content, the laws in this area are currently in a state of flux and vary widely between jurisdictions. Accordingly, it may be possible that in the future we and our competitors may be subject to legal actions, along with the users who uploaded such content. In addition, regardless of any legal liability we may face, our reputation could be harmed should there be an incident generating extensive negative publicity about the content stored on our platform. Such publicity could harm our business and results of operations.

We are also subject to consumer protection laws that may impact our sales and marketing efforts, including laws related to subscriptions, billing, and auto-renewal. These laws, as well as any changes in these laws, could adversely affect our self-serve model and make it more difficult for us to retain and upgrade paying users and attract new ones.

Our platform depends on the ability of our users to access the internet and our platform has been blocked or restricted in some countries for various reasons. For example, our platform is blocked in the People's Republic of China. If we fail to anticipate developments in the law, or fail for any reason to comply with relevant law, our platform could be further blocked or restricted and we could be exposed to significant liability that could harm our business.

We are also subject to various U.S. and international anti-corruption laws, such as the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, as well as other similar anti-bribery and anti-kickback laws and regulations. These laws and regulations generally prohibit companies and their employees and intermediaries from authorizing, offering, or providing improper payments or benefits to officials and other recipients for improper purposes. Although we take precautions to prevent violations of these laws, our exposure for violating these laws increases as we continue to expand our international presence and any failure to comply with such laws could harm our reputation and our business.

***We are subject to export and import control laws and regulations that could impair our ability to compete in international markets or subject us to liability if we violate such laws and regulations.***

We are subject to U.S. export controls and sanctions regulations that prohibit the shipment or provision of certain products and services to certain countries, governments, and persons targeted by U.S. sanctions. While we

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take precautions to prevent our products and services from being exported in violation of these laws, including implementing IP address blocking, we cannot guarantee that the precautions we take will prevent violations of export control and sanctions laws. For example, in 2011, we provided certain downloadable portions of our software to international users that, prior to export, required either a one-time product review or application for an encryption registration number in lieu of such product review. These exports were likely made in violation of U.S. export control and sanction laws. In March 2011, we filed a Final Voluntary Self Disclosure with the U.S. Department of Commerce's Bureau of Industry and Security, or BIS, concerning these potential violations. In June 2012, BIS notified us that it had completed its review of these matters and closed its review with the issuance of a Warning Letter. No monetary penalties were assessed against us by BIS with respect to the 2011 filing. In addition, in 2017, we discovered that our platform has been accessed by certain users in countries that are the subject of United States sanctions. We filed an Initial Voluntary Self Disclosure in October 2017 with the Office of Foreign Assets Control, or OFAC. We are in the process of preparing the Final Voluntary Disclosure for submission to OFAC. If we are found to be in violation of U.S. sanctions or export control laws, it could result in substantial fines and penalties for us and for the individuals working for us.

In addition, various countries regulate the import and export of certain encryption and other technology, including import and export permitting and licensing requirements, and have enacted laws that could limit our ability to distribute our products or could limit our users' ability to access our platform in those countries. Changes in our platform or client-side software, or future changes in export and import regulations may prevent our users with international operations from deploying our platform globally or, in some cases, prevent the export or import of our platform to certain countries, governments, or persons altogether. Any change in export or import regulations, economic sanctions or related legislation, or change in the countries, governments, persons or technologies targeted by such regulations, could result in decreased use of our platform by, or in our decreased ability to export or sell subscriptions to our platform to, existing or potential users with international operations. Any decreased use of our platform or limitation on our ability to export or sell our products would likely adversely affect our business, results of operations, and financial results.

### ***Our actual or perceived failure to comply with privacy, data protection, and information security laws, regulations, and obligations could harm our business.***

We receive, store, process, and use personal information and other user content. There are numerous federal, state, local, and international laws and regulations regarding privacy, data protection, information security, and the storing, sharing, use, processing, transfer, disclosure, and protection of personal information and other content, the scope of which are changing, subject to differing interpretations, and may be inconsistent among countries, or conflict with other rules. We are also subject to the terms of our privacy policies and obligations to third parties related to privacy, data protection, and information security. We strive to comply with applicable laws, regulations, policies, and other legal obligations relating to privacy, data protection, and information security to the extent possible. However, the regulatory framework for privacy and data protection worldwide is, and is likely to remain, uncertain for the foreseeable future, and it is possible that these or other actual or alleged obligations may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and may conflict with other rules or our practices.

We also expect that there will continue to be new laws, regulations, and industry standards concerning privacy, data protection, and information security proposed and enacted in various jurisdictions. For example, European legislators have adopted a General Data Protection Regulation, or GDPR, that will, when effective in May 2018, supersede current European Union, or EU, data protection legislation, impose more stringent EU data protection requirements, and provide for greater penalties for noncompliance. Further, following a referendum in June 2016 in which voters in the United Kingdom approved an exit from the EU, the United Kingdom government has initiated a process to leave the EU, or Brexit. Brexit has created uncertainty with regard to the regulation of data protection in the United Kingdom. In particular, it is unclear whether the United Kingdom will enact data protection laws or regulations designed to be consistent with the pending EU General Data Protection Regulation and how data transfers to and from the United Kingdom will be regulated. Additionally, although we

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have self-certified under the U.S.-EU and U.S.-Swiss Privacy Shield Frameworks with regard to our transfer of certain personal data from the EU and Switzerland to the United States, some regulatory uncertainty remains surrounding the future of data transfers from the EU and Switzerland to the United States, and we are closely monitoring regulatory developments in this area.

Any failure or perceived failure by us to comply with our privacy policies, our privacy-related obligations to users or other third parties, or any of our other legal obligations relating to privacy, data protection, or information security may result in governmental investigations or enforcement actions, litigation, claims, or public statements against us by consumer advocacy groups or others and could result in significant liability or cause our users to lose trust in us, which could have an adverse effect on our reputation and business. Furthermore, the costs of compliance with, and other burdens imposed by, the laws, regulations, and policies that are applicable to the businesses of our users may limit the adoption and use of, and reduce the overall demand for, our services.

Additionally, if third parties we work with, such as vendors or developers, violate applicable laws or regulations or our policies, such violations may also put our users' content at risk and could in turn have an adverse effect on our business. Any significant change to applicable laws, regulations, or industry practices regarding the collection, use, retention, security, or disclosure of our users' content, or regarding the manner in which the express or implied consent of users for the collection, use, retention, or disclosure of such content is obtained, could increase our costs and require us to modify our services and features, possibly in a material manner, which we may be unable to complete, and may limit our ability to store and process user data or develop new services and features.

### ***Our business could be adversely impacted by changes in internet access for our users or laws specifically governing the internet.***

Our platform depends on the quality of our users' access to the internet. Certain features of our platform require significant bandwidth and fidelity to work effectively. Internet access is frequently provided by companies that have significant market power that could take actions that degrade, disrupt or increase the cost of user access to our platform, which would negatively impact our business. We could incur greater operating expenses and our user acquisition and retention could be negatively impacted if network operators:

- implement usage-based pricing;
- discount pricing for competitive products;
- otherwise materially change their pricing rates or schemes;
- charge us to deliver our traffic at certain levels or at all;
- throttle traffic based on its source or type;
- implement bandwidth caps or other usage restrictions; or
- otherwise try to monetize or control access to their networks.

The Federal Communications Commission has recently announced its intention to seek to revise the "net neutrality" rules, which is expected to occur later this year. The rules were designed to ensure that all online content is treated the same by internet service providers and other companies that provide broadband services. Should the net neutrality rules be relaxed or eliminated, we could incur greater operating expenses, which could harm our results of operations.

As the internet continues to experience growth in the number of users, frequency of use, and amount of data transmitted, the internet infrastructure that we and our users rely on may be unable to support the demands placed upon it. The failure of the internet infrastructure that we or our users rely on, even for a short period of time, could undermine our operations and harm our results of operations.



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In addition, there are various laws and regulations that could impede the growth of the internet or other online services, and new laws and regulations may be adopted in the future. These laws and regulations could, in addition to limiting internet neutrality, involve taxation, tariffs, privacy, data protection, content, copyrights, distribution, electronic contracts and other communications, consumer protection, and the characteristics and quality of services, any of which could decrease the demand for, or the usage of, our platform. Legislators and regulators may make legal and regulatory changes, or interpret and apply existing laws, in ways that require us to incur substantial costs, expose us to unanticipated civil or criminal liability, or cause us to change our business practices. These changes or increased costs could materially harm our business, results of operations, and financial condition.

***We are currently, and may be in the future, party to intellectual property rights claims and other litigation matters and, if resolved adversely, they could have a significant impact on our business, results of operations, or financial condition.***

We own a large number of patents, copyrights, trademarks, domain names, and trade secrets and, from time to time, are subject to litigation based on allegations of infringement, misappropriation or other violations of intellectual property, or other rights. As we face increasing competition and gain an increasingly high profile, the possibility of intellectual property rights claims against us grows. From time to time, we are party to litigation and disputes related to our intellectual property and our platform. The costs of supporting litigation and dispute resolution proceedings are considerable, and there can be no assurances that a favorable outcome will be obtained. We may need to settle litigation and disputes on terms that are unfavorable to us, or we may be subject to an unfavorable judgment that may not be reversible upon appeal. The terms of any settlement or judgment may require us to cease some or all of our operations or pay substantial amounts to the other party. With respect to any intellectual property rights claim, we may have to seek a license to continue practices found to be in violation of third-party rights, which may not be available on reasonable terms and may significantly increase our operating expenses. A license to continue such practices may not be available to us at all, and we may be required to develop alternative non-infringing technology or practices or discontinue the practices. The development of alternative, non-infringing technology or practices could require significant effort and expense. Our business, results of operations, and financial condition could be materially and adversely affected as a result.

***Our failure to protect our intellectual property rights and proprietary information could diminish our brand and other intangible assets.***

We rely and expect to continue to rely on a combination of patent, patent licenses, trade secret, and domain name protection, trademark, and copyright laws, as well as confidentiality and license agreements with our employees, consultants, and third parties, to protect our intellectual property and proprietary rights. In the United States and abroad, we have over 550 issued patents and more than 550 pending patent applications. However, third parties may knowingly or unknowingly infringe our proprietary rights, third parties may challenge our proprietary rights, pending and future patent, trademark, and copyright applications may not be approved, and we may not be able to prevent infringement without incurring substantial expense. We have also devoted substantial resources to the development of our proprietary technologies and related processes. In order to protect our proprietary technologies and processes, we rely in part on trade secret laws and confidentiality agreements with our employees, consultants, and third parties. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. In addition, others may independently discover our trade secrets, in which case we would not be able to assert trade secret rights, or develop similar technologies and processes. Further, laws in certain jurisdictions may afford little or no trade secret protection, and any changes in, or unexpected interpretations of, the intellectual property laws in any country in which we operate may compromise our ability to enforce our intellectual property rights. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights. If the protection of our proprietary rights is inadequate to prevent use or appropriation by third parties, the value of our platform, brand, and other intangible assets may be diminished and competitors may be able to more effectively replicate our platform and its features. Any of these events could materially and adversely affect our business, results of operations, and financial condition.

***Our use of open source software could negatively affect our ability to offer and sell subscriptions to our platform and subject us to possible litigation.***

A portion of the technologies we use incorporates open source software, and we may incorporate open source software in the future. Open source software is generally licensed by its authors or other third parties under open source licenses. These licenses may subject us to certain unfavorable conditions, including requirements that we offer our platform that incorporates the open source software for no cost, that we make publicly available source code for modifications or derivative works we create based upon, incorporating or using the open source software, and/or that we license such modifications or derivative works under the terms of the particular open source license. Additionally, if a third-party software provider has incorporated open source software into software that we license from such provider, we could be required to disclose any of our source code that incorporates or is a modification of our licensed software. If an author or other third party that distributes open source software that we use or license were to allege that we had not complied with the conditions of the applicable license, we could be required to incur significant legal expenses defending against those allegations and could be subject to significant damages, enjoined from offering or selling our solutions that contained the open source software, and required to comply with the foregoing conditions. Any of the foregoing could disrupt and harm our business, results of operations, and financial condition.

***Our ability to sell subscriptions to our platform could be harmed by real or perceived material defects or errors in our platform.***

The software technology underlying our platform is inherently complex and may contain material defects or errors, particularly when first introduced or when new features or capabilities are released. We have from time to time found defects or errors in our platform, and new defects or errors in our existing platform or new software may be detected in the future by us or our users. There can be no assurance that our existing platform and new software will not contain defects. Any real or perceived errors, failures, vulnerabilities, or bugs in our platform could result in negative publicity or lead to data security, access, retention, or other performance issues, all of which could harm our business. The costs incurred in correcting such defects or errors may be substantial and could harm our results of operations and financial condition. Moreover, the harm to our reputation and legal liability related to such defects or errors may be substantial and could harm our business, results of operations, and financial condition.

We also utilize hardware purchased or leased and software and services licensed from third parties to offer our platform. Any defects in, or unavailability of, our or third-party software, services, or hardware that cause interruptions to the availability of our services, loss of data, or performance issues could, among other things:

- cause a reduction in revenue or delay in market acceptance of our platform;
- require us to issue refunds to our users or expose us to claims for damages;
- cause us to lose existing users and make it more difficult to attract new users;
- divert our development resources or require us to make extensive changes to our platform, which would increase our expenses;
- increase our technical support costs; and
- harm our reputation and brand.

***We may acquire other businesses or receive offers to be acquired, which could require significant management attention, disrupt our business, or dilute stockholder value.***

Part of our business strategy is to make acquisitions of other companies, products, and technologies. We have limited experience in acquisitions. We may not be able to find suitable acquisition candidates and we may not be able to complete acquisitions on favorable terms, if at all. If we do complete acquisitions, we may not

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ultimately strengthen our competitive position or achieve our goals, and any acquisitions we complete could be viewed negatively by users, developers, or investors. In addition, we may not be able to integrate acquired businesses successfully or effectively manage the combined company following an acquisition. If we fail to successfully integrate our acquisitions, or the people or technologies associated with those acquisitions, into our company, the results of operations of the combined company could be adversely affected. Any integration process will require significant time and resources, require significant attention from management, and disrupt the ordinary functioning of our business, and we may not be able to manage the process successfully, which could adversely affect our business, results of operations, and financial condition. In addition, we may not successfully evaluate or utilize the acquired technology and accurately forecast the financial impact of an acquisition transaction, including accounting charges.

We may have to pay cash, incur debt, or issue equity securities to pay for any such acquisition, each of which could affect our financial condition or the value of our capital stock. The sale of equity to finance any such acquisitions could result in dilution to our stockholders. If we incur more debt, it would result in increased fixed obligations and could also subject us to covenants or other restrictions that would impede our ability to flexibly operate our business.

### ***Our business may be significantly impacted by a change in the economy, including any resulting effect on consumer or business spending.***

Our business may be affected by changes in the economy generally, including any resulting effect on spending by our business and consumer users. Some of our users may view a subscription to our platform as a discretionary purchase, and our paying users may reduce their discretionary spending on our platform during an economic downturn. If an economic downturn were to occur, we may experience such a reduction in the future, especially in the event of a prolonged recessionary period. As a result, our business, results of operations, and financial condition may be significantly affected by changes in the economy generally.

### ***Our business could be disrupted by catastrophic events.***

Occurrence of any catastrophic event, including earthquake, fire, flood, tsunami, or other weather event, power loss, telecommunications failure, software or hardware malfunctions, cyber-attack, war, or terrorist attack, could result in lengthy interruptions in our service. In particular, our U.S. headquarters and some of the datacenters we utilize are located in the San Francisco Bay Area, a region known for seismic activity, and our insurance coverage may not compensate us for losses that may occur in the event of an earthquake or other significant natural disaster. In addition, acts of terrorism could cause disruptions to the internet or the economy as a whole. Even with our disaster recovery arrangements, our service could be interrupted. If our systems were to fail or be negatively impacted as a result of a natural disaster or other event, our ability to deliver products to our users would be impaired or we could lose critical data. If we are unable to develop adequate plans to ensure that our business functions continue to operate during and after a disaster, and successfully execute on those plans in the event of a disaster or emergency, our business, results of operations, financial condition, and reputation would be harmed.

### ***We may have exposure to greater than anticipated tax liabilities, which could adversely impact our results of operations.***

While to date we have not incurred significant income taxes in operating our business, we are subject to income taxes in the United States and various jurisdictions outside of the United States. Our effective tax rate could fluctuate due to changes in the mix of earnings and losses in countries with differing statutory tax rates. Our tax expense could also be impacted by changes in non-deductible expenses, changes in excess tax benefits of stock-based compensation, changes in the valuation of deferred tax assets and liabilities and our ability to utilize them, the applicability of withholding taxes and effects from acquisitions.

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Our tax provision could also be impacted by changes in accounting principles, changes in U.S. federal, state, or international tax laws applicable to corporate multinationals such as the recent legislation enacted in the United Kingdom and Australia, other fundamental law changes currently being considered by many countries, including the United States, and changes in taxing jurisdictions' administrative interpretations, decisions, policies, and positions. Additionally, in October 2015, the Organization for Economic Co-Operation and Development released final guidance covering various topics, including transfer pricing, country-by-country reporting, and definitional changes to permanent establishment that could ultimately impact our tax liabilities.

We are subject to review and audit by U.S. federal, state, local, and foreign tax authorities. Such tax authorities may disagree with tax positions we take and if any such tax authority were to successfully challenge any such position, our financial results and operations could be materially and adversely affected. We may also be subject to additional tax liabilities due to changes in non-income based taxes resulting from changes in federal, state, or international tax laws, changes in taxing jurisdictions' administrative interpretations, decisions, policies, and positions, results of tax examinations, settlements or judicial decisions, changes in accounting principles, changes to the business operations, including acquisitions, as well as the evaluation of new information that results in a change to a tax position taken in a prior period.

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

As of December 31, 2016, we had \$254.8 million of federal and \$94.9 million of state net operating loss carryforwards available to reduce future taxable income, which will begin to expire in 2031 for federal and 2030 for state tax purposes. As of December 31, 2016, we also had \$247.9 million of foreign net operating loss carryforwards available to reduce future taxable income, which will carryforward indefinitely. In addition, we had \$22.9 million of foreign acquired net operating losses, which will carryforward indefinitely. It is possible that we will not generate taxable income in time to use these net operating loss carryforwards before their expiration or at all. Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change net operating loss carryforwards and other pre-change attributes, such as research tax credits, to offset its post-change income may be limited. In general, an "ownership change" will occur if there is a cumulative change in our ownership by "5-percent shareholders" that exceeds 50 percentage points over a rolling three-year period. Similar rules may apply under state tax laws. We performed a study for the period through June 30, 2017, and determined that no ownership changes exceeding 50 percentage points had occurred. Our ability to use net operating loss and tax credit carryforwards to reduce future taxable income and liabilities may be subject to annual limitations as a result of ownership changes from July 1, 2017, and subsequent years or as a result of this offering.

### ***Our operating results may be harmed if we are required to collect sales or other related taxes for our subscription services in jurisdictions where we have not historically done so.***

We collect sales and value-added tax as part of our subscription agreements in a number of jurisdictions. One or more states or countries may seek to impose incremental or new sales, use, or other tax collection obligations on us, including for past sales by us or our resellers and other partners. A successful assertion by a state, country, or other jurisdiction that we should have been or should be collecting additional sales, use, or other taxes on our services could, among other things, result in substantial tax liabilities for past sales, create significant administrative burdens for us, discourage users from purchasing our platform, or otherwise harm our business, results of operations, and financial condition.

### ***Our financial position and results of operations could be materially affected by the enactment of legislation implementing changes in the U.S. or foreign taxation of international business activities or the adoption of other tax reform policies.***

The current President of the United States and his administration have made public statements indicating that they have made tax reform a priority, and key members of the U.S. Congress have conducted hearings and

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proposed a wide variety of potential changes. There is significant uncertainty regarding the future of the tax treatment of our foreign earnings as well as the treatment of cash and cash equivalent balances we currently maintain outside of the United States. As we move towards expanding the scale of our international business activities, any changes in the U.S. or foreign taxation of such activities may increase our worldwide effective tax rate and harm our business, results of operations, and financial condition.

***If we fail to 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 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, or the Exchange Act, the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, and the rules and regulations of the applicable listing standards of the . We expect that the requirements of these rules and regulations will continue to increase our legal, accounting, and financial compliance costs, make some activities more difficult, time-consuming and costly, and place significant strain on our personnel, systems, and resources.

The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. We are continuing to develop and refine our disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we will file with the SEC is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms and that information required to be disclosed in reports under the Exchange Act is accumulated and communicated to our principal executive and financial officers. We are also continuing to improve our internal control over financial reporting. In order to maintain and improve the effectiveness of our disclosure controls and procedures and internal control over financial reporting, we have expended, and anticipate that we will continue to expend, significant resources, including accounting-related costs and significant management oversight.

Our current controls and any new controls that we develop may become inadequate because of changes in conditions in our business. Further, weaknesses in our disclosure controls and internal control over financial reporting may be discovered in the future. Any failure to develop or maintain effective controls or any difficulties encountered in their implementation or improvement could harm our results of operations or cause us to fail to meet our reporting obligations and may result in a restatement of our financial statements for prior periods. Any failure to implement and maintain effective internal control over financial reporting also could adversely affect the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that we will eventually be required to include in our periodic reports that will be filed with the SEC. Ineffective disclosure controls and procedures and internal control over financial reporting could also cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our Class A common stock. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on . We are not currently required to comply with the SEC rules that implement Section 404 of the Sarbanes-Oxley Act and are therefore not required to make a formal assessment of the effectiveness of our internal control over financial reporting for that purpose. As a public company, we will be required to provide an annual management report on the effectiveness of our internal control over financial reporting commencing with our second annual report on Form 10-K.

Our independent registered public accounting firm is not required to formally attest to the effectiveness of our internal control over financial reporting until after we are no longer an “emerging growth company” as defined in the Jumpstart Our Businesses Act of 2012, or the JOBS Act. At such time, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our internal control over financial reporting is documented, designed, or operating. Any failure to maintain effective disclosure controls and internal control over financial reporting could materially and adversely affect our

business, results of operations, and financial condition and could cause a decline in the trading price of our Class A common stock.

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

We are an “emerging growth company,” as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies,” including not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We may take advantage of these exemptions for so long as we are an “emerging growth company,” which could be as long as five years following the completion of this offering but we expect not to be an “emerging growth company” sooner. We cannot predict if investors will find our Class A common stock less attractive because we will rely on these exemptions. If some investors find our Class A common stock less attractive as a result, there may be a less active trading market for our Class A common stock and the trading price of our Class A common stock may be more volatile.

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

Generally accepted accounting principles in the United States are subject to interpretation by the Financial Accounting Standards Board, or FASB, the SEC, and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported results of operations, and may even affect the reporting of transactions completed before the announcement or effectiveness of a change. For example, in May 2014, the FASB issued Accounting Standards Update, or ASU, No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*, or Topic 606, which superseded nearly all existing revenue recognition guidance. We adopted the requirements of Topic 606 as of January 1, 2017, utilizing the full retrospective method of transition. As such, Topic 606 is reflected in our financial results for all periods presented in this prospectus. The adoption of Topic 606 primarily resulted in changes to our accounting policies for revenue recognition and deferred commissions, which we believe to be critical accounting policies. While the impact of adopting Topic 606 on our revenue was not material, it is difficult to predict the impact of future changes to accounting principles or our accounting policies, any of which could negatively affect our results of operations.

***We recently implemented a new enterprise resource planning system, and if this new system proves ineffective or if we experience issues with the transition, we may be unable to timely or accurately prepare financial reports, make payments to our suppliers and employees, or invoice and collect from our users.***

In 2017, we implemented a new enterprise resource planning, or ERP, system, including our systems for tracking revenue recognition. Our ERP system is critical to our ability to accurately maintain books and records and to prepare our financial statements. The transition to our new ERP system may be disruptive to our business if the ERP system does not work as planned or if we experience issues relating to the implementation. Such disruptions could impact our ability to timely or accurately make payments to our suppliers and employees, and could also inhibit our ability to invoice, and collect from our users. Data integrity problems or other issues may be discovered which, if not corrected, could impact our business or financial results. In addition, we may experience periodic or prolonged disruption of our financial functions arising out of this conversion, general use of such system, other periodic upgrades or updates, or other external factors that are outside of our control. If we encounter unforeseen problems with our ERP system or other related systems and infrastructure, our business, results of operations, and financial condition could be adversely affected.

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***Certain of our market opportunity estimates, growth forecasts, and key metrics included in this prospectus could prove to be inaccurate, and any real or perceived inaccuracies may harm our reputation and negatively affect our business.***

Market opportunity estimates and growth forecasts are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. The estimates and forecasts in this prospectus relating to the size and expected growth of our target market may prove to be inaccurate. Even if the markets in which we compete meet the size estimates and growth forecasted in this prospectus, our business could fail to grow at similar rates, if at all. We also rely on assumptions and estimates to calculate certain of our key metrics, such as paying users, average revenue per paying user, and free cash flow. We regularly review and may adjust our processes for calculating our key metrics to improve their accuracy. Our key metrics may differ from estimates published by third parties or from similarly titled metrics of our competitors due to differences in methodology. If investors or analysts do not perceive our metrics to be accurate representations of our business, or if we discover material inaccuracies in our metrics, our reputation, business, results of operations, and financial condition would be harmed.

***Our revolving credit facility provides our lenders with a first-priority lien against substantially all of our intellectual property and certain other assets, and contains financial covenants and other restrictions on our actions that may limit our operational flexibility or otherwise adversely affect our results of operations.***

We are party to a revolving credit and guarantee agreement, which contains a number of covenants that limit our ability and our subsidiaries' ability to, among other things, incur additional indebtedness, pay dividends, make redemptions and repurchases of stock, make investments, loans and acquisitions, create liens, engage in transactions with affiliates, merge or consolidate with other companies, or sell substantially all of our assets. We are also required to maintain certain financial covenants, including a maximum consolidated leverage ratio and a minimum liquidity balance. The terms of our revolving credit facility may restrict our current and future operations and could adversely affect our ability to finance our future operations or capital needs or to execute preferred business strategies. In addition, complying with these covenants may make it more difficult for us to successfully execute our business strategy and compete against companies who are not subject to such restrictions.

A failure by us to comply with the covenants or payment requirements specified in our credit agreement could result in an event of default under the agreement, which would give the lenders the right to terminate their commitments to provide additional loans under our revolving credit facility and to declare all borrowings outstanding, together with accrued and unpaid interest and fees, to be immediately due and payable. In addition, the lenders would have the right to proceed against the collateral we granted to them, which consists of substantially all our intellectual property and certain other assets. If the debt under our revolving credit facility were to be accelerated, we may not have sufficient cash or be able to borrow sufficient funds to refinance the debt or sell sufficient assets to repay the debt, which could immediately materially and adversely affect our business, cash flows, results of operations, and financial condition. Even if we were able to obtain new financing, it may not be on commercially reasonable terms or on terms that are acceptable to us.

***Our operations may be interrupted and our business, results of operations, and financial condition could be adversely affected if we default on our leasing or credit obligations.***

We finance a significant portion of our expenditures through leasing arrangements, some of which are not required to be reflected on our balance sheet, and we may enter into additional similar arrangements in the future. As of December 31, 2016, we had an aggregate of \$903.9 million of commitments to settle contractual obligations. In particular, we have used these types of arrangements to finance some of our equipment and datacenters. In addition, we may draw upon our revolving credit facility to finance our operations or for other corporate purposes, such as funding our tax withholding and remittance obligations in connection with the

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settlement of restricted stock units, or RSUs. If we default on these leasing or credit obligations, our leasing partners and lenders may, among other things:

- require repayment of any outstanding lease obligations;
- terminate our leasing arrangements;
- terminate our access to the leased datacenters we utilize;
- stop delivery of ordered equipment;
- sell or require us to return our leased equipment;
- require repayment of any outstanding amounts drawn on our revolving credit facility;
- terminate our revolving credit facility; or
- require us to pay significant fees, penalties, or damages.

If some or all of these events were to occur, our operations may be interrupted and our ability to fund our operations or obligations, as well as our business, results of operations, and financial condition, could be adversely affected.

***We may need additional capital, and we cannot be certain that additional financing will be available on favorable terms, or at all.***

Historically, we have funded our operations and capital expenditures primarily through equity issuances, cash generated from our operations, and debt financing for capital purchases. Although we currently anticipate that our existing cash and cash equivalents, amounts available under our existing credit facilities, and cash flow from operations will be sufficient to meet our cash needs for the foreseeable future, we may require additional financing. We evaluate financing opportunities from time to time, and our ability to obtain financing will depend, among other things, on our development efforts, business plans, operating performance, and condition of the capital markets at the time we seek financing. We cannot assure you that additional financing will be available to us on favorable terms when required, or at all. If we raise additional funds through the issuance of equity or equity-linked or debt securities, those securities may have rights, preferences or privileges senior to the rights of our Class A common stock, and our stockholders may experience dilution.

### **Risks Related to Ownership of Our Class A Common Stock**

***An active trading market for our Class A common stock may never develop or be sustained.***

We have applied to list our Class A common stock on the \_\_\_\_\_ under the symbol “DBX.” However, we cannot assure you that an active trading market for our Class A common stock will develop on that exchange or elsewhere or, if developed, that any market will be sustained. Accordingly, we cannot assure you of the likelihood that an active trading market for our Class A common stock will develop or be maintained, the liquidity of any trading market, your ability to sell your shares of our Class A common stock when desired or the prices that you may obtain for your shares.

***The trading price of our Class A common stock may be volatile, and you could lose all or part of your investment.***

Prior to this offering, there has been no public market for shares of our Class A common stock. The initial public offering price of our Class A common stock was determined through negotiation among us, the selling stockholders, and the underwriters. This price does not necessarily reflect the price at which investors in the market will be willing to buy and sell shares of our Class A common stock following this offering. In addition, the trading price of our Class A common stock following this offering is likely to be volatile and could be subject



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to fluctuations in response to various factors, some of which are beyond our control. These fluctuations could cause you to lose all or part of your investment in our Class A common stock since you might be unable to sell your shares at or above the price you paid in this offering. Factors that could cause fluctuations in the trading price of our Class A common stock include the following:

- price and volume fluctuations in the overall stock market from time to time;
- volatility in the trading prices and trading volumes of technology stocks;
- changes in operating performance and stock market valuations of other technology companies generally, or those in our industry in particular;
- sales of shares of our Class A common stock by us or our stockholders;
- failure of securities analysts to maintain coverage of us, changes in financial estimates by securities analysts who follow our company, or our failure to meet these estimates or the expectations of investors;
- the financial projections we may provide to the public, any changes in those projections, or our failure to meet those projections;
- announcements by us or our competitors of new products, features, or services;
- the public's reaction to our press releases, other public announcements, and filings with the SEC;
- rumors and market speculation involving us or other companies in our industry;
- actual or anticipated changes in our results of operations or fluctuations in our results of operations;
- actual or anticipated developments in our business, our competitors' businesses or the competitive landscape generally;
- litigation involving us, our industry, or both, or investigations by regulators into our operations or those of our competitors;
- developments or disputes concerning our intellectual property or other proprietary rights;
- announced or completed acquisitions of businesses, products, services, or technologies by us or our competitors;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- changes in accounting standards, policies, guidelines, interpretations, or principles;
- any significant change in our management; and
- general economic conditions and slow or negative growth of our markets.

In addition, in the past, following periods of volatility in the overall market and the market price of a particular company's securities, securities class action litigation has often been instituted against these companies. This litigation, if instituted against us, could result in substantial costs and a diversion of our management's attention and resources.

***The dual class structure of our common stock will have the effect of concentrating voting control with those stockholders who held our capital stock prior to the completion of this offering, and it may depress the trading price of our Class A common stock.***

Our Class B common stock has \_\_\_\_\_ votes per share and our Class A common stock, which is the stock we are offering in this offering, has one vote per share. Following this offering, our directors, executive officers and holders of more than 5% of our common stock, and their respective affiliates, will hold in the aggregate \_\_\_\_\_ % of

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the voting power of our capital stock. Because of the -to-one voting ratio between our Class B and Class A common stock, the holders of our Class B common stock collectively will continue to control a majority of the combined voting power of our common stock and therefore be able to control all matters submitted to our stockholders for approval. This concentrated control will limit or preclude your ability to influence corporate matters for the foreseeable future, including the election of directors, amendments of our organizational documents and any merger, consolidation, sale of all or substantially all of our assets, or other major corporate transaction requiring stockholder approval. In addition, this may prevent or discourage unsolicited acquisition proposals or offers for our capital stock that you may feel are in your best interest as one of our stockholders.

Future transfers by holders of Class B common stock will generally result in those shares converting to Class A common stock, subject to limited exceptions, such as certain transfers effected for estate planning purposes. The conversion of Class B common stock to Class A common stock will have the effect, over time, of increasing the relative voting power of those individual holders of Class B common stock who retain their shares in the long term. See the section titled “Description of Capital Stock—Anti-Takeover Provisions” for additional information.

In addition, in July 2017, FTSE Russell and Standard & Poor’s announced that they would cease to allow most newly public companies utilizing dual or multi-class capital structures to be included in their indices. Affected indices include the Russell 2000 and the S&P 500, S&P MidCap 400, and S&P SmallCap 600, which together make up the S&P Composite 1500. Under the announced policies, our dual class capital structure would make us ineligible for inclusion in any of these indices, and as a result, mutual funds, exchange-traded funds, and other investment vehicles that attempt to passively track these indices will not be investing in our stock. These policies are very new and it is as of yet unclear what effect, if any, they will have on the valuations of publicly traded companies excluded from the indices, but it is possible that they may depress these valuations compared to those of other similar companies that are included.

***A substantial portion of the outstanding shares of our Class A common stock and Class B common stock after this offering will be restricted from immediate resale, but may be sold on a stock exchange in the near future. The large number of shares of our capital stock eligible for public sale or subject to rights requiring us to register them for public sale could depress the market price of our Class A common stock.***

The market price of our Class A common stock could decline as a result of sales of a large number of shares of our Class A common stock in the market after this offering, and the perception that these sales could occur may also depress the market price of our Class A common stock. Based on 13,168,617 shares of our Class A common stock (including the Capital Stock Conversions) and 532,410,747 shares of our Class B common stock (including the Capital Stock Conversions and the RSU Settlement) outstanding as of June 30, 2017, we will have shares of our Class A common stock and shares Class B common stock outstanding after this offering. Our executive officers, directors, and the holders of substantially all of our capital stock and securities convertible into or exchangeable for our capital stock have entered into market standoff agreements with us or have entered or will enter into lock-up agreements with the underwriters under which they have agreed or will agree, subject to specific exceptions, not to sell any of our stock for 180 days following the date of this prospectus. We refer to such period as the lock-up period. Pursuant to the lock-up agreements with the underwriters, if (i) at least 120 days have elapsed since the date of this prospectus, (ii) we have publicly released our earnings results for the quarterly period during which this offering occurred, and (iii) such lock-up period is scheduled to end during or within five trading days prior to a broadly applicable period during which trading in our securities would not be permitted under our insider trading policy, or a blackout period, such lock-up period will end ten trading days prior to the commencement of such blackout period. We and the underwriters may release certain stockholders from the market standoff agreements or lock-up agreements prior to the end of the lock-up period.

As a result of these agreements and the provisions of our investors’ rights agreement described further in the section titled “Description of Capital Stock—Registration Rights,” and subject to the provisions of Rule 144 or

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Rule 701, shares of our Class A common stock and Class B common stock will be available for sale in the public market as follows:

- beginning on the date of this prospectus, all shares of our Class A common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus (subject to the terms of the lock-up agreements and market standoff agreements described above), the remainder of the shares of our Class A common stock and Class B common stock will be eligible for sale in the public market from time to time thereafter, subject in some cases to the volume and other restrictions of Rule 144, as described below.

Upon completion of this offering, stockholders owning an aggregate of up to \_\_\_\_\_ shares will be entitled, under our investors' rights agreement, to require us to register shares owned by them for public sale in the United States. In addition, we intend to file a registration statement to register shares reserved for future issuance under our equity compensation plans. Upon effectiveness of that registration statement, subject to the satisfaction of applicable exercise periods and the expiration or waiver of the market standoff agreements and lock-up agreements referred to above, the shares issued upon exercise of outstanding stock options or upon settlement of outstanding RSU awards will be available for immediate resale in the United States in the open market.

Sales of our shares as restrictions end or pursuant to registration rights may make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. These sales also could cause the trading price of our Class A common stock to fall and make it more difficult for you to sell shares of our Class A common stock.

***If you purchase our Class A common stock in this offering, you will incur immediate and substantial dilution.***

The initial public offering price is substantially higher than the pro forma net tangible book value per share of our outstanding common stock of \$ \_\_\_\_\_ per share as of June 30, 2017. Investors purchasing shares of our Class A common stock in this offering will pay a price per share that substantially exceeds the book value of our tangible assets after subtracting our liabilities. As a result, investors purchasing Class A common stock in this offering will incur immediate dilution of \$ \_\_\_\_\_ per share, based on the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus.

This dilution is due to the substantially lower price paid by our investors who purchased shares prior to this offering as compared to the price offered to the public in this offering, and any previous exercise of stock options granted to our service providers. In addition, as of June 30, 2017, options to purchase 7,549,977 shares of our Class B common stock with a weighted-average exercise price of approximately \$7.10 per share were outstanding as well as 15,057,045 shares of our Class A common stock and 72,998,025 shares of our Class B common stock subject to RSUs. The exercise of any of these options and settlement of any of these RSUs would result in additional dilution. Our Board of Directors intends to accelerate the Performance Vesting Condition for 37,072,440 RSUs for which the service condition was satisfied as of June 30, 2017, to occur upon the effectiveness of our registration statement related to this offering. As a result of the dilution to investors purchasing shares in this offering, investors may receive less than the purchase price paid in this offering, if anything, in the event of our liquidation.

***We have broad discretion over the use of the net proceeds from this offering and we may not use them effectively.***

We cannot specify with any certainty the particular uses of the net proceeds that we will receive from this offering. Our management will have broad discretion in the application of the net proceeds from this offering, including for any of the purposes described in "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

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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. The failure by our management to apply these proceeds effectively could adversely affect our business, results of operations, and financial condition. Pending their use, we may invest our proceeds in a manner that does not produce income or that loses value. Our investments may not yield a favorable return to our investors and may negatively impact the price of our Class A common stock.

### ***Delaware law and provisions in our restated certificate of incorporation and restated bylaws could make a merger, tender offer, or proxy contest difficult, thereby depressing the market price of our Class A common stock.***

Our status as a Delaware corporation and the anti-takeover provisions of the Delaware General Corporation Law may discourage, delay, or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder for a period of three years after the person becomes an interested stockholder, even if a change of control would be beneficial to our existing stockholders. In addition, our restated certificate of incorporation and restated bylaws contain provisions that may make the acquisition of our company more difficult, including the following:

- any transaction that would result in a change in control of our company requires the approval of a majority of our outstanding Class B common stock voting as a separate class;
- our dual class common stock structure, which provides our co-founders with the ability to significantly influence the outcome of matters requiring stockholder approval, even if they own significantly less than a majority of the shares of our outstanding Class A common stock and Class B common stock;
- our Board of Directors is classified into three classes of directors with staggered three-year terms and directors are only able to be removed from office for cause;
- when the outstanding shares of our Class B common stock represent less than a majority of the combined voting power of common stock:
  - certain amendments to our restated certificate of incorporation or restated bylaws will require the approval of two-thirds of the combined vote of our then-outstanding shares of Class A common stock and Class B common stock;
  - our stockholders will only be able to take action at a meeting of stockholders and not by written consent; and
  - vacancies on our Board of Directors will be able to be filled only by our Board of Directors and not by stockholders;
- only our chairman of the Board of Directors, chief executive officer, or a majority of Board of Directors are authorized to call a special meeting of stockholders;
- certain litigation against us can only be brought in Delaware;
- our restated certificate of incorporation authorizes undesignated preferred stock, the terms of which may be established and shares of which may be issued, without the approval of the holders of Class A common stock; and
- advance notice procedures apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders.

These anti-takeover defenses could discourage, delay, or prevent a transaction involving a change in control of our company. These provisions could also discourage proxy contests and make it more difficult for stockholders to elect directors of their choosing and to cause us to take other corporate actions they desire, any of which, under certain circumstances, could limit the opportunity for our stockholders to receive a premium for their shares of our capital stock, and could also affect the price that some investors are willing to pay for our Class A common stock.

***Our Class A common stock market price and trading volume could decline if securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business.***

The trading market for our Class A common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. The analysts' estimates are based upon their own opinions and are often different from our estimates or expectations. If one or more of the analysts who cover us downgrade our Class A common stock or publish inaccurate or unfavorable research about our business, the price of our securities would likely decline. If few securities analysts commence coverage of us, or if one or more of these analysts cease coverage of us or fail to publish reports on us regularly, demand for our securities could decrease, which might cause the price and trading volume of our Class A common stock to decline.

***We do not intend to pay dividends for the foreseeable future.***

We have never declared nor paid cash dividends on our capital stock. We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future. As a result, stockholders must rely on sales of their Class A common stock after price appreciation as the only way to realize any future gains on their investment. In addition, our revolving credit facility contains restrictions on our ability to pay dividends.

## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements within the meaning of the federal securities laws, which statements involve substantial risks and uncertainties. Forward-looking statements generally relate to future events or our future financial or operating performance. In some cases, you can identify forward-looking statements because they contain words such as “may,” “will,” “should,” “expects,” “plans,” “anticipates,” “could,” “intends,” “target,” “projects,” “contemplates,” “believes,” “estimates,” “predicts,” “potential,” or “continue” or the negative of these words or other similar terms or expressions that concern our expectations, strategy, plans, or intentions. Forward-looking statements contained in this prospectus include, but are not limited to, statements about:

- our ability to retain and upgrade paying users;
- our ability to attract new users or convert registered users to paying users;
- our future financial performance, including trends in revenue, costs of revenue, gross profit or gross margin, operating expenses, paying users, and free cash flow;
- our ability to achieve or maintain profitability;
- the demand for our platform or for content collaboration solutions in general;
- possible harm caused by significant disruption of service or loss or unauthorized access to users’ content;
- our ability to effectively integrate our platform with others;
- our ability to compete successfully in competitive markets;
- our ability to respond to rapid technological changes;
- our expectations and management of future growth;
- our ability to grow due to our lack of a significant outbound salesforce;
- our ability to attract large organizations as users;
- our ability to offer high-quality customer support;
- our ability to manage our international expansion;
- our ability to attract and retain key personnel and highly qualified personnel;
- our ability to protect our brand;
- our ability to prevent serious errors or defects in our platform;
- our ability to maintain, protect, and enhance our intellectual property;
- our ability to successfully identify, acquire, and integrate companies and assets;
- the increased expenses associated with being a public company; and
- our anticipated uses of net proceeds from this offering.

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

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this prospectus primarily on our current expectations and projections about future events and trends that we believe may affect our business, financial condition, results of operations, and prospects. The outcome of the events described in these forward-looking statements is subject to risks,

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uncertainties and other factors described in the section titled “Risk Factors” and elsewhere in this prospectus. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this prospectus. We cannot assure you that the results, events, and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events, or circumstances could differ materially from those described in the forward-looking statements.

The forward-looking statements made in this prospectus relate only to events as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements made in this prospectus to reflect events or circumstances after the date of this prospectus or to reflect new information or the occurrence of unanticipated events, except as required by law. We may not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures, or investments we may make.

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.

## INDUSTRY AND MARKET DATA

This prospectus contains estimates and information concerning our industry, including market size of the markets in which we participate, that are based on industry publications and reports. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to these estimates. We have not independently verified the accuracy or completeness of the data contained in these industry publications and reports. The markets in which we operate are subject to a high degree of uncertainty and risk due to a variety of factors, including those described in the section titled “Risk Factors.” These and other factors could cause results to differ materially from those expressed in these publications and reports.

The source of certain statistical data, estimates and forecasts contained in this prospectus are the following independent industry publications or reports:

- Gartner, Inc., Magic Quadrant for Content Collaboration Platforms, July 2017.\*
- International Data Corporation, Inc., Market Forecast: Worldwide Collaborative Applications Forecast, 2017-2021: Creating Productivity Growth with Customer Experience, July 2017.
- International Data Corporation, Inc., Market Forecast: Worldwide Project and Portfolio Management Forecast, 2017-2021: Agile Governance in the Cloud Drives Market, June 2017.
- International Data Corporation, Inc., Market Forecast: Worldwide Enterprise Content Management Software Forecast, 2017-2021, May 2017.
- International Data Corporation, Inc., IDC’s Forecast Scenario Assumptions for the ICT Markets and Historical Market Values and Exchange Rates, Version 1, March 2017.
- International Data Corporation, Inc., Market Forecast: Worldwide Storage for Public and Private Cloud Forecast 2016-2020, December 2016.
- International Data Corporation, Inc., EFSS Evaluation Guide: Dropbox Sync Performance, July 2016.
- International Data Corporation, Inc., Knowledge Worker Outlook on Content Managed Systems, June 2016.
- McKinsey Global Institute, The Social Economy: Unlocking Value and Productivity Through Social Technologies, July 2012.
- Deloitte Consulting LLP, Transitioning to the Future of Work and the Workplace: Embracing Digital Culture, Tools and Approaches, A White Paper on the Future of Work Research Study, 2016.

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\* The Gartner Report described herein, or the Gartner Report, represents research opinion or viewpoints published, as part of a syndicated subscription service, by Gartner, Inc., or Gartner, and are not representations of fact. The Gartner Report speaks as of its original publication date (and not as of the date of this prospectus), and the opinions expressed in the Gartner Report are subject to change without notice. Gartner has advised us that it does not endorse any vendor, product, or service depicted in its research publications, and does not advise technology users to select only those vendors with the highest ratings or other designation. Gartner research publications consist of the opinions of Gartner’s research organization and should not be construed as statements of fact. Gartner has advised us that it disclaims all warranties, expressed or implied, with respect to this research, including any warranties of merchantability or fitness for a particular purpose.



## USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of shares of our Class A common stock in this offering will be approximately \$ , based upon the assumed initial public offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters' option to purchase additional shares of our Class A common stock from us is exercised in full, we estimate that the net proceeds to us would be approximately \$ , after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any of the proceeds from the sale of Class A common stock in this offering by the selling stockholders.

Each \$1.00 increase or decrease in the assumed initial public offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease the net proceeds that we receive from this offering by approximately \$ , 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 payable by us. Similarly, each increase or decrease of 1.0 million in the number of shares of our Class A common stock offered by us would increase or decrease the net proceeds that we receive from this offering by approximately \$ , assuming the assumed initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions payable by us.

The principal purposes of this offering are to increase our capitalization and financial flexibility, create a public market for our Class A common stock, and enable access to the public equity markets for us and our stockholders.

We intend to use a portion of the net proceeds we receive from this offering to repay \$ that is expected to be outstanding immediately prior to the completion of this offering under our revolving credit facility, which we intend to draw down prior to the completion of this offering to satisfy tax withholding and remittance obligations of \$ related to the RSU Settlement. This amount is based upon the assumed initial public offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus. See the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources" for additional information regarding our revolving credit facility.

We also intend to use the net proceeds we receive from this offering for general corporate purposes, including working capital, operating expenses, and capital expenditures. Additionally, we may use a portion of the net proceeds we receive from this offering to acquire businesses, products, services, or technologies. However, we do not have agreements or commitments for any material acquisitions at this time. We cannot specify with certainty the particular uses of the net proceeds that we will receive from this offering. Accordingly, we will have broad discretion in using these proceeds. Pending the use of proceeds from this offering as described above, we may invest the net proceeds that we receive in this offering in short-term, investment grade, interest-bearing instruments.

## **DIVIDEND POLICY**

We have never declared or paid any cash dividends on our capital stock. We currently intend to retain any future earnings and do not expect to pay any dividends in the foreseeable future. Any future determination to declare cash dividends will be made at the discretion of our Board of Directors, subject to applicable laws, and will depend on a number of factors, including our financial condition, results of operations, capital requirements, contractual restrictions, general business conditions, and other factors that our Board of Directors may deem relevant. In addition, the terms of our revolving credit facility place certain limitations on the amount of cash dividends we can pay, even if no amounts are currently outstanding.

## CAPITALIZATION

The following table sets forth cash and cash equivalents, as well as our capitalization, as of June 30, 2017, as follows:

- on an actual basis;
- on a pro forma basis, giving effect to (i) the Capital Stock Conversions, as if such conversions had occurred on June 30, 2017, (ii) the filing and effectiveness of our amended and restated certificate of incorporation in Delaware that will become effective immediately prior to the completion of this offering, (iii) stock-based compensation expense of \$420.8 million associated with the RSU Settlement, (iv) the net issuance of \_\_\_\_\_ shares of our Class B common stock upon the RSU Settlement, (v) the borrowing of \$ \_\_\_\_\_ under our revolving credit facility to satisfy our tax withholding and remittance obligations related to the RSU Settlement, and (vi) a cash payment of \$ \_\_\_\_\_ to satisfy our tax withholding and remittance obligations related to the RSU Settlement, which amounts in (v) and (vi) are based upon the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus; and
- on a pro forma as adjusted basis, giving effect to (i) the pro forma adjustments set forth above, (ii) the sale and issuance by us of \_\_\_\_\_ shares of our Class A common stock in this offering, based upon the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, (iii) the conversion of \_\_\_\_\_ shares of our Class B common stock held by certain selling stockholders into an equivalent number of shares of our Class A common stock upon the sale by the selling stockholders in this offering, and (iv) the use of proceeds from the offering to repay \$ \_\_\_\_\_ drawn down under our revolving credit facility to satisfy our tax withholding and remittance obligations related to the RSU Settlement.

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The pro forma as adjusted information set forth in the table below 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, and the sections titled “Selected Consolidated Financial and Other Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” that are included elsewhere in this prospectus.

	As of June 30, 2017		
	Actual	Pro forma(1)	Pro forma as adjusted(2)
Cash and cash equivalents	\$ 395.7	\$	\$
Revolving credit facility	—		
Stockholders’ equity:			
Convertible preferred stock, par value \$0.00001 per share: 226,818,439 shares authorized, 221,353,913 issued and outstanding, actual; no shares authorized, issued and outstanding, pro forma, and pro forma as adjusted	615.3		—
Preferred stock, par value \$0.00001 per share: no shares authorized, issued and outstanding, actual; shares authorized, no shares issued and outstanding, pro forma, and pro forma as adjusted	—		—
Class A common stock, par value \$0.00001 per share: 800,000,000 shares authorized, 8,865,749 shares issued and outstanding, actual; shares authorized, shares issued and outstanding, pro forma, and shares authorized, shares issued and outstanding, pro forma as adjusted	—		
Class B common stock, par value \$0.00001 per share: 700,000,000 shares authorized, 278,287,262 shares issued and outstanding, actual; shares authorized, shares issued and outstanding, pro forma, and shares authorized, shares issued and outstanding, pro forma as adjusted	—		
Additional paid-in capital	509.9		
Accumulated deficit	(997.9)		
Accumulated other comprehensive loss	2.6		
Total stockholders’ equity	129.9		
Total capitalization	\$ 129.9	\$	\$

- (1) The pro forma data as of June 30, 2017, gives effect to stock-based compensation expense of \$420.8 million associated with the RSU Settlement. The pro forma adjustment related to stock-based compensation expense of \$420.8 million has been reflected as an increase to additional paid-in capital and accumulated deficit.
- (2) Each \$1.00 increase or decrease in the assumed initial public offering price of \$ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, (i) the amount of our pro forma as adjusted cash and cash equivalents, additional paid-in capital, total stockholders’ equity, and total capitalization by approximately \$ , 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 estimated underwriting discounts and commissions payable by us, (ii) the amount we would be required to draw down under our revolving credit facility to satisfy our tax withholding and remittance obligations related to the RSU Settlement by \$ , and (iii) the amount we would be required to pay to satisfy our tax withholding and remittance obligations related to the RSU Settlement by \$ . An increase or decrease of 1.0 million shares in the number of shares offered by us would increase or decrease, as applicable, the amount of our pro forma as adjusted cash, and cash equivalents, additional paid-in capital, total stockholders’ equity, and total capitalization by approximately \$ , assuming the assumed initial public offering price remains the same, and after deducting estimated underwriting discounts and commissions payable by us.

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If the underwriters' option to purchase additional shares of our Class A common stock from us were exercised in full, pro forma as adjusted cash, and cash equivalents, additional paid-in capital, total stockholders' equity, total capitalization, and Class A shares outstanding as of June 30, 2017, would be \$ , \$ , \$ , \$ , and , respectively.

The number of shares of our Class A common stock and Class B common stock that will be outstanding after this offering is based on 13,168,617 shares of our Class A common stock (including the Capital Stock Conversions) and 532,410,747 shares of our Class B common stock (including the Capital Stock Conversions and the RSU Settlement) outstanding as of June 30, 2017, and excludes the following:

- 7,549,977 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock outstanding as of June 30, 2017, with a weighted-average exercise price of \$7.10 per share;
- 15,057,045 shares of our Class A common stock and 35,925,585 shares of our Class B common stock subject to RSUs outstanding, but for which the service condition was not satisfied as of June 30, 2017;
- 10,520,260 shares of our Class A common stock subject to RSUs granted after June 30, 2017; and
- shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - shares of our Class A common stock to be reserved for future issuance under our 2018 Plan, which will become effective prior to the completion of this offering;
  - shares of our Class A common stock reserved for future issuance under our 2017 Plan, which number of shares will be added to the shares of our Class A common stock to be reserved for future issuance under our 2018 Plan upon its effectiveness; and
  - shares of our Class A common stock to be reserved for future issuance under our ESPP, which will become effective prior to the completion of this offering, but no offering periods under the ESPP will commence unless and until otherwise determined by our Board of Directors.

Our 2018 Plan and ESPP each provides for annual automatic increases in the number of shares of our Class A common stock reserved thereunder, and our 2018 Plan also provides for increases to the number of shares of our Class A common stock that may be granted thereunder based on shares under our 2008 Equity Incentive Plan, or our 2008 Plan, and 2017 Plan that expire, are forfeited, or otherwise repurchased by us, as more fully described in the section titled "Executive Compensation—Employee Benefits and Stock Plans."

## DILUTION

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

Net tangible book value per share is determined by dividing our total tangible assets less our total liabilities by the number of shares of our common stock outstanding. Our historical net tangible book value as of June 30, 2017, was \$12.8 million, or \$0.04 per share. Our pro forma net tangible book value as of June 30, 2017, was \$      million, or \$      per share, based on the total number of shares of our Class A common stock and Class B common stock outstanding as of June 30, 2017, after giving effect to the Capital Stock Conversions and the RSU Settlement.

After giving effect to the sale by us of      shares of our Class A common stock in this offering at the assumed initial public offering price of \$      per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of June 30, 2017, would have been \$      , 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 in pro forma net tangible book value of \$      per share to investors purchasing shares of our Class A common stock in this offering at the assumed initial public offering price. The following table illustrates this dilution:

Assumed initial public offering price per share	\$
Pro forma net tangible book value per share as of June 30, 2017	\$
Increase in pro forma net tangible book value per share attributable to new investors purchasing shares of Class A common stock in this offering	
Pro forma as adjusted net tangible book value per share immediately after this offering	
Dilution in pro forma net tangible book value per share to new investors in this offering	

Each \$1.00 increase or decrease in the assumed initial public offering price of \$      per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, our pro forma as adjusted net tangible book value per share to new investors by \$      , and would increase or decrease, as applicable, dilution per share to new investors purchasing shares of our Class A common stock in this offering by \$      , 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 estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million shares in the number of shares of our Class A common stock offered by us would increase or decrease, as applicable, our pro forma as adjusted net tangible book value by approximately \$      per share and increase or decrease, as applicable, the dilution to new investors purchasing shares of our Class A common stock in this offering by \$      per share, assuming the assumed initial public offering price remains the same, and after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

If the underwriters' option to purchase additional shares of our Class A common stock from us is exercised in full, the pro forma as adjusted net tangible book value per share of our common stock, as adjusted to give effect to this offering, would be \$      per share, and the dilution in pro forma net tangible book value per

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share to new investors purchasing shares of our Class A common stock in this offering would be \$ \_\_\_\_\_ per share.

The following table presents, as of June 30, 2017, after giving effect to the Capital Stock Conversions and the RSU Settlement, the differences between the existing stockholders and the new investors purchasing shares of our Class A common stock in this offering with respect to the number of shares purchased from us, the total consideration paid or to be paid to us, which includes net proceeds received from the issuance of our Class A common stock and the average price per share paid or to be paid to us at the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, before deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us:

	Shares purchased		Total consideration		Average price per share
	Number	Percent	Amount	Percentage	
Existing stockholders		%	\$	%	\$
New investors					\$
Totals		100%	\$	100%	

Each \$1.00 increase or decrease in the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the total consideration paid by new investors and total consideration paid by all stockholders by approximately \$ \_\_\_\_\_, assuming that the number of shares of our Class A common stock offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase or decrease of 1.0 million in the number of shares of our Class A common stock offered by us would increase or decrease the total consideration paid by new investors and total consideration paid by all stockholders by approximately \$ \_\_\_\_\_, assuming the assumed initial public offering price remains the same and after deducting the estimated underwriting discounts and commissions payable by us.

Except as otherwise indicated, the above discussion and tables assume no exercise of the underwriters' option to purchase additional shares of our Class A common stock from us. If the underwriters' option to purchase additional shares of our Class A common stock were exercised in full, our existing stockholders would own \_\_\_\_\_ % and our new investors would own \_\_\_\_\_ % of the total number of shares of our common stock outstanding upon completion of this offering.

Sales by the selling stockholders in this offering will cause the number of shares held by existing stockholders to be reduced to \_\_\_\_\_ shares, or \_\_\_\_\_ % of the total number of shares of our common stock outstanding following the completion of this offering, and will increase the number of shares held by new investors to \_\_\_\_\_ shares, or \_\_\_\_\_ % of the total number of shares outstanding following the completion of this offering.

The number of shares of our Class A common stock and Class B common stock that will be outstanding after this offering is based on 13,168,617 shares of our Class A common stock (including the Capital Stock Conversions) and 532,410,747 shares of our Class B common stock (including the Capital Stock Conversions and the RSU Settlement) outstanding as of June 30, 2017, and excludes the following:

- 7,549,977 shares of our Class B common stock issuable upon the exercise of options to purchase shares of our Class B common stock outstanding as of June 30, 2017, with a weighted-average exercise price of \$7.10 per share;
- 15,057,045 shares of our Class A common stock and 35,925,585 shares of our Class B common stock subject to RSUs outstanding, but for which the service condition was not satisfied, as of June 30, 2017;

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- 10,520,260 shares of our Class A common stock subject to RSUs granted after June 30, 2017; and
- shares of our Class A common stock reserved for future issuance under our equity compensation plans, consisting of:
  - shares of our Class A common stock to be reserved for future issuance under our 2018 Equity Incentive Plan, or our 2018 Plan, which will become effective prior to the completion of this offering;
  - shares of our Class A common stock reserved for future issuance under our 2017 Equity Incentive Plan, or our 2017 Plan, which number of shares will be added to the shares of our Class A common stock to be reserved for future issuance under our 2018 Plan upon its effectiveness; and
  - shares of our Class A common stock to be reserved for future issuance under our ESPP, which will become effective prior to the completion of this offering, but no offering periods under the ESPP will commence unless and until otherwise determined by our Board of Directors.

Our 2018 Plan and ESPP each provides for annual automatic increases in the number of shares of our Class A common stock reserved thereunder, and our 2018 Plan also provides for increases to the number of shares of our Class A common stock that may be granted thereunder based on shares under our 2008 Equity Incentive Plan, or our 2008 Plan, and 2017 Plan that expire, are forfeited, or otherwise repurchased by us, as more fully described in the section titled “Executive Compensation—Employee Benefits and Stock Plans.”

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



**SELECTED CONSOLIDATED FINANCIAL AND OTHER DATA**

The following selected consolidated financial data should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the consolidated financial statements and related notes thereto included elsewhere in this prospectus. The consolidated statements of operations data for each of the years ended December 31, 2015 and 2016, and the consolidated balance sheet data as of December 31, 2015 and 2016, are derived from our audited consolidated financial statements that are included elsewhere in this prospectus. The consolidated statements of operations data for the six months ended June 30, 2016 and 2017, and the consolidated balance sheet data as of June 30, 2017, have been derived from our unaudited consolidated financial statements appearing elsewhere in this prospectus. We have prepared the unaudited 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 financial information set forth in those statements. Our historical results are not necessarily indicative of our future results, and the results of operations for the six months ended June 30, 2017 are not necessarily indicative of the results to be expected for the full year or any other period. The selected consolidated financial data in this section are not intended to replace the consolidated financial statements and related notes thereto included elsewhere in this prospectus and are qualified in their entirety by the consolidated financial statements and related notes thereto included elsewhere in this prospectus.

**Consolidated Statements of Operations Data**

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions except for per share amounts)</i>			
Revenue	\$ 603.8	\$ 844.8	\$ 385.8	\$514.6
Cost of revenue <sup>(1)</sup>	407.4	390.6	202.5	185.7
Gross profit	196.4	454.2	183.3	328.9
Operating expenses: <sup>(1)</sup>				
Research and development	201.6	289.7	140.5	179.1
Sales and marketing	193.1	250.6	131.3	136.4
General and administrative	107.9	107.4	43.7	73.5
Total operating expenses	502.6	647.7	315.5	389.0
Loss from operations	(306.2)	(193.5)	(132.2)	(60.1)
Interest expense, net	(15.2)	(16.4)	(8.3)	(7.2)
Other income (expense), net	(4.2)	4.9	4.1	8.1
Loss before income taxes	(325.6)	(205.0)	(136.4)	(59.2)
Provision for income taxes	(0.3)	(5.2)	(2.1)	(0.7)
Net loss	<u>\$(325.9)</u>	<u>\$(210.2)</u>	<u>\$(138.5)</u>	<u>\$(59.9)</u>
Net loss per share attributable to common stockholders, basic and diluted <sup>(2)</sup>	<u>\$ (1.18)</u>	<u>\$ (0.74)</u>	<u>\$ (0.49)</u>	<u>\$ (0.21)</u>
Weighted-average shares used in computing net loss per share attributable to common stockholders, basic and diluted	<u>276.8</u>	<u>283.7</u>	<u>281.0</u>	<u>291.7</u>
Pro forma net loss per share attributable to common stockholders, basic and diluted <sup>(2)</sup>		<u>\$ (0.39)</u>		<u>\$ (0.11)</u>
Weighted-average shares used in computing pro forma net loss per share attributable to common stockholders, basic and diluted		<u>535.4</u>		<u>549.0</u>

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

	<u>Year ended</u> <u>December 31,</u>		<u>Six months</u> <u>ended June 30,</u>	
	<u>2015</u>	<u>2016</u>	<u>2016</u>	<u>2017</u>
	<i>(In millions)</i>			
Cost of revenue	\$ 2.6	\$ 8.2	\$ 3.5	\$ 6.4
Research and development	36.1	72.7	33.6	43.5
Sales and marketing	19.8	44.6	31.0	15.4
General and administrative	7.6	22.1	8.2	12.2
Total stock-based compensation	<u>\$66.1</u>	<u>\$147.6</u>	<u>\$76.3</u>	<u>\$77.5</u>

- (2) See Note 12, “Net Loss Per Share” 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 common share attributable to common stockholders and Note 13, “Unaudited Pro Forma Net Loss Per Share” for an explanation of the method used to calculate pro forma net loss per common share attributable to common stockholders.

## Consolidated Balance Sheet Data

	<u>As of December 31,</u>		<u>As of June 30,</u>
	<u>2015</u>	<u>2016</u>	<u>2017</u>
	<i>(In millions)</i>		
Cash and cash equivalents	\$ 356.9	\$ 352.7	\$ 395.7
Working capital	(105.7)	(221.9)	(197.3)
Property and equipment, net	437.6	444.0	377.6
Total assets	1,010.5	1,004.2	987.0
Total deferred revenue	267.3	354.9	387.0
Total capital lease obligations	304.2	257.2	208.4
Total stockholders' equity	185.6	122.8	129.9

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

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the section titled "Selected Consolidated Financial and Other Data" and the consolidated financial statements and related notes thereto included elsewhere in this prospectus. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those discussed below. Additionally, our results for the six months ended June 30, 2017 may not be indicative of the results to be expected for the full year or any other period. Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in the section titled "Risk Factors" included elsewhere in this prospectus.*

### **Our Business**

Dropbox is a global collaboration platform that's transforming the way people work together. We serve more than 500 million registered users across 180 countries.

Our modern economy runs on knowledge. Today, knowledge lives in the cloud as digital content, and Dropbox is the place where more and more of this content is created, accessed, and shared with the world.

Dropbox was founded in 2007 with a simple idea: Life would be a lot better if everyone could access their most important information anytime from any device. Over the past decade, we've largely accomplished that mission—but along the way we recognized that for most of our users, sharing and collaborating on Dropbox was even more valuable than storing files.

Our market opportunity has grown as we've expanded from keeping files in sync to keeping teams in sync. Today, Dropbox is uniquely positioned to reimagine the way work gets done. We're focused on reducing the inordinate amount of time and energy the world wastes on "work about work"—tedious tasks like searching for content, switching between applications, and managing workflows.

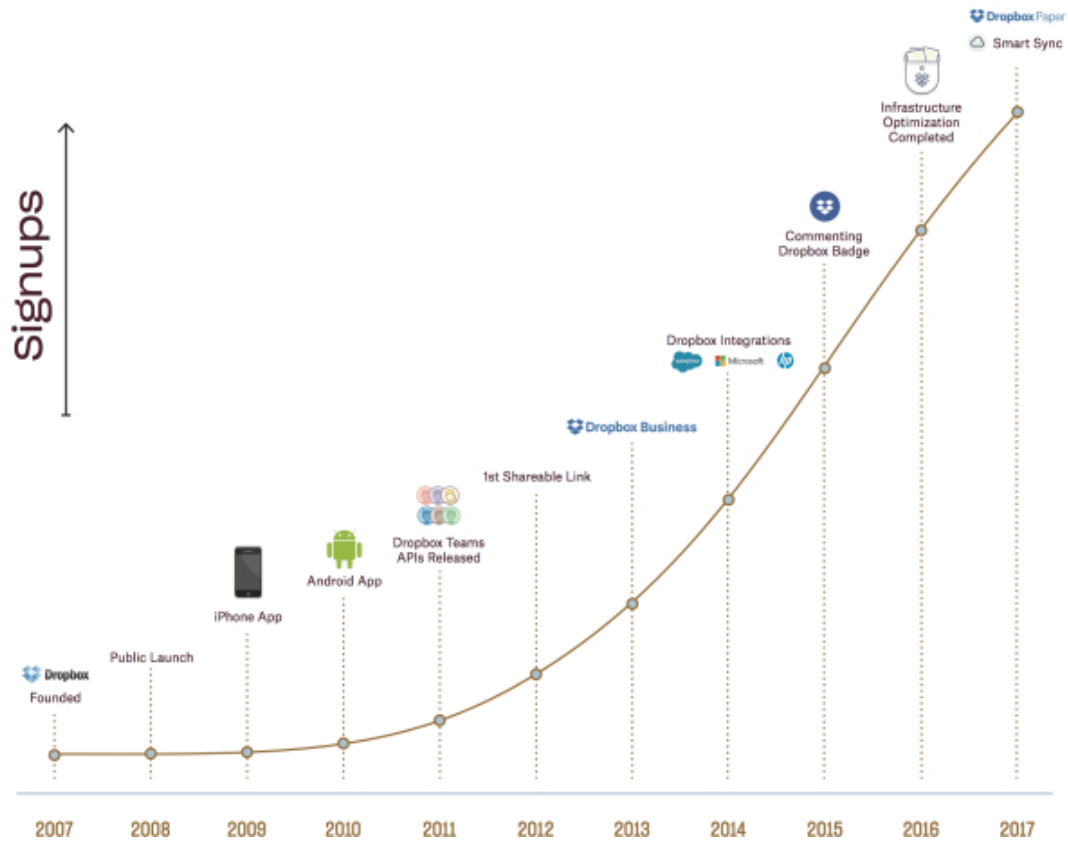
We've built a thriving global business with 10 million paying users. Our revenue was \$603.8 million and \$844.8 million in 2015 and 2016, respectively, representing a growth rate of 40%. We generated net losses of \$325.9 million and \$210.2 million in 2015 and 2016, respectively. We also generated positive free cash flow of \$137.4 million in 2016 compared to negative free cash flow of \$63.9 million in 2015.

## Our History

Since our founding, we've built one of the largest collaboration platforms in the world.

### Where we are now

**500M+** Registered users  
**10M+** Total paying users  
**400M+** Actively connected devices  
**400B+** Pieces of content added to Dropbox  
**4.5B+** Connections to shared content



## Our Subscription Plans

We generate revenue from individuals, teams, and organizations by selling subscriptions to our platform. Customers can choose between an annual or monthly plan, with a small number of large organizations on multi-year plans. A majority of our customers opt for our annual plans. We typically bill our customers at the beginning of their respective terms and recognize revenue ratably over the term of the subscription period. International customers can pay in U.S. dollars or a select number of foreign currencies.

	Individuals		Teams (Branded as Dropbox Business)		
	 Basic	 Plus	 Standard	 Advanced	 Enterprise
First launched	2008	2008	2011	2017	2015
Number of users	1 user	1 user	3+ users	3+ users	Enterprises
Base price (\$ USD)	Free	\$9.99/month \$99/year	\$15.00/month \$150/year	\$25.00/month \$240/year	Negotiated pricing
Advanced sharing permissions	✗	✓	✓	✓	✓
Version history	✗	30 days	120 days	120 days	120 days
Smart Sync & Team folder	✗	✗	✓	✓	✓
Unlimited API access	✗	✗	✓	✓	✓
Paper	✓	✓	✓	✓	✓
Storage	2GB	1TB	2TB	As much as needed	As much as needed
Support	Basic email support	Priority email support	Live chat support	Business hours phone support	24/7 phone support Assigned account success manager
Advanced admin & security features	✗	✗	Admin console Company-managed groups Granular access permissions Account transfer tool HIPAA support	Everything in Standard Device approval Audit log Tiered admin roles Single sign-on integration	Everything in Advanced Enterprise mobility management Network control Domain insights Integration support

## Our Business Model

### Drive new signups

We acquire users efficiently and at relatively low costs through word-of-mouth referrals, direct in-product referrals, and sharing of content.

Anyone can create a Dropbox account for free through our website or app and be up and running in minutes. These users often share and collaborate with other non-registered users, attracting new signups into our network. For example, many people use Dropbox for work and spread our platform by collaborating on projects or sharing content externally. We also acquire a small proportion of our registered users through paid marketing and distribution partnerships in which hardware manufacturers pre-install our software on their devices.

We have over 500 million registered users on our platform, of which nearly 100 million signed up in the past year.

***Increase conversion of registered users to our paid subscription plans***

Dropbox Basic, the free version of our product, serves as a major funnel for conversions to our paid subscription plans. It fosters brand awareness, product familiarity, and organic adoption of Dropbox. When they purchase a subscription, our users gain access to premium features such as richer collaboration tools, administrative controls, and advanced security features, as well as larger storage capacity. We estimate that 300 million of our registered users have characteristics—including certain email domains, devices, and geographies—that make them more likely to pay over time.

We generate over 90% of our revenue from self-serve channels—users who purchase a subscription through our app or website. We actively encourage our registered users to become paying users through in-product prompts and notifications, time-limited free trials of paid subscription plans, email campaigns, and lifecycle marketing.

In the second quarter of 2017, more than 400 million devices—including computers, phones, and tablets—were actively connected to the Dropbox platform. Because our users have installed Dropbox on many devices, we have multiple opportunities to inform them about new product experiences and premium subscription plans via in-product notifications, without any external marketing spend.

Our scale enables us to experiment and optimize the conversion marketing process. We run hundreds of product tests and targeted marketing campaigns simultaneously, and analyze usage patterns within our network to continually improve our user targeting and marketing messaging.

***Upgrade and expand existing customers***

We offer a range of paid subscription plans, from Plus for individuals to Standard, Advanced, and Enterprise for teams. We analyze usage patterns within our network and run hundreds of targeted marketing campaigns to encourage paying users to upgrade their plans. For example, we prompt individual subscribers who collaborate with others on Dropbox to purchase our Standard or Advanced plans for a better team experience. They can do this by either joining an existing Dropbox Business team or by creating a new Dropbox Business team and inviting others to join. In the first half of 2017, over 40% of new Dropbox Business teams included a member who was previously a Plus subscriber.

With a large majority of individual customers using Dropbox for work, we have an opportunity to significantly increase conversion to Dropbox Business team offerings over time. We also encourage existing Dropbox Business teams to purchase additional licenses or to upgrade to premium subscription plans.

Within an organization, Dropbox usage may be spread between a mix of Basic users, Plus subscribers, and one or more Dropbox Business teams. Our outbound sales team focuses on converting and consolidating these separate pockets of usage into a centralized deployment. Nearly all of our largest outbound deals originated as smaller self-serve deployments.

**Our Attractive Cohort Economics**

We continuously focus on adding new users and increasing the value we offer to them. As a result, each monthly cohort of new signups typically generates more revenue over time. For example, monthly recurring revenue, or MRR, generated by the January 2015 cohort doubled in less than three years after signup. We believe this cohort is representative of a typical cohort. We define a cohort as all registered users who signed up for Dropbox in a given month.

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As we continue to innovate and optimize our go-to-market strategy, we have successfully increased monetization for subsequent cohorts. Comparing January cohorts from the last three years, at virtually every point in time after signup, the January 2017 cohort generated more MRR than the January 2016 cohort, which in turn generated more MRR than the January 2015 cohort.

### MRR by Cohort

Indexed to month one of the January 2015 cohort



Our MRR data tracks the total monthly subscription amount of all paying users as of the end of the month. MRR increases over time as more registered users in each cohort convert to paying users, paying users upgrade to premium subscription offerings, and team creators purchase additional licenses.

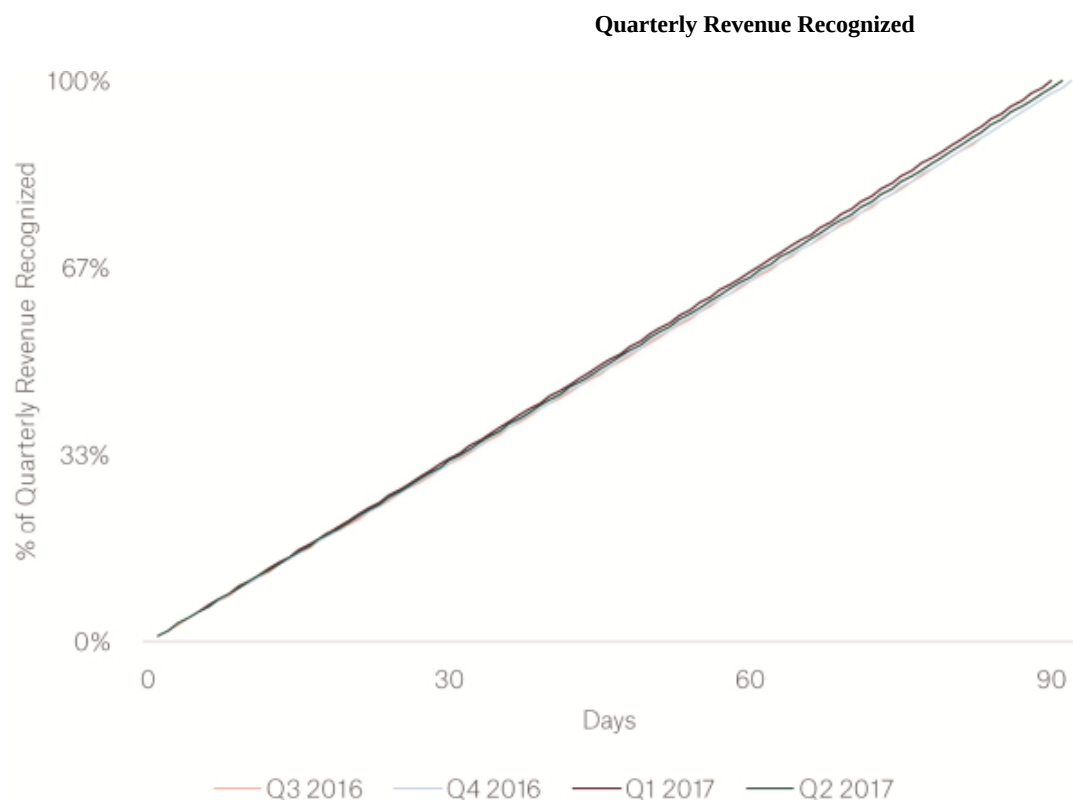
### Our Global, Diversified Customer Base

The growing need for a unified home for content and the viral nature of our business have allowed us to scale globally. We have paying users across 180 countries, and we generated approximately half of our revenue in the first half of 2017 from customers outside the United States.

Our customer base is highly diversified, and in the periods presented, no customer accounted for more than 1% of our revenue. Our customers include individuals, teams, and organizations of all sizes, from freelancers and small businesses to Fortune 100 companies. They work across a wide range of industries, including professional services, technology, media, education, industrials, consumer and retail, and financial services. Within companies, our platform is used by all types of teams and functions, including sales, marketing, product, design, engineering, finance, legal, and human resources.

### Our Predictable Subscription Revenue

Taken together, our subscription revenue model, consistent cohort trends, self-serve monetization engine, and large and diversified global customer base resulted in linear and predictable revenue generation over the duration of the quarters presented in the chart below.



As of June 30, 2017, more than 80% of our annualized recurring revenue came from existing individual users and Dropbox Business teams who were on our platform as of June 30, 2016.

### Key Business Metrics

We review a number of operating and financial metrics, including the following key metrics to evaluate our business, measure our performance, identify trends affecting our business, formulate business plans, and make strategic decisions.

#### *Paying users*

We define paying users as the number of users who have active paid licenses for access to our platform as of the end of the period. One person would count as multiple paying users if the person had more than one active license. For example, a 50-person Dropbox Business team would count as 50 paying users, and an individual Dropbox Plus user would count as one paying user. If that individual Dropbox Plus user was also part of the 50-person Dropbox Business team, we would count the individual as two paying users.

We have experienced growth in the number of paying users across our products, with the vast majority of paying users for the periods presented coming from our self-serve channels.



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The below table sets forth the number of paying users as of December 31, 2015, December 31, 2016, and June 30, 2017:

	<u>As of December 31,</u>		<u>As of June 30,</u>
	<u>2015</u>	<u>2016</u>	<u>2017</u>
Paying users	6.5	8.8	9.9

(In millions)

### ***Average revenue per paying user***

We define average revenue per paying user, or ARPU, as our revenue for the period presented divided by the average paying users during the same period. For interim periods, we use annualized revenue, which is calculated by dividing the revenue for the particular period by the number of days in that period and multiplying this value by 365 days, or 366 days during a leap year. Average paying users are calculated based on adding the number of paying users as of the beginning of the period to the number of paying users as of the end of the period, and then dividing by two.

Our ARPU declined for the year ended December 31, 2016, compared to the year ended December 31, 2015, primarily due to foreign currency fluctuations related to our sales that are denominated in foreign currencies. Our ARPU increased for the six months ended June 30, 2017, compared to the six months ended June 30, 2016, primarily due to the introduction of our higher priced Advanced plan.

The below table sets forth our ARPU for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2016 and 2017.

	<u>Year ended</u> <u>December 31,</u>		<u>Six months ended</u> <u>June 30,</u>	
	<u>2015</u>	<u>2016</u>	<u>2016</u>	<u>2017</u>
ARPU	\$113.5	\$110.5	\$109.8	\$111.0

### **Non-GAAP Financial Measure**

In addition to our results determined in accordance with U.S. generally accepted accounting principles, or GAAP, we believe that free cash flow, or FCF, a non-GAAP financial measure, is useful in evaluating our operating performance.

### ***Free cash flow***

We define FCF as GAAP net cash provided by operating activities less capital expenditures. We believe that FCF is an indicator of our business performance over the long term and provides useful information regarding cash provided by operating activities and cash used for investments in property and equipment required to maintain and grow our business. FCF is presented for supplemental informational purposes only and should not be considered a substitute for financial information presented in accordance with GAAP. FCF has limitations as an analytical tool, and it should not be considered in isolation or as a substitute for analysis of other GAAP financial measures, such as net cash provided by operating activities. Some of the limitations of FCF are that FCF does not reflect our future contractual commitments, excludes investments made to acquire assets under capital leases, and may be presented differently by other companies in our industry, limiting its usefulness as a comparative measure.

We have experienced an increase in our FCF as a result of an increase in net cash provided by operating activities, primarily due to our Infrastructure Optimization discussed below in “—Recent Initiative,” increased sales in the periods presented, and a decrease in capital expenditures relating to infrastructure equipment and leasehold improvements for our office spaces. We expect our FCF to fluctuate in future periods as we purchase

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infrastructure equipment to support our user base and as we invest in existing and new office spaces to support our plans for growth. These activities, along with certain increased operating expenses, may result in a decrease in FCF as a percentage of revenue in future periods.

The following is a reconciliation of FCF to the most comparable GAAP measure, net cash provided by operating activities:

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions)</i>			
Net cash provided by operating activities	\$ 14.8	\$ 252.6	\$ 119.9	\$ 147.7
Capital expenditures	(78.7)	(115.2)	(89.6)	(8.8)
Free cash flow	<u>\$(63.9)</u>	<u>\$ 137.4</u>	<u>\$ 30.3</u>	<u>\$ 138.9</u>

## Recent Initiative

### *Infrastructure Optimization*

In recent years, we have taken several steps to improve the efficiency of the infrastructure that supports our platform. These efforts include an initiative that focused on migrating the vast majority of user data stored on the infrastructure of third-party service providers to our own lower cost, custom-built infrastructure in co-location facilities that we directly lease and operate. In order to host user data on our own infrastructure, we leased or purchased infrastructure that is depreciated within our cost of revenue. During the migration to our internal infrastructure, we duplicated our users' data between our internal infrastructure and that of our third-party service providers, resulting in higher storage costs. We reduced this practice over time until we completed the migration in the fourth quarter of 2016. Related to this initiative, we no longer duplicate data between our internal infrastructure and that of any third-party service providers. We expect to continue to realize benefits from expanding our internal infrastructure due to our operating scale and lower unit costs.

Throughout 2016, we also took measures to manage the storage footprint of certain long-inactive Basic users, freeing up additional storage capacity. This effort, along with additional usage optimizations, enabled us to continue operating our business within our existing infrastructure base without a need for extensive incremental capital expenditures and leasing activity.

These efforts are collectively referred to as our Infrastructure Optimization.

Our Infrastructure Optimization reduced unit costs and helped limit capital expenditures and associated depreciation. Combined with the concurrent increase in our base of paying users, we experienced a reduction in our cost of revenue, an increase in our gross margins, and an improvement in our free cash flow in the periods presented.

## Components of Our Results of Operations

### *Revenue*

We generate revenue from sales of subscriptions to our platform.

Revenue is recognized ratably over the related contractual term generally beginning on the date that our platform is made available to a customer. Our subscription agreements typically have monthly or annual contractual terms, although a small percentage have multi-year contractual terms. Our agreements are generally non-cancelable. We typically bill in advance for monthly contracts and annually in advance for contracts with terms of one year or longer. Amounts that have been billed are initially recorded as deferred revenue until the revenue is recognized.

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Our revenue is driven primarily by the number of paying users and the price we charge for access to our platform, which varies based on the type of plan to which a customer subscribes. We generate over 90% of our revenue from self-serve channels. No customer represented more than 1% of our revenue in the periods presented.

### ***Cost of revenue and gross margin***

***Cost of revenue.*** Our cost of revenue consists primarily of expenses associated with the storage, delivery, and distribution of our platform for both paying users and Basic users. These costs, which we refer to as infrastructure costs, include depreciation of our servers located in co-location facilities that we lease and operate, rent, and facilities expense for those datacenters, network and bandwidth costs, support and maintenance costs for our infrastructure equipment, and payments to third-party datacenter service providers. Cost of revenue also includes costs, such as salaries, bonuses, benefits, travel-related expenses, and stock-based compensation, which we refer to as employee-related costs, for employees whose primary responsibilities relate to supporting our infrastructure and delivering user support. Other non-employee costs included in cost of revenue include credit card fees related to processing customer transactions, allocated overhead, such as facilities, including rent, utilities, and depreciation on equipment shared by all departments and shared information technology costs, amortization of developed technologies, professional fees related to user support initiatives, and property taxes related to the datacenters.

We plan to continue increasing the capacity and enhancing the capability and reliability of our infrastructure to support user growth and increased use of our platform. We expect that cost of revenue will increase in absolute dollars in future periods.

***Gross margin.*** Gross margin is gross profit expressed as a percentage of revenue. Our gross margin may fluctuate from period to period based on the timing of additional capital expenditures and the related depreciation expense or other increases in our infrastructure costs, as well as revenue fluctuations. As we continue to increase the utilization of our internal infrastructure, we generally expect our gross margin to increase in future periods, although we expect it to increase at a slower rate than it increased in prior periods.

### ***Operating expenses***

***Research and development.*** Our research and development expenses consist primarily of employee-related costs for our engineering, product, and design teams, and allocated overhead. Additionally, research and development expenses include internal development-related third-party hosting fees. We have expensed almost all of our research and development costs as they were incurred.

We plan to continue to hire employees for our engineering, product, and design teams to support our research and development efforts. We expect that research and development costs will increase in absolute dollars in future periods and vary from period to period as a percentage of revenue.

***Sales and marketing.*** Our sales and marketing expenses relate to both self-serve and outbound sales activities, and consist primarily of employee-related costs, lead generation fees, brand campaign fees, and allocated overhead. Sales commissions earned by our outbound sales team and the related payroll taxes, as well as commissions earned by third-party resellers that we consider to be incremental and recoverable costs of obtaining a contract with a user, are deferred and amortized over an estimated period of benefit of five years. Additionally, sales and marketing expenses include non-employee costs related to app store fees and fees payable to third-party sales representatives.

We plan to continue to invest in sales and marketing to grow our user base and increase our brand awareness, including marketing efforts to continue to drive our self-serve business model. The trend and timing of sales and marketing expenses will depend in part on the timing of marketing campaigns. We expect that sales and marketing expenses will increase in absolute dollars in future periods and vary from period to period as a percentage of revenue.

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*General and administrative.* Our general and administrative expenses consist primarily of employee-related costs for our legal, finance, human resources, and other administrative teams, as well as certain executives. In addition, general and administrative expenses include allocated overhead, outside legal, accounting and other professional fees, and non-income based taxes.

We expect to incur additional general and administrative expenses to support the growth of the company as well as our transition to being a publicly traded company. We expect that general and administrative expenses will increase in absolute dollars in future periods and vary from period to period as a percentage of revenue.

### ***Interest expense, net***

Interest expense, net consists primarily of interest expense related to our capital lease obligations for infrastructure and our imputed financing obligation for our obligation to the legal owner of our previous corporate headquarters, partially offset by interest income earned on our money market funds classified as cash and cash equivalents.

### ***Other income (expense), net***

Other income (expense), net consists of other non-operating gains or losses, including those related to ongoing subleases and foreign currency transaction gains and losses.

### ***Provision for income taxes***

Provision for income taxes consists primarily of U.S. federal and state income taxes and income taxes in certain foreign jurisdictions in which we conduct business. For the periods presented, the difference between the U.S. statutory rate and our effective tax rate is primarily due to the valuation allowance on deferred tax assets. Our effective tax rate is also impacted by earnings realized in foreign jurisdictions with statutory tax rates lower than the federal statutory tax rate. We maintain a full valuation allowance on our net deferred tax assets for federal, state, and certain foreign jurisdictions as we have concluded that it is not more likely than not that the deferred assets will be realized.

As of December 31, 2016, we had \$254.8 million of federal and \$94.9 million of state net operating loss carryforwards available to reduce future taxable income, which will begin to expire in 2031 for federal and 2030 for state tax purposes. As of December 31, 2016, we also had \$247.9 million of foreign net operating loss carryforwards available to reduce future taxable income, which will carryforward indefinitely. In addition, we had \$22.9 million of foreign acquired net operating losses, which will carryforward indefinitely. It is possible that we will not generate taxable income in time to use these net operating loss carryforwards before their expiration. In addition, under Section 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change net operating loss carryforwards and other pre-change attributes, such as research tax credits, to offset its post-change income may be limited. In general, an "ownership change" will occur if there is a cumulative change in our ownership by "5-percent shareholders" that exceeds 50 percentage points over a rolling three-year period. Similar rules may apply under state tax laws. We performed a study for the period through June 30, 2017, and determined that no ownership changes exceeding 50 percentage points have occurred. Our ability to use net operating loss and tax credit carryforwards to reduce future taxable income and liabilities may be subject to annual limitations as a result of ownership changes from July 1, 2017, and subsequent years, or as a result of this offering.

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**Results of Operations**

The following tables set forth our results of operations for the periods presented and as a percentage of our total revenue for those periods:

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions)</i>			
Revenue	\$ 603.8	\$ 844.8	\$ 385.8	\$514.6
Cost of revenue <sup>(1)</sup>	407.4	390.6	202.5	185.7
Gross profit	196.4	454.2	183.3	328.9
Operating expenses: <sup>(1)</sup>				
Research and development	201.6	289.7	140.5	179.1
Sales and marketing	193.1	250.6	131.3	136.4
General and administrative	107.9	107.4	43.7	73.5
Total operating expenses	502.6	647.7	315.5	389.0
Loss from operations	(306.2)	(193.5)	(132.2)	(60.1)
Interest expense, net	(15.2)	(16.4)	(8.3)	(7.2)
Other income (expense), net	(4.2)	4.9	4.1	8.1
Loss before income taxes	(325.6)	(205.0)	(136.4)	(59.2)
Provision for income taxes	(0.3)	(5.2)	(2.1)	(0.7)
Net loss	<u>\$ (325.9)</u>	<u>\$ (210.2)</u>	<u>\$ (138.5)</u>	<u>\$ (59.9)</u>

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

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions)</i>			
Cost of revenue	\$ 2.6	\$ 8.2	\$ 3.5	\$ 6.4
Research and development	36.1	72.7	33.6	43.5
Sales and marketing	19.8	44.6	31.0	15.4
General and administrative	7.6	22.1	8.2	12.2
Total stock-based compensation expense	<u>\$ 66.1</u>	<u>\$ 147.6</u>	<u>\$ 76.3</u>	<u>\$ 77.5</u>

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	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(As a % of revenue)</i>			
Revenue	100%	100%	100%	100%
Cost of revenue	67	46	52	36
Gross margin	33	54	48	64
Operating expenses:				
Research and development	33	34	36	35
Sales and marketing	32	30	34	27
General and administrative	18	13	11	14
Total operating expenses	83	77	82	76
Loss from operations	(51)	(23)	(34)	(12)
Interest expense, net	(3)	(2)	(2)	(1)
Other income (expense), net	(1)	1	1	2
Loss before income taxes	(54)	(24)	(35)	(12)
Provision for income taxes	—	(1)	(1)	—
Net loss	<u>(54)%</u>	<u>(25)%</u>	<u>(36)%</u>	<u>(12)%</u>

**Comparison of the six months ended June 30, 2016 and 2017**

*Revenue*

	Six months ended June 30,		\$ Change	% Change
	2016	2017		
	<i>(In millions)</i>			
Revenue	\$385.8	\$514.6	\$ 128.8	33%

Revenue increased \$128.8 million or 33% for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016. This increase was primarily due to a 29% increase in the number of paying users between periods. The average revenue per paying user also increased slightly between periods.

*Cost of revenue, gross profit, and gross margin*

	Six months ended June 30,		\$ Change	% Change
	2016	2017		
	<i>(In millions)</i>			
Cost of revenue	\$202.5	\$185.7	\$ (16.8)	(8)%
Gross profit	183.3	328.9	145.6	79%
Gross margin	48%	64%		

Cost of revenue decreased \$16.8 million or 8% for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to a \$23.8 million decrease in our infrastructure costs due to our Infrastructure Optimization. Further, the decrease in cost of revenue was due to a \$4.4 million decrease in amortization of developed technologies, as certain intangible assets became fully amortized during 2016. The decrease in cost of revenue was partially offset by an increase of \$7.7 million in employee-related expenses, which was due to headcount growth, as well as an increase of \$2.6 million in credit card transaction fees due to higher sales.

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Our gross margin increased from 48% for the six months ended June 30, 2016, to 64% for the six months ended June 30, 2017, primarily due to our Infrastructure Optimization and a 33% increase in our revenue during the period.

### *Research and development*

	Six months ended June 30,		<u>\$ Change</u>	<u>% Change</u>
	<u>2016</u>	<u>2017</u>		
	<i>(In millions)</i>			
Research and development	\$140.5	\$179.1	\$ 38.6	27%

Research and development expenses increased \$38.6 million or 27% for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to an increase of \$28.1 million in employee-related expenses, which was due to headcount growth. Further, the increase in research and development expense was due to an increase of \$5.2 million in overhead-related costs and an increase of \$2.6 million in internal development-related third-party hosting fees.

### *Sales and marketing*

	Six months ended June 30,		<u>\$ Change</u>	<u>% Change</u>
	<u>2016</u>	<u>2017</u>		
	<i>(In millions)</i>			
Sales and marketing	\$131.3	\$136.4	\$ 5.1	4%

Sales and marketing expenses increased \$5.1 million or 4% for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to an increase of \$8.2 million in employee-related expenses excluding stock-based compensation, which was due to headcount growth. Stock-based compensation decreased \$15.6 million due to the modification of an executive stock grant during the six months ended June 30, 2016, that resulted in a charge of \$18.8 million in that prior period. Further, the increase in sales and marketing expense was due to an increase of \$6.0 million for third-party sales representatives and brand campaign fees, an increase of \$3.8 million in overhead-related costs, as well as an increase of \$2.6 million related to app store fees.

### *General and administrative*

	Six months ended June 30,		<u>\$ Change</u>	<u>% Change</u>
	<u>2016</u>	<u>2017</u>		
	<i>(In millions)</i>			
General and administrative	\$ 43.7	\$ 73.5	\$ 29.8	68%

General and administrative expenses increased \$29.8 million or 68% for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to a \$12.4 million benefit relating to a non-income based tax ruling during the six months ended June 30, 2016, and an equity-based charitable contribution of \$9.4 million related to the initial funding of the Dropbox Charitable Foundation during the six months ended June 30, 2017. Further, the increase in general and administrative expenses was due to an increase of \$7.8 million in employee-related expenses, which was primarily due to headcount growth.

### *Interest expense, net*

Interest expense, net decreased \$1.1 million for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to a decrease in interest expense of \$0.7 million due to fewer assets acquired under capital leases.

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### *Other income (expense), net*

Other income (expense), net increased \$4.0 million for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to an increase of \$2.4 million in foreign currency gains and an increase of \$1.7 million in sublease income.

### *Provision for income taxes*

Provision for income taxes decreased by \$1.4 million for the six months ended June 30, 2017, as compared to the six months ended June 30, 2016, primarily due to a decrease in federal taxes since we were subject to the U.S. alternative minimum tax during 2016 and we do not expect to be subject to the U.S. alternative minimum tax during 2017.

### **Comparison of the year ended December 31, 2015 and 2016**

#### *Revenue*

	Year ended December 31,		<u>\$ Change</u>	<u>% Change</u>
	2015	2016		
Revenue	\$603.8	\$844.8	\$ 241.0	40%

Revenue increased \$241.0 million or 40% during 2016 as compared to 2015. This increase was primarily due to a 35% increase in the number of paying users between periods. The average revenue per paying user also decreased slightly between periods.

#### *Cost of revenue, gross profit, and gross margin*

	Year ended December 31,		<u>\$ Change</u>	<u>% Change</u>
	2015	2016		
Cost of revenue	\$407.4	\$390.6	\$ (16.8)	(4)%
Gross profit	196.4	454.2	257.8	131%
Gross margin	33%	54%		

Cost of revenue decreased \$16.8 million or 4% during 2016, as compared to 2015, primarily due to a net decrease of \$39.5 million in our infrastructure costs due to our Infrastructure Optimization. The net decrease of \$39.5 million included a \$92.5 million decrease in expense related to our third-party datacenter service provider, offset by a \$53.0 million increase in depreciation, facilities, and support expense related to our infrastructure equipment in co-location facilities that we directly lease and operate. Further, the decrease in cost of revenue was due to a \$6.3 million decrease in amortization of developed technologies, as certain intangible assets became fully amortized during 2016. These decreases in cost of revenue were also partially offset by an increase of \$13.8 million in employee-related expenses due to headcount growth, an increase of \$5.5 million in credit card transaction fees due to higher sales, an increase of \$9.9 million related to property taxes for our co-location facilities, professional fees for user support, and overhead-related costs primarily due to the completion of construction on our new corporate headquarters.

Our gross margin increased from 33% during 2015 to 54% during 2016 primarily due to our Infrastructure Optimization and a 40% increase in our revenue during the period.



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### *Research and development*

	<b>Year ended December 31,</b>		<b>\$ Change</b>	<b>% Change</b>
	<b>2015</b>	<b>2016</b>		
	<i>(In millions)</i>			
Research and development	\$201.6	\$289.7	\$ 88.1	44%

Research and development expenses increased \$88.1 million or 44% during 2016, as compared to 2015, primarily due to an increase of \$66.9 million in employee-related expenses due to headcount growth. Further, the increase in research and development expense was due to an increase of \$17.7 million in overhead-related costs primarily due to the completion of construction on our new corporate headquarters, and an increase of \$5.3 million in internal development-related third-party hosting fees.

### *Sales and marketing*

	<b>Year ended December 31,</b>		<b>\$ Change</b>	<b>% Change</b>
	<b>2015</b>	<b>2016</b>		
	<i>(In millions)</i>			
Sales and marketing	\$193.1	\$250.6	\$ 57.5	30%

Sales and marketing expenses increased \$57.5 million or 30% during 2016, as compared to 2015, primarily due to an increase of \$53.4 million in employee-related expenses. This increase in employee-related expenses was primarily due to an increase in stock-based compensation of \$24.8 million, which included a charge of \$18.8 million due to the modification of an executive stock grant, headcount growth, and an increase in commission and bonus expense. In addition, the increase in sales and marketing expense was due to an increase of \$10.1 million in overhead-related costs primarily due to the completion of construction on our new corporate headquarters. The increase in sales and marketing expense was partially offset by a decrease of \$11.8 million in marketing expenses primarily due to a reduction in brand campaign fees.

### *General and administrative*

	<b>Year ended December 31,</b>		<b>\$ Change</b>	<b>% Change</b>
	<b>2015</b>	<b>2016</b>		
	<i>(In millions)</i>			
General and administrative	\$107.9	\$107.4	\$ (0.5)	— %

General and administrative expenses decreased \$0.5 million during 2016, as compared to 2015, primarily due to a decrease of \$12.4 million resulting from a non-income based tax ruling and a decrease of \$7.3 million in other non-income based taxes in 2016. These decreases were offset by an increase of \$7.3 million in employee-related expenses, which was due to headcount growth. Further, the decrease in general and administrative expense was offset by an increase of \$8.0 million in overhead-related costs primarily due to the completion of construction on our new corporate headquarters, and an increase of \$3.4 million in professional fees for increased legal and accounting services.

### *Interest expense, net*

Interest expense, net increased \$1.2 million during 2016, as compared to 2015, primarily due to an increase of \$1.9 million in interest expense primarily due to assets acquired under capital leases, offset by \$0.7 million of interest income from our money market funds.

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### *Other income (expense), net*

Other income (expense), net increased \$9.1 million during 2016, as compared to 2015, primarily due to the commencement of sublease income of \$7.0 million and a net gain of \$1.6 million related to fixed asset disposals.

### *Provision for income taxes*

Provision for income taxes increased by \$4.9 million during 2016, as compared to 2015, primarily due to an increase in taxes as a result of being subject to the U.S. alternative minimum tax and foreign taxes related to our foreign operations.

## Quarterly Results of Operations

The following table sets forth our unaudited quarterly statements of operations data for each of the last six quarters ended June 30, 2017. The information for each of these quarters has been prepared on the same basis as the audited annual financial statements included elsewhere in this prospectus and, in the opinion of management, includes all adjustments, which includes only normal recurring adjustments, necessary for the fair statement of the results of operations for these periods. This data should be read in conjunction with our audited consolidated financial statements and related notes thereto included elsewhere in this prospectus. These quarterly results of operations are not necessarily indicative of our future results of operations that may be expected for any future period.

	Three months ended					
	March 31, 2016	June 30, 2016	September 30, 2016	December 31, 2016	March 31, 2017	June 30, 2017
	<i>(In millions)</i>					
Revenue	\$ 185.0	\$ 200.8	\$ 221.0	\$ 238.0	\$ 247.9	\$ 266.7
Cost of revenue <sup>(1)</sup>	99.8	102.7	98.8	89.3	93.5	92.2
Gross profit	85.2	98.1	122.2	148.7	154.4	174.5
Operating expenses: <sup>(1)</sup>						
Research and development	67.9	72.6	75.1	74.1	89.3	89.8
Sales and marketing	73.8	57.5	55.4	63.9	67.2	69.2
General and administrative	25.3	18.4	32.8	30.9	31.3	42.2
Total operating expenses	167.0	148.5	163.3	168.9	187.8	201.2
Loss from operations	\$ (81.8)	\$ (50.4)	\$ (41.1)	\$ (20.2)	\$ (33.4)	\$ (26.7)

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

	Three months ended					
	March 31, 2016	June 30, 2016	September 30, 2016	December 31, 2016	March 31, 2017	June 30, 2017
	<i>(In millions)</i>					
Cost of revenue	\$ 1.5	\$ 2.1	\$ 2.3	\$ 2.3	\$ 3.1	\$ 3.3
Research and development	14.5	19.0	19.3	19.9	21.8	21.7
Sales and marketing <sup>(a)</sup>	24.4	6.6	6.7	6.9	7.7	7.7
General and administrative	3.5	4.7	9.0	4.9	6.2	6.0
Total stock-based compensation	\$ 43.9	\$ 32.4	\$ 37.3	\$ 34.0	\$ 38.8	\$ 38.7

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- (a) Stock-based compensation included in sales and marketing expenses for the three months ended March 31, 2016 includes \$18.8 million related to a stock option modification for an executive officer.

	Three months ended					
	March 31, 2016	June 30, 2016	September 30, 2016	December 31, 2016	March 31, 2017	June 30, 2017
	<i>(As a % of revenue)</i>					
Revenue	100%	100%	100%	100%	100%	100%
Cost of revenue	54	51	45	38	38	35
Gross margin	46	49	55	62	62	65
Operating expenses:						
Research and development	37	36	34	31	36	34
Sales and marketing	40	29	25	27	27	26
General and administrative	14	9	15	13	13	16
Total operating expenses	90	74	74	71	76	75
Loss from operations	<u>(44)%</u>	<u>(25)%</u>	<u>(19)%</u>	<u>(8)%</u>	<u>(13)%</u>	<u>(10)%</u>

### Quarterly revenue trends

Our revenue increased sequentially in each of the quarters presented primarily due to increases in the number of paying users. Seasonality in our revenue is not material.

### Quarterly cost of revenue and gross margin trends

Our cost of revenue fluctuated in each of the quarters presented primarily due to the timing of our Infrastructure Optimization, which combined with increases in our revenue caused our gross margins to increase or remain constant.

### Quarterly operating expense trends

Except for the three months ended June 30, 2016, our total quarterly operating expenses increased sequentially in the quarters presented primarily due to headcount growth in connection with the expansion of our business and other events that are discussed herein. Our research and development expenses increased at a faster rate during the three months ended March 31, 2017, comparatively to other quarters, primarily due to headcount growth and employee-related costs. Our sales and marketing expenses generally increased in the quarters presented primarily due to employee-related expenses and brand advertising expenses. The sequential decline during the three months ended June 30, 2016, was due to a stock-based compensation charge of \$18.8 million related to the modification of an executive stock grant recorded in the three months ended March 31, 2016. The sequential decline during the three months ended September 30, 2016, was due to a decrease in brand advertising expenses during the period. Our general and administrative expenses fluctuated in the quarters presented, but increased over time, primarily due to increases in employee-related expenses and legal, accounting, and other professional fees. Our general and administrative expenses for certain quarters included certain charges and benefits as follows: our general and administrative expenses for the three months ended June 30, 2016, included a benefit of \$12.4 million resulting from a non-income based tax ruling, and our general and administrative expenses for the three months ended June 30, 2017, included expense of \$9.4 million for a non-cash charitable donation of shares of our common stock as initial funding for the Dropbox Charitable Foundation.

### Liquidity and Capital Resources

As of June 30, 2017, we had cash and cash equivalents of \$395.7 million. Our cash and cash equivalents consist primarily of cash and money market funds.

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Since our inception, we have financed our operations primarily through equity issuances, cash generated from our operations, and capital leases to finance infrastructure-related assets in co-location facilities that we directly lease and operate. We enter into capital leases in part to better match the timing of payments for infrastructure-related assets with that of cash received from our paying users. In our business model, some of our registered users convert to paying users over time, and consequently there is a lag between initial investment in infrastructure assets and cash received from some of our users.

Our principal uses of cash in recent periods have been funding our operations, making principal payments on our capital lease obligations, making capital expenditures, and the satisfaction of tax withholdings in connection with the settlement of restricted stock units.

In April 2017, we entered into a \$600.0 million credit facility with a syndicate of financial institutions. The revolving credit facility has an accordion option, which, if exercised, would allow us to increase the aggregate commitments by up to \$150.0 million, subject to obtaining additional lender commitments and satisfying certain conditions. Pursuant to the terms of the revolving credit facility, we may issue letters of credit under the revolving credit facility, which reduce the total amount available for borrowing under such facility. The revolving credit facility terminates on April 4, 2022.

Interest on borrowings under the revolving credit facility accrues at a variable rate tied to the prime rate or the LIBOR rate, at our election. Interest is payable quarterly in arrears. Pursuant to the terms of the revolving credit facility, we are required to pay an annual commitment fee that accrues at a rate of 0.20% per annum on the unused portion of the borrowing commitments under the revolving credit facility. In addition, we are required to pay a fee in connection with letters of credit issued under the revolving credit facility that accrues at a rate of 1.5% per annum on the amount to be drawn under such letters of credit outstanding. There is an additional fronting fee of 0.125% per annum multiplied by the average aggregate daily maximum amount available to be drawn under all letters of credit.

The revolving credit facility contains customary conditions to borrowing, events of default, and covenants, including covenants that restrict our ability to incur indebtedness, grant liens, make distributions to our holders or our subsidiaries' equity interests, make investments, or engage in transactions with our affiliates. In addition, the revolving credit facility contains financial covenants, including a consolidated leverage ratio covenant and a minimum liquidity balance. We were in compliance with all covenants under the revolving credit facility as of June 30, 2017.

As of June 30, 2017, we had no amounts outstanding under the revolving credit facility and an aggregate of \$45.1 million in letters of credit outstanding under the revolving credit facility. Our total available borrowing capacity under the revolving credit facility was \$554.9 million as of June 30, 2017.

We believe our existing cash and cash equivalents, together with cash provided by operations and amounts available under the revolving credit facility, will be sufficient to meet our needs for the foreseeable future. Our future capital requirements will depend on many factors including our revenue growth rate, subscription renewal activity, billing frequency, the timing and extent of spending to support further infrastructure development and research and development efforts, the satisfaction of tax withholding obligations for the release of restricted stock units, the expansion of sales and marketing and international operation activities, the introduction of new product capabilities and enhancement of our platform, and the continuing market acceptance of our platform. We may in the future enter into arrangements to acquire or invest in complementary businesses, services, and technologies, including intellectual property rights. We may be required to seek additional equity or debt financing. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us or at all. If we are unable to raise additional capital when desired, our business, results of operations, and financial condition would be materially and adversely affected.

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Our cash flow activities were as follows for the periods presented:

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(In millions)</i>			
Net cash provided by operating activities	\$ 14.8	\$ 252.6	\$ 119.9	\$ 147.7
Net cash used in investing activities	(85.6)	(118.0)	(94.8)	(7.7)
Net cash used in financing activities	(89.6)	(134.5)	(60.4)	(98.4)
Effect of exchange rate changes on cash and cash equivalents	(0.9)	(4.3)	(0.2)	1.4
Net increase (decrease) in cash and cash equivalents	<u>\$(161.3)</u>	<u>\$ (4.2)</u>	<u>\$(35.5)</u>	<u>\$ 43.0</u>

### **Operating activities**

Our largest source of operating cash is cash collections from our paying users for subscriptions to our platform. Our primary uses of cash from operating activities are for employee-related expenditures, infrastructure-related costs, and marketing expenses. Net cash provided by operating activities is impacted by our net loss adjusted for certain non-cash items, including depreciation and amortization expenses and stock-based compensation, as well as the effect of changes in operating assets and liabilities.

For the six months ended June 30, 2017, net cash provided by operating activities was \$147.7 million, which mostly consisted of our net loss of \$59.9 million, adjusted for depreciation and amortization expenses of \$94.4 million and stock-based compensation expense of \$77.5 million, and net cash inflow of \$23.7 million from operating assets and liabilities. The inflow from operating assets and liabilities was primarily due to the increase of \$32.2 million in deferred revenue from increased subscription sales, as a majority of our paying users are invoiced in advance. The increase in net cash provided by operating activities during the six months ended June 30, 2017, compared to the six months ended June 30, 2016, was primarily due to a reduction of our net loss, as adjusted for stock-based compensation and depreciation and amortization expenses, as well as cash inflow from changes in working capital.

For the six months ended June 30, 2016, net cash provided by operating activities was \$119.9 million, which mostly consisted of our net loss of \$138.5 million, adjusted for depreciation and amortization expenses of \$93.4 million and stock-based compensation expense of \$76.3 million, as well as a net cash inflow of \$87.7 million from operating assets and liabilities. The inflow from operating assets and liabilities was primarily due to the increase of \$48.2 million in deferred revenue from increased subscription sales, as a majority of our paying users are invoiced in advance, and the increase of \$22.5 million in accrued compensation and benefits due to the introduction of our annual bonus plan.

For the year ended December 31, 2016, net cash provided by operating activities was \$252.6 million, which primarily consisted of our net loss of \$210.2 million, adjusted for depreciation and amortization expenses of \$191.6 million and stock-based compensation expense of \$147.6 million, as well as a net cash inflow of \$118.8 million from operating assets and liabilities. The inflow from operating assets and liabilities was primarily due to the increase of \$87.6 million in deferred revenue from increased subscription sales, as a majority of our paying users are invoiced in advance, and the increase of \$35.6 million in accrued compensation and benefits due to the introduction of our annual bonus plan. The increase in net cash from operating activities during 2016 compared to 2015 was primarily due to a reduction of our net loss, as adjusted for stock-based compensation and depreciation and amortization expenses, as well as cash inflow from changes in working capital.

For the year ended December 31, 2015, net cash provided by operating activities was \$14.8 million, which mostly consisted of our net loss of \$325.9 million, adjusted for depreciation and amortization expenses of \$149.6 million and stock-based compensation expense of \$66.1 million, as well as a net cash inflow of \$123.6 million from operating assets and liabilities. The inflow from operating assets and liabilities was primarily due to the

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increase of \$82.0 million in deferred revenue from increased subscription sales, as a majority of our paying users are invoiced in advance and the increase of \$50.6 million in current and non-current liabilities.

### ***Investing activities***

Net cash used in investing activities is primarily impacted by purchases of property and equipment, particularly for purchasing infrastructure equipment in co-location facilities that we directly lease and operate, and for making improvements to existing and new office spaces.

For the six months ended June 30, 2017, net cash used in investing activities was \$7.7 million, which mostly consisted of capital expenditures related to our infrastructure and office build-outs. The decrease in cash used in investing activities during the six months ended June 30, 2017, compared to the six months ended June 30, 2016, was primarily due to decreases in capital expenditures for infrastructure equipment and leasehold improvements related to our current corporate headquarters.

For the six months ended June 30, 2016, net cash used in investing activities was \$94.8 million, which mostly consisted of capital expenditures related to our infrastructure and office build-outs. Additionally, we purchased various intangible assets related to our patent portfolio.

For the year ended December 31, 2016, net cash used in investing activities was \$118.0 million, which mostly consisted of capital expenditures related to our infrastructure and office build-outs. The increase in cash used in investing activities during 2016 compared to 2015 was primarily due to increases in capital expenditures and patent purchases.

For the year ended December 31, 2015, net cash used in investing activities was \$85.6 million, which mostly consisted of capital expenditures related to our infrastructure and office build-outs.

### ***Financing activities***

Net cash used in financing activities is primarily impacted by capital lease obligations for our infrastructure equipment and repurchases of common stock to satisfy the tax withholding obligation for the release of restricted stock units.

For the six months ended June 30, 2017, net cash used in financing activities was \$98.4 million, which primarily consisted of \$69.3 million in principal payments against capital lease obligations and \$24.0 million for the satisfaction of tax withholding obligations for the release of restricted stock units. The increase in cash used by financing activities during the six months ended June 30, 2017, compared to the six months ended June 30, 2016, was primarily due to an increase of \$24.0 million related to the satisfaction of tax withholding obligations for the release of restricted stock units, partially offset by a decrease of \$8.8 million in cash received in a sale lease-back agreement during the six months ended June 30, 2016.

For the six months ended June 30, 2016, net cash used in financing activities was \$60.4 million, which primarily consisted of \$66.6 million in principal payments against capital lease obligations, offset by \$8.8 million in proceeds received for a sale-leaseback agreement.

For the year ended December 31, 2016, net cash used in financing activities was \$134.5 million, which primarily consisted of \$137.9 million in principal payments against capital lease obligations and \$3.8 million in principal payments against the note payable issued in 2015 as described below, offset by \$8.8 million in proceeds received for a sale-leaseback agreement. The increase in cash used in financing activities during 2016 compared to 2015 was primarily due to an increase of \$36.7 million in principal payments on capital leases for our infrastructure, a decrease of \$11.9 million in cash received through the issuance of a note payable issued in 2015, as well as an increase of \$3.8 million in payments against the note payable in 2016, partially offset by \$8.8 million in cash received in a sale lease-back agreement.

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For the year ended December 31, 2015, net cash used in financing activities was \$89.6 million, which primarily consisted of \$101.2 million in principal payments against capital lease obligations, offset by \$11.9 million in cash received through the issuance of a note payable to finance our infrastructure.

### Contractual Obligations

Our principal commitments consist of obligations under operating leases for office space and datacenter operations, and capital leases for datacenter equipment. The following table summarizes our commitments to settle contractual obligations in cash as of December 31, 2016, for the periods presented below:

	<u>Total</u>	<u>Less than 1 year</u>	<u>1 - 3 years</u> <i>(In millions)</i>	<u>3 - 5 years</u>	<u>More than 5 years</u>
Operating lease commitments <sup>(1)</sup>	\$557.2	\$ 74.7	\$ 152.4	\$ 132.3	\$ 197.8
Capital lease commitments <sup>(2)</sup>	271.4	136.9	128.2	6.3	—
Other commitments <sup>(3)</sup>	75.3	45.5	23.4	1.7	4.7
Total contractual obligations	<u>\$903.9</u>	<u>\$ 257.1</u>	<u>\$ 304.0</u>	<u>\$ 140.3</u>	<u>\$ 202.5</u>

- (1) Consists of future non-cancelable minimum rental payments under operating leases for our offices and datacenters, excluding sublease income and variable operating expenses. Non-cancelable sublease income as of December 31, 2016, for the next seven years is expected to be \$15.6 million.
- (2) Consists of future non-cancelable minimum rental payments under capital leases primarily for our infrastructure.
- (3) Consists of lease payments for our previous corporate headquarters, infrastructure warranty contracts, commitments to third-party vendors for services related to our infrastructure, and a note payable related to financing of our infrastructure.

In addition to the contractual obligations set forth above, as of June 30, 2017, we had an aggregate of \$45.1 million in letters of credit outstanding under our revolving credit facility.

Additionally, in October 2017, we entered into a new lease agreement in San Francisco, California. We expect to start making payments under the lease in the fourth quarter of 2018. The total minimum lease payments under the lease agreement are expected to be approximately \$848.4 million, which does not include expected tenant improvement reimbursements from the landlord of approximately \$73.6 million and variable operating expenses. Our obligations under the lease will be supported by a \$34.2 million letter of credit, which will reduce the borrowing capacity under our revolving credit facility.

### Off-Balance Sheet Arrangements

As of December 31, 2016, we did not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or variable interest entities, which would have been established for the purpose of facilitating off balance sheet arrangements or other contractually narrow or limited purposes.

### Impact of Stock-Based Compensation for Restricted Stock Units

We have granted restricted stock units, or RSUs, to our employees and members of our Board of Directors under our 2008 Equity Incentive Plan, or 2008 Plan, and our 2017 Equity Incentive Plan, or 2017 Plan. We have two types of RSUs outstanding as of June 30, 2017:

- One-tier RSUs, which have a service-based vesting condition over a four-year period. These awards typically have a cliff vesting period of one year and continue to vest quarterly thereafter. We recognize compensation expense associated with one-tier RSUs ratably on a straight-line basis over the requisite service period.

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- Two-tier RSUs, which have both a service-based vesting condition and a liquidity event-related performance vesting condition. These awards typically have a service-based vesting period of four years with a cliff vesting period of one year and continue to vest monthly thereafter. Upon satisfaction of the Performance Vesting Condition, these awards will vest quarterly. The Performance Vesting Condition is satisfied on the earlier of (i) an acquisition or change in control of the Company or (ii) the earlier of (a) six months after our initial public offering or (b) March 15 of the year following our initial public offering. Our last grant date for two-tier RSUs was May 2015.

As of June 30, 2017, all compensation expense related to two-tier RSUs remained unrecognized because the Performance Vesting Condition was not satisfied. At the time the Performance Vesting Condition becomes probable, we will recognize the cumulative stock-based compensation expense for the two-tier RSUs that have met their service-based vesting condition using the accelerated attribution method. If the Performance Vesting Condition had occurred on June 30, 2017, we would have recorded \$420.8 million of stock-based compensation expense. As of June 30, 2017, 42.9 million two-tier RSUs were outstanding, of which 37.1 million had met their service condition. We expect to recognize approximately \$19.1 million of additional stock-based compensation expense related to these two-tier RSUs over the remaining service periods through 2019. See Note 1, “Description of the Business and Summary of Significant Accounting Policies” and Note 11, “Stockholders’ Equity” to our consolidated financial statements included elsewhere in this prospectus for further discussion.

### **Critical Accounting Policies and Judgments**

Our consolidated financial statements and the related notes thereto included elsewhere in this prospectus are prepared in accordance with generally accepted accounting principles, or GAAP, in the United States. The preparation of consolidated financial statements also requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses, and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results could differ significantly from the estimates made by management. To the extent that there are differences between our estimates and actual results, our future financial statement presentation, financial condition, results of operations, and cash flows will be affected.

We believe that the accounting policies described below involve a greater degree of judgment and complexity. Accordingly, these are the policies we believe are the most critical to aid in fully understanding and evaluating our consolidated financial condition and results of operations.

In May 2014, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2014-09 *Revenue from Contracts with Customers (Topic 606)*, or Topic 606. Topic 606 supersedes the revenue recognition requirements in Accounting Standards Codification, *Revenue Recognition*, or Topic 605, and requires the recognition of revenue when promised goods or services are transferred to customers in an amount that reflects the consideration to which the entity expects to be entitled to in exchange for those goods or services. Topic 606 also includes Subtopic 340-40, *Other Assets and Deferred Costs—Contracts with Customers*, which requires the deferral of incremental costs of obtaining a contract with a customer.

We adopted the requirements of Topic 606 as of January 1, 2017, utilizing the full retrospective method of transition. As such, Topic 606 is reflected in our financial results for all periods presented in this prospectus. The adoption of Topic 606 resulted in changes to our accounting policies for revenue recognition and deferred commissions.

The impact of adopting Topic 606 on our revenue was not material to any of the periods presented. The primary impact of adopting Topic 606 relates to the deferral of incremental costs of customer contracts and the amortization of those costs over a longer period of benefit.



### **Revenue recognition**

We generate revenue from sales of subscriptions to our platform. Subscription fees exclude sales and other indirect taxes. We determine revenue recognition through the following steps:

- Identification of the contract, or contracts, with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, we satisfy a performance obligation

Our subscription agreements typically have monthly or annual contractual terms, and a small percentage have multi-year contractual terms. Revenue is recognized ratably over the related contractual term generally beginning on the date that our platform is made available to a customer. Our agreements are generally non-cancelable. We typically bill in advance for monthly contracts and annually in advance for contracts with terms of one year or longer.

### **Deferred commissions**

Sales commissions and the related payroll taxes earned by our outbound sales team, as well as commissions earned by third-party resellers, are considered to be incremental and recoverable costs of obtaining a contract with a user. These costs are deferred and then amortized over a period of benefit that we have determined to be five years. We determined the period of benefit by taking into consideration our historical customer attrition rates, the useful life of our technology, and the impact of competition in our industry. Changing the period of benefit by one year would result in a change to expense of less than \$1.0 million in each of the periods presented. Amortization of deferred commissions is included in sales and marketing expenses.

### **Common stock valuations**

Since August 2015, we have granted RSUs as the only stock-based payment awards to our employees. While we stopped granting stock options in August 2015, we currently have stock options outstanding that will continue to vest through 2019.

The fair values of the common stock underlying the RSUs were determined by our Board of Directors, with input from management and contemporaneous third-party valuations, which were performed at least quarterly. If RSUs were granted a short period of time prior to the date of a valuation report, we retrospectively assessed the fair value used for financial reporting purposes after considering the fair value reflected in the subsequent valuation report and other facts and circumstances on the date of grant as discussed below.

Given the absence of a public trading market for our common stock, and in accordance with the American Institute of Certified Public Accountants Practice Guide, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*, or AICPA Guide, our Board of Directors exercised reasonable judgment and considered numerous objective and subjective factors to determine the best estimate of the fair value of our common stock including:

- The results of contemporaneous valuations of our common stock by unrelated third parties;
- The rights, preferences, and privileges of our convertible preferred stock relative to those of our common stock;
- Market multiples of comparable public companies in our industry as indicated by their market capitalization and guideline merger and acquisition transactions;

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- Our performance and market position relative to our competitors, who may change from time to time;
- Our historical financial results and estimated trends and prospects for our future performance;
- Valuations published by institutional investors that hold investments in our capital stock;
- The economic and competitive environment;
- The likelihood and timeline of achieving a liquidity event, such as an initial public offering or sale, given prevailing market conditions;
- Any adjustments necessary to recognize a lack of marketability for our common stock; and
- Precedent sales of or offers to purchase our capital stock.

In valuing our common stock, our Board of Directors determined the fair value of our common stock using both the income and market approach valuation methods. The income approach estimates value based on the expectation of future cash flows that a company will generate. These future cash flows are discounted to their present values using a discount rate based on our weighted average cost of capital, and is adjusted to reflect the risks inherent in our cash flows. The market 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 and then applied to the subject company's financial forecasts to estimate the value of the subject company.

For valuations prior to August 31, 2017, the equity valuation was based on both the income and the market approach valuation methods, in addition to giving consideration to recent secondary sales of our common stock. The Option Pricing Method was selected as the principal equity allocation method. These methods were consistent with prior valuations.

For valuations as of and subsequent to August 31, 2017, we have used a hybrid method to determine the fair value of our common stock, in addition to giving consideration to recent secondary sales of our common stock. Under the hybrid method, multiple valuation approaches were used and then combined into a single probability weighted valuation. Our approaches included the use of initial public offering scenarios, a scenario assuming continued operation as a private entity, and a scenario assuming an acquisition of the company.

Application of these approaches involves the use of estimates, judgment, and assumptions that are highly complex and subjective, such as those regarding our expected future revenue, expenses, and cash flows, discount rates, market multiples, the selection of comparable companies, and the probability of future events. Changes in any or all of these estimates and assumptions, or the relationships between those assumptions, impact our valuations as of each valuation date and may have a material impact on the valuation of common stock.

For valuations after the completion of this initial public offering, our Board of Directors will determine the fair value of each share of underlying common stock based on the closing price of our Class A common stock as reported on the date of the grant.

### ***Business combinations and valuation of goodwill and other acquired intangible assets***

When we acquire a business, we allocate the purchase price to the net tangible and identifiable intangible assets acquired based on their fair values. Any residual purchase price is recorded as goodwill. The estimation of the fair value of acquired assets and assumed liabilities requires management to apply significant judgment, especially with respect to intangible assets, which consist primarily of developed technologies.

These estimates are based upon a number of factors, including historical experience, market conditions, and information obtained from the management of acquired companies. To determine the fair value of acquired intangible assets, we make estimates that can include, but are not limited to, the cash flows that an asset is

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expected to generate in the future, the appropriate weighted-average cost of capital to utilize, the cost savings expected to be derived from acquiring an asset, and the expected use of the asset. These same factors are also considered in determining the useful life of acquired intangible assets, which impacts the timing of future amortization expense.

### **Recent Accounting Pronouncements**

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)*. ASU No. 2016-02 requires the recognition of lease assets and lease liabilities on the balance sheet by lessees for those leases currently classified as operating leases. ASU No. 2016-02 is effective for fiscal years beginning after December 15, 2018. Early adoption is permitted, and we are currently evaluating the timing of adoption and disclosure requirements. We expect the potential impact of adoption to be material to total assets and liabilities on the consolidated balance sheets.

See Note 1, “Description of the Business and Summary of Significant Accounting Policies” to our consolidated financial statements included elsewhere in this prospectus for more information about other recent accounting pronouncements.

### **Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to market risks in the ordinary course of our business, including interest rate, foreign currency exchange, and inflation risks.

#### ***Interest rate risk***

We had cash and cash equivalents of \$395.7 million as of June 30, 2017. We hold our cash and cash equivalents for working capital purposes. Our cash and cash equivalents are held in cash deposits and money market funds. The primary objectives of our investment activities are the preservation of capital, the fulfillment of liquidity needs, and the control of cash and investments. We do not enter into investments for trading or speculative purposes. Due to the short-term nature of these instruments, we believe that we do not have any material exposure to changes in the fair value of our investment portfolio as a result of changes in interest rates. Decreases in interest rates, however, would reduce future interest income.

Any borrowings under the revolving credit facility bear interest at a variable rate tied to the prime rate or the LIBOR rate. As of June 30, 2017, we had no amounts outstanding under the revolving credit facility. We do not have any other long-term debt or financial liabilities with floating interest rates that would subject us to interest rate fluctuations.

A hypothetical 10% change in interest rates during any of the periods presented would not have had a material impact on our financial statements.

#### ***Foreign currency exchange risk***

Our results of operations and cash flows are subject to fluctuations due to changes in foreign currency exchange rates relative to U.S. dollars, our reporting currency. Our revenue is generated in U.S. dollars, euros, British pounds sterling, Australian dollars, Canadian dollars, and Japanese yen. Our expenses are generally denominated in the currencies in which our operations are located, which are primarily the United States and, to a lesser extent, Europe and Asia. The functional currency of Dropbox International Unlimited, our international headquarters and largest international entity, is denominated in U.S. dollars. Our results of operations and cash flows are, therefore, subject to fluctuations due to changes in foreign currency exchange rates in ways that are unrelated to our operating performance. As exchange rates may fluctuate significantly between periods, revenue and operating expenses, when converted into U.S. dollars, may also experience significant fluctuations between

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periods. Historically, a majority of our revenue and operating expenses have been denominated in U.S. dollars, euros, and British pounds sterling. Although we are impacted by the exchange rate movements from a number of currencies relative to the U.S. dollar, our results of operations are particularly impacted by fluctuations in the U.S. dollar-euro and U.S. dollar-British pounds sterling exchange rate. In 2016, 23% of our sales were denominated in currencies other than U.S. dollars. Our expenses, by contrast, are primarily denominated in U.S. dollars. As a result, any increase in the value of the U.S. dollar against these foreign currencies could cause our revenue to decline relative to our costs, thereby decreasing our gross margins.

We recorded \$1.6 million and \$4.0 million in net foreign currency transaction gains in the six months ended June 30, 2016 and 2017, respectively. Further, we recorded \$4.6 million and \$3.6 million in net foreign currency transaction losses in the years ended December 31, 2015 and 2016, respectively. A hypothetical 10% change in foreign currency rates would not have resulted in material gains or losses for both the six months ended June 30, 2016 and 2017, or both the years ended December 31, 2015 and 2016.

To date, we have not engaged in any hedging activities. As our international operations grow, we will continue to reassess our approach to managing risks relating to fluctuations in currency rates.

### ***Inflation risk***

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

## BUSINESS

### Our Business

Dropbox is a global collaboration platform that's transforming the way people work together. We serve more than 500 million registered users across 180 countries.

Our modern economy runs on knowledge. Today, knowledge lives in the cloud as digital content, and Dropbox is the place where more and more of this content is created, accessed, and shared with the world.

Dropbox was founded in 2007 with a simple idea: Life would be a lot better if everyone could access their most important information anytime from any device. Over the past decade, we've largely accomplished that mission—but along the way we recognized that for most of our users, sharing and collaborating on Dropbox was even more valuable than storing files.

Our market opportunity has grown as we've expanded from keeping files in sync to keeping teams in sync. Today, Dropbox is uniquely positioned to reimagine the way work gets done. We're focused on reducing the inordinate amount of time and energy the world wastes on "work about work"—tedious tasks like searching for content, switching between applications, and managing workflows.

We believe the need for our platform will continue to grow as teams become more fluid and global, and content is increasingly fragmented across incompatible tools and devices. Dropbox breaks down silos by centralizing the flow of information between the products and services our users prefer, even if they're not our own.

By solving these universal problems, we've become invaluable to our users. The popularity of our platform drives viral growth, which has allowed us to scale rapidly and efficiently. We've built a thriving global business with 10 million paying users.

Our revenue was \$603.8 million and \$844.8 million in 2015 and 2016, respectively, representing a growth rate of 40%. We generated net losses of \$325.9 million and \$210.2 million in 2015 and 2016, respectively. We also generated positive free cash flow of \$137.4 million in 2016 compared to negative free cash flow of \$63.9 million in 2015.

### Our Users

We're constantly inspired by the diverse ways people use Dropbox to bring their ideas to life and achieve their missions faster. Here are just a few examples:

- Nobel Prize-winning researchers sync data with collaborators to speed development of new scientific breakthroughs.
- Designers for a sustainable apparel company iterate on new designs and coordinate store openings.
- A commercial construction company shares blueprints with subcontractors on job sites and sends bids to prospective clients.
- A Fortune 500 online travel company keeps its global workforce connected with business partners around the world.
- Pro bono lawyers at a refugee assistance organization collect and share information across continents to save lives.

### What Sets Us Apart

Since the beginning, we've focused on simplifying the lives of our users. In a world where business software can be frustrating to use, challenging to integrate, and expensive to sell, we take a different approach.

### ***Simple and intuitive design***

While traditional tools developed in the desktop age have struggled to keep up with evolving user demands, Dropbox was designed for the cloud era. We build simple, beautiful products that bring joy to our users and make it easier for them to do their best work. Unencumbered by legacy features, we can perfect the aspects of our platform that matter most today, such as the mobile experience and the ability to work in teams.

### ***Open ecosystem***

We know people will continue to use a wide variety of tools and platforms. That's why we've built Dropbox to work seamlessly with other products, integrating with everything from Google and Microsoft to Slack and Autodesk. More than 75% of Dropbox Business teams have linked to one or more third-party applications.

### ***Viral, bottom-up adoption***

Our 500 million registered users are our best salespeople. They've spread Dropbox to their friends and brought us into their offices. Every year, millions of individual users sign up for Dropbox at work. Bottom-up adoption within organizations has been critical to our success as users increasingly choose their own tools at work. We generate over 90% of our revenue from self-serve channels—users who purchase a subscription through our app or website.

### ***Performance and security***

Our custom-built infrastructure allows us to maintain high standards of performance, availability, and security. Dropbox is built on proprietary, block-level sync technology to achieve industry-leading performance. In 2016, IDC highlighted our sync performance as best-in-class, outperforming competitors on multiple sync tests, including upload and download speeds for large files. We designed our platform with multiple layers of redundancy to guard against data loss and deliver high availability. We also offer numerous layers of protection, from secure file data transfer and encryption to network configuration and application-level controls.

## **Industry Trends in Our Favor**

### ***Content is increasingly scattered***

The proliferation of devices, operating systems, and applications has dramatically increased the volume and complexity of content in the workplace. Content is now routinely scattered across multiple silos, making it harder to access. According to a 2016 IDC report, more than half of companies ranging from 100 to 5,000+ employees use at least three repositories for accessing documents on a weekly basis.

### ***The tools people use are fragmented***

Content created at work tends to follow a predictable pattern: It's authored, sent out for feedback, and shared or published once it's done. At the same time, teams are organizing that content and coordinating tasks around it. But many of the tools people use today don't work well together and support only one or two steps of the content lifecycle. This requires users to constantly switch between these tools and makes it even harder to get work done.

### ***Teams have become more fluid and global***

Technology hasn't kept up with a modern workforce that's increasingly fluid and mobile. People work together on teams that span different functions, organizations, and geographies. A 2016 study by Deloitte found that 37% of the global workforce is now mobile, 30% of full-time employees primarily work remotely, and 20% of the workforce is made up of temporary workers, contractors, and freelancers. The ability to swiftly disseminate content and its relevant context is critical to keeping teams in sync.

### ***“Work about work” is wasteful and stifles creativity***

The combination of scattered content, fragmented tools, and fluid team structures has led to decreased workplace productivity. According to a report by McKinsey & Company, knowledge workers spend approximately 60% of their time at work on tedious tasks such as searching for content, reviewing email, and re-sharing context to keep team members in the loop—what we call “work about work.” This means they spend just 40% of their time doing the jobs they were hired to do.

### ***Individual users are changing the way software is adopted and purchased***

Software purchasing decisions have traditionally been made by an organization’s IT department, which often deploys products that employees don’t like and many refuse to adopt. As individuals increasingly choose their own tools at work, purchasing power has become more decentralized. A 2017 IDC report noted that new devices and software were being adopted at a faster rate by individual users than by IT departments.

## **Our Solution**

Dropbox allows individuals, teams, and organizations to collaborate more effectively. Anyone can sign up for free through our website or app, and upgrade to a paid subscription plan for premium features. Our platform offers an elegant solution to the challenges described above.

### ***Key elements of our platform***

- *Unified home for content.* We provide a unified home for the world’s content and the relevant context around it. To date, our users have added more than 400 billion pieces of content to Dropbox, totaling over an exabyte (more than 1,000,000,000 gigabytes). When users join Dropbox, they gain access to a digital workspace that supports the full content lifecycle—they can create and organize their content, access it from anywhere, share it with internal and external collaborators, and review feedback and history.
- *Global sharing network.* We’ve built one of the largest collaboration platforms in the world, with more than 4.5 billion connections to shared content. We cater to the needs of dynamic, dispersed teams. The overwhelming majority of our customers use Dropbox to share and collaborate. As we continue to grow, more users benefit from frictionless sharing, and powerful network effects increase the utility and stickiness of our platform.
- *New product experiences.* The insights we glean from our community of users lead us to develop new product experiences, like Paper and Smart Sync. Machine learning further improves the user experience by enabling more intelligent search and better organization of information. This ongoing innovation broadens the value of our platform and deepens user engagement.

These elements reinforce one another to produce a powerful flywheel effect. As users create and share more content with more people, they expand our global sharing network. This network allows us to gather insights and feedback that help us create new product experiences. And with our scale, we can instantly put these innovations in the hands of millions. This, in turn, helps attract more users and content, which further propels the flywheel.

## **Our Growth Strategy**

### ***Increase adoption and paid conversion***

We designed Dropbox to be easy to try, use, and buy. Anyone can create an account and be up and running in minutes. We estimate that 300 million of our registered users have characteristics—including certain email domains, devices, and geographies—that make them more likely to pay over time. With 10 million paying users, we have a significant opportunity to grow our customer base. We reach our users via in-product notifications on our website and across more than 400 million actively connected devices, without any external marketing spend.

### ***Upgrade our paying users***

We offer a range of paid subscription plans, from Plus for individuals to Standard, Advanced, and Enterprise for teams. We analyze usage patterns within our network and run hundreds of targeted marketing campaigns to encourage paying users to upgrade their plans. For example, we prompt individual subscribers who collaborate with others on Dropbox to purchase our Standard or Advanced plans for a better team experience. In the first half of 2017, over 40% of new Dropbox Business teams included a member who was previously a Plus subscriber. With a large majority of individual customers using Dropbox for work, we have an opportunity to significantly increase conversion to Dropbox Business team offerings over time.

### ***Apply insights to build new product experiences***

As our community of users grows, we gain more insight into their needs and pain points. We translate these insights into new product experiences that support the entire content lifecycle. For example, we learned through analytics and research that our users often work with many different types of content in a single Paper doc. As a result, we added the ability to embed rich media in Paper so they can pull everything together in one place—from InVision graphics and Google slides to Spotify tracks and Vimeo clips.

### ***Expand our ecosystem***

Our open and thriving ecosystem fosters deeper relationships with our users and makes Dropbox more valuable to them over time. The scale and reach of our platform is enhanced by a number of third-party applications, developers, and technology partners. As of June 30, 2017, Dropbox was receiving over 50 billion API calls per month, and more than 500,000 developers had registered and built applications on our platform.

## **Our Market Opportunity**

Over the past decade, Dropbox has pioneered the worldwide adoption of file sync and share software. We've since expanded our capabilities and introduced new product experiences to help our users get work done. For the second consecutive year, Gartner has named Dropbox a leader in their Magic Quadrant for Content Collaboration Platforms.

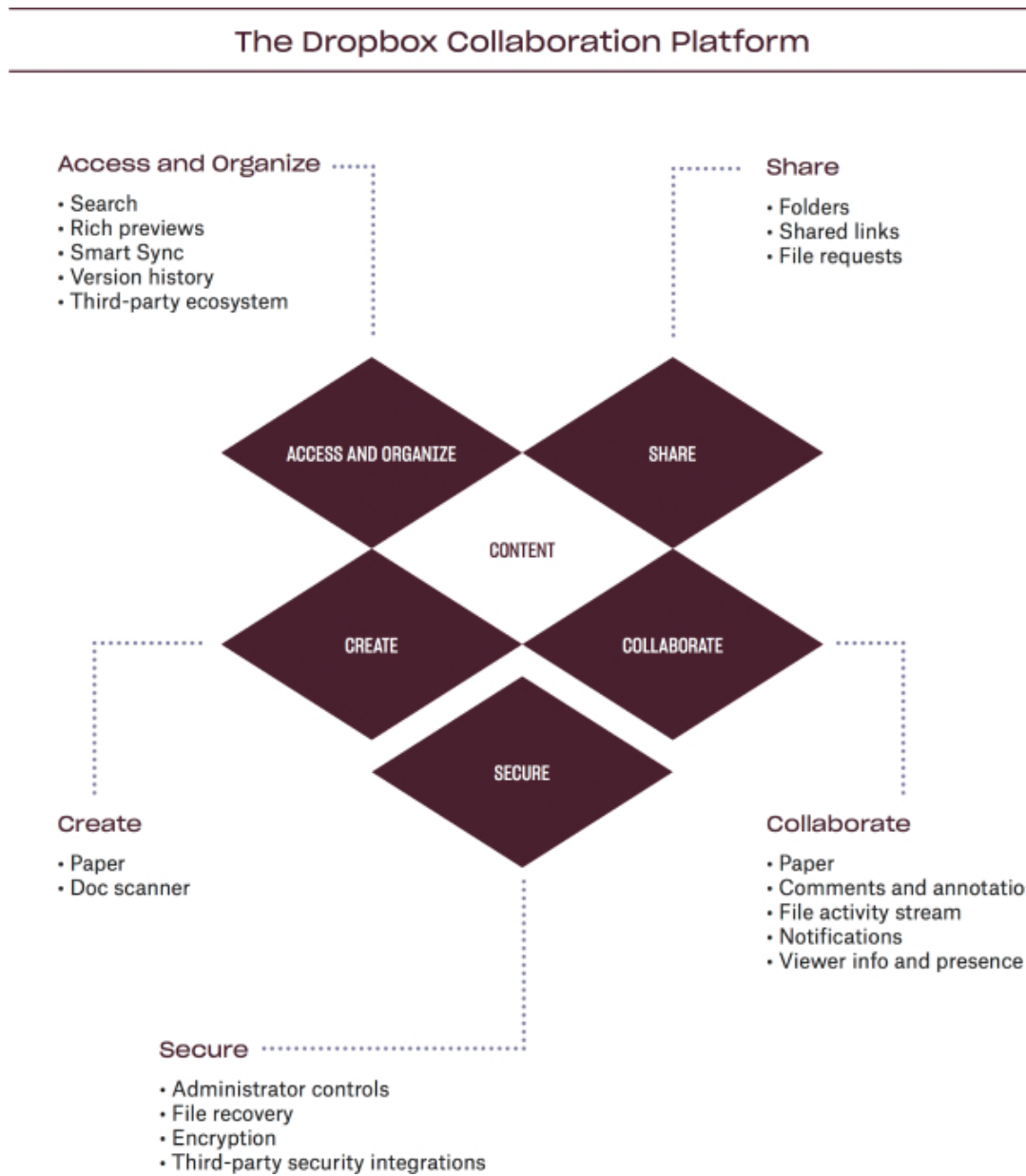
Our addressable market includes collaborative applications, content management, project and portfolio management, and public cloud storage. IDC estimates that investment in these categories will total more than \$50 billion in 2019.

As one of the few large-scale collaboration platforms that serves customers of all sizes, we also have an opportunity to reach a broad population of independent knowledge and creative workers. We believe that this market hasn't traditionally been included in IT spending estimates.



## Our Capabilities

Dropbox is a digital workspace where individuals and teams can create content, access it from anywhere, and share it with collaborators. The power of our platform lies in the breadth of our capabilities and the diverse ways our users make Dropbox work for them. We monetize through a range of subscription plans. Our platform capabilities are described below:



### **Create**

*Paper.* We introduced Paper in January 2017 as a collaborative surface to bring people and ideas together. With Paper, users can co-author content, tag others, assign tasks with due dates, embed and comment on files, tables, checklists, code snippets, and rich media—all in real-time. We designed Paper to be simple and beautiful so users can focus on the most important ideas and tasks at hand.

*Doc scanner.* The doc scanner in our mobile app lets users create content in Dropbox from hard copies. This includes transforming everything from printed materials to whiteboard brainstorming sessions into virtual documents that they can edit and share. We apply proprietary machine learning techniques to automatically detect the document being scanned, extract it from the background, fit it to a rectangular shape, remove shadows, adjust the contrast, and save it as a PDF or image file. For Dropbox Business teams, scanned content is analyzed using Optical Character Recognition so text within these scans is searchable in Dropbox.

### **Access and organize**

*Search.* Dropbox has powerful search capabilities that allow users to quickly find the files and folders they need. Our autocomplete technology surfaces and prioritizes content based on users' previous activity. For Dropbox Business teams, full text search scans the content of files and team members can search through all files for which they have access across their organization.

*Rich previews.* Rich previews allow users to easily interact with files across any device without having to open different applications. Users can comment on, annotate, review, and present files, and see who viewed and edited them. We support previews of over 140 file types, and Dropbox users currently preview files tens of millions of times every day.

*Smart Sync.* With Smart Sync, users can access all of their content natively on their computers without taking up storage space on their local hard drives. We intelligently sync files to a user's computer as they need them, and users can control which files or folders are always synced locally. With Smart Sync, files that are only stored in the cloud appear in the local file system and can be opened directly from Windows File Explorer or Mac Finder, instead of having to navigate to our web interface. Smart Sync is available to all Dropbox Business teams.

*Version history.* As paying users work on files, we keep snapshots of all changes made on our servers. Users can see a file's complete version history so they can reference and retrieve older versions if needed. Version histories are kept between 30 to 120 days for paying users, depending on subscription plan.

*Third-party ecosystem.* Our open and thriving ecosystem fosters deeper relationships with our users and developers. Developers can build applications that connect to Dropbox through our DBX Developer Platform. For example, email apps can plug into Dropbox to send attachments or shared links, and note-taking apps can allow users to save to Dropbox so they can open their notes on another device. As of June 30, 2017, Dropbox was receiving over 50 billion API calls per month and over 500,000 developers had registered and built applications on our platform. In addition, more than 75% of Dropbox Business teams have linked to one or more third-party applications.

### **Share**

*Folders.* There are three types of folders in Dropbox: private, shared, and team folders. A private folder allows an individual to sync files between devices. A shared folder allows users to quickly and easily start a project space for group collaboration. A team folder, which is only available for Dropbox Business teams, is a central, administrator-managed hub where they can store and collaborate on content.

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*Shared links.* Users can share files and folders with anyone, including non-Dropbox users, by creating a Dropbox link. Once created, the link can be sent through email, text, Facebook, Twitter, instant message, or other channels. The recipient can view the file with a rich preview or see all the files in a shared folder. Paying users can set passwords and expiration dates and specify whether recipients can comment on or download the files.

*File requests.* With file requests, users can invite anyone to submit files into a specified Dropbox folder through a simple link—regardless of whether the recipient has a Dropbox account. File requests are ideal for tasks such as collecting bids from contractors or requesting submissions from coworkers and clients. All submitted files are organized into a Dropbox folder that's private to the requesting user.

### **Collaborate**

*Comments and annotations.* Dropbox comments and annotations marry content with the conversations and relevant context around it. Instead of being scattered across separate silos, such as email and chat, the editing and development of content are tied to a file. Users can give feedback on specific parts of files through a rich, innovative overlay on our web and mobile platforms.

*File activity stream.* An activity feed lives next to every file preview on our web interface, telling users what's happening with a file. The feed shows when someone opens a file, edits a file, or shares a file.

*Notifications.* We use real-time notifications across all our channels—web, desktop, email, and mobile—to keep users up-to-date on what's happening with their work. Users can choose to be notified when someone opens, edits, shares, or comments on a file, or adds a file to their shared folders. These notifications keep collaborators in sync without having to open the file or doc.

*Viewer information and presence.* On both file previews and Paper docs, Dropbox shows users in real-time who's viewing a doc and when a doc was last viewed by other users. On desktop, Dropbox Badge is a subtle overlay to Microsoft Word, Excel, and PowerPoint that lets users know if someone opens or edits the file they're working in. The Badge gives users real-time insight into how others are interacting with their content, bringing modern collaboration features often found only in web-based documents to other files.

### **Secure**

#### *Administrator controls.*

- *Sharing permissions:* Team administrators can set up and monitor how their members share team folders, and can set sharing permissions on all folders, sub-folders, and links through the sharing tab.
- *Remote device wipe:* Team administrators can delete their organization's Dropbox content from a member's linked devices, which is especially useful should someone lose a device or leave the team.
- *Audit log:* Team administrators can monitor which members are sharing files and logging into Dropbox, among other events. They can review activity logs, create full reports for specific time ranges, and pull activity reports on specific members. Advanced and Enterprise team administrators have access to audit logs with file-event tracking.
- *Device approvals:* Advanced and Enterprise team administrators can manage how members access Dropbox on their devices.
- *Sign in as user:* Advanced and Enterprise team administrators can sign into the Dropbox accounts of members of their teams.
- *Tiered administrator roles:* Advanced and Enterprise teams have the ability to set multiple administrator roles, each with a different set of permissions.
- *Network control:* Enterprise team administrators can restrict personal Dropbox usage on their organization's network.

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*File recovery.* Every deletion event in Dropbox is recorded, including when groups of files are deleted. Users can easily recover files through our web interface. We keep version history for 30 days for Plus subscribers and 120 days for Dropbox Business teams.

*Encryption.* Dropbox file data at rest is encrypted using 256-bit Advanced Encryption Standard, or AES. To protect data in transit between Dropbox apps such as desktop, mobile, API, or web and our servers, Dropbox uses Secure Sockets Layer, or SSL, and Transport Layer Security, or TLS, for data transfer, creating a secure tunnel protected by 128-bit or higher AES encryption.

*Third-party security integrations.* We've partnered with industry-leading solution providers to support a wide range of IT processes and satisfy industry compliance standards, including:

- *Security information and event management:* Allows Dropbox Business administrators to oversee and manage employee activity, and access sensitive data through the administrator page.
- *Data loss prevention:* Protects sensitive data like personally identifiable information and payment card industry data stored in Dropbox Business accounts.
- *eDiscovery and legal hold:* Enables secure search and the ability to collect and preserve electronically stored information in Dropbox Business accounts.
- *Digital rights management:* Provides third-party encryption for company data stored in Dropbox Business accounts.
- *Data migration and on-premises backup:* Assists in transferring large amounts of data between locations and securing sensitive information with on-site data backup.
- *Identity management:* Allows companies to keep their Dropbox Business team authenticated with an external identity provider like Active Directory.

## Our Subscription Plans

We offer subscription plans to serve the varying needs of our diverse customer base, which includes individuals, teams, and organizations of all sizes.

	Individuals		Teams (Branded as Dropbox Business)		
	 <b>Basic</b>	 <b>Plus</b>	 <b>Standard</b>	 <b>Advanced</b>	 <b>Enterprise</b>
First launched	2008	2008	2011	2017	2015
Number of users	1 user	1 user	3+ users	3+ users	Enterprises
Base price (\$ USD)	Free	\$9.99/month \$99/year	\$15.00/month \$150/year	\$25.00/month \$240/year	Negotiated pricing
Advanced sharing permissions	✗	✓	✓	✓	✓
Version history	✗	30 days	120 days	120 days	120 days
Smart Sync & Team folder	✗	✗	✓	✓	✓
Unlimited API access	✗	✗	✓	✓	✓
Paper	✓	✓	✓	✓	✓
Storage	2GB	1TB	2TB	As much as needed	As much as needed
Support	Basic email support	Priority email support	Live chat support	Business hours phone support	24/7 phone support Assigned account success manager
Advanced admin & security features	✗	✗	Admin console Company-managed groups Granular access permissions Account transfer tool HIPAA support	<i>Everything in Standard</i> Device approval Audit log Tiered admin roles Single sign-on integration	<i>Everything in Advanced</i> Enterprise mobility management Network control Domain insights Integration support

## Our Customers

We've built a thriving global business with 10 million paying users. Our customer base is highly diversified, and in 2015, 2016, and the first half of 2017, no customer accounted for more than 1% of our revenue. Our customers include individuals, teams, and organizations of all sizes, from freelancers and small businesses to Fortune 100 companies. They work across a wide range of industries, including professional services, technology, media, education, industrials, consumer and retail, and financial services. Within companies, our

platform is used by all types of teams and functions, including sales, marketing, product, design, engineering, finance, legal, and human resources.

### ***How we support our customers***

All of our users can access support through the following resources:

- *Help center*: Provides an online repository of helpful information about our platform, responses to frequently asked questions, and best practices for use.
- *Community support*: Facilitates collaboration between users on answers, solutions, and ideas about our platform in an online community.
- *Twitter support*: Provides users real-time product and service updates, and offers tips and troubleshooting information.
- *Guided troubleshooting*: Offers step-by-step instructions to resolve common questions and provides a portal to submit help requests for questions that aren't otherwise available.

We also offer additional support for our paying users as described above in “Our Subscription Plans.”

### **Our Sales and Marketing Approach**

As users share content and collaborate on our platform, they introduce and invite new users, driving viral growth. We generate 90% of our revenue from self-serve channels, which reduces customer acquisition costs.

We've developed an efficient marketing function that's focused on building brand awareness and reinforcing our self-serve model. Our goal is to rapidly demonstrate the value of our platform to our users in order to convert them to paying users and upgrade them to our premium offerings. We reach them through in-product prompts and notifications, time-limited trials of paid subscription plans, email, and lifecycle marketing. In the second quarter of 2017, over 400 million devices—including computers, phones, and tablets—were actively connected to the Dropbox platform, representing a large number of touchpoints to communicate with our users.

We complement our self-serve strategy with a focused outbound sales effort targeted at organizations with existing organic adoption of Dropbox. Once prospects are identified, our sales team works to broaden adoption of our platform into wider-scale deployments. We also acquire some users through paid marketing and distribution partnerships in which hardware manufacturers pre-install our software on their devices.

### **Our Technology Infrastructure and Operations**

Our users trust us with their most important content, and we focus on providing them with a secure and easy-to-use platform. More than 90% of our users' data is stored on our own custom-built infrastructure, which has been designed from the ground up to be reliable and secure, and to provide annual data durability of at least 99.999999999%. We have datacenter co-location facilities in California, Texas, and Virginia.

We also utilize Amazon Web Services, or AWS, for the remainder of our users' storage needs and to help deliver our services. These AWS datacenters are located in the United States and Europe, which allows us to localize where content is stored. Our technology infrastructure, combined with select use of AWS resources, provides us with a distributed and scalable architecture on a global scale.

We designed our platform with multiple layers of redundancy to guard against data loss and deliver high availability. Incremental backups are performed hourly and full backups are performed daily. In addition, as a default, redundant copies of content are stored independently in at least two separate geographic regions and replicated reliably within each region. In the six months ended June 30, 2017, our average monthly service uptime was approximately 99.9%.

## Our Research and Development Approach

We invest substantial resources in research and development to enhance our platform, develop new products and features, and improve our infrastructure.

Our research and development organization consists of world-class engineering, product, and design teams. As of June 30, 2017, we had more than 765 professionals across these teams, representing approximately 40% of our full-time employees. They have a diverse set of skills and industry experience, including expertise in massively distributed systems and user-centric application engineering.

Our engineering, product, and design teams work together to bring our products to life, from conception and validation to implementation. We continually improve our existing products, update them to work with the latest platforms and technologies, and launch new and innovative products and features.

## Our Values

Since our founding, we've focused on building a culture of innovation and teamwork. As our company grew, we developed five core values that are critical to our success. Our values act as a compass and are a part of everyday life for Dropboxers. Each one guides how we treat each other and our users.

- **Be worthy of trust**

*Take care of each other and our users, and keep their best interests at heart.* Millions of people and businesses trust us to safeguard their most important information. We strive to be as transparent as possible with them and each other.

- **Sweat the details**

*Deeply understand and get to the heart of problems. Obsess over quality and strive to master your craft.* We believe that truly insightful solutions emerge from a deep understanding of problems and a dedication to iteration. We push ourselves (and each other) to get to the root of problems, and we don't accept sloppy solutions or band-aids.

- **Aim higher**

*Set audacious goals. Think big and be willing to disrupt yourself.* We believe in taking risks and being willing to disrupt ourselves, so we don't squander an opportunity to build something much bigger. With the density of incredible talent at Dropbox and the size of the opportunity in front of us, we owe it to each other to push limits.

- **We, not I**

*We're a village, and as members, we each need to do our part for the village to thrive.* We tackle a never-ending stream of people, product, and business challenges, many of which are far too hard to be solved by a single person or team. We believe in people really knowing each other and in putting the welfare of the company and our users first.



*Surprise and delight each other and our users. Magic within Dropbox's walls translates into magic outside of them.* Cupcake is about adding an authentic, human touch to everything we do. But more than that, it's about finding creative ways to make our users (and each other) smile—whether it's our quirky illustrations, or bringing a roving ice cream cart to the office to celebrate a product launch. We believe that the magic we create together as Dropboxers translates into magic for our users.

## **Our Employees**

As of June 30, 2017, we had 1,814 full-time employees. We also engage contractors and consultants. None of our employees are represented by a labor union. We have not experienced any work stoppages, and we believe that our employee relations are strong.

## **Our Commitment to Security and Privacy**

Trust is the foundation of our relationship with our users, and we take significant measures every day to protect their privacy and security.

### **Security**

Our sophisticated infrastructure is designed to protect our users' content while it is transferred, stored, and processed. We offer multiple layers of protection, including secure file data transfer, encryption, network configuration, and application-level controls. For Dropbox Business teams, our tools also empower administrators with control and visibility features that allow them to customize our platform to their organizations' needs. Our information security policies and management framework are designed to build a culture of security, and we continually assess risks and improve the security, confidentiality, integrity, and availability of our systems.

We voluntarily engage third-party security auditors to test our systems and controls at least annually against the most widely recognized security standards and regulations. Our Dropbox Trust Program consists of key infrastructure processes such as change management, access control, security management, and human resource management. Our program also serves as an Information Security Management System, or ISMS, as prescribed by the International Organization for Standardization, or ISO, and the International Electrotechnical Commission 27001:2013 international information security standard. It also qualifies as a Business Continuity Management System, or BCMS, as prescribed by the ISO 22301:2012 international business continuity standard.

The ISO has developed a series of standards for information security and related areas. We've received the following ISO certifications:

- ISO 27001 (Information Security Management)
- ISO 27017 (Cloud Security)
- ISO 27018 (Cloud Privacy and Data Protection)
- ISO 22301 (Business Continuity Management)

We've also completed a SOC 1, SOC 2, and SOC 3 examination. Service Organization Controls, or SOC, are standards established by the American Institute of Certified Public Accountants for reporting on internal control environments implemented within an organization. Our datacenter facilities and services providers also regularly undergo ISO 27001, SOC 1, and/or SOC 2 audits to verify their security practices. The ISO 27001 security standard specifies the requirements for establishing, implementing, operating, monitoring, reviewing, maintaining, and improving a documented Information Security Management System within the context of the organization's overall business risks. This standard addresses confidentiality, access control, vulnerability, and risk assessment.

In addition, we have CSA STAR Level 1 and Level 2 certifications from the Cloud Security Alliance, or CSA, a security assurance program for cloud services. CSA Security, Trust & Assurance Registry, or STAR, is a free, publicly-accessible registry that offers a security assurance program for cloud services, helping users assess the security posture of cloud providers they currently use or are considering contracting with. CSA STAR Level 2 Certification requires a third-party independent assessment of our security controls based on the



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requirements of ISO 27001 and the CSA Cloud Controls Matrix, or CCM, v.3.0.1, a set of criteria that measures the capability levels of cloud services. The CSA STAR Level 1 Self-Assessment is a rigorous survey based on CSA's Consensus Assessments Initiative Questionnaire, which aligns with the CCM, and provides answers to almost 300 questions a cloud customer or a cloud security auditor may ask. We're also listed in the UK Digital Marketplace for government cloud services procurement under the current framework, known as G-Cloud 9.

Dropbox supports HIPAA and HITECH compliance. We sign business associate agreements with our customers who require them in order to comply with the Health Insurance Portability and Accountability Act, or HIPAA, and the Health Information Technology for Economic and Clinical Health Act, or HITECH. We also offer a HIPAA assessment report performed by an independent third party.

### **Privacy**

We're committed to keeping user data private. Our privacy policy details how users' information is protected and the steps we take to protect it. Dropbox also has terms and guidelines for third-party developers to create applications that connect to Dropbox while respecting user privacy. Dropbox is certified under the EU-U.S. and Swiss-U.S. Privacy Shield and is working towards compliance with the EU General Data Protection Regulation, or GDPR, framework.

We believe in transparency with our users and have adopted guiding principles regarding how we handle requests from government and law enforcement agencies seeking information about our users and their content. These guiding principles are:

- *Be transparent*
  - We believe that online services should be allowed to publish the number and types of government requests they receive, and to notify individuals when information about them has been requested. We'll continue to publish detailed information about these requests and advocate for the right to provide more information.
- *Fight overly broad requests*
  - We believe that government data requests should be limited in the information they seek and narrowly tailored to specific people and legitimate investigations. We'll resist blanket and overly broad requests.
- *Provide trusted services*
  - We believe that governments should never install backdoors into online services or compromise infrastructure to obtain user data. We'll continue to work to protect our systems and to change laws to make it clear that this type of activity is illegal.
- *Protect all users*
  - We believe that laws that give people different protections based on where they live or their citizenship are antiquated and don't reflect the global nature of online services. We're committed to providing the same level of protection to all of our users. That means that we use our guiding principles to scrutinize all the requests we receive, regardless of the origin of the request or user.

### **Our Competition**

The market for content collaboration platforms is competitive and rapidly changing. Certain features of our platform compete with products offered by Amazon, Apple, Atlassian, Google, and Microsoft. We also compete with smaller private companies that offer point solutions.

We believe that the principal competitive factors in our markets include the following:

- user-centric design;

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- ease of adoption and use;
- scale of user network;
- features and platform experience;
- performance;
- brand;
- security and privacy;
- accessibility across several devices, operating systems, and applications;
- third-party integration;
- customer support;
- continued innovation; and
- pricing.

We believe we compete favorably across these factors and are largely uninhibited by legacy constraints. However, some of our competitors may have greater name recognition, longer operating histories, more varied services, the ability to bundle a broader range of products and services, larger marketing budgets, established marketing relationships, access to larger user bases, major distribution agreements with hardware manufacturers and resellers, and greater financial, technical, and other resources.

### **Intellectual Property**

We believe that our intellectual property rights are valuable and important to our business. We rely on patents, patent applications, trademarks, copyrights, trade secrets, know-how license agreements, confidentiality procedures, non-disclosure agreements, employee disclosure and invention assignment agreements, and other contractual rights to establish and protect our proprietary rights. In addition, from time to time we've purchased patents, inbound licenses, trademarks, domain names, and patent applications from third parties.

We have over 550 issued patents and more than 550 pending patent applications in the United States and abroad. These patents and patent applications seek to protect our proprietary inventions relevant to our business. In addition, we have a large number of inbound licenses to key patents in the file collaboration, storage, syncing, and sharing markets.

We have trademark rights in our name, our logo, and other brand indicia, and have trademark registrations for select marks in the United States and many other jurisdictions around the world. We also have registered domain names for websites that we use in our business, such as [www.dropbox.com](http://www.dropbox.com), and similar variations.

We intend to pursue additional intellectual property protection to the extent we believe it would be beneficial and cost effective. 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 distributed may not protect our intellectual property rights to the same extent as laws in the United States.

### **Legal Proceedings**

We are currently involved in, and may in the future be involved in, legal proceedings, claims, and government investigations in the ordinary course of business, including legal proceedings with third parties asserting infringement of their intellectual property rights. For example, in April 2015, Synchronoss Technologies, Inc., a public company that provides cloud-based products, filed a patent infringement lawsuit

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against us, claiming three counts of patent infringement and seeking injunctive relief. We intend to vigorously defend this lawsuit, and believe we have valid defenses to the claims in this lawsuit. However, litigation is inherently uncertain, and any judgment or injunctive relief entered against us or any adverse settlement could materially and adversely impact our business, results of operations, financial condition, and prospects.

Future litigation may be necessary, among other things, to defend ourselves or our users by determining the scope, enforceability, and validity of third-party proprietary rights or to establish our proprietary rights. The results of any current or 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.

### **Our Facilities**

Our corporate headquarters is located in San Francisco, California, pursuant to operating leases that expire in 2027. We lease additional offices in San Francisco and around the world, including in Austin, Texas; Dublin, Ireland; London, United Kingdom; New York, New York; Seattle, Washington; Sydney, Australia; and Tokyo, Japan. We have datacenter co-location facilities in California, Texas, and Virginia. We believe that these facilities are generally suitable to meet our needs.

## MANAGEMENT

### Executive Officers and Directors

The following table provides information regarding our executive officers and directors as of September 30, 2017:

<u>Name</u>	<u>Age</u>	<u>Position</u>
<i>Executive officers:</i>		
Andrew W. Houston	34	Chief Executive Officer, Co-Founder, and Chairman
Arash Ferdowsi	31	Co-Founder and Director
Quentin J. Clark	46	Senior Vice President of Engineering, Product, and Design
Ajay V. Vashee	34	Chief Financial Officer
Bart E. Volkmer	42	General Counsel
Dennis M. Woodside	48	Chief Operating Officer
<i>Non-executive directors:</i>		
Paul E. Jacobs	54	Director
Robert J. Mylod, Jr.	50	Director
Condoleezza Rice	62	Director
R. Bryan Schreier	39	Director
Margaret C. Whitman	61	Director

#### *Executive officers*

*Andrew W. Houston.* Mr. Houston is one of our co-founders and has served as a member of our Board of Directors and our Chief Executive Officer since June 2007. Mr. Houston holds a B.S. in Computer Science from the Massachusetts Institute of Technology.

Mr. Houston was selected to serve on our Board of Directors because of the perspective and experience he brings as our Chief Executive Officer and as one of our co-founders.

*Arash Ferdowsi.* Mr. Ferdowsi is one of our co-founders and has served as a member of our Board of Directors since June 2007. From June 2007 to October 2016, Mr. Ferdowsi served as our Chief Technology Officer. Mr. Ferdowsi attended the Massachusetts Institute of Technology.

Mr. Ferdowsi was selected to serve on our Board of Directors because of the perspective and experience he brings as one of our co-founders.

*Quentin J. Clark.* Mr. Clark has served as our Senior Vice President of Engineering, Product, and Design since September 2017. From November 2014 to September 2016, Mr. Clark served as Executive Vice President for SAP America, Inc., a developer of business software solutions, as its Chief Business Officer from October 2015 to September 2016, and as its Chief Technology Officer from November 2014 to October 2015. Prior to joining SAP, Mr. Clark served at Microsoft, Inc., a global technology company, and as a Corporate Vice President of enterprise business units since 2011, and held various engineering and product leadership roles at Microsoft since 1994. Mr. Clark holds a B.S. in Physics from the University of Massachusetts Amherst.

*Ajay V. Vashee.* Mr. Vashee has served as our Chief Financial Officer since September 2016. From February 2015 to September 2016, Mr. Vashee served as our Head of Corporate Development. From April 2012 to February 2015, Mr. Vashee served as our Head of Finance. Mr. Vashee holds a B.A. in Economics-Political Science from Columbia University.

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*Bart E. Volkmer.* Mr. Volkmer has served as our General Counsel since June 2016. From August 2011 to June 2016, Mr. Volkmer served as our Head of Litigation & Regulatory. Mr. Volkmer holds a J.D. from Santa Clara University School of Law and a B.A. in English from Creighton University.

*Dennis M. Woodside.* Mr. Woodside has served as our Chief Operating Officer since April 2014. From May 2012 to April 2014, Mr. Woodside served as Chief Executive Officer for Motorola Mobility LLC, a consumer electronics and telecommunications company now owned by Lenovo Group Ltd. From March 2009 to September 2011, Mr. Woodside served as President, Americas & Senior Vice President for Google Inc., a global technology company. Mr. Woodside holds a J.D. from Stanford Law School and a B.S. in Industrial Relations from Cornell University.

### ***Non-executive directors***

*Paul E. Jacobs, Ph.D.* Dr. Jacobs has served as a member of our Board of Directors since April 2016. Dr. Jacobs has served as the Executive Chairman for Qualcomm Inc., a semiconductor and telecommunications equipment company, since March 2014 and as the Chairman of its board of directors since March 2009. From July 2005 to March 2017, Dr. Jacobs served as Chief Executive Officer for Qualcomm Inc. Dr. Jacobs also currently serves as a member of the board of directors for a number of private companies. Dr. Jacobs holds a Ph.D. in Electrical Engineering and Computer Science, a M.S. in Electrical Engineering, and a B.S. in Electrical Engineering and Computer Science from the University of California, Berkeley.

Dr. Jacobs was selected to serve on our Board of Directors because of his extensive business, operations, and management experience.

*Robert J. Mylod Jr.* Mr. Mylod has served as a member of our Board of Directors since September 2014. Mr. Mylod has served as Managing Partner for Annox Capital Management, a venture capital firm that he founded, since January 2013. Mr. Mylod served as Head of Worldwide Strategy & Planning and Vice Chairman for The Priceline Group Inc., an online travel services provider, from January 2009 to March 2011 and as its Chief Financial Officer and Vice Chairman from November 2000 to January 2009. Mr. Mylod currently serves as the Chairman of the board of directors for Redfin Corporation, a real estate company that provides web-based real estate database and brokerage services, and as a member of the board of directors for The Priceline Group, Inc. and a number of private companies. Mr. Mylod holds an M.B.A. from the University of Chicago Booth School of Business and an A.B. in English from the University of Michigan.

Mr. Mylod was selected to serve on our Board of Directors because of his financial expertise and extensive business, operations, and management experience.

*Condoleezza Rice, Ph.D.* Dr. Rice has served as a member of our Board of Directors since April 2014. Since September 2010, Dr. Rice has served as the Denning Professor of Global Business and the Economy for the Stanford Graduate School of Business. Since March 2009, Dr. Rice has served as a Senior Fellow of Public Policy for the Hoover Institution, Stanford University, as a Senior Fellow for the Freeman Spogli Institute for International Studies, Stanford University, and as a Professor of Political Science for Stanford University. Dr. Rice has served as a partner at RiceHadleyGates LLC, an international strategic consulting firm that Dr. Rice founded, since November 2009. From January 2005 to January 2009, Dr. Rice served as the Secretary of State of the United States of America. From January 2001 to January 2005, Dr. Rice served as Chief National Security Advisor to President George W. Bush. Beginning in 1981, she served in various roles at Stanford University, including serving as Provost from 1993-1999. Dr. Rice previously served as a member of the board of directors of Charles Schwab Corporation, a bank and brokerage firm, Chevron Corporation, a multinational energy corporation, Transamerica Corporation, a life insurance and investment company, and KiOR, Inc., a renewable fuels company. Dr. Rice currently serves as an advisor for a number of other public companies, and as a member of the board directors for a number of private companies, including C3IoT and Makena Capital Management, LLC. Dr. Rice holds a Ph.D. in Political Science from the University of Denver, an M.A. in Political Science from the University of Notre Dame and a B.A. in Political Science from the University of Denver.

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Dr. Rice was selected to serve on our Board of Directors because of her deep global expertise and business experience from her prior roles as a director of multiple public companies and her background in policymaking, education, and innovation.

*R. Bryan Schreier.* Mr. Schreier has served as a member of our Board of Directors since July 2009. Since March 2008, Mr. Schreier has served as a partner at Sequoia Capital, a venture capital firm. Mr. Schreier currently serves as a member of the board of directors for a number of private companies. Mr. Schreier holds a B.A. in Computer Science from Princeton University.

Mr. Schreier was selected to serve on our Board of Directors because of his financial and managerial experience and because he represents our largest stockholder.

*Margaret C. Whitman.* Ms. Whitman has served as a member of our Board of Directors since September 2017. Since June 2017, Ms. Whitman has served as Chief Executive Officer for Hewlett Packard Enterprise Company, or HPE, a multinational enterprise information technology company, and as its President and Chief Executive Officer from November 2015 to June 2017. From July 2014 to November 2015, Ms. Whitman served as President, Chief Executive Officer, and Chairman for Hewlett-Packard Company (now known as HP Inc.), the former parent of Hewlett Packard Enterprise Company, and as its President and Chief Executive Officer from September 2011 to November 2015. Prior to joining HP Inc., Ms. Whitman was the Republican Party's nominee for the 2010 gubernatorial race in California. From March 2011 to September 2011, Ms. Whitman served as a part-time strategic advisor to Kleiner Perkins Caufield & Byers, a private equity firm. From 1998 to 2008, Ms. Whitman served as President and Chief Executive Officer of eBay Inc., an online marketplace and payments company. Ms. Whitman also currently serves as a member of the board of directors for The Procter & Gamble Company, a consumer goods company, Hewlett Packard Enterprise Company, and DXC Technology Company, an information technology and consulting services company. Ms. Whitman previously served as a member of the board of directors for HP Inc. and for a number of private companies. Ms. Whitman holds an M.B.A from Harvard Business School and an A.B. in Economics from Princeton University.

Ms. Whitman was selected to serve on our Board of Directors because of her extensive leadership, strategy, risk management, and consumer industry experience.

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

Our Board of Directors has adopted a code of business conduct and ethics that applies to all of our employees, officers, and directors, including our Chief Executive Officer, Chief Financial Officer, and other executive and senior financial officers. The full text of our code of business conduct and ethics will be posted on the investor relations page on our website. We intend to disclose any amendments to our code of business conduct and ethics, or waivers of its requirements, on our website or in filings under the Exchange Act.

### **Board of Directors**

Our business and affairs are managed under the direction of our Board of Directors. Our Board of Directors consists of seven directors, of whom qualify as "independent" under the listing standards of the . Pursuant to our current certificate of incorporation and amended and restated voting agreement, our current directors were elected as follows:

- Messrs. Ferdowsi, Houston, Jacobs, and Mylod and Mses. Rice and Whitman were elected as the designees nominated by holders of our common stock, excluding the common stock issued upon conversion of our convertible preferred stock; and
- Mr. Schreier was elected as the preferred stock designee nominated by entities affiliated with Sequoia Capital.

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Our amended and restated voting agreement will terminate and the provisions of our current certificate of incorporation by which our directors were elected will be amended and restated in connection with this offering. After this offering, the number of directors will be fixed by our Board of Directors, subject to the terms of our amended and restated certificate of incorporation and amended and restated bylaws that will become effective immediately prior to the completion of this offering. Each of our current directors will continue to serve as a director until the election and qualification of his or her successor, or until his or her earlier death, resignation or removal.

### **Classified Board of Directors**

We intend to adopt an amended and restated certificate of incorporation that will become effective immediately prior to the completion of this offering. Our amended and restated certificate of incorporation will provide that, immediately after the completion of this offering, our Board of Directors will be divided into three classes with staggered three-year terms. Only one class of directors will be elected at each annual meeting of stockholders, with the other classes continuing for the remainder of their respective three-year terms. Our current directors will be divided among the three classes as follows:

- the Class I directors will be \_\_\_\_\_, and their terms will expire at the annual meeting of stockholders to be held in 2019;
- the Class II directors will be \_\_\_\_\_, and their terms will expire at the annual meeting of stockholders to be held in 2020; and
- the Class III directors will be \_\_\_\_\_, and their terms will expire at the annual meeting of stockholders to be held in 2021.

Each director's term will continue until the election and qualification of his or her successor, or his or her earlier death, resignation, or removal. 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 our directors.

This classification of our Board of Directors may have the effect of delaying or preventing changes in control of our company.

### **Director Independence**

Our Board of Directors has undertaken a review of the independence of each director. Based on information provided by each director concerning his or her background, employment and affiliations, our Board of Directors has determined that \_\_\_\_\_ do not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under the listing standards of the \_\_\_\_\_. In making these determinations, our Board of Directors considered the current and prior relationships that each non-employee director has with our company and all other facts and circumstances our Board of Directors deemed relevant in determining their independence, including the beneficial ownership of our capital stock by each non-employee director, and the transactions involving them described in the section titled "Certain Relationships and Related Party Transactions."

### **Lead Independent Director**

Our Board of Directors intends to adopt corporate governance guidelines that will provide that one of our independent directors should serve as our Lead Independent Director at any time when our Chief Executive Officer serves as the Chairman of our Board of Directors or if the Chairman is not otherwise independent. Because Andrew W. Houston is our Chairman and is not an "independent" director as defined in the listing standards of \_\_\_\_\_, our Board of Directors has appointed \_\_\_\_\_ to serve as our Lead Independent Director. As Lead Independent Director, \_\_\_\_\_ will preside over periodic meetings of our independent directors, serve as a liaison between our Chairman and our independent directors, and perform such additional duties as our Board of Directors may otherwise determine and delegate.

## Committees of the Board of Directors

Our Board of Directors has established an audit committee, a compensation committee, and a nominating and corporate governance committee. The composition and responsibilities of each of the committees of our Board of Directors is described below. Members will serve on these committees until their resignation or until as otherwise determined by our Board of Directors.

### *Audit committee*

Following the completion of this offering, our audit committee will consist of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, with \_\_\_\_\_ serving as Chairperson, each of whom will meet the requirements for independence under the listing standards of the \_\_\_\_\_ and SEC rules and regulations. Each member of our audit committee also meets the financial literacy and sophistication requirements of the listing standards of the \_\_\_\_\_. In addition, our Board of Directors has determined that \_\_\_\_\_ is an audit committee financial expert within the meaning of Item 407(d) of Regulation S-K under the Securities Act. Following the completion of this offering, our audit committee will be responsible for, among other things:

- selecting a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;
- helping to ensure the independence and performance of the independent registered public accounting firm;
- discussing the scope and results of the audit with the independent registered public accounting firm, and reviewing, with management and the independent registered public accounting firm, our interim and year-end operating results;
- reviewing our financial statements and our critical accounting policies and estimates;
- reviewing the adequacy and effectiveness of our internal controls;
- developing procedures for employees to submit concerns anonymously about questionable accounting, internal accounting controls, or audit matters;
- reviewing our policies on risk assessment and risk management;
- reviewing related party transactions; and
- pre-approving all audit and all permissible non-audit services, other than de minimis non-audit services, to be performed by the independent registered public accounting firm.

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

### *Compensation committee*

Following the completion of this offering, our compensation committee will consist of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, with \_\_\_\_\_ serving as Chairperson, each of whom will meet the requirements for independence under the listing standards of the \_\_\_\_\_ and SEC rules and regulations. Each member of our compensation committee will also be a non-employee director, as defined pursuant to Rule 16b-3 promulgated under the Exchange Act, or Rule 16b-3. Following the completion of this offering, our compensation committee will be responsible for, among other things:

- reviewing, approving, and determining, or making recommendations to our Board of Directors regarding, the compensation of our executive officers;
- administering our equity compensation plans;



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- reviewing, approving, and making recommendations to our Board of Directors regarding incentive compensation and equity compensation plans;
- establishing and reviewing general policies relating to compensation and benefits of our employees; and
- making recommendations regarding non-employee director compensation to our full Board of Directors.

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

### ***Nominating and corporate governance committee***

Following the completion of this offering, our nominating and corporate governance committee will consist of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, with \_\_\_\_\_ serving as Chairperson, each of whom will meet the requirements for independence under the listing standards of the \_\_\_\_\_ and SEC rules and regulations. Following the completion of this offering, our nominating and corporate governance committee will be responsible for, among other things:

- identifying, evaluating, and selecting, or making recommendations to our Board of Directors regarding, nominees for election to our Board of Directors and its committees;
- evaluating the performance of our Board of Directors and of individual directors;
- considering and making recommendations to our Board of Directors regarding the composition of our Board of Directors and its committees;
- reviewing developments in corporate governance practices;
- evaluating the adequacy of our corporate governance practices and reporting;
- approving our committee charters;
- overseeing compliance with our code of business conduct and ethics;
- contributing to succession planning;
- reviewing actual and potential conflicts of interest of our directors and officers other than related party transactions reviewed by our audit committee; and
- developing and making recommendations to our Board of Directors regarding corporate governance guidelines and matters.

Our nominating and corporate governance committee will operate under a written charter, to be effective prior to the completion of this offering, that satisfies the applicable listing standards of the \_\_\_\_\_.

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

None of the members of our compensation committee is or has been an officer or employee of our company. None of our executive officers currently serves, or in the past year has served, as a member of the Board of Directors or compensation committee (or other board committee performing equivalent functions) of any entity that has one or more of its executive officers serving on our Board of Directors or compensation committee.

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

Our employee directors, Messrs. Houston and Ferdowski, have not received any compensation as directors.

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The following table provides information regarding compensation of our non-employee directors for service as directors, for the year ended December 31, 2017. Fiscal 2017 is not complete, and the amounts below represent the estimated compensation expected to be paid to our directors for 2017. In 2017, we do not expect to pay any compensation to any person who served as a non-employee member of our Board of Directors who is affiliated with our greater than 5% stockholders.

<u>Name</u>	<u>Stock awards(\$)(1)</u>	<u>Total(\$)</u>
Paul E. Jacobs	—	—
Robert J. Mylod, Jr.	—	—
Condoleezza Rice	—	—
Margaret C. Whitman(2)	908,000	908,000
R. Bryan Schreier	—	—

- (1) The amounts reported represent the aggregate grant-date fair value of the RSUs awarded to the director in 2017, calculated in accordance with ASC Topic 718. Such grant-date fair value does not take into account any estimated forfeitures related to service-vesting conditions. The assumptions used in calculating the grant-date fair value of the RSUs reported in this column are set forth in the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Judgments.”
- (2) Ms. Whitman became a member of our Board of Directors in September 2017.

The following table lists all outstanding equity awards that we expect will be held by non-employee directors as of December 31, 2017:

<u>Name</u>	<u>Date of grant</u>	<u>Number of shares underlying unvested stock awards(1)</u>
Paul E. Jacobs	5/24/16(2)	40,000
Robert J. Mylod, Jr.	10/27/14(3)	36,650
	5/24/16(4)	80,000
Condoleezza Rice	7/29/14(5)	36,650
	5/24/16(6)	80,000
Margaret C. Whitman	9/8/17(7)	80,000
R. Bryan Schreier	—	—

- (1) As further described in the footnotes below, the RSUs granted prior to August 1, 2015, which we refer to as two-tier RSUs, will generally vest upon the satisfaction of a service-based vesting condition and the occurrence of the Performance Vesting Condition. The Performance Vesting Condition occurs on the earlier of (i) an acquisition or change in control of the company or (ii) the earlier of (a) six months after our initial public offering or (b) March 15 of the year following our initial public offering. Our Board of Directors intends to accelerate the Performance Vesting Condition such that it will occur upon the effectiveness of our registration statement of which this prospectus forms a part.
- (2) 50% of the shares of our Class B common stock underlying the RSUs vested on each of May 1, 2017 and the remainder will vest on May 1, 2018, subject to continued service through such vesting date; provided, however, that as a result of amendments approved by our Board of Directors on September 8, 2017 applicable to all RSUs, or the September 2017 RSU Amendment, the May 1, 2018 vesting date is being accelerated to February 15, 2018.
- (3) The service condition was satisfied as to 100% of the shares of Class B common stock underlying the RSUs on September 1, 2016. The Performance Vesting Condition has not been satisfied.
- (4) 100% of the shares of our Class B common stock underlying the RSUs vest on September 1, 2018, subject to continued service through such vesting date; provided, however, that as a result of the September 2017 RSU Amendment, the September 1, 2018 vesting date is being accelerated to August 15, 2018.
- (5) The service condition was satisfied as to 100% of the shares of Class B common stock underlying the RSUs on May 15, 2016. The Performance Vesting Condition has not been satisfied.
- (6) 100% of the shares of our Class B common stock underlying the RSUs vest on May 15, 2018, subject to continued service through such vesting date.
- (7) Ms. Whitman became a member of our Board of Directors in September 2017. 50% of the shares of our Class B common stock underlying the RSUs vest on each of August 15, 2018 and August 15, 2019, subject to continued service through each such vesting date.

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Prior to this offering, we did not have a formal policy with respect to compensation payable to our non-employee directors for service as directors. From time to time, we have granted equity awards to certain non-employee directors to entice them to join our Board of Directors and for their continued service on our Board of Directors. We also have reimbursed our directors for expenses associated with attending meetings of our Board of Directors and committees of our Board of Directors. We anticipate adopting a formal compensation policy for our non-employee directors to provide cash and equity compensation to them following the completion of this offering.

**EXECUTIVE COMPENSATION****Summary Compensation Table**

Our named executive officers, consisting of our principal executive officer and the next two most highly compensated executive officers, as of December 31, 2017, were:

- Andrew W. Houston, our Chief Executive Officer;
- Quentin J. Clark, our Senior Vice President of Engineering, Product, and Design; and
- Dennis M. Woodside, our Chief Operating Officer.

Fiscal 2017 is not complete, and the amounts below represent the estimated compensation expected to be paid to our named executive officers for 2017.

**2017 Summary Compensation Table**

<u>Name and principal position</u>	<u>Year</u>	<u>Salary(\$)</u>	<u>Bonus(\$)</u>	<u>Stock awards(\$)(1)</u>	<u>Option awards (\$)</u>	<u>Non-equity incentive plan compensation (\$)(2)</u>	<u>Non-qualified deferred compensation earnings (\$)</u>	<u>All other compensation (\$)</u>	<u>Total(\$)</u>
Andrew W. Houston <i>Chief Executive Officer</i>	2017	400,000	—	—	—	284,700	—	3,000	687,700
Quentin J. Clark(3) <i>Senior Vice President of Engineering, Product, and Design</i>	2017	129,315	340,000(4)	34,050,000	—	92,040	—	3,000	34,614,355
Dennis M. Woodside <i>Chief Operating Officer</i>	2017	400,000	—	19,558,500	—	284,700	—	3,000	20,246,200

- (1) The amounts reported represent the aggregate grant-date fair value of RSUs calculated in accordance with ASC Topic 718. Such grant-date fair value does not take into account any estimated forfeitures related to service-vesting conditions. The assumptions used in calculating the grant-date fair value of the RSUs reported in this column are set forth in the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Judgments.”
- (2) The amounts reported represent the estimated amounts payable in 2017 under our 2017 Cash Bonus Plan, as described in greater detail under “—Non-Equity Incentive Plan Compensation.” The determination of actual amounts paid for 2017 is not yet complete, and the amounts reported reflect the current estimates only.
- (3) Mr. Clark joined us in September 2017 and therefore his salary and non-equity incentive plan compensation set forth in the table above were prorated for the portion of 2017 in which he was employed with us.
- (4) Amount represents a one-time signing bonus paid in connection with Mr. Clark’s hiring in 2017. Mr. Clark must repay the bonus if, before the first anniversary of his employment start date, his employment ends voluntarily or involuntarily under certain specified circumstances.

**Non-Equity Incentive Plan Compensation**

Each of our named executive officers is eligible to participate in our 2017 Cash Bonus Plan, or the 2017 Bonus Plan, under which he is eligible to receive cash bonus amounts based on our achievements of key company performance metrics.

Under the 2017 Bonus Plan, a cash bonus pool under our 2017 Bonus Plan will be established if we achieve certain corporate financial performance measures based on revenue and free cash flow. Our Board of Directors retains the discretion to increase or decrease the cash bonus pool under the 2017 Bonus Plan based on our achievements of those corporate financial performance measures in 2017. In addition, the actual bonus amount payable under the 2017 Bonus Plan may be modified based on individual performance for 2017.

Following the end of 2017, we expect our Board of Directors to review our achievements of our corporate financial performance measures and individual performance and determine the bonus amounts for each named

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executive officer based on his target bonus amount, which is described under “—Executive Employment Agreement.” Mr. Clark’s amount will be pro-rated based on the length of his service with us in 2017. The actual bonus amounts payable to our named executive officers under the 2017 Bonus Plan will be set forth in the “2017 Summary Compensation Table” above once determined.

### Outstanding Equity Awards at 2017 Year-End

The following table sets forth estimated information regarding outstanding equity awards held by our named executive officers as of December 31, 2017. Fiscal 2017 is not complete, and the amounts reported in the table below represent estimates assuming each named executive officer continues in service and vests through the end of 2017.

Name	Grant date(2)	Stock awards(1)	
		Number of shares or units of stock that have not vested	Market value of shares or units of stock that have not vested (\$)(3)
Andrew W. Houston	—	—	—
Quentin J. Clark	9/8/17(4)	3,000,000	
Dennis M. Woodside	4/4/14(5)	88,500	
	5/6/14(5)	241	
	7/29/14(5)	2,083	
	3/30/16(6)	408,582	
	5/4/17(7)	1,950,000	

- (1) As further described in the footnotes below, the RSUs granted prior to August 1, 2015, which we refer to as two-tier RSUs, will generally vest upon the satisfaction of a service-based vesting condition and the occurrence of the Performance Vesting Condition. The Performance Vesting Condition occurs on the earlier of (i) an acquisition or change in control of the Company or (ii) the earlier of (a) six months after our initial public offering or (b) March 15 of the year following our initial public offering. Our Board of Directors intends to accelerate the Performance Vesting Condition such that it will occur upon the effectiveness of our registration statement related to this offering.
- (2) Each of the outstanding equity awards was granted pursuant to our 2008 Plan or our 2017 Plan.
- (3) The market price for our Class A common stock is based upon the assumed initial public offering price of \$ \_\_\_\_\_ per share, which is the midpoint of the estimated offering price range set forth on the cover page of this prospectus.
- (4) 25% of the shares of our Class B common stock underlying the RSUs vest on August 15, 2018, and an additional 3/48<sup>th</sup> of the total number of shares of our Class B common stock underlying the RSUs vests in equal quarterly installments, each subject to continued service through each such vesting date.
- (5) The service-based vesting condition was satisfied as to 25% of shares of our Class B common stock underlying the RSUs on April 1, 2015. Prior to satisfaction of the Performance Vesting Condition, an additional 1/48<sup>th</sup> of the total number of shares of our Class B common stock underlying the RSUs vests in equal monthly installments, subject to continued service through each such vesting date. After satisfaction of the Performance Vesting Condition, an additional 3/48<sup>th</sup> of the total number of shares of our Class B common stock underlying the RSUs vest in equal quarterly installments, subject to continued service through each such vesting date; provided, however, that as a result of the September 2017 RSU Amendment, the vesting dates are being accelerated to February 15, May 15, August 15, and November 15 of each applicable year effective February 15, 2018.
- (6) 50% of the shares of our Class B common stock underlying the RSUs vested on April 1, 2016. An additional 1/8<sup>th</sup> of the total number of shares of our Class B common stock underlying the RSUs vests in equal quarterly installments, subject to continued service through each such vesting date; provided, however, that as a result of the September 2017 RSU Amendment, the final vesting date is being accelerated to February 15, 2018 effective February 15, 2018.
- (7) 3/21<sup>st</sup> of the shares of our Class B common stock underlying the RSUs vest on April 1, 2018, and an additional 3/21<sup>st</sup> of the total number of shares of our Class B common stock underlying the RSUs vests in equal quarterly installments, each subject to continued service through each such vesting date; provided, however, that as a result of the September 2017 RSU Amendment, the vesting dates are being accelerated to February 15, May 15, August 15, and November 15 of each applicable year effective February 15, 2018.

## Executive Employment Arrangements

### *Andrew W. Houston*

Prior to the completion of this offering, we intend to enter into an employment agreement with Andrew W. Houston, our Chief Executive Officer and one of our co-founders. The employment agreement is not expected to have a specific term and will provide that Mr. Houston is an at-will employee. The employment agreement also is expected to provide Mr. Houston with severance and change in control benefits. Mr. Houston's current annual base salary is \$400,000, and he is eligible for an annual target cash incentive payment equal to % of his annual base salary.

### *Quentin J. Clark*

Prior to the completion of this offering, we intend to enter into an employment agreement with Quentin J. Clark, our Senior Vice President of Engineering, Product, and Design. The employment agreement is not expected to have a specific term and will provide that Mr. Clark is an at-will employee. The employment agreement also is expected to provide Mr. Clark with severance and change in control benefits. Mr. Clark's current annual base salary is \$400,000, and he is eligible for an annual target cash incentive payment equal to % of his annual base salary.

### *Dennis M. Woodside*

Prior to the completion of this offering, we intend to enter into an employment agreement with Dennis M. Woodside, our Chief Operating Officer. The employment agreement is not expected to have a specific term and will provide that Mr. Woodside is an at-will employee. The employment agreement also is expected to provide Mr. Woodside with severance and change in control benefits. Mr. Woodside's current annual base salary is \$400,000, and he is eligible for an annual target cash incentive payment equal to % of his annual base salary.

## Employee Benefits and Stock Plans

### *2018 Equity Incentive Plan*

Prior to the completion of this offering, our Board of Directors intends to adopt, and we expect our stockholders will approve, our 2018 Plan. We expect that our 2018 Plan will be effective on the business day immediately prior to the effective date of our registration statement related to this offering. Our 2018 Plan will provide for the grant of incentive stock options, within the meaning of Section 422 of the Internal Revenue Code, or Code, to our employees, and for the grant of nonstatutory stock options, restricted stock, restricted stock units, stock appreciation rights, performance units, and performance shares to our employees, directors, and consultants.

*Authorized shares.* A total of shares of our Class A common stock will be reserved for issuance pursuant to our 2018 Plan. In addition, the shares reserved for issuance under our 2018 Plan also will include (i) shares that were reserved but unissued under our 2017 Plan as of immediately prior to its termination, plus (ii) shares subject to awards under our 2008 Plan or 2017 Plan (each, a "Prior Plan") that, on or after the termination of the 2017 Plan, expire or terminate and shares previously issued pursuant to our Prior Plans, as applicable, that, on or after the termination of the 2017 Plan, are forfeited or repurchased by us (provided that the maximum number of shares that may be added to our 2018 Plan from the Prior Plans is shares). The number of shares of our Class A common stock available for issuance under our 2018 Plan will also include an annual increase on the first day of each fiscal year beginning on January 1, 2019, equal to the least of:

- shares of our Class A common stock;
- percent ( %) of the outstanding shares of our capital stock as of the last day of the immediately preceding fiscal year; or
- such other amount as our Board of Directors may determine.

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If an award expires or becomes unexercisable without having been exercised in full, is surrendered pursuant to an exchange program, or, with respect to restricted stock, restricted stock units, performance units, or performance shares, is forfeited to or repurchased due to failure to vest, the unpurchased shares (or for awards other than stock options or stock appreciation rights, the forfeited or repurchased shares) will become available for future grant or sale under the 2018 Plan. With respect to stock appreciation rights, only the net shares actually issued will cease to be available under the 2018 Plan and all remaining shares under stock appreciation rights will remain available for future grant or sale under the 2018 Plan. Shares that have actually been issued under the 2018 Plan under any award will not be returned to the 2018 Plan; provided, however, that if shares issued pursuant to awards of restricted stock, restricted stock units, performance shares, or performance units are repurchased or forfeited, such shares will become available for future grant under the 2018 Plan. Shares used to pay the exercise price of an award or satisfy the tax withholding obligations related to an award will become available for future grant or sale under the 2018 Plan. To the extent an award is paid out in cash rather than shares, such cash payment will not result in a reduction in the number of shares available for issuance under the 2018 Plan.

*Plan administration.* Our Board of Directors or one or more committees appointed by our Board of Directors will administer our 2018 Plan. Our compensation committee is expected to administer our 2018 Plan. In the case of awards intended to qualify as “performance-based compensation” within the meaning of Section 162(m) of the Internal Revenue Code, the committee will consist of two or more “outside directors” within the meaning of Section 162(m) of the Internal Revenue Code. In addition, if we determine it is desirable to qualify transactions under our 2018 Plan as exempt under Rule 16b-3 of the Exchange Act, such transactions will be structured to satisfy the requirements for exemption under Rule 16b-3. Subject to the provisions of our 2018 Plan, the administrator has the power to administer our 2018 Plan and make all determinations deemed necessary or advisable for administering the 2018 Plan, including but not limited to, the power to determine the fair market value of our Class A common stock, select the service providers to whom awards may be granted, determine the number of shares covered by each award, approve forms of award agreements for use under the 2018 Plan, determine the terms and conditions of awards (including, but not limited to, the exercise price, the times or times at which the awards may be exercised, any vesting acceleration or waiver or forfeiture restrictions, and any restriction or limitation regarding any award or the shares relating thereto), construe and interpret the terms of our 2018 Plan and awards granted under it, to prescribe, amend, and rescind rules relating to our 2018 Plan, including creating sub-plans, and to modify or amend each award, including but not limited to the discretionary authority to extend the post-termination exercisability period of awards (provided that no option or stock appreciation right will be extended past its original maximum term), and to allow a participant to defer the receipt of payment of cash or the delivery of shares that would otherwise be due to such participant under an award. The administrator also has the authority to allow participants the opportunity to transfer outstanding awards to a financial institution or other person or entity selected by the administrator and to institute an exchange program by which outstanding awards may be surrendered or cancelled in exchange for awards of the same type which may have a higher or lower exercise price and/or different terms, awards of a different type and/or cash, or by which the exercise price of an outstanding award is increased or reduced. The administrator’s decisions, interpretations, and other actions are final and binding on all participants.

*Stock options.* Stock options may be granted under our 2018 Plan. The exercise price of options granted under our 2018 Plan must at least be equal to the fair market value of our Class A common stock on the date of grant. The term of an option may not exceed ten years. With respect to any participant who owns more than 10% of the voting power of all classes of our outstanding stock, the term of an incentive stock option granted to such participant must not exceed five years and the exercise price must equal at least 110% of the fair market value on the grant date. The administrator will determine the methods of payment of the exercise price of an option, which may include cash, shares, or other property acceptable to the administrator, as well as other types of consideration permitted by applicable law. After the termination of service of an employee, director, or consultant, he or she may exercise his or her option for the period of time stated in his or her option agreement. In the absence of a specified time in an award agreement, if termination is due to death or disability, the option will remain exercisable for 12 months. In all other cases, in the absence of a specified time in an award

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agreement, the option will remain exercisable for three months following the termination of service. An option may not be exercised later than the expiration of its term. Subject to the provisions of our 2018 Plan, the administrator determines the other terms of options.

*Stock appreciation rights.* Stock appreciation rights may be granted under our 2018 Plan. Stock appreciation rights allow the recipient to receive the appreciation in the fair market value of our Class A common stock between the exercise date and the date of grant. Stock appreciation rights may not have a term exceeding ten years. After the termination of service of an employee, director, or consultant, he or she may exercise his or her stock appreciation right for the period of time stated in his or her stock appreciation rights agreement. In the absence of a specified time in an award agreement, if termination is due to death or disability, the stock appreciation rights will remain exercisable for 12 months. In all other cases, in the absence of a specified time in an award agreement, the stock appreciation rights will remain exercisable for three months following the termination of service. However, in no event may a stock appreciation right be exercised later than the expiration of its term. Subject to the provisions of our 2018 Plan, the administrator determines the other terms of stock appreciation rights, including when such rights become exercisable and whether to pay any increased appreciation in cash or with shares of our Class A common stock, or a combination thereof, except that the per share exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right will be no less than 100% of the fair market value per share on the date of grant.

*Restricted stock.* Restricted stock may be granted under our 2018 Plan. Restricted stock awards are grants of shares of our Class A common stock that vest in accordance with terms and conditions established by the administrator. The administrator will determine the number of shares of restricted stock granted to any employee, director, or consultant and, subject to the provisions of our 2018 Plan, will determine the terms and conditions of such awards. The administrator may impose whatever conditions to vesting it determines to be appropriate (for example, the administrator may set restrictions based on the achievement of specific performance goals or continued service to us); provided, however, that the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed. Recipients of restricted stock awards generally will have voting and dividend rights with respect to such shares upon grant without regard to vesting, unless the administrator provides otherwise. Shares of restricted stock that do not vest are subject to our right of repurchase or forfeiture.

*RSUs.* RSUs may be granted under our 2018 Plan. Each RSU represents an amount equal to the fair market value of one share of our Class A common stock. Subject to the provisions of our 2018 Plan, the administrator determines the terms and conditions of RSUs, including the vesting criteria and the form and timing of payment. The administrator may set vesting criteria based upon the achievement of company-wide, divisional, business unit, or individual goals (including, but not limited to, continued employment or service), applicable federal or state securities laws, or any other basis determined by the administrator in its discretion. The administrator, in its sole discretion, may pay earned restricted stock units in the form of cash, in shares, or in some combination thereof. Notwithstanding the foregoing, the administrator, in its sole discretion, may accelerate the time at which any restrictions will lapse or be removed.

*Performance units and performance shares.* Performance units and performance shares may be granted under our 2018 Plan. Performance units and performance shares are awards that will result in a payment to a participant only if performance goals established by the administrator are achieved or the awards otherwise vest. The administrator will establish performance objectives or other vesting criteria in its discretion, which, depending on the extent to which they are met, will determine the number and/or the value of performance units and performance shares to be paid out to participants. The administrator may set performance objectives based on the achievement of company-wide, divisional, business unit, or individual goals (including, but not limited to, continued employment or service), applicable federal or state securities laws, or any other basis determined by the administrator in its discretion. After the grant of a performance unit or performance share, the administrator, in its sole discretion, may reduce or waive any performance criteria or other vesting provisions for such performance units or performance shares. Performance units shall have an initial dollar value established by the



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administrator on or prior to the grant date. Performance shares shall have an initial value equal to the fair market value of our Class A common stock on the grant date. The administrator, in its sole discretion, may pay earned performance units or performance shares in the form of cash, in shares, or in some combination thereof.

*Outside directors.* Our 2018 Plan provides that all outside (non-employee) directors will be eligible to receive all types of awards (except for incentive stock options) available for issuance under our 2018 Plan. Prior to the completion of this offering, we intend to implement a formal policy pursuant to which our outside directors will be eligible to receive equity awards under our 2018 Plan. In order to provide a maximum limit on the awards that can be made to our outside directors, our 2018 Plan provides that in any given fiscal year, an outside director will not be granted awards having a grant-date fair value greater than \$ , but this limit is increased to \$ in connection with his or her initial service (in each case, excluding awards granted to him or her as a consultant or employee). The grant-date fair values will be determined according to GAAP. The maximum limits do not reflect the intended size of any potential grants or a commitment to make grants to our outside directors under our 2018 Plan in the future.

*Non-transferability of awards.* Unless the administrator provides otherwise, our 2018 Plan generally does not allow for the transfer of awards and only the recipient of an award may exercise an award during his or her lifetime. If the administrator makes an award transferrable, such award will contain such additional terms and conditions as the administrator deems appropriate.

*Certain adjustments.* In the event of certain changes in our capitalization, to prevent diminution or enlargement of the benefits or potential benefits available under our 2018 Plan, the administrator will adjust the number and class of shares that may be delivered under our 2018 Plan and/or the number, class, and price of shares covered by each outstanding award, and the numerical share limits set forth in our 2018 Plan.

*Dissolution or liquidation.* In the event of our proposed liquidation or dissolution, the administrator will notify participants as soon as practicable and all awards will terminate immediately prior to the consummation of such proposed transaction.

*Merger or change in control.* Our 2018 Plan provides that in the event of a merger or change in control, as defined under our 2018 Plan, each outstanding award will be treated as the administrator determines, without a requirement to obtain a participant's consent. The administrator is not required to treat all awards, all awards held by a participant, or all awards of the same type, similarly.

In the event that a successor corporation or its parent or subsidiary does not assume or substitute an equivalent award for any outstanding award, then such award will fully vest, all restrictions on such award will lapse, all performance goals or other vesting criteria applicable to such award will be deemed achieved at 100% of target levels and such award will become fully exercisable, if applicable, for a specified period prior to the transaction, unless specifically provided for otherwise under the applicable award agreement or other written agreement with the participant. The award will then terminate upon the expiration of the specified period of time. If an option or stock appreciation right is not assumed or substituted, the administrator will notify the participant in writing or electronically that such option or stock appreciation right will be exercisable for a period of time determined by the administrator in its sole discretion and the option or stock appreciation right will terminate upon the expiration of such period.

If an outside director's awards are assumed or substituted for in a merger or change in control and the service of such outside director is terminated on or following a change in control, other than pursuant to a voluntary resignation, his or her options and stock appreciation rights, if any, will vest fully and become immediately exercisable, all restrictions on his or her restricted stock and restricted stock units will lapse and all performance goals or other vesting requirements for his or her performance shares and units will be deemed achieved at 100% of target levels, and all other terms and conditions met.

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*Clawback.* Awards will be subject to any clawback policy of ours, and the administrator also may specify in an award agreement that the participant's rights, payments, and/or benefits with respect to an award will be subject to reduction, cancellation, forfeiture, and/or recoupment upon the occurrence of certain specified events. Our Board of Directors may require a participant to forfeit, return, or reimburse us all or a portion of the award and/or shares issued under the award, any amounts paid under the award, and any payments or proceeds paid or provided upon disposition of the shares issued under the award in order to comply with such clawback policy or applicable laws.

*Amendment; termination.* The administrator has the authority to amend, suspend, or terminate our 2018 Plan provided such action does not impair the existing rights of any participant. Our 2018 Plan automatically will terminate in 2028, unless we terminate it sooner.

### **2018 Employee Stock Purchase Plan**

Prior to the effectiveness of this offering, our Board of Directors intends to adopt, and we expect our stockholders will approve, our Employee Stock Purchase Plan, or the ESPP. Our ESPP will be effective on the business day immediately prior to the effective date of the registration statement of which this prospectus forms a part. However, no offering period or purchase period under the ESPP will begin unless and until determined by our Board of Directors.

*Authorized shares.* A total of \_\_\_\_\_ shares of our Class A common stock will be available for sale under our ESPP. The number of shares of our Class A common stock that will be available for sale under our ESPP also includes an annual increase on the first day of each fiscal year beginning on January 1, 2019, equal to the least of:

- \_\_\_\_\_ shares of our Class A common stock;
- \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the outstanding shares of our capital stock as of the last day of the immediately preceding fiscal year; or
- such other amount as the administrator may determine.

*Plan administration.* Our Board of Directors, or a committee appointed by our Board of Directors will administer our ESPP, and have full but non-exclusive authority to interpret the terms of our ESPP and determine eligibility to participate, subject to the conditions of our ESPP, as described below. We expect our compensation committee to administer our ESPP. The administrator will have full and exclusive discretionary authority to construe, interpret, and apply the terms of the ESPP, to delegate ministerial duties to any of our employees, to designate separate offerings under the ESPP, to designate our subsidiaries and affiliates as participating in the ESPP, to determine eligibility, to adjudicate all disputed claims filed under the ESPP and to establish procedures that it deems necessary or advisable for the administration of the ESPP, including, but not limited to, adopting such procedures, sub-plans, and appendices to the enrollment agreement as are necessary or appropriate to permit participation in the ESPP by employees who are foreign nationals or employed outside the U.S. The administrator's findings, decisions, and determinations are final and binding on all participants to the full extent permitted by law.

*Eligibility.* Generally, all of our employees will be eligible to participate if they are customarily employed by us, or any participating subsidiary, for at least 20 hours per week and more than five months in any calendar year. The administrator, in its discretion, may, prior to an enrollment date for all options granted on such enrollment date in an offering, determine that an employee who (i) has not completed at least two years of service (or a lesser period of time determined by the administrator) since his or her last hire date, (ii) customarily works not more than 20 hours per week (or a lesser period of time determined by the administrator), (iii) customarily works not more than five months per calendar year (or a lesser period of time determined by the administrator), (iv) is a highly compensated employee within the meaning of Section 414(q) of the Code, and

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(v) is a highly compensated employee within the meaning of Section 414(q) of the Code with compensation above a certain level or is an officer or subject to disclosure requirements under Section 16(a) of the Exchange Act, is or is not eligible to participate in such offering period.

However, an employee may not be granted rights to purchase shares of our Class A common stock under our ESPP if such employee:

- immediately after the grant would own capital stock possessing 5% or more of the total combined voting power or value of all classes of our capital stock; or
- hold rights to purchase shares of our Class A common stock under all of our employee stock purchase plans that accrue at a rate that exceeds \$25,000 worth of shares of our Class A common stock for each calendar year.

*Offering periods; purchase periods.* Our ESPP includes a component that allows us to make offerings intended to qualify under Section 423 of the Code and a component that allows us to make offerings not intended to qualify under Section 423 of the Code to designated companies, as described in our ESPP. No offerings have been authorized to date by our Board of Directors under the ESPP. If our Board of Directors authorizes an offering period under the ESPP, our Board of Directors is authorized to establish the duration of offering periods and purchase periods, including the starting and ending dates of offering periods and purchase periods, provided that no offering period may have a duration exceeding 27 months.

*Contributions.* Our ESPP permits participants to purchase shares of our Class A common stock through contributions (in the form of payroll deductions or otherwise to the extent permitted by the administrator) of up to % of their eligible compensation. A participant may purchase a maximum of shares of our Class A common stock during a purchase period.

*Exercise of purchase right.* If our Board of Directors authorizes an offering and purchase period under the ESPP, amounts contributed and accumulated by the participant during any offering period will be used to purchase shares of our Class A common stock at the end of each purchase period established by our Board of Directors. The purchase price of the shares will be % of the lower of the fair market value of our Class A common stock on the first trading day of each offering period or on the exercise date. Participants may end their participation at any time during an offering period and will be paid their accrued contributions that have not yet been used to purchase shares of our Class A common stock. Participation ends automatically upon termination of employment with us.

*Non-transferability.* A participant may not transfer rights granted under our ESPP. If our compensation committee permits the transfer of rights, it may only be done by will, the laws of descent and distribution, or as otherwise provided under our ESPP.

*Merger or change in control.* Our ESPP provides that in the event of a merger or change in control, as defined under our ESPP, a successor corporation may assume or substitute each outstanding purchase right. If the successor corporation refuses to assume or substitute for the outstanding purchase right, the offering period then in progress will be shortened, and a new exercise date will be set that will be before the date of the proposed merger or change in control. The administrator will notify each participant that the exercise date has been changed and that the participant's option will be exercised automatically on the new exercise date unless prior to such date the participant has withdrawn from the offering period.

*Amendment; termination.* The administrator has the authority to amend, suspend, or terminate our ESPP, except that, subject to certain exceptions described in our ESPP, no such action may adversely affect any outstanding rights to purchase shares of our Class A common stock under our ESPP. Our ESPP automatically will terminate in 2038, unless we terminate it sooner.

### **2017 Equity Incentive Plan**

Our Board of Directors and stockholders adopted our 2017 Plan on March 8, 2017. Our 2017 Plan allows for the grant of incentive stock options to our employees, and for the grant of nonqualified stock options and restricted stock awards, RSUs, and stock appreciation rights to employees, officers, directors, and certain of our consultants.

*Authorized shares.* Our 2017 Plan will be terminated immediately prior to the effectiveness of our 2018 Plan, and accordingly, no shares will be available for issuance under the 2017 Plan following its termination. Our 2017 Plan will continue to govern outstanding awards granted thereunder. As of June 30, 2017, \_\_\_\_\_ shares of our Class A common stock were reserved for future issuance under our 2017 Plan and RSUs covering 15,057,045 shares of our Class A common stock remained outstanding under our 2017 Plan.

*Plan administration.* Our Board of Directors or one or more committees appointed by our Board of Directors may administer our 2017 Plan. Our compensation committee currently administers our 2017 Plan. Subject to the provisions of our 2017 Plan, the administrator has the power to construe and interpret our 2017 Plan and any agreement thereunder and to determine the form and terms of awards (including the participants), the number of shares subject to each award, the exercise price (if any), the fair market value of a share of our Class A common stock, if such stock is not publicly-traded, listed, or admitted to trading on a national securities exchange, nor reported in any newspaper or other source, the vesting, exercisability, and payment of awards granted under our 2017 Plan, whether an award has been earned, and whether awards will be granted singly, in combination with, in tandem with, in replacement of, or as alternatives to, other awards. The administrator may correct, prescribe, amend, expand, modify, rescind, or terminate rules and regulations relating to our 2017 Plan. The administrator may, at any time, authorize the issuance of new awards in exchange for the surrender and cancellation of any or all outstanding awards with the consent of a participant. The administrator may also buy out an award previously granted for cash, shares, or other consideration as the administrator and the participant may agree.

*Options.* Stock options may be granted under our 2017 Plan. The exercise price per share of all options must equal at least the fair market value per share of our Class A common stock on the date of grant, unless otherwise expressly determined in writing by the administrator on the grant date. The term of an option may not exceed ten years. An incentive stock option granted to a participant who owns more than 10% of the total combined voting power of all classes of our stock on the date of grant, or any parent or subsidiary corporations, may not have a term in excess of five years and must have an exercise price of at least 110% of the fair market value per share of our common stock on the grant date. The methods of payment of the exercise price of an option include cash (by check) or shares or certain other property or other consideration acceptable to the administrator and otherwise permitted under our 2017 Plan. After a participant's termination of service for reasons other than for death, disability, or cause, the participant generally may exercise his or her options, to the extent vested as of such date of termination, for three months after termination. After a participant's termination of service for death or disability, the option generally will remain exercisable, to the extent vested as of such date of termination, for 12 months after such termination. In no event may an option be exercised later than the expiration of its term. After a participant's termination of service for cause, the option generally will expire on the date of such termination.

*Restricted stock.* Restricted stock awards may be granted under our 2017 Plan. Restricted stock awards are offers by us to sell to an eligible person shares that are subject to certain specified restrictions, including restrictions on transferability and forfeiture provisions. Restricted stock awards will be entitled to receive all dividends or other distributions paid with respect to such shares, unless the administrator provides otherwise at the time of the award.

*RSUs.* RSUs may be granted under our 2017 Plan. RSUs are awards covering a number of shares that may be settled in cash, or by issue of those shares at a date in the future. No purchase price shall apply to an RSU settled in shares. The administrator may permit an RSU holder to defer payment under an RSU to a date or dates

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after the RSU is earned subject to certain restrictions set forth in our 2017 Plan. The administrator may permit holders of RSUs to receive dividend equivalent payments on outstanding RSUs if and when dividends are paid to stockholders in accordance with the terms of our 2017 Plan.

*Stock appreciation rights.* Stock appreciation rights may be granted under our 2017 Plan. Stock appreciation rights allow the participant to receive the appreciation in the fair market value of Class A common stock between the exercise date and the date of grant. Subject to the provisions of our 2017 Plan, the administrator determines the terms of stock appreciation rights, including when such rights become exercisable and whether to pay any increased appreciation in cash or shares. The per share exercise price for the shares to be issued pursuant to the exercise of a stock appreciation right must equal at least the fair market value per share of our Class A common stock on the date of grant. The term of a stock appreciation right may not exceed 10 years from the date the stock appreciation right is signed. The administrator will determine the period of time after a participant's termination of service during which the participant may exercise his or her stock appreciation right, subject to the same terms and conditions as applicable to options as described above.

*Transferability or assignability of awards.* Our 2017 Plan generally does not allow for the transfer or assignment of awards, other than by will or by the laws of descent and distribution and, with respect to nonqualified options, 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 "family member," and awards under our 2017 Plan may not be made subject to execution, attachment, or similar process. An award under our 2017 Plan generally is only exercisable by the participant or the participant's legal representative during the participant's lifetime.

*Certain adjustments.* In the event of certain changes in our capitalization, the administrator will proportionally adjust the number of shares that may be delivered under our 2017 Plan and/or the number and price of shares covered by each outstanding award subject to any required action by our Board of Directors or stockholders.

*Dissolution or liquidation.* In the event of our proposed liquidation or dissolution, our Board of Directors may terminate any and all outstanding awards followed by the payment of creditors and the distribution of any remaining funds to the our stockholders.

*Acquisition or other combination.* If we are subject to an acquisition, consolidation, or merger, or similar conversion event, outstanding awards under our 2017 Plan shall be subject to the agreement evidencing such transaction. The agreement may provide for the continuation, assumption, or substitution of outstanding awards by us (if we are the surviving corporation) or the successor or acquiring entity (if any), or the full or partial exercisability or vesting and accelerated expiration of awards, or the settlement of the full value of outstanding awards in cash, cash equivalents, or securities of the successor or its parent followed by the cancellation of such awards. If an outstanding award is not continued, assumed, or substituted, the award will terminate and cease to be outstanding immediately following the occurrence of the applicable transaction.

*Amendment; termination.* Our Board of Directors may terminate or amend our 2017 Plan at any time, provided that such amendment does not impair the rights under outstanding options without the participant's written consent. As noted above, prior to the adoption of our 2018 Plan in connection with this offering, our 2017 Plan will be terminated and no further awards will be granted thereunder. All outstanding awards will continue to be governed by their existing terms.

### **2008 Equity Incentive Plan, As Amended**

Our Board of Directors and stockholders adopted our 2008 Plan in January 2008. Our 2008 Plan was most recently amended in November 2016. Our 2008 Plan was terminated in connection with our adoption of our 2017 Plan. As of June 30, 2017, options to purchase 7,549,977 shares of our Class B common stock remained

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outstanding under our 2008 Plan at a weighted-average exercise price of approximately \$7.10 per share and RSUs covering 72,998,025 shares of our Class B common stock remained outstanding under our 2008 Plan. Awards granted under the 2008 Plan generally are subject to terms similar to those described above with respect to options and RSUs granted under the 2017 Plan. Our 2008 Plan provides that if there is (i) a dissolution or liquidation of the company, (ii) any reorganization, consolidation, merger, or similar transaction or series of related transactions resulting in a significant change in our voting securities as described in our 2008 Plan, or (iii) a sale of all or substantially all of our assets followed by the distribution of the proceeds to our stockholders, any or all outstanding awards may be assumed, converted, replaced, or substituted by the successor or acquiring corporation (if any). If a successor or acquiring corporation refuses to assume, convert, replace, or substitute awards, vesting of awards will accelerate and options will become exercisable in full prior to the consummation of event on such terms as determined by the administrator, and all options that are not exercised prior to the consummation of the transaction and all other awards will terminate. Our 2008 Plan generally does not allow for the transfer or assignment of awards, other than by will or by the laws of descent and distribution and, with respect to nonqualified options, 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,” and awards may not be made subject to execution, attachment, or similar process. An award is only exercisable by the participant or the participant’s legal representative during the participant’s lifetime. Our Board of Directors may amend our 2008 Plan at any time, provided that such amendment does not impair the rights under outstanding awards without the participant’s written consent.

### ***Executive Incentive Compensation Plan***

We maintain an Executive Incentive Compensation Plan, or the Bonus Plan. The Bonus Plan allows our compensation committee to provide cash incentive awards to selected employees, including our NEOs, determined by our compensation committee, based upon performance goals established by our compensation committee. Our compensation committee, in its sole discretion, establishes a target award for each participant under the Bonus Plan, which may be expressed as a percentage of the participant’s average annual base salary for the applicable performance period, a fixed dollar amount, or such other amount or based on such other formula as it determines to be appropriate.

Under the Bonus Plan, our compensation committee determines the performance goals applicable to awards, which goals may include, without limitation: attainment of research and development milestones, sales bookings, business divestitures and acquisitions, cash flow, cash position, earnings (which may include any calculation of earnings, including but not limited to earnings before interest and taxes, earnings before taxes, earnings before interest, taxes, depreciation and amortization, and net earnings), earnings per share, net income, net profit, net sales, operating cash flow, operating expenses, operating income, operating margin, overhead, or other expense reduction, product defect measures, product release timelines, productivity, profit, return on assets, return on capital, return on equity, return on investment, return on sales, revenue, revenue growth, sales results, sales growth, stock price, time to market, total stockholder return, working capital, and individual objectives such as MBOs, peer reviews, or other subjective or objective criteria. Performance goals that include the Company’s financial results may be determined in accordance with U.S. generally accepted accounting principles, or GAAP, or such financial results may consist of non-GAAP financial measures and any actual results may be adjusted by our compensation committee for one-time items or unbudgeted or unexpected items and/or payments of actual awards under the Bonus Plan when determining whether the performance goals have been met. The goals may be on the basis of any factors our compensation committee determines relevant, and may be on an individual, divisional, business unit, or company-wide basis. Any criteria used may be measured on such basis as our compensation committee determines. The performance goals may differ from participant to participant and from award to award. Our compensation committee also may determine that a target award or a portion thereof will not have a performance goal associated with it but instead will be granted (if at all) in the compensation committee’s sole discretion.

Our compensation committee may, in its sole discretion and at any time, increase, reduce, or eliminate a participant’s actual award, and/or increase, reduce, or eliminate the amount allocated to the bonus pool. The

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actual award may be below, at, or above a participant's target award, in our compensation committee's discretion. Our compensation committee may determine the amount of any increase, reduction, or elimination on the basis of such factors as it deems relevant, and it will not be required to establish any allocation or weighting with respect to the factors it considers.

Actual awards are paid in cash (or its equivalent) in a single lump sum only after they are earned and approved by our compensation committee. Unless otherwise determined by our compensation committee, to earn an actual award, a participant must be employed by us (or an affiliate of ours, as applicable) through the date the bonus is paid. Payment of bonuses occurs as soon as administratively practicable after they are earned, but no later than the dates set forth in the Bonus Plan.

Our Board of Directors has the authority to amend or terminate the Bonus Plan, provided such action does not, without the consent of the participant, alter or impair the rights or obligations under any award already earned by such participant. The Bonus Plan will remain in effect until terminated in accordance with the terms of the Bonus Plan.

### ***401(k) plan***

We maintain a tax-qualified 401(k) retirement plan for all U.S. employees who satisfy certain eligibility requirements, including requirements relating to age and length of service. Under our 401(k) plan, employees may elect to defer up to all eligible compensation, subject to applicable annual Internal Revenue Code limits. We match a portion of contributions made by our employees, including executives. We intend for our 401(k) plan to qualify under Section 401(a) and 501(a) of the Code so that contributions by employees to our 401(k) plan, and income earned on those contributions, are not taxable to employees until withdrawn from our 401(k) plan.

## CERTAIN RELATIONSHIPS, RELATED PARTY TRANSACTIONS, AND OTHER TRANSACTIONS

In addition to the compensation arrangements, including employment, termination of employment, and change in control arrangements, discussed in the sections titled “Management” and “Executive Compensation”, the following is a description of each transaction since January 1, 2015, and each currently proposed transaction in which:

- we have been or are to be a participant;
- the amount involved exceeded or exceeds \$120,000; and
- any of our directors, executive officers, or holders of more than 5% of our outstanding capital stock, or any immediate family member of, or person sharing the household with, any of these individuals or entities, had or will have a direct or indirect material interest.

### **Amended and Restated Investors’ Rights Agreement**

We are party to our Amended and Restated Investors’ Rights Agreement, or IRA, dated as of January 30, 2014, which provides, among other things, that certain holders of our capital stock have the right to demand that we file a registration statement or request that their shares of our capital stock be covered by a registration statement that we are otherwise filing. See the section titled “Description of Capital Stock—Registration Rights” for additional information regarding these registration rights.

### **Right of First Refusal**

Pursuant to certain of our bylaws, equity compensation plans, and certain agreements with our stockholders, including our Amended and Restated Right of First Refusal and Co-Sale Agreement, dated January 30, 2014, we or our assignees have a right to purchase shares of our capital stock which stockholders propose to sell to other parties. This right will terminate immediately prior to the completion of this offering.

### **Amended and Restated Voting and Drag-Along Agreement**

We are party to our Amended and Restated Voting and Drag-Along Agreement, or Voting Agreement, dated as of April 21, 2016, under which certain holders of our capital stock, including entities with which certain of our directors are affiliated, have agreed to vote their shares of our capital stock on certain matters, including with respect to the election of directors. Immediately prior to the completion of this offering, the Voting Agreement will terminate and none of our stockholders will have any special rights regarding the election or designation of members of our Board of Directors.

### **Commercial Arrangement**

We previously had a commercial relationship with Hewlett-Packard Company, of which Margaret Whitman served as the Chief Executive Officer from September 2011 to November 2015. During 2015, we made payments of \$37.3 million for capital leases and commercial products and services provided by the Hewlett-Packard Company.

We also have a commercial relationship with HPE, of which Margaret Whitman has served as Chief Executive Officer since November 2015. During 2016 and 2017, we received payments of \$1.0 million and \$1.1 million, respectively, for services rendered to HPE. During 2015, 2016, and the first half of 2017, we made payments of \$10.9 million, \$79.7 million, and \$43.2 million, respectively, for capital leases and commercial products and services provided by HPE.

### **Employment Arrangement**

Sheila Vashee, who is the wife of Ajay Vashee, our Chief Financial Officer, was employed by us in a non-executive capacity. Her total compensation received in 2015, 2016, and the first half of 2017, which is



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comprised of a base salary and bonus, as applicable, was \$234,228, \$249,064, and \$253,748, respectively, and was in line with similar roles at the company. Additionally, we granted Ms. Vashee equity awards covering 69,979 shares of our Class B common stock during this time.

### **Dropbox Charitable Foundation**

During 2016, two of our controlling stockholders formed the Dropbox Charitable Foundation, a Delaware non-stock corporation, or the Foundation. The primary purpose of the Foundation is to engage in charitable and educational activities within the meaning of Section 501(c)(3) of the Code. The Foundation is governed by a board of directors, a majority of which are independent. Both stockholders made contributions to the Foundation during 2016, comprised entirely of shares of Dropbox common stock. As of December 31, 2016, we had not made any contributions to the Foundation. We have not consolidated the Foundation in the accompanying consolidated financial statements, as we do not have control of the entity.

During the second quarter of 2017, we incurred \$9.4 million of expense for a non-cash charitable contribution, whereby we donated Class B common shares to initially fund the Foundation. Additionally, during the first half of 2017, we made cash contributions of \$373,978 to the Foundation.

### **Executive and Director Compensation**

We have granted stock options and RSUs to our executive officers and certain of our directors. See the sections titled “Executive Compensation—Outstanding Equity Awards at 2017 Year-End” and “Management—Non-Employee Director Compensation” for a description of these stock options and RSUs.

Other than as described above under this section titled “Certain Relationships and Related Party Transactions,” since January 1, 2015, we have not entered into any transactions, nor are there any currently proposed transactions, between us and a related party where the amount involved exceeds, or would exceed, \$120,000, and in which any related person had or will have a direct or indirect material interest. We believe the terms of the transactions described above were comparable to terms we could have obtained in arm’s-length dealings with unrelated third parties.

From time to time, we do business with other companies affiliated with certain holders of our capital stock. We believe that all such arrangements have been entered into in the ordinary course of business and have been conducted on an arm’s-length basis.

### **Limitation of Liability and Indemnification of Officers and Directors**

We expect to adopt an amended and restated certificate of incorporation, which will become effective immediately prior to the completion of this offering, and which will contain provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by Delaware law. 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 the following:

- any breach of their duty of loyalty to our company 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 Delaware General Corporation Law; or
- any transaction from which they derived an improper personal benefit.

Any amendment to, or repeal of, these provisions will not eliminate or reduce the effect of these provisions in respect of any act, omission, or claim that occurred or arose prior to that amendment or repeal. If the Delaware

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General Corporation Law is amended to provide for further limitations on the personal liability of directors of corporations, then the personal liability of our directors will be further limited to the greatest extent permitted by the Delaware General Corporation Law.

In addition, we expect to adopt amended and restated bylaws, which will become effective immediately prior to the completion of this offering, and which will provide that we will indemnify, to the fullest extent permitted by law, any person who is or was a party or is threatened to be made a party to any action, suit, or proceeding by reason of the fact that he or she is or was one of our directors or officers or is or was serving at our request as a director or officer of another corporation, partnership, joint venture, trust, or other enterprise. Our amended and restated bylaws are expected to provide that we may indemnify to the fullest extent permitted by law any person who is or was a party or is threatened to be made a party to any action, suit, or proceeding by reason of the fact that he or she is or was one of our employees or agents or is or was serving at our request as an employee or agent of another corporation, partnership, joint venture, trust, or other enterprise. Our amended and restated bylaws will also provide that we must advance expenses incurred by or on behalf of a director or officer in advance of the final disposition of any action or proceeding, subject to limited exceptions.

Further, we have entered into or will enter into indemnification agreements with each of our directors and executive officers that may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements require us, among other things, to indemnify our directors and executive officers against liabilities that may arise by reason of their status or service. These indemnification agreements also require us to advance all expenses incurred by the directors and executive officers in investigating or defending any such action, suit, or proceeding. We believe that these agreements are necessary to attract and retain qualified individuals to serve as directors and executive officers.

The limitation of liability and indemnification provisions that are expected to be included in our amended and restated certificate of incorporation, amended and restated bylaws, and in indemnification agreements that we have entered into or will enter into with our directors and executive officers may discourage stockholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duties. They may also reduce the likelihood of derivative litigation against our directors and executive 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 executive officers as required by these indemnification provisions. At present, we are not aware of any pending litigation or proceeding 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.

We have obtained insurance policies under which, subject to the limitations of the policies, coverage is provided to our directors and executive officers against loss arising from claims made by reason of breach of fiduciary duty or other wrongful acts as a director or executive officer, including claims relating to public securities matters, and to us with respect to payments that may be made by us to these directors and executive officers pursuant to our indemnification obligations or otherwise as a matter of law.

Certain of our non-employee directors may, through their relationships with their employers, be insured and/or indemnified against certain liabilities incurred in their capacity as members of our Board of Directors.

The underwriting agreement will provide for indemnification by the underwriters of us and our officers and directors for certain liabilities arising under the Securities Act or otherwise.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling our company pursuant to the foregoing provisions, 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.

**Policies and Procedures for Related Party Transactions**

Following the completion of this offering, our audit committee will have the primary responsibility for reviewing and approving or disapproving “related party transactions,” which are transactions between us and related persons in which the aggregate amount involved exceeds or may be expected to exceed \$120,000 and in which a related person has or will have a direct or indirect material interest. Upon completion of this offering, our policy regarding transactions between us and related persons will provide that a related person is defined as a director, executive officer, nominee for director, or greater than 5% beneficial owner of our common stock, in each case since the beginning of the most recently completed year, and any of their immediate family members. Our audit committee charter that will be in effect upon completion of this offering will provide that our audit committee shall review and approve or disapprove any related party transactions.

## PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth certain information with respect to the beneficial ownership of our capital stock as of June 30, 2017, and as adjusted to reflect the sale of our common stock offered by us and the selling stockholders in this offering assuming no exercise of the underwriters' option to purchase additional shares of our common stock from us and the selling stockholders, for:

- each of our named executive officers;
- each of our directors;
- all of our current directors and executive officers as a group;
- each person known by us to be the beneficial owner of more than 5% of the outstanding shares of each of our Class A common stock and Class B common stock; and
- all selling stockholders.

We have determined beneficial ownership in accordance with the rules of the SEC, and thus it represents sole or shared voting or investment power with respect to our securities. Unless otherwise indicated below, to our knowledge, the persons and entities named in the table have sole voting and sole investment power with respect to all shares that they beneficially owned, subject to community property laws where applicable. The information does not necessarily indicate beneficial ownership for any other purpose, including for purposes of Sections 13(d) and 13(g) of the Securities Act.

We have based our calculation of the percentage of beneficial ownership prior to this offering on 13,168,617 shares of our Class A common stock (including the Capital Stock Conversions) and 532,410,747 shares of our Class B common stock (including the Capital Stock Conversions and the RSU Settlement) outstanding as of June 30, 2017. We have based our calculation of the percentage of beneficial ownership after this offering on \_\_\_\_\_ shares of our Class A common stock issued by us in our initial public offering and \_\_\_\_\_ shares of Class A common stock outstanding immediately after the completion of this offering, assuming that the underwriters will not exercise their option to purchase up to an additional \_\_\_\_\_ shares of our Class A common stock from us and the selling stockholders in full. We have deemed shares of our common stock subject to stock options that are currently exercisable or exercisable within 60 days of June 30, 2017, or issuable pursuant to RSUs which are subject to vesting and settlement conditions expected to occur within 60 days of June 30, 2017, to be outstanding and to be beneficially owned by the person holding the stock option or RSU for the purpose of computing the percentage ownership of that person. We did not deem these shares outstanding, however, for the purpose of computing the percentage ownership of any other person.

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Unless otherwise indicated, the address of each beneficial owner listed in the table below is c/o Dropbox, Inc., 333 Brannan Street, San Francisco, California 94107.

Name of beneficial owner	Shares beneficially owned prior to this offering				% of total outstanding	% of total voting power before offering#	Shares beneficially owned after this offering				% of total voting power after offering#
	Class A shares	%	Class B shares†	%			Class A shares	%	Class B shares†	%	
<b>Named executive officers and directors:</b>											
Andrew W. Houston <sup>(1)</sup>	—		127,145,188								
Arash Ferdowsi <sup>(2)</sup>	—		51,406,082								
Dennis M. Woodside <sup>(3)</sup>	—		2,655,783								
Quentin J. Clark	—		—								
Paul E. Jacobs <sup>(4)</sup>	—		299,067								
Robert J. Mylod, Jr. <sup>(5)</sup>	184,049		—								
Condoleezza Rice	—		—								
R. Bryan Schreier <sup>(6)</sup>	—		—								
Margaret C. Whitman <sup>(7)</sup>											
All executive officers and directors as a group (11 persons) <sup>(8)</sup>	184,049		182,259,453								
<b>Greater than 5% stockholders:</b>											
Entities affiliated with Sequoia Capital <sup>(9)</sup>	—		130,757,184								
Entities affiliated with Accel <sup>(10)</sup>	—		28,128,867								
Entities affiliated with T. Rowe Price	9,009,694		13,594,481								
Entities affiliated with Cloud Sky	1,047,054		837,643								
Scottish Mortgage Investment Trust	1,105,000		2,173,913								

† The Class B common stock is convertible at any time by the holder into shares of Class A common stock on a share-for-share basis, such that each holder of Class B common stock beneficially owns an equivalent number of Class A common stock.

# Percentage total voting power represents voting power with respect to all shares of our Class A common stock and Class B common stock, as a single class. Each holder of Class B common stock shall be entitled to votes per share of Class B common stock and each holder of Class A common stock shall be entitled to one vote per share of Class A common stock on all matters submitted to our stockholders for a vote. The Class A common stock and Class B common stock vote together as a single class on all matters submitted to a vote of our stockholders, except as may otherwise be required by law.

\* Represents beneficial ownership of less than one percent (1%) of the outstanding shares of our common stock.

- (1) Consists of (i) 13,172,325 shares of Class B common stock held by the Houston Remainder Trust dated 12/30/2010, for which Mr. Houston serves as trustee, (ii) 113,222,113 shares of Class B common stock held by the Andrew W. Houston Revocable Trust dated 9/7/2011, for which Mr. Houston serves as trustee, and (iii) 750,750 shares of Class B common stock held by the Houston 2012 Irrevocable Children's Trust dated 4/12/2012, for which Mr. Houston serves as trustee.
- (2) Consists of (i) 4,351,205 shares of Class B common stock held by the Arash Ferdowsi Remainder Trust dated 3/21/2011, for which Mr. Ferdowsi serves as trustee and (ii) 47,054,877 shares of Class B common stock held by the Arash Ferdowsi Revocable Trust dated 4/20/2012, for which Mr. Ferdowsi serves as trustee.
- (3) Consists of (i) 2,451,492 shares of Class B common stock held by Mr. Woodside and (ii) 204,291 shares of Class B common stock underlying RSUs that will vest within 60 days of June 30, 2017.
- (4) Consists of (i) 259,067 shares of Class B common stock held by the Paul E. Jacobs Trust dated November 7, 2014, for which Mr. Jacobs serves as trustee and (ii) 40,000 shares of Class B common stock held by Mr. Jacobs.
- (5) Consists of 184,049 shares of Class B common stock held by Annox Capital, LLC, or Annox, which will convert into an equivalent number of shares of Class A common stock in connection with the Capital Stock Conversion. Mr. Mylod, a member of our Board of Directors, is the managing member of Annox and has sole voting and investment control over the shares held by Annox.
- (6) Excludes shares listed in footnote 9 below, which are held by entities affiliated with Sequoia Capital. Mr. Schreier, one of our directors, is a non-managing member of SC XII LLC.

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- (7) Margaret Whitman was elected to the Board of Directors in September 2017.
- (8) Consists of (i) 135,200 shares of Class B common stock subject to options that are immediately exercisable within 60 days of June 30, 2017 and (ii) 369,432 shares of Class B common stock underlying RSUs that will vest within 60 days of June 30, 2017.
- (9) Consists of (i) 114,268,720 shares of Class B common stock held by Sequoia Capital XII, L.P., or SC XII, (ii) 12,212,722 shares of Class B common stock held by Sequoia Capital XII Principals Fund, LLC, or SC XII PF, and (iii) 4,275,742 shares of Class B common stock held by Sequoia Technology Partners XII, L.P., or STP XII. SC XII Management, LLC, or SC XII LLC, is the general partner of each of SC XII and STP XII, and the managing member of SC XII PF. As a result, and by virtue of the relationships described in this footnote, SC XII LLC may be deemed to share beneficial ownership of the shares held by SC XII, SC XII PF, and STP XII. The address for these entities is 2800 Sand Hill Road #101, Menlo Park, California 94025.
- (10) Consists of (i) 2,453,503 shares of Class B common stock held by Accel Investors 2008 L.L.C., or AI 2008, (ii) 22,159 shares of Class B common stock held by Accel Investors 2010 L.L.C., or AI 2010, (iii) 15,748 shares of Class B common stock held by Accel Investors 2013 L.L.C., or AI 2013, (iv) 148,283 shares of Class B common stock held by Accel XI L.P., or Accel XI, (v) 11,140 shares of Class B common stock held by Accel XI Strategic Partners L.P., or Accel XI Strategic, (vi) 23,683,466 shares of Class B common stock held by Accel X L.P., or Accel X, and (vii) 1,794,568 shares of Class B common stock held by Accel X Strategic Partners L.P., or Accel X Strategic, and together with AI 2008, AI 2010, AI 2013, Accel XI, Accel XI Strategic, and Accel X, the Accel Entities. Accel X Associates L.L.C., or Accel X Associates, is the general partner of Accel X and Accel X Strategic and has the sole voting and investment power. Andrew G. Braccia, Kevin E. Froisy, Sameer K. Gandhi, Ping Li, Tracy L. Sedlock, and Richard P. Wong are the managing members of Accel X Associates, AI 2008, and AI 2010 and share voting and investment powers over such shares. Accel XI Associates L.L.C., or Accel XI Associates, is the general partner of Accel XI and Accel Strategic and has the sole voting and investment power. Andrew G. Braccia, Sameer K. Gandhi, Ping Li, Tracy L. Sedlock, and Richard P. Wong are the managing members of Accel XI Associates and AI 2013 and share voting and investment powers over such shares. The address for these entities and individuals is 428 University Ave., Palo Alto, California 94301.

## DESCRIPTION OF CAPITAL STOCK

### General

The following description summarizes certain important terms of our capital stock, as they are expected to be in effect immediately prior to the completion of this offering. We expect to adopt an amended and restated certificate of incorporation and amended and restated bylaws that will become effective immediately prior to the completion of this offering, and this description summarizes the provisions that are expected to be included in such documents. Because it is only a summary, it does not contain all the information that may be important to you. For a complete description of the matters set forth in this section titled “Description of Capital Stock,” you should refer to our amended and restated certificate of incorporation, amended and restated bylaws and amended and restated investors’ rights agreement, which are included as exhibits to the registration statement of which this prospectus forms a part, and to the applicable provisions of Delaware law.

Immediately following the completion of this offering, our authorized capital stock will consist of \_\_\_\_\_ shares of capital stock, \$0.00001 par value per share, of which:

- \_\_\_\_\_ shares are designated as Class A common stock;
- \_\_\_\_\_ share are designated as Class B common stock; and
- \_\_\_\_\_ shares are designated as preferred stock.

Assuming the conversion of all outstanding shares of our convertible preferred stock into shares of our Class B common stock, which will occur immediately prior to the completion of this offering, as of June 30, 2017, there were 13,168,617 shares of our Class A common stock outstanding (including the Capital Stock Conversions), held by \_\_\_\_\_ stockholders of record, and 532,410,747 shares of our Class B common stock outstanding (including the Capital Stock Conversions and the RSU Settlement), held by \_\_\_\_\_ stockholders of record. Pursuant to our amended and restated certificate of incorporation, our Board of Directors will have the authority, without stockholder approval except as required by the listing standards of \_\_\_\_\_, to issue additional shares of our capital stock.

### Common Stock

We have two classes of authorized common stock, Class A common stock and Class B common stock. The rights of the holders of Class A common stock and Class B common stock are identical, except with respect to voting and conversion.

### Dividend Rights

Subject to preferences that may apply to any shares of 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” for additional information.

### Voting Rights

Holders of our Class B common stock are entitled to \_\_\_\_\_ votes for each share held and holders of our Class A common stock are entitled to one vote for each share held on all matters submitted to a vote of stockholders. The holders of our Class A common stock and Class B common stock vote together as a single class, unless otherwise required by law. Delaware law could require either holders of our Class A common stock or our Class B common stock to vote separately as a single class in the following circumstances:

- if we were to seek to amend our amended and restated certificate of incorporation to increase the authorized number of shares of a class of stock, or to increase or decrease the par value of a class of stock, then that class would be required to vote separately to approve the proposed amendment; and

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- if we were to seek to amend our amended and restated certificate of incorporation in a manner that alters or changes the powers, preferences, or special rights of a class of stock in a manner that affected its holders adversely, then that class would be required to vote separately to approve the proposed amendment.

Stockholders do not have the ability to cumulate votes for the election of directors. Our amended and restated certificate of incorporation and amended and restated bylaws that will be in effect at the closing of our initial public offering will provide for a classified Board of Directors consisting of three classes of approximately equal size, each serving staggered three-year terms. Only the directors in one class will be subject to election by a plurality of the votes cast at each annual meeting of stockholders, with the directors in 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 conversion, redemption, or sinking fund provisions.

### **Right to Receive Liquidation Distributions**

If we become subject to a 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 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 preferred stock.

### **Conversion of Class B Common Stock**

Each share of Class B common stock is convertible at any time at the option of the holder into one share of Class A common stock. Following the completion of this offering, shares of Class B common stock will automatically convert into shares of Class A common stock upon sale or transfer (other than with respect to certain estate planning transfers). In addition, each share of Class B common stock will convert automatically into one share of Class A common stock upon (i) a date on or after the one year anniversary of the closing of our initial public offering that is specified by affirmative vote of the holders of a majority of the then outstanding shares of Class B common stock, (ii) the date on which the outstanding shares of Class B common stock represent less than five percent of the aggregate number of shares of the then outstanding Class A common stock and Class B common stock, or (iii) the death of both of our co-founders.

Additionally, pursuant to transfer agreements with certain of our stockholders, 3,914,934 shares of our Class B common stock will automatically convert into an equivalent number of shares of Class A common stock immediately prior to the completion of this offering.

### **Fully Paid and Non-Assessable**

In connection with this offering, our legal counsel will opine that the shares of our Class A common stock to be issued in this offering will be fully paid and non-assessable.

### **Preferred Stock**

Our Board of Directors is 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



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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 control of our company 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.

### **Options**

As of June 30, 2017, we had outstanding options to purchase an aggregate of 7,549,977 shares of our Class B common stock, with a weighted-average exercise price of \$7.10 per share, under our equity compensation plans.

### **RSUs**

As of June 30, 2017, we had outstanding 72,998,025 shares of our Class B common stock subject to RSUs under our 2008 Plan and 15,057,045 shares of our Class A common stock subject to RSUs under our 2008 Plan and 2017 Plan. RSUs granted on and after August 1, 2015, which we refer to as one-tier RSUs, generally vest upon the satisfaction of a service-based vesting condition. The service-based vesting condition generally is satisfied over a four-year period. 25% of the one-tier RSUs vest upon completion of one year of service measured from the vesting commencement date, and as to the balance in successive equal quarterly installments, subject to continued service through each such vesting date. Our RSUs granted prior to August 1, 2015, which we refer to as two-tier RSUs, generally vest upon the satisfaction of both a service-based vesting condition and the Performance Vesting Condition occurring before these two-tier RSUs expire. The service-based vesting condition generally is satisfied over a four-year period. 25% of the two-tier RSUs service-based vesting condition is satisfied upon completion of one year of service measured from the vesting commencement date, and the balance generally vests in successive equal monthly installments prior to the occurrence of the Performance Vesting Condition and in successive equal quarterly installments after the occurrence of the Performance Vesting Condition, but, in all cases, subject to continued service through each applicable vesting date. The Performance Vesting Condition occurs on the earlier of (i) an acquisition or change in control of us or (ii) the earlier of (a) six months after our initial public offering or (b) March 15 of the year following our initial public offering. As a result of the September 2017 RSU Amendment, all RSUs were amended to provide that the quarterly dates for satisfying the service-based vesting condition shall be February 15, May 15, August 15, or November 15, each of which we refer to as a New Quarterly Date. This amendment will result in a partial acceleration of any RSUs that were scheduled to satisfy the service-based vesting condition on a date following a New Quarterly Date but before the next New Quarterly Date, such that these RSUs now will satisfy the service-based vesting condition on the first of those New Quarterly Dates. For one-tier RSUs, this amendment will be effective as of February 15, 2018, and for two-tier RSUs, this amendment will be effective as of the satisfaction of the Performance Vesting Condition. In addition, as a result of the September 2017 RSU Amendment, any two-tier RSUs that are scheduled to satisfy the service-based vesting condition on the first day of any month now will satisfy this condition on the 15th day of the prior month until the date that the Performance Vesting Condition is satisfied. Our Board of Directors intends to accelerate the Performance Vesting Condition with the two-tier RSUs to occur upon the effectiveness of the registration statement of which this prospectus forms a part. All other significant terms of the two-tier RSUs will remain unchanged.

### **Registration Rights**

After the completion of this offering, certain holders of our Class B common stock will be entitled to rights with respect to the registration of their shares under the Securities Act. These registration rights are contained in our IRA. We and certain holders of our preferred stock are parties to the IRA. Immediately prior to the

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completion of this offering, each share of outstanding preferred stock will convert automatically into one share of Class B common stock. The registration rights set forth in the IRA will expire five years following the completion of this offering, or, with respect to any particular stockholder, when such stockholder is able to sell all of its shares on any one day pursuant to Rule 144 of the Securities Act or a similar exemption. We will pay the registration expenses (other than underwriting discounts, selling commissions, and transfer taxes) of the holders of the shares registered pursuant to the registrations described below. In an underwritten offering, the managing underwriter, if any, has the right, subject to specified conditions, to limit the number of shares such holders may include. We expect that our stockholders will waive their rights under the IRA (i) to notice of this offering and (ii) to include their registrable shares in this offering. In addition, in connection with this offering, we expect that each stockholder that has registration rights will agree not to sell or otherwise dispose of any securities without the prior written consent of the company and the underwriters for a period of 180 days after the date of this prospectus, subject to certain terms and conditions and early release of certain holders in specified circumstances. See the section titled “Shares Eligible for Future Sale—Lock-Up and Market Standoff Agreements” for additional information regarding such restrictions.

### **Demand Registration Rights**

After the completion of this offering, the holders of up to \_\_\_\_\_ shares of our Class B common stock will be entitled to certain demand registration rights. At any time beginning six months after the effective date of this offering, the holders of at least 40% of these shares then outstanding can request that we register the offer and sale of their shares, or such request must cover securities in which the anticipated aggregate public offering price, before payment of underwriting discounts and commissions, is at least \$10,000,000. We are obligated to effect only two such registrations. If we determine that it would be seriously detrimental to us and our stockholders to effect such a demand registration, we have the right to defer such registration, not more than once in any 12-month period, for a period of up to 120 days.

### **Piggyback Registration Rights**

After the completion of this offering, if we propose to register the offer and sale of our Class A common stock under the Securities Act, in connection with the public offering of such Class A common stock, the holders of up to \_\_\_\_\_ shares of our Class B common stock will be entitled to certain “piggyback” registration rights allowing the holders to include their shares in such registration, subject to certain marketing and other limitations. As a result, whenever we propose to file a registration statement under the Securities Act, other than with respect to (1) a registration in which the only Class A common stock being registered is Class A common stock issuable upon conversion of debt securities that are also being registered, (2) a registration related to any employee benefit plan or a corporate reorganization or other transaction covered by Rule 145 promulgated under the Securities Act, or (3) a registration on any registration form which does not permit secondary sales or does not include substantially the same information as would be required to be included in a registration statement covering the public offering of our Class A common stock, the holders of these shares are entitled to notice of the registration and have the right, subject to certain limitations, to include their shares in the registration.

### **S-3 Registration Rights**

After the completion of this offering, the holders of up to \_\_\_\_\_ shares of our Class B common stock will be entitled to certain Form S-3 registration rights. The holders of at least 40% of these shares then outstanding may make a written request that we register the offer and sale of their shares on a registration statement on Form S-3 if we are eligible to file a registration statement on Form S-3 so long as the request covers securities the anticipated aggregate public offering price of which, before payment of underwriting discounts and commissions, is at least \$3,000,000. These stockholders may make an unlimited number of requests for registration on Form S-3; however, we will not be required to effect a registration on Form S-3 if we have effected two such registrations within the 12-month period preceding the date of the request. Additionally, if we determine that it would be seriously detrimental to the Company and our stockholders to effect such a registration, we have the right to defer such registration, not more than once in any 12-month period, for a period of up to 120 days.

## Anti-Takeover Provisions

Certain provisions of Delaware law, our amended and restated certificate of incorporation, and our amended and restated bylaws, which are summarized below, may have the effect of delaying, deferring, or discouraging another person from acquiring control of us. They are also designed, in part, to encourage persons seeking to acquire control of us to negotiate first 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.

### Delaware Law

We will be governed by the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a public Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a period of three years after the date of the transaction in which the person became an interested stockholder, unless:

- the transaction was approved by the board of directors prior to the time that the stockholder became 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 shares owned by directors who are also officers of the corporation and shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or subsequent to the time the stockholder became an interested stockholder, the business combination was approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least two-thirds of the outstanding voting stock which is not owned by the interested stockholder.

In general, Section 203 defines a “business combination” to include mergers, asset sales, and other transactions resulting in financial benefit to a stockholder and an “interested stockholder” as a person who, together with affiliates and associates, owns, or, within three years, did own, 15% or more of the corporation’s outstanding voting stock. These provisions may have the effect of delaying, deferring, or preventing changes in control of our company.

### Amended and Restated Certificate of Incorporation and Amended and Restated Bylaw Provisions

Our amended and restated certificate of incorporation and our amended and restated bylaws will include a number of provisions that could deter hostile takeovers or delay or prevent changes in control of our Board of Directors or management team, including the following:

**Dual class stock.** As described above in “—Common Stock—Voting Rights,” our amended and restated certificate of incorporation provides for a dual class common stock structure, which will provide our pre-offering investors, which includes our executive officers, employees, directors, and their affiliates, with significant influence over matters requiring stockholder approval, including the election of directors and significant corporate transactions, such as a merger or other sale of our company or its assets.

**Issuance of undesignated preferred stock.** As discussed above under “—Preferred Stock,” our Board of Directors will have the ability to designate and issue preferred stock with voting or other rights or preferences that could deter hostile takeovers or delay changes in our control or management.

**Board of Directors vacancies.** Our amended and restated certificate of incorporation and amended and restated bylaws will authorize only our Board of Directors to fill vacant directorships, including newly created

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seats. In addition, the number of directors constituting our Board of Directors will be permitted to be set only by a resolution adopted by a majority vote of our entire Board of Directors. These provisions would prevent a stockholder from increasing the size of our Board of Directors and then gaining control of our Board of Directors by filling the resulting vacancies with its own nominees. This will make it more difficult to change the composition of our Board of Directors and will promote continuity of management.

**Classified Board of Directors.** Our amended and restated certificate of incorporation and amended and restated bylaws will provide that our Board of Directors is classified into three classes of directors. A third party may be discouraged from making a tender offer or otherwise attempting to obtain control of us as it is more difficult and time consuming for stockholders to replace a majority of the directors on a classified Board of Directors. See the section titled “Management—Classified Board of Directors.”

**Stockholder action; special meeting of stockholders.** Our amended and 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, a holder controlling a majority of our capital stock would not be able to amend our amended and restated bylaws or remove directors without holding a meeting of our stockholders called in accordance with our amended and restated bylaws. Our amended and restated bylaws will further 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 controlling a majority of our capital stock to take any action, including the removal of directors.

**Advance notice requirements for stockholder proposals and director nominations.** Our amended and 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 amended and restated bylaws will also specify certain requirements regarding the form and content of a stockholder’s notice. These provisions might preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders if the proper procedures are not followed. We expect that these provisions may 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 Delaware General Corporation Law provides that stockholders are not entitled to cumulate votes in the election of directors unless a corporation’s certificate of incorporation provides otherwise. Our amended and restated certificate of incorporation does not provide for cumulative voting.

**Directors removed only for cause.** Our amended and restated certificate of incorporation will provide that stockholders may remove directors only for cause.

**Amendment of charter and bylaws provisions.** Any amendment of the above provisions in our amended and restated certificate of incorporation and Bylaws would require approval by holders of at least two-thirds of the voting power of our then outstanding capital stock.

**Issuance of undesignated preferred stock.** Our Board of Directors will have the authority, without further action by our stockholders, to issue up to 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 would enable 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 other means.

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**Exclusive Forum**

Our amended and restated bylaws will provide that, unless we consent in writing to the selection of an alternative forum, the sole and exclusive forum for (1) any derivative action or proceeding brought on our behalf, (2) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers, or other employees to us or our stockholders, (3) any action asserting a claim against the company or any director or officer of the company arising pursuant to any provision of the Delaware General Corporation Law, or (4) any other action asserting a claim that is governed by the internal affairs doctrine shall be a state or federal court located within the State of Delaware, in all cases subject to the court's having jurisdiction over indispensable parties named as defendants. Any person or entity purchasing or otherwise acquiring any interest in our shares of capital stock shall be deemed to have notice of and consented to this provision. Although we believe these provisions benefit us by providing increased consistency in the application of Delaware law for the specified types of actions and proceedings, the provisions may have the effect of discouraging lawsuits against us or our directors and officers. Our amended and restated certificate of incorporation will also provide that the federal district courts of the United States will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

**Transfer Agent and Registrar**

Upon completion of this offering, the transfer agent and registrar for our Class A common stock will be . The transfer agent and registrar's address is .

**Limitations of Liability and Indemnification**

See the section titled "Certain Relationships and Related Party Transactions—Limitation of Liability and Indemnification of Officers and Directors."

**Listing**

We intend to apply for the listing of our Class A common stock on under the symbol "DBX".

## SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for our Class A common stock, and we cannot predict the effect, if any, that market sales of shares of our Class A common stock or the availability of shares of our Class A common stock for sale will have on the market price of our Class A common stock prevailing from time to time. Future sales of our common stock in the public market, or the availability of such shares for sale in the public market, could adversely affect market prices prevailing from time to time. As described below, only a limited number of shares of our Class A common stock will be available for sale shortly after this offering due to contractual and legal restrictions on resale. Nevertheless, sales of our Class A common stock in the public market after such restrictions lapse, or the perception that those sales may occur, could adversely affect the prevailing market price at such time and our ability to raise equity capital in the future.

Following the completion of this offering, based on the number of shares of our capital stock outstanding as of June 30, 2017, we will have a total of \_\_\_\_\_ shares of our Class A common stock outstanding and \_\_\_\_\_ shares of our Class B common stock outstanding. Of these outstanding shares, all \_\_\_\_\_ shares of our Class A 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, would only 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 under the Securities Act. 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 under the Securities Act, which rules are summarized below. As a result of the lock-up and market standoff agreements described below and the provisions of our IRA described under the section titled “Description of Capital Stock—Registration Rights,” and subject to the provisions of Rule 144 or Rule 701, shares of our Class A common stock will be available for sale in the public market as follows:

- beginning on the date of this prospectus, all \_\_\_\_\_ shares of our Class A common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus (subject to the terms of the lock-up and market standoff agreements described below) \_\_\_\_\_ 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 and Market Standoff Agreements

Our executive officers, directors, and certain other holders of our capital stock and securities convertible into or exchangeable for our capital stock have agreed or will agree that, subject to certain exceptions, for a period of 180 days after the date of this prospectus, or lock-up period, we and they will not, without the prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, dispose of or hedge any shares or any securities convertible into or exchangeable for shares of our capital stock; provided that if (i) at least 120 days have elapsed since the date of this prospectus, (ii) we have publicly released our earnings results for the quarterly period during which this offering occurred, and (iii) such lock-up period is scheduled to end during or within five trading days prior to a broadly applicable period during which trading in our securities would not be permitted under our insider trading policy, or a blackout period, such lock-up period will end ten trading days prior to the commencement of such blackout period. Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC may, in their discretion, release any of the securities subject to these lock-up agreements at any time. In addition, our executive officers, directors, and holders of our capital stock and securities convertible into or exchangeable for our capital stock have entered into market standoff agreements with us under which they have agreed that, subject to certain exceptions, for a period of 180 days after the date of this prospectus, they will not, without our prior written consent, dispose of or hedge any shares or any securities convertible into or exchangeable for shares of our common stock.

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In addition, we will enter into a lock-up agreement with the underwriters under which we will agree not to sell any of our stock for 180 days following the date of this prospectus, subject to certain exceptions including, but not limited to, our issuance of shares of common stock or certain other securities in connection with our acquisition of the securities, business, technology, property, or other assets of another person or entity or pursuant to an employee benefit plan that we assumed in connection with such acquisition, or our joint ventures, commercial relationships and other strategic transactions, provided that the aggregate number of shares of Class A common stock (including with respect to securities to be granted pursuant to any assumed employee benefit plans covered by a registration statement on Form S-8) issued pursuant to this exception will not exceed % of the total number of shares of Class A common stock outstanding immediately following this offering, and provided that each recipient executes and delivers a lock-up agreement with substantially the same restrictions to which our executive officers, directors, and certain other holders of our capital stock and securities convertible into or exchangeable for our capital stock are subject.

### **Rule 144**

In general, Rule 144 provides that once we have been subject to the public company reporting requirements of Section 13 or Section 15(d) of the Exchange Act 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 of our Class A common stock proposed to be sold for at least six months 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, Rule 144 provides that our affiliates or persons selling shares of our Class A common stock on behalf of our affiliates are entitled to sell upon expiration of the market standoff agreements and lock-up agreements described above, within any three-month period, a number of shares of our Class A common stock that does not exceed the greater of:

- 1% of the number of shares of our Class A common stock then outstanding, which will equal shares immediately after the completion of this offering; or
- the average weekly trading volume of our Class A common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale.

Sales of Class A common stock made in reliance upon Rule 144 by our affiliates or persons selling shares of our Class A common stock 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 capital 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 to wait until 90 days after the date of this prospectus before selling those shares pursuant to Rule 701.

### **Registration Rights**

Pursuant to our IRA, after the completion of this offering, the holders of up to shares of our Class B common stock, or certain transferees, will be entitled to certain rights with respect to the registration of the offer

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and sale of those shares, as converted into an equivalent number of shares of our Class A common stock upon such offer and sale, under the Securities Act. See the section titled “Description of Capital Stock—Registration Rights” for a description of these registration rights. If the offer and sale of these shares of our Class A common stock are registered, the shares will be freely tradable without restriction under the Securities Act, subject to the Rule 144 limitations applicable to affiliates, and a large number of shares may be sold into the public market.

**Registration Statement**

We intend to file a registration statement on Form S-8 under the Securities Act promptly after the completion of this offering to register shares of our common stock subject to RSUs and options outstanding, as well as reserved for future issuance, under our equity compensation plans. The registration statement on Form S-8 is expected to become effective immediately upon filing, and shares of our common stock covered by the registration statement will then become eligible for sale in the public market, subject to the Rule 144 limitations applicable to affiliates, vesting restrictions, and any applicable market standoff agreements and lock-up agreements. See the section titled “Executive Compensation—Employee Benefit and Stock Plans” for a description of our equity compensation plans.



## **MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS OF OUR CLASS A COMMON STOCK**

The following is a summary of the material U.S. federal income tax consequences to certain non-U.S. holders (as defined below) of the ownership and disposition of our Class A common stock but does not purport to be a complete analysis of all the potential tax considerations relating thereto. This summary is based upon the provisions of the Internal Revenue Code of 1986, as amended, or the Code, Treasury Regulations promulgated thereunder, administrative rulings, and judicial decisions, all as of the date hereof. These authorities may be changed, possibly retroactively, so as to result in U.S. federal income tax consequences different from those set forth below. No ruling from the Internal Revenue Service, or the IRS, has been, or will be, sought with respect to the tax consequences discussed herein, and there can be no assurance that the IRS will not take a position contrary to the tax consequences discussed below or that any position taken by the IRS would not be sustained.

This summary does not address the tax considerations arising under the laws of any non-U.S., state, or local jurisdiction, or under U.S. federal gift and estate tax laws, except to the limited extent set forth below. In addition, this discussion does not address the application of the Medicare contribution tax on net investment income or any tax considerations applicable to a non-U.S. holder's particular circumstances or non-U.S. holders that may be subject to special tax rules, including, without limitation:

- banks, insurance companies or other financial institutions (except to the extent specifically set forth below), regulated investment companies, or real estate investment trusts;
- persons subject to the alternative minimum tax;
- tax-exempt organizations or governmental organizations;
- controlled foreign corporations, passive foreign investment companies, or corporations that accumulate earnings to avoid U.S. federal income tax;
- brokers or dealers in securities or currencies;
- traders in securities or other persons that elect to use a mark-to-market method of accounting for their holdings in our stock;
- U.S. expatriates or certain former citizens or long-term residents of the United States;
- partnerships or entities classified as partnerships for U.S. federal income tax purposes or other pass-through entities (and investors therein);
- persons who hold our Class A common stock as a position in a hedging transaction, "straddle," "conversion transaction," or other risk reduction transaction or integrated investment;
- persons who hold or receive our Class A common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- persons who do not hold our Class A common stock as a capital asset within the meaning of Section 1221 of the Code;
- persons deemed to sell our Class A common stock under the constructive sale provisions of the Code;
- persons that own, or are deemed to own, more than five percent of our Class A common stock (except to the extent specifically set forth below); or
- persons that own, or are deemed to own, our Class B common stock.

In addition, if a partnership or entity classified as a partnership for U.S. federal income tax purposes holds our Class A common stock, the tax treatment of a partner generally will depend on the status of the partner and upon the activities of the partnership. Accordingly, partnerships that hold our Class A common stock, and partners in such partnerships, should consult their tax advisors.

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**You are urged to consult your tax advisor with respect to the application of the U.S. federal income tax laws to your particular situation, as well as any tax consequences of the acquisition, ownership, and disposition of our common stock arising under the U.S. federal estate or gift tax rules, under the laws of any state, local, non-U.S., or other taxing jurisdiction, or under any applicable tax treaty.**

### **Non-U.S. Holder Defined**

For purposes of this discussion, you are a non-U.S. holder if you are a holder of our common stock that is not a partnership (or entity or arrangement treated as a partnership for U.S. federal income tax purposes) and is not any of the following:

- an individual who is a citizen or resident of the United States (for U.S. federal income tax purposes);
- a corporation or other entity taxable as a corporation created or organized in the United States or under the laws of the United States or any political subdivision thereof or other entity treated as such for U.S. federal income tax purposes;
- an estate whose income is subject to U.S. federal income tax regardless of its source; or
- a trust (x) whose administration is subject to the primary supervision of a U.S. court and which has one or more “U.S. persons” (within the meaning of Section 7701(a)(3) of the Code) who have the authority to control all substantial decisions of the trust or (y) which has made a valid election to be treated as a U.S. person.

### **Distributions**

As described in the section titled “Dividend Policy,” we have never declared or paid cash dividends on our capital stock and do not anticipate paying any dividends on our capital stock in the foreseeable future. However, if we do make distributions on our Class A common stock, those payments will constitute dividends for U.S. tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. To the extent those distributions exceed both our current and our accumulated earnings and profits, they will constitute a return of capital and will first reduce your basis in our Class A common stock, but not below zero, and then will be treated as gain from the sale of stock as described below under “—Gain on Disposition of Our Class A Common Stock.”

Except as otherwise described below in the discussions of effectively connected income (in the next paragraph), backup withholding and FATCA, any dividend paid to you generally will be subject to U.S. withholding tax either at a rate of 30% of the gross amount of the dividend or such lower rate as may be specified by an applicable income tax treaty. In order to receive a reduced treaty rate, you must provide us with an IRS Form W-8BEN, IRS Form W-8BEN-E, or other appropriate version of IRS Form W-8, including any required attachments and your taxpayer identification number, certifying qualification for the reduced rate; additionally you will be required to update such Forms and certifications from time to time as required by law. A non-U.S. holder of shares of our Class A common stock eligible for a reduced rate of U.S. withholding tax pursuant to an income tax treaty may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. If the non-U.S. holder holds the stock through a financial institution or other agent acting on the non-U.S. holder’s behalf, the non-U.S. holder will be required to provide appropriate documentation to the agent, which then will be required to provide certification to us or our paying agent, either directly or through other intermediaries. Non-U.S. holders should consult their tax advisors regarding their entitlement to benefits under an applicable income tax treaty.

Dividends received by you that are effectively connected with your conduct of a U.S. trade or business (and, if required by an applicable income tax treaty, attributable to a permanent establishment maintained by you in the United States) are generally exempt from such withholding tax. In order to obtain this exemption, you must provide us with an IRS Form W-8ECI or other applicable IRS Form W-8, including any required attachments

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and your taxpayer identification number; additionally you will be required to update such forms and certifications from time to time as required by law. Such effectively connected dividends, although not subject to withholding tax, are includable on your U.S. income tax return and generally taxed to you at the same graduated rates applicable to U.S. persons, net of certain deductions and credits. If you are a corporate non-U.S. holder, dividends you receive that are effectively connected with your conduct of a U.S. trade or business may also be subject to a branch profits tax at a rate of 30% or such lower rate as may be specified by an applicable income tax treaty. You should consult your tax advisor regarding any applicable tax treaties that may provide for different rules.

### **Gain on Disposition of Our Class A Common Stock**

Except as otherwise described below in the discussions of backup withholding and FATCA, you generally will not be subject to U.S. federal income tax on any gain realized upon the sale or other disposition of our Class A common stock unless:

- the gain is effectively connected with your conduct of a U.S. trade or business (and, if required by an applicable income tax treaty, the gain is attributable to a permanent establishment maintained by you in the United States);
- you are a non-resident alien individual who is present in the United States for a period or periods aggregating 183 days or more during the calendar year in which the sale or disposition occurs, and other conditions are met; or
- our Class A common stock constitutes a United States real property interest by reason of our status as a “United States real property holding corporation,” or USRPHC, for U.S. federal income tax purposes at any time within the shorter of the five-year period preceding your disposition of, or your holding period for, our Class A common stock, and, in the case where shares of our Class A common stock are regularly traded on an established securities market, you own, or are treated as owning, more than 5% of our Class A common stock at any time during the foregoing period.

Generally, a corporation is a “United States real property holding corporation” if the fair market value of its United States real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests and its other assets used or held for use in a trade or business (all as determined for United States federal income tax purposes). We believe that we are not currently and will not become a USRPHC for U.S. federal income tax purposes, and the remainder of this discussion assumes this is the case. However, because the determination of whether we are a USRPHC depends on the fair market value of our U.S. real property relative to the fair market value of our other business assets, there can be no assurance that we will not become a USRPHC in the future. Even if we become a USRPHC, however, as long as our Class A common stock is regularly traded on an established securities market, such Class A common stock will be treated as U.S. real property interests only if you actually or constructively hold more than 5% of such regularly traded Class A common stock at any time during the shorter of the five-year period preceding your disposition of, or your holding period for, our Class A common stock. No assurance can be provided that our Class A common stock will be regularly traded on an established securities market at all times for purposes of the rules described above.

If you are a non-U.S. holder described in the first bullet above, you will generally be required to pay tax on the net gain derived from the sale under regular graduated U.S. federal income tax rates (and a corporate non-U.S. holder described in the first bullet above also may be subject to the branch profits tax at a 30% rate), unless otherwise provided by an applicable income tax treaty. If you are a non-U.S. holder described in the second bullet above, you will generally be required to pay a flat 30% tax (or such lower rate specified by an applicable income tax treaty) on the gain derived from the sale, which gain may be offset by U.S. source capital losses for the year (provided you have timely filed U.S. federal income tax returns with respect to such losses). You should consult your tax advisor with respect to whether any applicable income tax or other treaties may provide for different rules.

## **Federal Estate Tax**

Our Class A common stock beneficially owned by an individual who is not a citizen or resident of the United States (as defined for U.S. federal estate tax purposes) at the time of their death will generally be includable in the decedent's gross estate for U.S. federal estate tax purposes, unless an applicable estate tax treaty provides otherwise.

## **Backup Withholding and Information Reporting**

Generally, we must report annually to the IRS the amount of dividends paid to you, your name and address, and the amount of tax withheld, if any. A similar report will be sent to you. Pursuant to applicable income tax treaties or other agreements, the IRS may make these reports available to tax authorities in your country of residence.

Payments of dividends or of proceeds on the disposition of stock made to you may be subject to information reporting and backup withholding at a current rate of 28% unless you establish an exemption, for example, by properly certifying your non-U.S. status on an IRS Form W-8BEN, IRS Form W-8BEN-E, or another appropriate version of IRS Form W-8. Notwithstanding the foregoing, backup withholding and information reporting may apply if either we or our paying agent has actual knowledge, or reason to know, that you are a United States person as defined under the Code.

Backup withholding is not an additional tax; rather, the U.S. federal income tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund or credit may generally be obtained from the IRS, provided that the required information is furnished to the IRS in a timely manner.

## **FATCA**

The Foreign Account Tax Compliance Act and the rules and regulations promulgated thereunder, or collectively, FATCA, generally impose withholding tax at a rate of 30% on dividends on and gross proceeds from the sale or other disposition of our Class A common stock paid to "foreign financial institutions" (as specially defined under these rules), unless such institution enters into an agreement with the U.S. government to withhold on certain payments and to collect and provide to the U.S. tax authorities substantial information regarding the U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are foreign entities with U.S. owners) or otherwise establishes an exemption. FATCA also generally imposes a U.S. federal withholding tax of 30% on dividends on and gross proceeds from the sale or other disposition of our Class A common stock paid to a "non-financial foreign entities" (as specially defined under these rules) unless such entity provides the withholding agent with a certification identifying certain substantial direct and indirect U.S. owners of the entity, certifies that there are none, or otherwise establishes and certifies to an exemption. The withholding provisions under FATCA generally apply to dividends on our Class A common stock, and under current transition rules, are expected to apply with respect to the gross proceeds from the sale or other disposition of our Class A common stock on or after January 1, 2019. An intergovernmental agreement between the United States and your country of tax residence may modify the requirements described in this paragraph. If a dividend payment is both subject to withholding under FATCA and subject to the withholding tax discussed above under "—Distributions," the withholding under FATCA may be credited against, and therefore reduce, such other withholding tax. Non-U.S. holders should consult their own tax advisors regarding the possible implications of FATCA on their investment in our Class A common stock.

**Each prospective investor should consult its own tax advisor regarding the particular U.S. federal, state, and local, and non-U.S. tax consequences of purchasing, holding, and disposing of our common stock, including the consequences of any proposed change in applicable laws.**

## UNDERWRITING (CONFLICTS OF INTEREST)

We, the selling stockholders and the underwriters named below will enter into an underwriting agreement with respect to the shares being offered. Subject to certain conditions, each underwriter will severally agree to purchase the number of shares indicated in the following table. Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC are the representatives of the underwriters.

<u>Underwriters</u>	<u>Number of shares</u>
Goldman Sachs & Co. LLC	
J.P. Morgan Securities LLC	
Total	

The underwriters will be 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 buy up to an additional \_\_\_\_\_ shares from us and the selling stockholders to cover sales by the underwriters of a greater number of shares than the total number set forth in the table above. They may exercise that option for 30 days. 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 tables show the per share and total underwriting discounts and commissions to be paid to the underwriters by us and the selling stockholders. Such amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase \_\_\_\_\_ additional shares.

### Paid by us

	<u>No exercise</u>	<u>Full exercise</u>
Per share	\$	\$
Total	\$	\$

### Paid by the selling stockholders

	<u>No exercise</u>	<u>Full exercise</u>
Per share	\$	\$
Total	\$	\$

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 executive officers, directors, and certain other holders of our capital stock and securities convertible into or exchangeable for our capital stock have agreed or will agree that, subject to certain exceptions, for a period of 180 days after the date of this prospectus, or lock-up period, they will not, without the prior written consent of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, dispose of or hedge any shares or any securities convertible into or exchangeable for shares of our capital stock; provided that if (i) at least 120 days

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have elapsed since the date of this prospectus, (ii) we have publicly released our earnings results for the quarterly period during which this offering occurred, and (iii) such lock-up period is scheduled to end during or within five trading days prior to a blackout period, such lock-up period will end ten trading days prior to the commencement of such blackout period. In addition, we will enter into a lock-up agreement with the underwriters under which we will agree not to sell any of our stock for 180 days following the date of this prospectus, subject to certain exceptions including, but not limited to, our issuance of shares of common stock or certain other securities in connection with our acquisition of the securities, business, technology, property, or other assets of another person or entity or pursuant to an employee benefit plan that we assumed in connection with such acquisition, or our joint ventures, commercial relationships, and other strategic transactions, provided that the aggregate number of shares of Class A common stock (including with respect to securities to be granted pursuant to any assumed employee benefit plans covered by a registration statement on Form S-8) issued pursuant to this exception will not exceed % of the total number of shares of Class A common stock outstanding immediately following this offering, and provided that each recipient executes and delivers a lock-up agreement with substantially the same restrictions to which our executive officers, directors, and certain holders of our capital stock and securities convertible into or exchangeable for our capital stock are subject. Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC may, in their discretion, release any of the securities subject to these lock-up agreements at any time. See “Shares Available for Future Sale” for a discussion of certain transfer restrictions, including market standoff agreements between us and each of our executive officers, directors, and holders of our capital stock and securities convertible into or exchangeable for our capital stock.

Prior to the offering, there has been no public market for the shares. The initial public offering price has been negotiated among us, the selling stockholders, 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 market valuation of companies in related businesses.

We intend to file an application to list our Class A common stock on the under the symbol “DBX”.

In connection with the offering, the underwriters may purchase and sell shares of Class A 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 the 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 amount 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 amount 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 Class A common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of common stock made by the underwriters in the open market prior to the completion of the 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

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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 our Class A 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 \_\_\_\_\_, in the over-the-counter market or otherwise

The underwriters do not expect sales to discretionary accounts to exceed five percent of the total number of shares of Class A common stock offered.

We and the selling stockholders estimate that their share of the total expenses of the offering, excluding underwriting discounts and commissions, will be approximately \$ \_\_\_\_\_.

We and the selling stockholders have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act of 1933. In addition, we and the selling stockholders have agreed to reimburse the underwriters for certain expenses in connection with this offering in the amount up to \$ \_\_\_\_\_.

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 the issuer and to persons and entities with relationships with the issuer, for which they received or will receive customary fees and expenses. In 2014, we entered into a revolving credit agreement with affiliates of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, under which these underwriters and their respective affiliates have been, and may be in the future, paid customary fees. For additional information on our revolving credit facility, see the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.”

In September 2011, affiliates of Goldman Sachs & Co. LLC, one of the underwriters, purchased an aggregate of 2,755,799 shares of our Series B Preferred Stock, all of which shares will automatically convert into an aggregate of 2,755,799 shares of Class B common stock in connection with 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.

Affiliates of Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC, an underwriter in this offering, will receive at least 5% of the net proceeds of this offering in connection with the repayment of \$ \_\_\_\_\_ that is expected to be outstanding immediately prior to the completion of this offering under our revolving credit facility. See “Use of Proceeds.” Accordingly, this offering is being made in compliance with the requirements of FINRA Rule 5121. This rule requires, among other things, that a “qualified independent underwriter” has participated in the preparation of, and has exercised the usual standards of “due diligence” with respect to, the registration statement. \_\_\_\_\_ has agreed to act as qualified independent underwriter for this offering and to undertake the legal responsibilities and liabilities of an underwriter under the Securities Act. \_\_\_\_\_ will not receive any additional fees for serving as qualified independent underwriter in connection with this offering. We

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have agreed to indemnify against liabilities incurred in connection with acting as qualified independent underwriter, including liabilities under the Securities Act. Pursuant to FINRA Rule 5121, Goldman Sachs & Co. LLC and J.P. Morgan Securities LLC will not confirm sales of securities to any account over which it exercises discretionary authority without the prior written approval of the customer.

### ***European Economic Area***

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State, no offer of shares of Class A common stock which are the subject of the offering contemplated by this prospectus may be made to the public in that Relevant Member State other than:

- (a) to any legal entity which is a “qualified investor” as defined in the Prospectus Directive;
- (b) to fewer than 150 natural or legal persons (other than “qualified investors” as defined in the Prospectus Directive), per Relevant Member State, subject to obtaining the prior consent of the underwriters; or
- (c) in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of shares of our Class A common stock shall result in a requirement for us or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Directive or a supplemental prospectus pursuant to Article 16 of the Prospectus Directive and each person who initially acquires any shares of our Class A common stock or to whom any offer is made will be deemed to have represented, warranted, and agreed to and with each of the underwriters and us that it is a “qualified investor” within the meaning of the law in that Relevant Member State implementing Article 2(1)(e) of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of shares to the public” in relation to any shares of our Class A common stock in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares of our Class A common stock to be offered so as to enable an investor to decide to purchase or subscribe for the shares of our Class A common stock, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State. The expression “Prospectus Directive” means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.

### ***United Kingdom***

In the United Kingdom, this prospectus in relation to the shares of Class A common stock described herein is being directed only at persons who are “qualified investors” (as defined in the Prospectus Directive) who are (i) persons having professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 Order 2005, or (ii) high net worth entities falling within Article 49(2)(a) to (d) of the Order, or (iii) persons to whom it would otherwise be lawful to distribute it, all such persons together being referred to as “Relevant Persons.” The shares of Class A common stock described herein are only available to, and any invitation, offer, or agreement to subscribe, purchase, or otherwise acquire such shares of Class A common stock will be engaged in only with, Relevant Persons. This prospectus and its contents are confidential and should not be distributed, published, or reproduced (in whole or in part), or disclosed by any recipients to any other person in the United Kingdom. Any person in the United Kingdom that is not a Relevant Person should not act or rely on this prospectus or its contents.

### ***Canada***

The shares of Class A common stock 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



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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 shares of Class A common stock must be made in accordance with an exemption form, 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 of Class A common stock 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), or 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), or 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 of Class A common stock 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 laws of Hong Kong) other than with respect to shares of Class A common stock which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" in Hong Kong within the meaning of 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 of Class A common stock may not be circulated or distributed, nor may the shares of Class A common stock be offered or sold or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore, or the SFA, (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA, or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares of Class A common stock are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, shares, debentures, and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for six months

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after that corporation or that trust has acquired the shares of Class A common stock under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

### ***Japan***

The securities have not been and will not be registered under the Financial Instruments and Exchange Law of Japan, or the Financial Instruments and Exchange Law, and the securities may not be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations, and ministerial guidelines of Japan.

### ***Switzerland***

The shares of Class A common stock may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange, or SIX, or on any other stock exchange or regulated trading facility in Switzerland. This document does not constitute a prospectus within the meaning of, and 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 of Class A common stock or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the Company, or the shares of Class A common stock 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 of Class A common stock will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA, or FINMA, and the offer of shares of Class A common stock has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes, or CISA. The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of the shares of Class A common stock.

### ***Dubai International Financial Centre***

This document relates to an Exempt Offer in accordance with the Markets Rules 2012 of the Dubai Financial Services Authority, or DFSA. This document is intended for distribution only to persons of a type specified in the Markets Rules 2012 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 supplement nor taken steps to verify the information set forth herein and has no responsibility for this document. The securities to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this document you should consult an authorized financial advisor.

In relation to its use in the Dubai International Financial Centre, or DIFC, this document is strictly private and confidential and is being distributed to a limited number of investors and must not be provided to any person other than the original recipient, and may not be reproduced or used for any other purpose. The interests in the securities may not be offered or sold, directly or indirectly, to the public in the DIFC.

### ***United Arab Emirates***

The shares of Class A common stock have not been, and are not being, publicly offered, sold, promoted, or advertised in the United Arab Emirates (including the Dubai International Financial Centre) other than in compliance with the laws of the United Arab Emirates (and the Dubai International Financial Centre) governing the issue, offering and sale of securities. Further, this prospectus does not constitute a public offer of securities in the United Arab Emirates (including the Dubai International Financial Centre) and is not intended to be a public offer. This prospectus has not been approved by or filed with the Central Bank of the United Arab Emirates, the Securities and Commodities Authority, or the Dubai Financial Services Authority.

### ***Australia***

This prospectus:

- does not constitute a product disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth), or the Corporations Act;
- has not been, and will not be, lodged with the Australian Securities and Investments Commission, or ASIC, as a disclosure document for the purposes of the Corporations Act and does not purport to include the information required of a disclosure document under Chapter 6D.2 of the Corporations Act;
- does not constitute or involve a recommendation to acquire, an offer or invitation for issue or sale, an offer or invitation to arrange the issue or sale, or an issue or sale, of interests to a “retail client” (as defined in section 761G of the Corporations Act and applicable regulations) in Australia; and
- may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of investors, or Exempt Investors, available under section 708 of the Corporations Act.

The shares of Class A common stock may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or buy the shares of Class A common stock may be issued, and no draft or definitive offering memorandum, advertisement, or other offering material relating to any shares of Class A common stock may be distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the shares of Class A common stock, you represent and warrant to us that you are an Exempt Investor.

As any offer of shares of Class A common stock under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the shares of Class A common stock you undertake to us that you will not, for a period of 12 months from the date of issue of the shares of Class A common stock, offer, transfer, assign, or otherwise alienate those securities to investors in Australia except in circumstances where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

### ***Bermuda***

The shares of Class A common stock may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act of 2003 of Bermuda which regulates the sale of securities in Bermuda. Additionally, non-Bermudian persons (including companies) may not carry on or engage in any trade or business in Bermuda unless such persons are permitted to do so under applicable Bermuda legislation.

### ***Saudi Arabia***

This document may not be distributed in the Kingdom of Saudi Arabia except to such persons as are permitted under the Offers of Securities Regulations as issued by the board of the Saudi Arabian Capital Market

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Authority, or CMA, pursuant to resolution number 2-11-2004 dated 4 October 2004 as amended by resolution number 1-28-2008, as amended, or the CMA Regulations. The CMA does not make any representation as to the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this document. Prospective purchasers of the securities offered hereby should conduct their own due diligence on the accuracy of the information relating to the securities. If you do not understand the contents of this document, you should consult an authorized financial adviser.

### ***British Virgin Islands***

This prospectus has not been, and will not be, registered with the Financial Services Commission of the British Virgin Islands. No registered prospectus has been or will be prepared in respect of the shares of Class A common stock for the purposes of the Securities and Investment Business Act, 2010, or SIBA, or the Public Issuers Code of the British Virgin Islands.

The shares of Class A common stock may be offered to persons located in the British Virgin Islands who are “qualified investors” for the purposes of SIBA. Qualified investors include (i) certain entities which are regulated by the Financial Services Commission in the British Virgin Islands, including banks, insurance companies, licensees under SIBA, and public, professional, and private mutual funds; (ii) a company, any securities of which are listed on a recognised exchange; and (iii) persons defined as “professional investors” under SIBA, which is any person (a) whose ordinary business involves, whether for that person’s own account or the account of others, the acquisition or disposal of property of the same kind as the property, or a substantial part of the property of the Company; or (b) who has signed a declaration that he, whether individually or jointly with his spouse, has net worth in excess of US\$1,000,000 and that he consents to being treated as a professional investor.

### ***China***

This prospectus does not constitute a public offer of shares of Class A common stock, whether by sale or subscription, in the People’s Republic of China, or the PRC. The shares of Class A common stock are not being offered or sold, directly or indirectly, in the PRC to or for the benefit of, legal or natural persons of the PRC.

Further, no legal or natural persons of the PRC may directly or indirectly purchase any of the shares of Class A common stock or any beneficial interest therein without obtaining all prior PRC’s governmental approvals that are required, whether statutorily or otherwise. Persons who come into possession of this document are required by the issuer and its representatives to observe these restrictions.

### ***Korea***

The shares of Class A common stock have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder, or the FSCMA, and the shares of Class A common stock have been and will be offered in Korea as a private placement under the FSCMA. None of the shares of Class A common stock may be offered, sold, or delivered, directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder, or the FETL. Furthermore, the purchaser of the shares of Class A common stock shall comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares of Class A common stock. By the purchase of the shares of Class A common stock, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares of Class A common stock pursuant to the applicable laws and regulations of Korea.

### ***Malaysia***

No prospectus or other offering material or document in connection with the offer and sale of the shares of Class A common stock has been or will be registered with the Securities Commission of Malaysia, or

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Commission, for the Commission's approval pursuant to the Capital Markets and Services Act 2007. 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 of Class A common stock may not be circulated or distributed, nor may the shares of Class A common stock be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Malaysia other than (i) a closed end fund approved by the Commission; (ii) a holder of a Capital Markets Services Licence; (iii) a person who acquires the shares of Class A common stock, as principal, if the offer is on terms that the shares of Class A common stock may only be acquired at a consideration of not less than RM250,000 (or its equivalent in foreign currencies) for each transaction; (iv) an individual whose total net personal assets or total net joint assets with his or her spouse exceeds RM3 million (or its equivalent in foreign currencies), excluding the value of the primary residence of the individual; (v) an individual who has a gross annual income exceeding RM300,000 (or its equivalent in foreign currencies) per annum in the preceding twelve months; (vi) an individual who, jointly with his or her spouse, has a gross annual income of RM400,000 (or its equivalent in foreign currencies), per annum in the preceding twelve months; (vii) a corporation with total net assets exceeding RM10 million (or its equivalent in a foreign currencies) based on the last audited accounts; (viii) a partnership with total net assets exceeding RM10 million (or its equivalent in foreign currencies); (ix) a bank licensee or insurance licensee as defined in the Labuan Financial Services and Securities Act 2010; (x) an Islamic bank licensee or takaful licensee as defined in the Labuan Financial Services and Securities Act 2010; and (xi) any other person as may be specified by the Commission; provided that, in the each of the preceding categories (i) to (xi), the distribution of the shares of Class A common stock is made by a holder of a Capital Markets Services Licence who carries on the business of dealing in securities. The distribution in Malaysia of this prospectus is subject to Malaysian laws. This prospectus does not constitute and may not be used for the purpose of public offering or an issue, offer for subscription or purchase, or invitation to subscribe for or purchase any securities requiring the registration of a prospectus with the Commission under the Capital Markets and Services Act 2007.

### ***Taiwan***

The shares of Class A common stock have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued, or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorised to offer, sell, give advice regarding, or otherwise intermediate the offering and sale of the shares of Class A common stock in Taiwan.

### ***South Africa***

Due to restrictions under the securities laws of South Africa, the shares of Class A common stock are not offered, and the offer shall not be transferred, sold, renounced, or delivered, in South Africa or to a person with an address in South Africa, unless one or other of the following exemptions applies:

- (i) the offer, transfer, sale, renunciation, or delivery is to:
  - (a) persons whose ordinary business is to deal in securities, as principal or agent;
  - (b) the South African Public Investment Corporation;
  - (c) persons or entities regulated by the Reserve Bank of South Africa;
  - (d) authorised financial service providers under South African law;
  - (e) financial institutions recognised as such under South African law;
  - (f) a wholly-owned subsidiary of any person or entity contemplated in (c), (d), or (e), acting as agent in the capacity of an authorised portfolio manager for a pension fund or collective investment scheme (in each case duly registered as such under South African law); or

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- (g) any combination of the person in (a) to (f); or
- (ii) the total contemplated acquisition cost of the securities, for any single addressee acting as principal is equal to or greater than ZAR1,000,000.

No “offer to the public” (as such term is defined in the South African Companies Act, No. 71 of 2008 (as amended or re-enacted), or the South African Companies Act) in South Africa is being made in connection with the issue of the shares of Class A common stock. Accordingly, this document does not, nor is it intended to, constitute a “registered prospectus” (as that term is defined in the South African Companies Act) prepared and registered under the South African Companies Act and has not been approved by, and/or filed with, the South African Companies and Intellectual Property Commission or any other regulatory authority in South Africa. Any issue or offering of the shares of Class A common stock in South Africa constitutes an offer of the shares of Class A common stock in South Africa for subscription or sale in South Africa only to persons who fall within the exemption from “offers to the public” set out in section 96(1)(a) of the South African Companies Act. Accordingly, this document must not be acted on or relied on by persons in South Africa who do not fall within section 96(1)(a) of the South African Companies Act, or such persons being referred to as SA Relevant Persons. Any investment or investment activity to which this document relates is available in South Africa only to SA Relevant Persons and will be engaged in South Africa only with SA relevant persons.

## LEGAL MATTERS

Wilson Sonsini Goodrich & Rosati, P.C., Palo Alto, California, which has acted as our counsel in connection with this offering, will pass upon the validity of the shares of our Class A common stock being offered by this prospectus. The underwriters have been represented by Simpson Thacher & Bartlett LLP, Palo Alto, California.

## EXPERTS

The consolidated financial statements at December 31, 2015 and 2016, and for each of the two years in the period ended December 31, 2016, 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 thereon 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 ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our Class A common stock offered by this prospectus. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement, some of which is contained in exhibits to the registration statement as permitted by the rules and regulations of the SEC. For further information with respect to us and our Class A common stock, we refer you to the registration statement, including the exhibits filed as a part of the registration statement. Statements contained in this prospectus concerning the contents of any contract or any other document is not necessarily complete. If a contract or document has been filed as an exhibit to the registration statement, please see the copy of the contract or document that has been filed. Each statement in this prospectus relating to a contract or document filed as an exhibit is qualified in all respects by the filed exhibit. You may obtain copies of this information by mail from the Public Reference Section of the SEC, 100 F Street, N.E., Room 1580, Washington, D.C. 20549, at prescribed rates. You may obtain information on the operation of the public reference rooms by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains reports, proxy statements, and other information about issuers, like us, that file electronically with the SEC. The address of that website is [www.sec.gov](http://www.sec.gov).

As a result of this offering, we will become subject to the information and reporting requirements of the Exchange Act and, in accordance with this law, will file periodic reports, proxy statements, and other information with the SEC. These periodic reports, proxy statements, and other information will be available for inspection and copying at the SEC's public reference facilities and the website of the SEC referred to above. We also maintain a website at [www.dropbox.com](http://www.dropbox.com). Upon completion of this offering, you may access these materials 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.

**DROPBOX, INC.**  
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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors and Stockholders  
Dropbox, Inc.

We have audited the accompanying consolidated balance sheets of Dropbox, Inc. as of December 31, 2015 and 2016, and the related consolidated statements of operations, comprehensive loss, stockholders' equity and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States) and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, 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. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Dropbox, Inc. at December 31, 2015 and 2016, and the consolidated results of its operations and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP

San Francisco, California  
October 10, 2017

**DROPBOX, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
*(In millions, except for par value)*

	<u>As of December 31,</u>		<u>As of</u>	<u>Pro forma</u>
	<u>2015</u>	<u>2016</u>	<u>June 30,</u>	<u>stockholders'</u>
			<u>2017</u>	<u>equity</u>
				<u>as of</u>
				<u>June 30,</u>
				<u>2017</u>
				<u>(Unaudited)</u>
<b>Assets</b>				
Current assets:				
Cash and cash equivalents	\$ 356.9	\$ 352.7	\$ 395.7	
Trade and other receivables, net	14.4	13.2	23.0	
Prepaid expenses and other current assets	54.1	47.5	42.8	
Total current assets	425.4	413.4	461.5	
Property and equipment, net	437.6	444.0	377.6	
Intangible assets, net	33.0	24.2	18.8	
Goodwill	96.1	96.0	98.3	
Other assets	18.4	26.6	30.8	
Total assets	<u>\$1,010.5</u>	<u>\$1,004.2</u>	<u>\$ 987.0</u>	
<b>Liabilities and stockholders' equity</b>				
Current liabilities:				
Accounts payable	\$ 17.3	\$ 15.5	\$ 16.8	
Accrued and other current liabilities	118.2	97.9	105.0	
Accrued compensation and benefits	5.7	41.3	34.7	
Capital lease obligation	123.0	127.6	116.7	
Deferred revenue	266.9	353.0	385.6	
Total current liabilities	531.1	635.3	658.8	
Capital lease obligation, non-current	181.2	129.6	91.7	
Deferred rent, non-current	37.3	47.5	44.2	
Other non-current liabilities	75.3	69.0	62.4	
Total liabilities	<u>824.9</u>	<u>881.4</u>	<u>857.1</u>	
Commitments and contingencies (Note 10)				
Stockholders' equity:				
Convertible preferred stock, \$0.00001 par value; 226.8 shares authorized as of December 31, 2015 and 2016, and June 30, 2017 (unaudited); 221.4 shares issued and outstanding as of December 31, 2015 and 2016, and June 30, 2017 (unaudited), no shares authorized, issued and outstanding pro forma (unaudited); liquidation preference of \$624.7 as of December 31, 2015 and 2016, and June 30, 2017 (unaudited), respectively	615.3	615.3	615.3	\$ —
Common stock \$0.00001 par value; 1,500.0 shares authorized; Class A common stock—800.0 shares authorized; 8.3 shares issued and outstanding as of December 31, 2015 and 2016; 8.9 shares issued and outstanding as of June 30, 2017 (unaudited); 13.2 shares issued and outstanding pro forma (unaudited); Class B common stock—700.0 shares authorized, 272.8, 272.5 and 278.3 shares issued and outstanding as of December 31, 2015 and 2016 and June 30, 2017 (unaudited); 532.4 shares issued and outstanding pro forma (unaudited)	—	—	—	—
Additional paid-in capital	297.3	446.0	509.9	1,546.0
Accumulated deficit	(727.3)	(937.5)	(997.9)	(1,418.7)
Accumulated other comprehensive income (loss)	0.3	(1.0)	2.6	2.6
Total stockholders' equity	<u>185.6</u>	<u>122.8</u>	<u>129.9</u>	<u>\$ 129.9</u>
<b>Total liabilities and stockholders' equity</b>	<u>\$1,010.5</u>	<u>\$1,004.2</u>	<u>\$ 987.0</u>	

See accompanying Notes to Consolidated Financial Statements.

**DROPBOX, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
*(In millions, except per share data)*

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(Unaudited)</i>			
Revenue	\$ 603.8	\$ 844.8	\$ 385.8	\$ 514.6
Cost of revenue <sup>(1)</sup>	407.4	390.6	202.5	185.7
Gross profit	196.4	454.2	183.3	328.9
Operating expenses <sup>(1)</sup> :				
Research and development	201.6	289.7	140.5	179.1
Sales and marketing	193.1	250.6	131.3	136.4
General and administrative	107.9	107.4	43.7	73.5
Total operating expenses	502.6	647.7	315.5	389.0
Loss from operations	(306.2)	(193.5)	(132.2)	(60.1)
Interest expense, net	(15.2)	(16.4)	(8.3)	(7.2)
Other income (expense), net	(4.2)	4.9	4.1	8.1
Loss before income taxes	(325.6)	(205.0)	(136.4)	(59.2)
Provision for income taxes	(0.3)	(5.2)	(2.1)	(0.7)
Net loss	<u>\$ (325.9)</u>	<u>\$ (210.2)</u>	<u>\$ (138.5)</u>	<u>\$ (59.9)</u>
Net loss per share attributable to common stockholders, basic and diluted	<u>\$ (1.18)</u>	<u>\$ (0.74)</u>	<u>\$ (0.49)</u>	<u>\$ (0.21)</u>
Weighted-average shares used in computing net loss per share attributable to common stockholders, basic and diluted	<u>276.8</u>	<u>283.7</u>	<u>281.0</u>	<u>291.7</u>
Pro forma net loss per share attributable to common stockholders, basic and diluted (unaudited)		<u>\$ (0.39)</u>		<u>\$ (0.11)</u>
Weighted-average shares used in computing pro forma net loss per share attributable to common stockholders, basic and diluted (unaudited)		<u>535.4</u>		<u>549.0</u>

(1) Includes stock-based compensation as follows:

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	<i>(Unaudited)</i>			
Cost of revenue	\$ 2.6	\$ 8.2	\$ 3.5	\$ 6.4
Research and development	36.1	72.7	33.6	43.5
Sales and marketing	19.8	44.6	31.0	15.4
General and administrative	7.6	22.1	8.2	12.2

*See accompanying Notes to Consolidated Financial Statements.*

**DROPBOX, INC.**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
*(In millions)*

	<u>Year ended</u> <u>December 31,</u>		<u>Six months ended</u> <u>June 30,</u>	
	<u>2015</u>	<u>2016</u>	<u>2016</u>	<u>2017</u>
Net loss	\$(325.9)	\$(210.2)	\$(138.5)	\$(59.9)
Other comprehensive income (loss):			<i>(Unaudited)</i>	
Change in cumulative foreign currency translation adjustments	0.1	(1.3)	(0.3)	3.6
Comprehensive loss	<u>\$(325.8)</u>	<u>\$(211.5)</u>	<u>\$(138.8)</u>	<u>\$(56.3)</u>

*See accompanying Notes to Consolidated Financial Statements.*

**DROPBOX, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
*(In millions)*

	Convertible preferred stock		Common stock		Additional paid-in capital	Accumulated deficit	Accumulated other comprehensive income (loss)	Total stockholders' equity
	Shares	Amount	Shares	Amount				
<b>Balance at December 31, 2014</b>	221.4	\$ 615.3	281.2	\$ —	\$ 192.3	\$ (399.7)	\$ 0.2	\$ 408.1
Cumulative-effect adjustment from adoption of Topic 606	—	—	—	—	—	(1.7)	—	(1.7)
Vesting of early exercised stock options	—	—	—	—	2.2	—	—	2.2
Issuance of common stock, options and awards related to acquisitions	—	—	1.1	—	35.2	—	—	35.2
Exercise of stock options and awards	—	—	0.6	—	2.8	—	—	2.8
Repurchase of unvested common stock (related to early exercised stock options)	—	—	(1.8)	—	(1.3)	—	—	(1.3)
Stock-based compensation	—	—	—	—	66.1	—	—	66.1
Other comprehensive income	—	—	—	—	—	—	0.1	0.1
Net loss	—	—	—	—	—	(325.9)	—	(325.9)
<b>Balance at December 31, 2015</b>	221.4	615.3	281.1	—	297.3	(727.3)	0.3	185.6
Vesting of early exercised stock options	—	—	—	—	0.5	—	—	0.5
Issuance of common stock, options and awards related to acquisitions	—	—	0.1	—	0.7	—	—	0.7
Repurchase of unvested common stock (related to early exercised stock options)	—	—	(0.4)	—	(0.1)	—	—	(0.1)
Stock-based compensation	—	—	—	—	147.6	—	—	147.6
Other comprehensive loss	—	—	—	—	—	—	(1.3)	(1.3)
Net loss	—	—	—	—	—	(210.2)	—	(210.2)
<b>Balance at December 31, 2016</b>	221.4	615.3	280.8	—	446.0	(937.5)	(1.0)	122.8
Cumulative-effect adjustment from adoption of ASU 2016-09 (unaudited)	—	—	—	—	0.5	(0.5)	—	—
Release of restricted stock units (unaudited)	—	—	8.2	—	—	—	—	—
Shares repurchased for tax withholdings on release of restricted stock (unaudited)	—	—	(2.6)	—	(24.0)	—	—	(24.0)
Donation of common stock to charitable foundation (unaudited)	—	—	0.9	—	9.4	—	—	9.4
Exercise of stock options and awards (unaudited)	—	—	0.2	—	0.5	—	—	0.5
Repurchase of unvested common stock (related to early exercised stock options) (unaudited)	—	—	(0.3)	—	—	—	—	—
Stock-based compensation (unaudited)	—	—	—	—	77.5	—	—	77.5
Other comprehensive income (unaudited)	—	—	—	—	—	—	3.6	3.6
Net loss (unaudited)	—	—	—	—	—	(59.9)	—	(59.9)
<b>Balance at June 30, 2017 (unaudited)</b>	221.4	\$ 615.3	287.2	\$ —	\$ 509.9	\$ (997.9)	\$ 2.6	\$ 129.9

*See accompanying Notes to Consolidated Financial Statements.*

**DROPBOX, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
*(In millions)*

	<u>Year ended</u> <u>December 31,</u>		<u>Six months</u> <u>ended June 30,</u>	
	<u>2015</u>	<u>2016</u>	<u>2016</u>	<u>2017</u>
			<i>(Unaudited)</i>	
<b>Cash flow from operating activities</b>				
Net loss	\$(325.9)	\$(210.2)	\$(138.5)	\$(59.9)
Adjustments to reconcile net loss to net cash provided by operating activities:				
Depreciation and amortization	149.6	191.6	93.4	94.4
Stock-based compensation	66.1	147.6	76.3	77.5
Amortization of deferred commissions	0.6	3.7	1.3	3.5
Donation of common stock to charitable foundation	—	—	—	9.4
Other	0.8	1.1	(0.3)	(0.9)
Changes in operating assets and liabilities:				
Trade and other receivables, net	(9.9)	1.0	0.9	(9.1)
Prepaid expenses and other current assets	(1.8)	—	11.0	1.5
Other assets	2.5	(7.8)	(7.7)	(2.1)
Accounts payable	9.2	5.5	1.7	2.6
Accrued and other current liabilities	21.7	(12.4)	(3.0)	11.8
Accrued compensation and benefits	(9.0)	35.6	22.5	(6.6)
Deferred revenue	82.0	87.6	48.2	32.2
Non-current liabilities	28.9	9.3	14.1	(6.6)
<b>Net cash provided by operating activities</b>	<u>14.8</u>	<u>252.6</u>	<u>119.9</u>	<u>147.7</u>
<b>Cash flow from investing activities</b>				
Capital expenditures	(78.7)	(115.2)	(89.6)	(8.8)
Purchase of intangible assets	(4.6)	(8.5)	(8.5)	(0.8)
Cash received from equipment rebates	—	3.6	3.3	1.9
Business acquisitions, net of cash acquired	(2.3)	—	—	—
Cash received from sales of equipment	—	2.1	—	—
<b>Net cash used in investing activities</b>	<u>(85.6)</u>	<u>(118.0)</u>	<u>(94.8)</u>	<u>(7.7)</u>
<b>Cash flow from financing activities</b>				
Principal payments on capital lease obligations	(101.2)	(137.9)	(66.6)	(69.3)
Principal payments against note payable	—	(3.8)	(1.9)	(1.9)
Principal payments against financing lease obligation	(1.8)	(1.6)	(0.7)	(1.1)
Proceeds from sale-leaseback agreement	—	8.8	8.8	—
Proceeds from issuance of note payable	11.9	—	—	—
Fees paid for revolving credit facility	—	—	—	(2.6)
Shares repurchased for tax withholdings on release of restricted stock	—	—	—	(24.0)
Proceeds from issuance of common stock, net of repurchases	1.5	—	—	0.5
<b>Net cash used in financing activities</b>	<u>(89.6)</u>	<u>(134.5)</u>	<u>(60.4)</u>	<u>(98.4)</u>
Effect of exchange rate changes on cash and cash equivalents	(0.9)	(4.3)	(0.2)	1.4
Change in cash, cash equivalents, and restricted cash	(161.3)	(4.2)	(35.5)	43.0
Cash, cash equivalents, and restricted cash—beginning of period	518.2	356.9	356.9	352.7
<b>Cash, cash equivalents, and restricted cash—end of period</b>	<u>\$ 356.9</u>	<u>\$ 352.7</u>	<u>\$ 321.4</u>	<u>\$ 395.7</u>
<b>Supplemental cash flow data:</b>				
Cash paid during the period for:				
Interest	<u>\$ 13.2</u>	<u>\$ 14.9</u>	<u>\$ 7.5</u>	<u>\$ 6.6</u>
Income taxes	<u>\$ 0.2</u>	<u>\$ 1.5</u>	<u>\$ 0.8</u>	<u>\$ 3.3</u>
Non-cash investing and financing activities:				
Property and equipment received and accrued in accounts payable and accrued liabilities	<u>\$ 23.8</u>	<u>\$ 7.6</u>	<u>\$ 19.5</u>	<u>\$ 1.2</u>
Property and equipment acquired under capital leases	<u>\$ 226.3</u>	<u>\$ 92.2</u>	<u>\$ 70.9</u>	<u>\$ 15.4</u>
Fair value of shares issued related to acquisitions of businesses and other assets	<u>\$ 35.2</u>	<u>\$ 0.7</u>	<u>\$ 0.7</u>	<u>\$ —</u>

See accompanying Notes to Consolidated Financial Statements.

**DROPBOX, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(Information as of June 30, 2017, and for the six months ended June 30, 2016 and 2017, is unaudited)**

*(Amounts in tables are in millions except per share data, or as otherwise noted)*

**Note 1. Description of the Business and Summary of Significant Accounting Policies**

***Business***

Dropbox, Inc. (the “Company” or “Dropbox”) is a global collaboration platform. Dropbox was incorporated in May 2007 as Evenflow, Inc., a Delaware corporation, and changed its name to Dropbox, Inc. in October 2009. The Company is headquartered in San Francisco, California.

***Basis of presentation and consolidation***

The accompanying consolidated financial statements have been prepared in accordance with the United States of America generally accepted accounting principles (“GAAP”). The accompanying consolidated financial statements include the accounts of Dropbox and its wholly owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

On January 1, 2017, the Company adopted the requirements of Accounting Standards Update (“ASU”) No. 2014-09, *Revenue from Contracts with Customers (Topic 606)* as discussed further in *Recently adopted accounting pronouncements* below (“Topic 606”). Topic 606 establishes a principle for recognizing revenue upon the transfer of promised goods or services to customers, in an amount that reflects the expected consideration received in exchange for those goods or services. Topic 606 also includes Subtopic 340-40, *Other Assets and Deferred Costs—Contracts with Customers*, which requires the deferral of incremental costs of obtaining a contract with a customer. Collectively, references to Topic 606 used herein refer to both Topic 606 and Subtopic 340-40. The Company adopted Topic 606 with retrospective application to the beginning of the earliest period presented.

***Unaudited interim financial information***

The accompanying interim consolidated balance sheet as of June 30, 2017, the related interim consolidated statements of operations, comprehensive loss, and cash flows for the six months ended June 30, 2016 and 2017, the consolidated statement of stockholders’ equity for the six months ended June 30, 2017, and the related footnote disclosures, as of and for those periods, are unaudited. These unaudited interim consolidated financial statements have been prepared in accordance with GAAP applicable to interim financial statements. The interim consolidated financial statements are presented in accordance with the rules and regulations of the U.S. Securities and Exchange Commission and do not include all disclosures normally required in annual consolidated financial statements prepared in accordance with GAAP. In management’s opinion, the unaudited interim consolidated financial statements have been prepared on the same basis as the annual consolidated financial statements and include all adjustments, which include only normal recurring adjustments, necessary for the fair presentation of the Company’s financial position as of June 30, 2017, the Company’s consolidated statement of stockholders’ equity for the six months ended June 30, 2017, the Company’s consolidated results of operations and cash flows for the six months ended June 30, 2016 and 2017, and the related footnote disclosures, as of and for those periods. The results for the six months ended June 30, 2017, are not necessarily indicative of the results expected for the full year.

***Unaudited pro forma balance sheet***

Subject to the satisfaction of certain conditions, immediately prior to the completion of the Company’s initial public offering, all of the 220,965,979 shares of convertible preferred stock will convert into an equivalent

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number of shares of Class B common stock. Further, pursuant to transfer agreements with certain of the Company's stockholders, 387,934 shares of the Company's preferred stock and 3,914,934 shares of the Company's Class B common stock will automatically convert into an equivalent numbers of shares of Class A common stock. The unaudited pro forma balance sheet information gives effect to these conversions as of June 30, 2017.

As described in detail in "Stock-Based Compensation" below, the Company has granted restricted stock units ("RSUs") that generally vest upon the satisfaction of a service-based vesting condition, and with respect to RSUs granted prior to August 2015, ("two-tier RSUs"), upon the satisfaction of both a service-based vesting condition and a liquidity event-related performance vesting condition (the "Performance Vesting Condition"). The Performance Vesting Condition is satisfied on the earlier of (i) an acquisition or change in control of the Company or (ii) the earlier of (a) six months after our initial public offering or (b) March 15 of the year following our initial public offering. At the time the Performance Vesting Condition becomes probable, the Company will recognize the cumulative stock-based compensation expense for the two-tier RSUs that have met their service-based vesting condition using the accelerated attribution method. Accordingly, the unaudited pro forma balance sheet information as of June 30, 2017, gives effect to stock-based compensation expense of approximately \$420.8 million associated with two-tier RSUs using the accelerated attribution method. This pro forma adjustment related to stock-based compensation expense of approximately \$420.8 million has been reflected as an increase to additional paid-in capital and within accumulated deficit. The unaudited pro forma balance sheet also gives effect to the assumed conversion of the two-tier RSUs that had satisfied the Performance Vesting Condition as of June 30, 2017, and will convert into 37,072,440 shares of Class B common stock. Share repurchases of common stock to satisfy the tax withholding obligation and payroll tax expenses have not been included in these pro forma adjustments.

The shares of common stock issuable and the proceeds expected to be received upon the completion of an initial public offering are excluded from the pro forma balance sheet.

### ***Use of estimates***

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed in the Company's consolidated financial statements and accompanying notes. These estimates are based on information available as of the date of the consolidated financial statements. On a regular basis, management evaluates these estimates and assumptions. Actual results may differ materially from these estimates.

The Company's most significant estimates and judgments involve recognition of revenue, the measurement of the Company's stock-based compensation, including the estimation of the underlying deemed fair value of common stock, the valuation of acquired intangible assets, and goodwill from business combinations.

### ***Financial information about segments and geographic areas***

The Company manages its operations and allocates resources as a single operating segment. Further, the Company manages, monitors, and reports its financials as a single reporting segment. The Company's chief operating decision-maker is its Chief Executive Officer, who reviews financial information presented on a consolidated basis for purposes of making operating decisions, assessing financial performance, and allocating resources. For information regarding the Company's revenue by geographic area and long-lived assets by geographic area, see Note 16.

### ***Foreign currency transactions***

The assets and liabilities of the Company's foreign subsidiaries are translated from their respective functional currencies into U.S. dollars at the rates in effect at the balance sheet date and revenue and expense



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amounts are translated at the average exchange rate for the period. Foreign currency translation gains and losses are recorded in other comprehensive income (loss).

Gains and losses realized from foreign currency transactions (those transactions denominated in currencies other than the foreign subsidiaries' functional currency) are included in other income (expense), net. Monetary assets and liabilities are remeasured using foreign currency exchange rates at the end of the period, and non-monetary assets are remeasured based on historical exchange rates. The Company recorded \$4.6 million and \$3.6 million in net foreign currency transaction losses in the years ended December 31, 2015 and 2016, respectively. The Company recorded \$1.6 million and \$4.0 million in net foreign currency transaction gains in the six months ended June 30, 2016 and 2017, respectively.

### ***Revenue recognition***

The Company adopted the requirements of Topic 606 as of January 1, 2017, utilizing the full retrospective method of transition. The impact of adopting Topic 606 on the Company's revenue is not material to any of the periods presented. The primary impact of adopting Topic 606 relates to the deferral of incremental costs of obtaining customer contracts and the amortization of those costs over a longer period of benefit.

The Company derives its revenue from subscription fees from customers for access to its platform. The Company's policy is to exclude sales and other indirect taxes when measuring the transaction price of its subscription agreements. The Company accounts for revenue contracts with customers by applying the requirements of Topic 606, which includes the following steps:

- Identification of the contract, or contracts, with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, the Company satisfies a performance obligation

The Company's subscription agreements generally have monthly or annual contractual terms and a small percentage have multi-year contractual terms. Revenue is recognized ratably over the related contractual term beginning on the date that the platform is made available to a customer. Access to the platform represents a series of distinct services as the Company continually provides access to, and fulfills its obligation to the end customer over the subscription term. The series of distinct services represents a single performance obligation that is satisfied over time. The Company recognizes revenue ratably because the customer receives and consumes the benefits of the platform throughout the contract period. The Company's contracts are generally non-cancelable.

The Company bills in advance for monthly contracts and typically bills annually in advance for contracts with terms of one year or longer. The Company also recognizes an immaterial amount of contract assets, or unbilled receivables, primarily relating to rights to consideration for services completed but not billed at the reporting date. Unbilled receivables are classified as receivables when the Company has the right to invoice the customer.

The Company records contract liabilities when cash payments are received or due in advance of performance to deferred revenue. Deferred revenue primarily relates to the advance consideration received from the customer.

The price of subscriptions is generally fixed at contract inception and therefore, the Company's contracts do not contain a significant amount of variable consideration. As a result, the amount of revenue recognized in the periods presented from performance obligations satisfied (or partially satisfied) in previous periods was not material.

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The Company recognized \$184.7 million and \$266.9 million of revenue during 2015 and 2016, respectively, that was included in the deferred revenue balances at the beginning of the respective periods. Additionally, the Company recognized \$186.4 million and \$254.4 million of revenue during the six months ended June 30, 2016 and 2017, respectively, that was included in the deferred revenue balances at the beginning of the respective periods.

As of June 30, 2017, future estimated revenue related to performance obligations that are unsatisfied or partially unsatisfied at the end of the reporting period was \$420.3 million. The substantial majority of the unsatisfied performance obligations will be satisfied over the next twelve months.

The Company applied the practical expedient in Topic 606 and did not evaluate contracts of one year or less for the existence of a significant financing component. Multi-year contracts were not significant.

### ***Stock-based compensation***

The Company has granted RSUs to its employees and members of the Board of Directors under the 2008 Equity Incentive Plan (“2008 Plan”) and the 2017 Equity Incentive Plan (“2017 Plan”). The Company had two types of RSUs outstanding as of June 30, 2017:

- One-tier RSUs, which have a service-based vesting condition over a four year period. These awards typically have a cliff vesting period of one year and continue to vest quarterly thereafter. The Company began granting one-tier RSUs under its 2008 Plan in August 2015 and it continues to grant one-tier RSUs under its 2017 Plan. The Company recognizes compensation expense associated with one-tier RSUs ratably on a straight-line basis over the requisite service period.
- Two-tier RSUs, which have both a service-based vesting condition and the Performance Vesting Condition. The service-based vesting period for these awards is typically four years with a cliff vesting period of one year and continue to vest monthly thereafter. Upon satisfaction of the Performance Vesting Condition, these awards will vest quarterly. The Performance Vesting Condition is satisfied on the earlier of (i) an acquisition or change in control of the Company or (ii) the earlier of (a) six months after our initial public offering or (b) March 15 of the year following our initial public offering. Prior to August 2015, the Company granted two-tier RSUs under the 2008 Plan. The last grant date for two-tier RSUs was in May 2015.

As of June 30, 2017, all compensation expense related to two-tier RSUs remained unrecognized because the Performance Vesting Condition was not satisfied. At the time the Performance Vesting Condition becomes probable, the Company will recognize the cumulative stock-based compensation expense for the two-tier RSUs that have met their service-based vesting condition using the accelerated attribution method. If the Performance Vesting Condition had occurred on June 30, 2017, the Company would have recorded \$420.8 million of stock-based compensation expense using the accelerated attribution method. As of June 30, 2017, 42.9 million two-tier RSUs were outstanding, of which 37.1 million had met their service condition. The Company expects to recognize approximately \$19.1 million of additional stock-based compensation expense related to these two-tier RSUs over the remaining service periods through 2019. See Note 11 for further discussion.

Since August 2015, the Company has granted RSUs as the only stock-based payment awards to its employees and has not granted any stock options since then. The fair values of the common stock underlying the RSUs were determined by the Board of Directors, with input from management and contemporaneous third-party valuations, which were performed at least quarterly.

The Company has outstanding stock options that will continue to vest through 2019. The Company used the Black-Scholes Merton Option (“BSM”) pricing model to determine the fair value of stock options granted on the date of grant. This valuation model for stock-based compensation expense requires the Company to make

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assumptions and judgments about the variables used in the BSM model, including the fair value of its common stock, expected term, expected volatility, risk-free interest rate, and dividend yield. These judgments are made as follows:

- *Fair value of common stock.* The absence of an active market for the Company's common stock requires it to estimate the fair value of its common stock for purposes of granting stock options, granting RSUs, and for determining stock-based compensation expense for the periods presented. The Company obtained contemporaneous third-party valuations to assist in determining the fair value of its common stock. These contemporaneous third-party valuations used the methodologies, approaches, and assumptions consistent with the American Institute of Certified Public Accountants Practice Guide, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation*.

The Company considered numerous factors in assessing the fair value of its common stock including:

- The results of contemporaneous unrelated third-party valuations of its common stock;
  - The rights, preferences, and privileges of its convertible preferred stock relative to those of its common stock;
  - Market multiples of comparable public companies in its industry as indicated by their market capitalization and guideline merger and acquisition transactions;
  - The Company's performance and market position relative to its competitors, who may change from time to time;
  - The Company's historical financial results and estimated trends and prospects for its future performance;
  - Valuations published by institutional investors that hold investments in the Company's capital stock;
  - The economic and competitive environment;
  - The likelihood and timeline of achieving a liquidity event, such as an initial public offering or sale of Dropbox, given prevailing market conditions;
  - Any adjustments necessary to recognize a lack of marketability for its common stock; and
  - Precedent sales of or offers to purchase its capital stock.
- *Expected term.* The Company determines the expected term based on the average period the stock options are expected to remain outstanding, generally calculated as the midpoint of the stock options' vesting term and contractual expiration period, as the Company does not have sufficient historical information to develop reasonable expectations about future exercise patterns and post-vesting employment termination behavior.
  - *Expected volatility.* The expected volatility rate is based on an average of the historical volatilities of the common stock of several entities with publicly traded equity securities with characteristics similar to those of Dropbox.
  - *Risk-free interest rate.* The risk-free interest rate is based on the U.S. Treasury security in effect at the time of grant for maturities corresponding with the expected term of the option.
  - *Expected dividend yield.* The Company has not paid and does not expect to pay dividends. Consequently, the Company uses an expected dividend yield of zero.

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The Company did not grant stock options during 2016 or 2017. The fair values of stock options granted to employees in 2015 were calculated using the following assumptions:

	Year ended December 31, 2015
Expected volatility	51% - 57%
Risk-free interest rate	1.4% - 1.9%
Expected term (in years)	6.0 - 6.1
Expected dividend yield	—
Fair value of common stock	\$16.16 - \$16.82

On January 1, 2017, the Company adopted ASU No. 2016-09: *Improvement to Employee Share-based Payment Accounting (Topic 718)* issued by the Financial Accounting Standards Board, which among other items, provides an accounting policy election to account for forfeitures as they occur, rather than to account for them based on an estimate of expected forfeitures. The Company elected to account for forfeitures as they occur and therefore, stock-based compensation expense for the six months ended June 30, 2017, has been calculated based on actual forfeitures in the Company's consolidated statements of income, rather than the Company's previous approach which was net of estimated forfeitures. The net cumulative effect of this change as of January 1, 2017, was not material. Stock-based compensation expense for the years ended December 31, 2015 and 2016, were recorded net of estimated forfeitures, which were based on historical forfeitures and adjusted to reflect changes in facts and circumstances, if any.

### ***Cost of revenue***

Cost of revenue consists primarily of expenses associated with the storage, delivery, and distribution of the Company's platform for paying users and Basic users. These costs, which are referred to as infrastructure costs, include depreciation of infrastructure in co-location facilities that the Company leases, payments to third-party datacenter service providers, rent and facilities expense for those datacenters, network and bandwidth costs, and support and maintenance costs for infrastructure equipment. Cost of revenue also includes employee-related costs that include salaries, bonuses, benefits, travel related expenses, and stock-based compensation for employees whose primary responsibilities relate to supporting the Company's infrastructure and delivering user support. Other non-employee costs included in cost of revenue include credit card fees related to processing user transactions, allocated overhead such as facilities (including rent, utilities, and depreciation of equipment shared by all departments) and shared information technology costs, amortization of developed technologies, professional fees related to user support initiatives, and property taxes related to datacenters.

### ***Advertising and promotional expense***

Advertising and promotional expenses are included in sales and marketing expenses within the consolidated statements of operations and are expensed when incurred. Advertising and promotional expenses were \$59.5 million and \$46.6 million in the years ended December 31, 2015 and 2016, respectively. Advertising and promotional expenses were \$23.8 million and \$23.3 million in the six months ended June 30, 2016 and 2017, respectively.

### ***Cash and cash equivalents***

Cash consists primarily of cash on deposit with banks. Cash equivalents include highly liquid investments purchased with an original maturity date of 90 days or less from the date of purchase and primarily consist of money market funds. Cash equivalents also include amounts in transit from payment processors for credit and debit card transactions, which typically settle within five days. Cash and cash equivalents are recorded at cost, which approximates fair value.

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### ***Trade and other receivables, net***

Trade and other receivables, net consists primarily of trade receivables that are recorded at the invoice amount, net of an allowance for doubtful accounts.

Trade and other receivables, net consisted of the following as of December 31, 2015 and 2016, and June 30, 2017:

	<u>December 31,</u>		<u>June 30,</u>
	<u>2015</u>	<u>2016</u>	<u>2017</u>
			<i>(Unaudited)</i>
Trade accounts receivables	\$ 15.0	\$ 13.1	\$ 23.7
Other receivables	0.1	0.1	—
Less: Allowance for doubtful accounts	(0.7)	—	(0.7)
Trade and other receivables, net	<u>\$ 14.4</u>	<u>\$ 13.2</u>	<u>\$ 23.0</u>

The allowance for doubtful accounts is based on the Company's assessment of the collectability of accounts. The Company regularly reviews the adequacy of the allowance for doubtful accounts by considering the age of each outstanding invoice, the collection history of each customer, and other relevant factors to determine the appropriate amount of the allowance. Accounts receivable deemed uncollectable are charged against the allowance for doubtful accounts when identified.

### ***Concentrations of credit risk***

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist primarily of cash, cash equivalents, and accounts receivable. The Company places its cash and cash equivalents with well-established financial institutions. Cash equivalents consist primarily of highly rated money market funds.

Trade accounts receivables are typically unsecured and are derived from revenue earned from customers located around the world. Two customers accounted for 16% and 23% of total trade and other receivables, net as of December 31, 2015. Two customers accounted for 11% and 12% of total trade and other receivables, net as of December 31, 2016. Two customers accounted for 15% and 31% of total trade and other receivables, net as of June 30, 2017. No customer accounted for more than 1% of the Company's revenue in the periods presented.

### ***Non-trade receivables***

The Company records non-trade receivables to reflect amounts due for activities outside of its subscription agreements. Historically, the Company's non-trade receivables have related primarily to receivables resulting from tenant improvement allowances. Non-trade receivables totaled \$28.6 million, \$3.0 million, and \$0.1 million, respectively, as of December 31, 2015 and 2016, and June 30, 2017, and are classified within prepaid expenses and other current assets in the accompanying consolidated balance sheets.

### ***Deferred commissions, net***

Deferred commissions, net is stated at gross deferred commissions less accumulated amortization. Sales commissions earned by the Company's salesforce and third-party resellers, as well as related payroll taxes, are considered to be incremental and recoverable costs of obtaining a contract with a customer. As a result, these amounts have been capitalized as deferred commissions within prepaid and other current assets and other assets on the consolidated balance sheet. The Company deferred incremental costs of obtaining a contract of \$6.5 million and \$17.2 million during the years ended December 31, 2015 and 2016, respectively, and \$7.6 million during the six months ended June 30, 2017.

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Deferred commissions, net included in prepaid and other current assets were \$1.2 million, \$3.7 million and \$4.5 million as of December 31, 2015 and 2016, and June 30, 2017, respectively. Deferred commissions, net included in other assets were \$5.3 million, \$16.4 million, and \$19.6 million as of December 31, 2015 and 2016, and June 30, 2017, respectively.

Deferred commissions are amortized over a period of benefit of five years. The period of benefit was estimated by considering factors such as historical customer attrition rates, the useful life of the Company's technology, and the impact of competition in its industry. Amortized costs were \$0.6 million and \$3.7 million for the years ended December 31, 2015 and 2016, respectively, and \$1.3 million and \$3.5 million for the six months ended June 30, 2016 and 2017, respectively. Amortized costs are included in sales and marketing expense in the accompanying consolidated statements of operations. There was no impairment loss in relation to the deferred costs for any period presented.

### ***Property and equipment, net***

Equipment is stated at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful life of the related asset, which is generally three to seven years. Leasehold improvements are amortized on a straight-line basis over the shorter of their estimated useful lives or the initial term of the related lease.

The following table presents the estimated useful lives of property and equipment:

<u>Property and equipment</u>	<u>Useful life</u>
Buildings	20 years
Datacenter and other computer equipment	3 to 5 years
Office equipment and other	3 to 7 years
Leased equipment and leasehold improvements	Lesser of estimated useful life or remaining lease term

### ***Lease obligations***

The Company leases office space, datacenters, and equipment under non-cancelable capital and operating leases with various expiration dates through 2027. Certain of the Company's operating lease agreements contain tenant improvement allowances from its landlords. These allowances are accounted for as lease incentive obligations, and are amortized as reductions to rent expense over the lease term. In addition, certain of the operating lease agreements contain rent concession, rent escalation, and options to renew. Rent concession and rent escalation provisions are considered in determining the straight-line rent expense to be recorded over the lease term. The lease term begins on the date of initial possession of the leased property for purposes of recognizing lease expense on a straight-line basis over the term of the lease. The Company does not assume renewals in its determination of the lease term unless the renewals are deemed to be reasonably assured at lease inception.

The Company leases certain equipment from various third parties through equipment financing leases under capital leases. These leases either include a bargain purchase option, a full transfer of ownership at the completion of the lease term, or the terms of the leases are at least 75 percent of the useful lives of the assets and are therefore classified as a capital leases. These leases are capitalized in property and equipment and the related amortization of assets under capital leases is included in depreciation and amortization expense in the Company's consolidated statements of operations. Initial asset values and lease obligations are based on the present value of future minimum lease payments.

### ***Internal use software***

The Company capitalizes certain costs related to developed or modified software solely for its internal use and cloud based applications used to deliver its platform. The Company capitalizes costs during the application

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development stage once the preliminary project stage is complete, management authorizes and commits to funding the project, and it is probable that the project will be completed and that the software will be used to perform the function intended. Costs related to preliminary project activities and post implementation activities are expensed as incurred. Capitalized internal use software costs were not material to the Company's consolidated financial statements during the years ended December 31, 2015 and 2016, and the six months ended June 30, 2016 and 2017.

### ***Business combinations***

The Company uses best estimates and assumptions to assign a fair value to the tangible and intangible assets acquired and liabilities assumed in business combinations as of the acquisition date. These estimates are inherently uncertain and subject to refinement. During the measurement period, which may be up to one year from the acquisition date, adjustments to the fair value of these tangible and intangible assets acquired and liabilities assumed may be recorded, with the corresponding offset to goodwill. Upon the conclusion of the measurement period or final determination of the fair value of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments are recorded to the Company's consolidated statements of operations.

### ***Long-lived assets, including goodwill and other acquired intangible assets, net***

The Company evaluates the recoverability of property and equipment and finite-lived intangible assets for possible impairment whenever events or circumstances indicate that the carrying amount of such assets may not be recoverable. The evaluation is performed at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. Recoverability of these assets is measured by a comparison of the carrying amounts to the future undiscounted cash flows the assets are expected to generate. If such review determines that the carrying amount of specific property and equipment or intangible assets is not recoverable, the carrying amount of such assets is reduced to its fair value.

The Company reviews goodwill for impairment at least annually in the fourth quarter, or more frequently if events or changes in circumstances would more likely than not reduce the fair value of its single reporting unit below its carrying value.

The Company has not recorded impairment charges on property and equipment, goodwill, or intangible assets for the periods presented in these consolidated financial statements.

Acquired property and equipment and finite-lived intangible assets are amortized over their useful lives. The Company evaluates the estimated remaining useful life of these assets when events or changes in circumstances warrant a revision to the remaining period of amortization. If the Company reduces the estimated useful life assumption for any asset, the remaining unamortized balance is amortized or depreciated over the revised estimated useful life.

### ***Income taxes***

Deferred income tax balances reflect the effects of temporary differences between the financial reporting and tax bases of the Company's assets and liabilities using enacted tax rates expected to apply when taxes are actually paid or recovered. In addition, deferred tax assets are recorded for net operating loss and credit carryforwards.

A valuation allowance is provided against deferred tax assets unless it is more likely than not that they will be realized based on all available positive and negative evidence. Such evidence includes, but is not limited to, recent cumulative earnings or losses, expectations of future taxable income by taxing jurisdiction, and the carry-forward periods available for the utilization of deferred tax assets.

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The Company uses a two-step approach to recognizing and measuring uncertain income tax positions. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit. The second step is to measure the tax benefit as the largest amount, which is more than 50% likely of being realized upon ultimate settlement. The Company recognizes interest and penalties related to unrecognized tax benefits as income tax expense. Significant judgment is required to evaluate uncertain tax positions.

Although the Company believes that it has adequately reserved for its uncertain tax positions, it can provide no assurance that the final tax outcome of these matters will not be materially different. The Company evaluates its uncertain tax positions on a regular basis and evaluations are based on a number of factors, including changes in facts and circumstances, changes in tax law, correspondence with tax authorities during the course of an audit, and effective settlement of audit issues.

To the extent that the final tax outcome of these matters is different than the amounts recorded, such differences will affect the provision for income taxes in the period in which such determination is made and could have a material impact on the Company's financial condition and results of operations.

### ***Fair value measurement***

The Company applies fair value accounting for all financial assets and liabilities and non-financial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis. The Company defines fair value as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining fair value measurements for assets and liabilities, the Company considers the principal or most advantageous market in which it would transact and the market-based risk measurements or assumptions that market participants would use in pricing the asset or liability, such as risks inherent in valuation techniques, transfer restrictions, and credit risk. Fair value is estimated by applying the following hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

*Level 1*—Quoted prices in active markets for identical assets or liabilities.

*Level 2*—Observable inputs other than quoted prices in active markets for identical assets and liabilities, quoted prices for identical or similar assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

*Level 3*—Inputs that are generally unobservable and typically reflect management's estimate of assumptions that market participants would use in pricing the asset or liability.

### ***Recently issued accounting pronouncements not yet adopted***

In October 2016, the FASB issued ASU No. 2016-16, *Income Taxes: Intra-Entity Transfers Other than Inventory (Topic 740)*, which requires entities to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs. ASU 2016-16 is effective for fiscal years beginning after December 15, 2018. Early adoption is permitted. The Company does not expect the adoption to have a material impact on its consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)*, which requires the recognition of lease assets and lease liabilities on the balance sheet by lessees for those leases currently classified as operating leases. ASU 2016-06 is effective for fiscal years beginning after December 15, 2018. Early adoption is permitted and the Company is currently evaluating the timing of adoption and disclosure requirements. The Company expects the impact of adoption to be material to total assets and liabilities on the consolidated balance sheets.



**Recently adopted accounting pronouncements**

In May 2014, the FASB issued ASU No. 2014-09, *Revenue from Contracts with Customers (Topic 606)* and Subtopic 340-40, *Other Assets and Deferred Costs—Contracts with Customers (Subtopic 340-40)*. Topic 606 supersedes the revenue recognition requirements in Accounting Standards Codification Topic 605, *Revenue Recognition (Topic 605)*, and requires the recognition of revenue when promised goods or services are transferred to customers in an amount that reflects the considerations to which the entity expects to be entitled to in exchange for those goods or services. Subtopic 340-40 requires the deferral of incremental costs of obtaining a contract with a customer. Collectively, reference to Topic 606 used herein refers to both Topic 606 and Subtopic 340-40.

The Company adopted the requirements of Topic 606 as of January 1, 2017, utilizing the full retrospective method of transition. The adoption of Topic 606 resulted in changes to accounting policies for revenue recognition, trade and other receivables, and deferred commissions.

The impact of adopting Topic 606 on the Company's revenue is not material to any of the periods presented. The primary impact of adopting Topic 606 relates to the deferral of incremental costs of obtaining customer contracts and the amortization of those costs over a longer period of benefit. Under Topic 606, the Company defers all incremental costs to obtain the contract, which primarily include sales commissions and related payroll taxes. The Company amortizes these costs over a period of benefit of five years.

In January 2017, the FASB issued ASU No. 2017-04, *Goodwill and Other, Simplifying the Test for Goodwill Impairment (Topic 350)*, which amends the guidance in ASC Topic 350 to eliminate Step 2 from the goodwill impairment test. The updated guidance requires an entity to perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount and recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value not to exceed the total amount of goodwill allocated to that reporting unit. ASU No. 2017-04 is effective for fiscal years beginning after December 15, 2021, and is applied prospectively when adopted. Early adoption is permitted. The Company elected to adopt ASU No. 2017-04 as of January 1, 2017. The adoption of the guidance did not have an impact on the consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-01, *Business Combinations, Clarifying the Definition of a Business (Topic 805)*, which clarifies the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions or disposals of assets or businesses. ASU No. 2017-01 is effective for fiscal years beginning after December 15, 2017, and interim periods within those years, and is applied prospectively when adopted. Early adoption is permitted. The Company elected to adopt ASU No. 2017-01 as of January 1, 2017. The adoption of the guidance did not have an impact on the consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-09, *Improvements to Employee Share-Based Payment Accounting (Topic 718)*, which aligns with the FASB's current simplification initiatives. The major areas for simplification in ASU No. 2016-09 involve several aspects of the accounting for stock-based payment transactions, including income tax consequences, classification of awards as either equity or liabilities, and classification on the statement of cash flows. Specifically, ASU No. 2016-09 has introduced updates to minimum statutory tax withholding requirements, policy elections surrounding forfeitures, expected term, intrinsic values, and changes to the classification of certain stock-based payment related transactions on the statement of cash flows. The Company elected to adopt ASU No. 2016-09 effective as of January 1, 2017.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows, Restricted Cash (Topic 230)*, which amends the guidance in ASC Topic 230, *Statement of Cash Flows*, and requires that entities show the changes in total of cash, cash equivalents, restricted cash, and restricted cash equivalents in their statement of cash flows. As a result, entities will no longer present transfers between cash and cash equivalents and restricted

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cash and restricted cash equivalents in the statement of cash flows. ASU No. 2016-18 is effective for fiscal years beginning after December 15, 2017, and interim periods within those years, and is applied retrospectively when adopted. Early adoption is permitted. The Company elected to early adopt ASU No. 2016-18 effective January 1, 2016. The adoption of the guidance did not have a material impact on the consolidated financial statements.

In April 2015, the FASB issued ASU No. 2015-05, *Intangibles—Goodwill and Other—Internal-Use Software: Customer’s Accounting for Fees Paid in a Cloud Computing Arrangement (Subtopic 350-40)*, which provides guidance to customers about whether a cloud computing arrangement includes a software license. If a cloud computing arrangement includes a software license, then the customer should account for the software license element of the arrangement consistent with the acquisition of other software licenses. If a cloud computing arrangement does not include a software license, the customer should account for the arrangement as a service contract. The Company adopted ASU No. 2015-05 in 2016. The adoption of the guidance did not have a material impact on the consolidated financial statements.

### **Note 2. Cash and Cash Equivalents**

Cash and cash equivalents consisted of the following:

	<u>As of December 31,</u>		<u>As of</u>
	<u>2015</u>	<u>2016</u>	<u>June 30,</u>
			<u>2017</u>
			<i>(Unaudited)</i>
Cash	\$ 40.8	\$ 93.7	\$ 80.4
Money market mutual funds	316.1	259.0	315.3
Total cash and cash equivalents	<u>\$356.9</u>	<u>\$352.7</u>	<u>\$ 395.7</u>

Included in cash and cash equivalents are cash in transit from payment processors for credit and debit card transactions of \$4.5 million, \$8.4 million, and \$9.5 million as of December 31, 2015 and 2016, and June 30, 2017, respectively.

### **Note 3. Fair Value Measurements**

The Company’s cash equivalents primarily consist of money market funds. The total cash equivalents held by the Company in money market funds as of December 31, 2015 and 2016, and June 30, 2017, were \$316.1 million, \$259.0 million, and \$315.3 million, respectively. The Company’s cash equivalents are classified within Level 1 of the fair value hierarchy. See Note 1, “Description of the Business and Summary of Significant Accounting Policies” for additional details.

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### Note 4. Property and Equipment, Net

Property and equipment, net consisted of the following:

	As of December 31,		As of
	2015	2016	June 30, 2017 (Unaudited)
Building	\$ 36.6	\$ 36.6	\$ 36.6
Datacenter and other computer equipment	539.9	608.4	628.8
Furniture and fixtures	11.9	21.0	21.0
Leasehold improvements	43.3	114.1	115.5
Construction in process	25.8	0.5	0.2
Total property and equipment	657.5	780.6	802.1
Accumulated depreciation and amortization	(219.9)	(336.6)	(424.5)
Property and equipment, net	<u>\$ 437.6</u>	<u>\$ 444.0</u>	<u>\$ 377.6</u>

In 2012, the Company undertook a series of structural improvements to the floor that it occupied in its previous corporate headquarters. As a result of the requirement to fund construction costs and its responsibility for cost overruns during the construction period, the Company is considered the deemed owner of the floor for accounting purposes. Due to the presence of a standby letter of credit as a security deposit, the Company was deemed to have continuing involvement after the construction period. As such, it accounted for this arrangement as owned real estate and recorded an imputed financing obligation for its obligation to the legal owners. The net book value of the asset was \$29.5 million, \$27.7 million, and \$26.8 million as of December 31, 2015 and 2016, and June 30, 2017, respectively. The accumulated depreciation of the building totaled \$7.1 million, \$8.9 million, and \$9.8 million as of December 31, 2015 and 2016, and June 30, 2017, respectively. See Note 10, "Commitments and Contingencies," for additional details.

The Company leases certain infrastructure from various third parties through equipment financing leases. Infrastructure assets as of December 31, 2015 and 2016, and June 30, 2017, respectively, included a total of \$443.3 million, \$474.2 million, and \$464.6 million acquired under capital lease agreements. These leases are capitalized in property and equipment, and the related amortization of assets under capital leases is included in depreciation and amortization expense. The accumulated depreciation of the infrastructure under capital leases totaled \$155.2 million, \$224.9 million, and \$268.9 million as of December 31, 2015 and 2016, and June 30, 2017, respectively.

Construction in process includes costs primarily related to construction of leasehold improvements for office buildings and network equipment infrastructure to support the Company's datacenters located within the United States.

Depreciation and amortization expense related to property and equipment was \$127.3 million, \$173.8 million, and \$88.1 million for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2017, respectively.

### Note 5. Business Combinations

The Company did not complete any business combinations during the year ended December 31, 2016, or the six months ended June 30, 2017. During the year ended December 31, 2015, the Company completed the business combination described below. The results of operations for this business combination are included in the accompanying consolidated statements of operations since its acquisition date. The impact of its results to the periods presented is not significant. Pro forma results of operations have not been presented because the effects of the acquisition were not material to the consolidated financial statements.

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In January 2015, the Company acquired all of the outstanding shares of CloudOn, Inc (“CloudOn”) for total consideration of \$31.4 million, which was comprised solely of shares of Dropbox common stock. CloudOn was an Israel-based developer of mobile software that allowed users to edit, create, organize, and share Microsoft Office documents on any platform.

The following table summarizes the fair value of the assets acquired and liabilities assumed by major class for the CloudOn business combination completed during the year ended December 31, 2015:

Developed technologies	\$ 1.5
Goodwill	30.1
Net tangible liabilities	(0.2)
Total	<u>\$31.4</u>

### Note 6. Intangible Assets, Net

Intangibles assets consisted of the following:

	As of December 31,		As of June 30,	Weighted- average remaining useful life (In years)
	2015	2016	2017	
			(Unaudited)	
Developed technology	\$ 50.9	\$ 50.6	\$ 50.8	0.6
Patents	8.8	13.0	13.0	9.1
Software	14.6	14.7	15.3	1.7
Assembled workforce in asset acquisitions	10.1	10.1	10.1	1.6
Licenses	0.3	4.6	4.6	3.4
Non-compete agreements, trademarks and other	4.6	4.1	4.0	7.1
Total intangibles	89.3	97.1	97.8	
Accumulated amortization	(56.3)	(72.9)	(79.0)	
Intangible assets, net	<u>\$ 33.0</u>	<u>\$ 24.2</u>	<u>\$ 18.8</u>	

Amortization expense was \$22.2 million, \$17.3 million, and \$6.3 million for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2017, respectively.

Expected future amortization expense for intangible assets as of June 30, 2017 (unaudited) is as follows:

2017 (remaining)	\$ 3.9
2018	4.6
2019	2.7
2020	1.9
2021	1.1
Thereafter	4.6
Total	<u>\$18.8</u>

### Note 7. Goodwill

Goodwill represents the excess of the purchase price in a business combination over the fair value of net tangible and intangible assets acquired. Goodwill amounts are not amortized, but tested for impairment on an

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annual basis. There was no impairment of goodwill as of December 31, 2015 and 2016, and June 30, 2017. Goodwill consisted of the following:

Balance at December 31, 2014	\$63.0
CloudOn	30.1
Other	3.0
Balance at December 31, 2015	96.1
Effect of foreign currency translation	(0.1)
Balance at December 31, 2016	96.0
Effect of foreign currency translation ( <i>unaudited</i> )	2.3
Balance at June 30, 2017 ( <i>unaudited</i> )	<u>\$98.3</u>

### Note 8. Accrued and Other Current Liabilities

Accrued and other current liabilities consisted of the following:

	As of December 31,		As of June 30,
	2015	2016	2017 ( <i>Unaudited</i> )
Non-income taxes payable	\$ 44.5	\$ 49.4	\$ 56.2
Accrued legal and other external fees	17.6	11.9	13.4
Deferred rent	5.7	11.0	12.1
Financing obligations, current	10.1	11.4	11.2
Accrued data center costs	11.3	1.9	1.5
Accrued property and equipment purchases	20.7	5.8	0.8
Income taxes payable	0.3	2.2	—
Other accrued and current liabilities	8.0	4.3	9.8
Total accrued and other current liabilities	<u>\$ 118.2</u>	<u>\$ 97.9</u>	<u>\$ 105.0</u>

### Note 9. Revolving Credit Agreement

On April 3, 2017, the Company entered into an amended and restated credit and guaranty agreement which currently provides for a \$600.0 million revolving loan facility (the “revolving credit facility”). The revolving credit facility has an accordion option, which, if exercised, would allow the Company to increase the aggregate commitments up to \$150.0 million, subject to obtaining additional lender commitments and satisfying certain conditions. The revolving credit facility replaced its existing \$500.0 million revolving credit facility that was set to expire on March 20, 2018 (the “2014 revolving credit facility”). In conjunction with the revolving credit facility, the Company paid upfront issuance fees of \$2.6 million, which are being amortized over the five-year term of the agreement.

Pursuant to the terms of the revolving credit facility, the Company may issue letters of credit under the revolving credit facility, which reduce the total amount available for borrowing. Pursuant to the terms of the revolving credit facility, the Company is required to pay an annual commitment fee that accrues at a rate of 0.20% per annum on the unused portion of the borrowing commitments under the revolving credit facility. In addition, the Company is required to pay a fee in connection with letters of credit issued under the revolving credit facility, which accrues at a rate of 1.5% per annum on the amount to be drawn under such letters of credit outstanding. There is an additional fronting fee of 0.125% per annum multiplied by the average aggregate daily maximum amount available to be drawn under all letters of credit. Borrowings under the revolving credit facility bear interest, at the Company’s option, at an annual rate based on LIBOR plus a spread of 1.50% or at an alternative base rate plus a spread of 0.50%.

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The revolving credit facility contains customary conditions to borrowing, events of default and covenants, including covenants that restrict the Company's ability to incur indebtedness, grant liens, make distributions to holders of the Company or its subsidiaries' equity interests, make investments, or engage in transactions with its affiliates. In addition, the revolving credit facility contains financial covenants, including a consolidated leverage ratio covenant and a minimum liquidity balance of \$100.0 million, which includes any available borrowing capacity. The Company was in compliance with the covenants of the 2014 revolving credit facility as of December 31, 2015 and 2016, and the revolving credit facility as of June 30, 2017.

As of December 31, 2015 and 2016, the Company had an aggregate of \$50.7 million and \$48.7 million of letters of credit outstanding under the 2014 revolving credit facility, respectively. As of June 30, 2017, the Company had an aggregate of \$45.1 million of letters of credit outstanding under the revolving credit facility. The Company's total available borrowing capacity under the 2014 revolving credit facility was \$449.3 million and \$451.3 million as of December 31, 2015 and 2016. The Company's total available borrowing capacity under the revolving credit facility was \$554.9 million as of June 30, 2017. The Company's letters of credit expire between July of 2017 and April of 2022.

### **Note 10. Commitments and Contingencies**

#### ***Leases***

The Company has entered into various non-cancelable operating lease agreements for certain offices and datacenters with contractual lease periods expiring at various dates through 2027. The facility lease agreements generally provide for escalating rental payments and for options to renew, which could increase future minimum lease payments if exercised. The Company recognizes rent expense on a straight-line basis over the lease period and accounts for the difference between straight-line rent and actual lease payments as deferred rent.

Gross rent expense was \$49.7 million, \$67.9 million, and \$32.5 million for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2017, respectively. Sublease income, which is recorded as a reduction of rental expense, was \$0.1 million, \$4.5 million, and \$3.7 million for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2017, respectively. Sublease income in excess of the Company's original lease obligation is split with the original lessor per the terms of the sublease agreement, with the Company's portion recorded to other income (expense), net.

Other commitments include payments to third-party vendors for services related to the Company's infrastructure, infrastructure warranty contracts, lease payments for its previous corporate headquarters, asset retirement obligations for office modifications, and a note payable related to financing of infrastructure. As described in Note 4, "Property and Equipment", the Company is considered the deemed owner of a floor in its previous corporate headquarters, for accounting purposes, as part of a build-to-suit lease agreement. In June 2011, the Company initially recorded a building asset and an imputed financing obligation for its obligation to the legal owner in the amount of \$36.6 million. In connection with this lease, the Company is obligated to pay \$13.3 million in lease payments over the next three years as of December 31, 2016. The imputed financing obligation on the Company's consolidated balance sheets totaled \$30.6 million, \$29.5 million, and \$28.6 million at December 31, 2015 and 2016, and June 30, 2017, respectively. The current portion of the imputed financing obligation totaled \$1.1 million, \$2.4 million, and \$2.5 million as of December 31, 2015 and 2016, and June 30, 2017, respectively, and is classified within accrued and other current liabilities. The non-current portion of the imputed financing obligation totaled \$29.5 million, \$27.1 million, and \$26.1 million as of December 31, 2015 and 2016, and June 30, 2017, respectively, and is classified within other non-current liabilities.

In 2016, the Company entered into a sale-leaseback agreement with a vendor for infrastructure. As a result of the transaction, it received \$8.8 million in proceeds. Payments including interest towards the leaseback arrangement totaled \$1.3 million and \$1.3 million for the year ended December 31, 2016, and the six months

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ended June 30, 2017, respectively. The total remaining obligation including interest was \$8.8 million and \$7.5 million as of December 31, 2016, and June 30, 2017, respectively. The obligation is included in capital lease commitments in the table below.

In 2015, the Company entered into a note payable arrangement with a vendor to finance infrastructure totaling \$11.9 million. The note payable is classified within accrued and other current liabilities and other non-current liabilities. The term of the arrangement is thirty-six months and will end in the fourth quarter of 2018. Payments towards the note payable totaled \$0.7 million, \$4.3 million, and \$2.2 million for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2017, respectively. The total remaining obligation was \$11.3 million, \$7.5 million, and \$5.5 million as of December 31, 2015 and 2016, and June 30, 2017, respectively. The note payable is included in other commitments in the table below.

Future minimum payments under the Company's non-cancelable leases, financing obligations, and other commitments as of December 31, 2016, are as follows, and exclude sub-lease income:

	<u>Capital lease commitments</u>	<u>Operating lease commitments<sup>(1)</sup></u>	<u>Other commitments</u>
Year ended December 31:			
2017	\$ 136.9	\$ 74.7	\$ 45.5
2018	91.0	77.0	17.6
2019	37.2	75.4	5.8
2020	6.3	72.4	0.2
2021	—	59.9	1.5
Thereafter	—	197.8	4.7
Future minimum payments	271.4	<u>\$ 557.2</u>	<u>\$ 75.3</u>
Less interest and taxes	(14.2)		
Less current portion of the present value of minimum lease payments	(127.6)		
Capital lease obligations, net of current portion	<u>\$ 129.6</u>		

- (1) Consists of future non-cancelable minimum rental payments under operating leases for the Company's offices and datacenters, excluding sub-lease income and variable operating expenses. Non-cancelable sublease income as of December 31, 2016, is expected to be \$15.6 million through 2023.

### ***Legal matters***

From time to time, the Company is a party to a variety of claims, lawsuits, and proceedings which arise in the ordinary course of business, including claims of alleged infringement of intellectual property rights. The Company records a liability when it believes that it is probable that a loss will be incurred and the amount of loss or range of loss can be reasonably estimated. In its opinion, resolution of pending matters is not likely to have a material adverse impact on its consolidated results of operations, cash flows, or its financial position. Given the unpredictable nature of legal proceedings, the Company bases its estimate on the information available at the time of the assessment. As additional information becomes available, the Company reassesses the potential liability and may revise the estimate.

### ***Indemnification***

The Company's arrangements generally include certain provisions for indemnifying customers against liabilities if its products or services infringe a third party's intellectual property rights. It is not possible to determine the maximum potential amount under these indemnification obligations due to the limited history of prior indemnification claims.

**Note 11. Stockholders' Equity*****Common stock***

The Company's amended and restated certificate of incorporation authorizes the issuance of Class A common stock and Class B common stock. The Company is authorized to issue 800,000,000 shares of Class A common stock and 700,000,000 shares of Class B common stock. Holders of Class A common stock and Class B common stock are entitled to dividends on a pro rata basis, when, as, and if declared by the Company's Board of Directors, subject to the rights of the holders of the Company's preferred stock. Holders of Class A common stock are entitled to one vote per share, and holders of Class B common stock are entitled to 10 votes per share. Upon a liquidation event, as defined in the amended and restated certificate of incorporation, after payments are made to holders of the Company's preferred stock, any distribution of proceeds to common stockholders will be made on a pro rata basis to the holders of Class A common stock and Class B common stock. Following the completion of an initial public offering of the Company, shares of Class B common stock will automatically convert into shares of Class A common stock upon a sale or transfer (other than with respect to certain estate planning transfers).

***Convertible preferred stock***

The Company is authorized to issue 226,818,439 shares of preferred stock. The following table summarizes the convertible preferred stock outstanding and liquidation preferences as of December 31, 2016, and June 30, 2017 (unaudited):

	Shares		Per share price at issuance	Aggregate liquidation preference	Dividend per share amount
	Authorized	Outstanding			
	<i>(In millions, except per share amounts)</i>				
Series A	95.8	95.8	\$ 0.06	\$ 6.0	\$ 0.01
Series A-1	78.0	77.8	0.02	1.3	0.01
Series B	29.3	29.3	9.05	264.8	0.72
Series C	23.7	18.5	19.10	352.6	1.53
	<u>226.8</u>	<u>221.4</u>		<u>\$ 624.7</u>	

Significant terms of the convertible preferred stock are as follows:

***Liquidation preference***

Upon a liquidation event, as defined in the amended and restated certificate of incorporation, the holders of Series A, Series A-1, Series B, and Series C convertible preferred stock are entitled to receive, prior to and in preference to any distribution of the proceeds of such liquidation to common stockholders, an amount per share equal to \$0.06, \$0.02, \$9.05, and \$19.10, respectively, plus any declared but unpaid dividends on such shares. If the proceeds distributed among the holders of the preferred stock are insufficient to permit the Series A, Series A-1, Series B, and Series C convertible preferred stock holders to receive the full payment noted above, then the entire proceeds legally available for distribution shall be distributed ratably among the holders of the preferred stock in proportion to the full preferential amount that each such holder is otherwise entitled to receive.

***Dividends***

Holders of the Company's preferred stock are entitled to receive dividends, when, as and if declared by the Company's Board of Directors, at the applicable dividend rate of \$0.01, \$0.01, \$0.72, and \$1.53 for each share of Series A, Series A-1, Series B, and Series C convertible preferred stock, respectively, prior to and in preference of any dividend paid to holders of the Company's common stock (other than a stock dividend declared and paid on the Class A common stock that is payable in shares of Class A common stock or on the Class B common stock that is payable in shares of Class B common stock). Such dividends shall not be cumulative or mandatory. No dividends have been declared in any period presented.



### *Voting*

Each holder of preferred stock shall have the right to 10 votes for each share of Class B common stock into which the shares of preferred stock held by such holder could then be converted. In addition, so long as at least 45.0 million shares of preferred stock are outstanding, the holders of the preferred stock shall be entitled to elect one director of Dropbox. The holders of the shares of outstanding Class A common stock and Class B common stock representing at least a majority in voting power of the then-issued common stock shall be entitled to elect seven directors of Dropbox.

### *Conversion*

At the option of the holder thereof, each share of preferred stock is convertible into a number of shares of Class B common stock that results from dividing the applicable original issue price for such series by the applicable conversion price in effect on the date of conversion (the "Conversion Rate"). Each share of preferred stock will be automatically converted into shares of Class B common stock at the Conversion Rate at the time in effect for such series of preferred stock upon the earlier of (i) immediately prior to the closing of a firm commitment underwritten public offering of Dropbox's common stock on an internationally recognized securities exchange or trading system pursuant to a registration statement under the Securities Act of 1933, as amended, with gross proceeds of not less than \$35.0 million in the aggregate (a "Qualified IPO"), or (ii) the date specified by written consent or agreement of the holders of a majority of the outstanding preferred stock, voting together as a single class; *provided*, that other than pursuant to a Qualified IPO (x) so long as a majority of the shares of Series B convertible preferred stock originally issued remains outstanding, the consent of the holders of 70% of the shares of the Series B convertible preferred stock, voting together as a single class, is required to convert any shares of Series B convertible preferred stock into Class B common stock and (y) so long as a majority of the shares of Series C convertible preferred stock originally issued remains outstanding, the consent of the holders of a majority of the shares of the Series C convertible preferred stock, voting together as a single class, is required to convert any shares of Series C convertible preferred stock into Class B common stock.

### *Equity incentive plans*

Under the Company's 2017 Equity Incentive Plan (the "Plan"), the Company may grant stock-based awards to purchase or directly issue shares of common stock to employees, directors, and consultants. Options are granted at a price per share equal to the fair market value of Dropbox's common stock at the date of grant. Options granted are exercisable over a maximum term of 10 years from the date of grant and generally vest over a period of four years. No options have been granted since August of 2015. RSUs and Restricted Stock Awards ("RSAs") are also granted under the Plan. The Plan will terminate 10 years after the later of (i) its adoption or (ii) the most recent stockholder-approved increase in the number of shares reserved under the Plan, unless terminated earlier by the Dropbox Board of Directors. This plan was adopted on March 8, 2017, and replaced the Company's 2008 Equity Incentive Plan (the "Prior Plan"). As of December 31, 2016, and June 30, 2017, there were 89.0 million and 95.6 million shares issued and outstanding under the Plan and the Prior Plan, respectively. Shares available for issuance under the plans were 18.2 million and 5.8 million as of December 31, 2016, and June 30, 2017, respectively.

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Stock option and restricted stock activity for the Plans was as follows for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2017:

	Number of shares available for issuance under the Plans	Options outstanding			Restricted stock outstanding	
		Number of shares outstanding under the Plans	Weighted-average exercise price per share	Weighted-average remaining contractual term (years)	Number of Plan Shares outstanding	Weighted-average grant date fair value per share
			<i>(In millions, except per share amounts)</i>			
Balance at December 31, 2014	0.6	20.2	\$ 10.61	8.9	40.7	\$ 9.13
Additional shares authorized	46.0	—	—	—	—	—
Options granted	(3.0)	3.0	16.82	—	—	—
Restricted stock granted	(31.5)	—	—	—	31.5	15.16
Options and RSAs exercised	—	(0.6)	4.51	—	—	—
Options and RSUs canceled	9.5	(2.6)	10.87	—	(6.9)	11.57
Repurchased under the Plan	0.3	—	—	—	—	—
Balance at December 31, 2015	21.9	20.0	11.67	8.1	65.3	11.78
Options and RSUs canceled	21.2	(12.0)	14.69	—	(9.2)	13.37
Restricted stock granted	(24.9)	—	—	—	24.9	10.39
Balance at December 31, 2016	18.2	8.0	7.12	6.5	81.0	10.94
Options exercised and RSUs released (unaudited)	—	(0.2)	3.71	—	(8.2)	12.49
Options and RSUs canceled (unaudited)	3.8	(0.2)	9.96	—	(3.6)	12.66
Shares withheld related to net share settlement (unaudited)	2.6	—	—	—	—	12.74
Restricted stock granted (unaudited)	(18.8)	—	—	—	18.8	9.69
Balance at June 30, 2017 (unaudited)	5.8	7.6	\$ 7.10	6.0	88.0	\$ 10.46
Vested at December 31, 2016		6.6	\$ 6.36	6.4	42.2	\$ 9.81
Unvested at December 31, 2016		1.4	\$ 10.92		38.8	\$ 12.17
Vested at June 30, 2017 (unaudited)		7.0	\$ 6.60	5.9	44.1	\$ 9.72
Unvested at June 30, 2017 (unaudited)		0.6	\$ 12.74		43.9	\$ 11.20

The following table summarizes information about the pre-tax intrinsic value of options exercised and the weighted average grant date fair value per share of options granted during the years ended December 31, 2015 and 2016, and the six months ended June 30, 2016 and 2017:

	Years ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
			<i>(Unaudited)</i>	
Intrinsic value of options exercised (in millions)	\$ 7.4	\$ —	\$ —	\$ 6.1
Weighted average grant date fair value per share of stock options granted <sup>(1)</sup>	\$8.18	\$ —	\$ —	\$ —

(1) The weighted average grant date fair value per share of stock options granted is calculated, as of the stock option grant date, using the BSM option pricing model. The Company did not grant stock options during the year ended December 31, 2016, or the six months ended June 30, 2017.

As of December 31, 2016, and June 30, 2017, unamortized stock-based compensation expense related to unvested stock options, restricted stock awards and one-tier RSUs was \$239.2 million and \$366.6 million, respectively. The weighted-average period over which such compensation expense will be recognized is approximately 2.6 and 2.8 years, as of December 31, 2016, and June 30, 2017, respectively.

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As of December 31, 2016, and June 30, 2017, all compensation expense related to the Company's two-tier RSUs remained unrecognized because the Performance Vesting Condition was not satisfied. Approximately 34.2 million and 37.1 million two-tier RSUs had met their service-based vesting condition as of December 31, 2016, and June 30, 2017, but not the Performance Vesting Condition. If the Performance Vesting Condition had been satisfied on December 31, 2016, or June 30, 2017, the Company would have recorded \$401.0 million and \$420.8 million of stock-based compensation expense using the accelerated attribution method related to the two-tier RSUs, respectively. As of December 31, 2016, and June 30, 2017, approximately 9.6 million and 5.8 million two-tier RSUs had not met their service-based vesting condition, respectively. If the Performance Vesting Condition had been satisfied on these two-tier RSUs as of December 31, 2016, and June 30, 2017, unamortized stock-based compensation expense of \$33.8 million and \$19.1 million would be recognized over a weighted-average period of approximately 1.3 years and 1.0 year, respectively.

### *Award modifications*

During the year ended December 31, 2016, the Company's Board of Directors voted to approve the exchange of stock options previously granted to an executive officer under the Plan for one-tier RSUs. In total, options to purchase 6.5 million shares of common stock were exchanged for 3.3 million RSUs. Total compensation expense for the modified awards is \$37.7 million, of which \$18.8 million in stock-based compensation expense was recognized on the date of exchange representing the portion that vested immediately. Out of the total \$37.7 million in stock-based compensation expense, \$8.9 million was incremental to what would have been recognized related to the original stock option award. The Company will recognize approximately \$2.4 million in stock-based compensation expense per quarter related to these awards. As of June 30, 2017, the total unamortized expense relating to these awards was \$7.1 million.

During 2016, the Board of Directors voted to approve a continuation of vesting upon change in employment status clause for an executive officer who had previously provided services to the Company. Under this clause, 0.6 million RSUs previously granted to the former executive officer will continue to vest for a pre-determined period of time. The continuation of vesting was accounted for as a modification of the terms of the original award. As a result, the Company recognized an incremental \$4.2 million of stock-based compensation expense. An additional \$1.5 million of stock-based compensation expense may be recognized in future periods for the former executive officers' two-tier RSUs if the initial qualifying liquidity event defined under the award agreement occurs.

### **Note 12. Net Loss Per Share**

The following table sets forth the calculation of basic and diluted net loss per share attributable to common stockholders during the periods presented:

	Year ended December 31,			
	2015		2016	
	<i>(In millions, except per share amounts)</i>			
	Class A	Class B	Class A	Class B
<b>Numerator:</b>				
Net loss attributable to common stockholders	<u>\$ (9.7)</u>	<u>\$(316.2)</u>	<u>\$ (6.1)</u>	<u>\$(204.1)</u>
<b>Denominator:</b>				
Weighted-average number of common shares outstanding used in computing basic and diluted net loss per common share	<u>8.2</u>	<u>268.6</u>	<u>8.3</u>	<u>275.4</u>
Net loss per common share, basic and diluted	<u><u>\$(1.18)</u></u>	<u><u>\$ (1.18)</u></u>	<u><u>\$(0.74)</u></u>	<u><u>\$ (0.74)</u></u>

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	Six months ended June 30,			
	2016		2017	
	(In millions, except per share amounts) (Unaudited)			
	Class A	Class B	Class A	Class B
<b>Numerator:</b>				
Net loss attributable to common stockholders	\$ (4.1)	\$ (134.4)	\$ (1.8)	\$ (58.1)
<b>Denominator:</b>				
Weighted-average number of common shares outstanding used in computing basic and diluted net loss per common share	8.3	272.7	8.6	283.1
Net loss per common share, basic and diluted	\$ (0.49)	\$ (0.49)	\$ (0.21)	\$ (0.21)

Since the Company was in a loss position for all periods presented, basic net loss per share attributable to common stockholders is the same as diluted net loss per share for all periods as the inclusion of all potential common shares outstanding would have been anti-dilutive. Potentially dilutive securities that were not included in the diluted per share calculations because they would be anti-dilutive were as follows:

	Year ended December 31,		Six months ended June 30,	
	2015	2016	2016	2017
	(Shares in millions)		(Shares in millions) (Unaudited)	
Convertible preferred stock	221.4	221.4	221.4	221.4
Options to purchase shares of common stock	21.0	11.8	15.4	7.7
Restricted stock units	51.1	71.8	69.9	71.2
Shares subject to repurchase from early-exercised options and unvested restricted stock	5.4	1.4	1.8	0.5
<b>Total</b>	<b>298.9</b>	<b>306.4</b>	<b>308.5</b>	<b>300.8</b>

**Note 13. Unaudited Pro Forma Net Loss Per Share**

Pro forma net loss per share was computed to give effect to the automatic conversion of all series of convertible preferred stock using the if-converted method as though the conversion had occurred as of the beginning of the period or the date of issuance, if later. Subject to the satisfaction of certain conditions, immediately prior to the completion of the Company's initial public offering, all of the 220,965,979 shares of convertible preferred stock will convert into an equivalent number of shares of Class B common stock. Further, pursuant to transfer agreements with certain of the Company's stockholders, 387,934 shares of the Company's preferred stock and 3,914,934 shares of the Company's Class B common stock will automatically convert into an equivalent number of shares of Class A common stock. In addition, the pro forma share amounts give effect to the weighted average issuance of two-tier RSUs that have satisfied the Performance Vesting Condition as of December 31, 2016 and June 30, 2017. Share repurchases to satisfy tax withholding obligations have not been included in these pro forma adjustments.

The net loss used in computing pro forma net loss per share amount in the table below does not give effect to the stock-based compensation expense associated with two-tier RSUs that have both a service-based vesting condition and the Performance Vesting Condition. If an initial public offering had been completed on June 30, 2017, the Company would have recognized approximately \$420.8 million of stock-based compensation expense on the effective date, and would have approximately \$19.1 million of additional future period expense to be recognized over the remaining service periods through 2019.

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The following table presents the calculation of pro forma net loss attributable to common stockholders per share, basic and diluted:

	<u>Year ended December 31,</u>		<u>Six months ended June 30,</u>	
	<u>2016</u>		<u>2017</u>	
	<i>(In millions, except per share amounts)</i>			
	<u>Class A</u>	<u>Class B</u>	<u>Class A</u>	<u>Class B</u>
<b>Numerator:</b>				
Net loss as reported	\$ (6.1)	\$ (204.1)	\$ (1.8)	\$ (58.1)
Reallocation of net loss due to pro forma adjustments	2.8	(2.8)	0.4	(0.4)
Net loss attributable to common stockholders for pro forma net loss per share computation, basic and diluted	<u>\$ (3.3)</u>	<u>\$ (206.9)</u>	<u>\$ (1.4)</u>	<u>\$ (58.5)</u>
<b>Denominator:</b>				
Weighted-average shares of common stock used in computing net loss per share attributable to common stockholders, basic and diluted	8.3	275.4	8.6	283.1
Weighted-average pro forma adjustment to reflect conversion of convertible preferred stock	—	221.4	0.4	221.0
Weighted-average pro forma adjustment to reflect assumed vesting of two-tier RSUs	—	30.3	—	35.9
Weighted-average pro forma adjustment of conversions of Class B to Class A common stock	—	—	3.9	(3.9)
Weighted-average shares used in computing pro forma net loss per share attributable to common stockholders, basic and diluted	<u>8.3</u>	<u>527.1</u>	<u>12.9</u>	<u>536.1</u>
Pro forma net loss attributable to common stockholders per share, basic and diluted	<u>\$ (0.39)</u>	<u>\$ (0.39)</u>	<u>\$ (0.11)</u>	<u>\$ (0.11)</u>

**Note 14. Income Taxes**

For the years ended December 31, 2015 and 2016, the Company's loss from continuing operations before provision for income taxes was as follows:

	<u>Year ended December 31,</u>	
	<u>2015</u>	<u>2016</u>
Domestic	\$ (176.9)	\$ (94.4)
Foreign	(148.7)	(110.6)
Loss before income taxes	<u>\$ (325.6)</u>	<u>\$ (205.0)</u>

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The components of the provision for income taxes in the years ended December 31, 2015 and 2016, are as follows:

	Year ended December 31,	
	2015	2016
Current:		
Federal	\$ —	\$ (1.5)
State	—	(0.6)
Foreign	(0.5)	(2.9)
Deferred:		
Federal	—	—
State	—	—
Foreign	0.2	(0.2)
Provision for income taxes	<u>\$ (0.3)</u>	<u>\$ (5.2)</u>

Income tax expense attributable to income from continuing operations differed from the amounts computed by applying the statutory U.S. federal income tax rate of 34% to pretax loss from continuing operations as a result of the following:

	Year ended December 31,	
	2015	2016
Tax benefit at federal statutory rate of 34%	\$ 110.7	\$ 69.7
State taxes, net of federal benefit	4.5	2.2
Foreign rate differential	(50.7)	(38.8)
Research and other credits	12.7	12.6
Change in valuation allowance	(71.2)	(40.7)
Stock-based compensation	(6.1)	(4.8)
Other nondeductible items	(0.2)	(5.4)
Provision for income taxes	<u>\$ (0.3)</u>	<u>\$ (5.2)</u>

The significant components of the Company's deferred tax assets and liabilities as of December 31, 2015 and 2016, are as follows:

	As of December 31,	
	2015	2016
Deferred tax assets:		
Net operating loss carryforwards	\$ 132.7	\$ 127.9
Research credit carryforwards	30.1	41.3
Stock-based compensation	24.3	70.3
Accruals and reserves	28.4	43.9
Other	0.5	—
Gross deferred tax assets	216.0	283.4
Valuation allowance	(209.3)	(259.7)
Total deferred tax assets, net of valuation allowance	6.7	23.7
Deferred tax liabilities:		
Fixed assets and intangible assets	6.6	20.3
Other	—	3.5
Total deferred tax liability	6.6	23.8
Net deferred tax assets (liabilities)	<u>\$ 0.1</u>	<u>\$ (0.1)</u>

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For the years ended December 31, 2015, and December 31, 2016, based on all available objective evidence, including the existence of cumulative losses, the Company determined that it was not more likely than not that the U.S., Ireland, and Israel net deferred tax assets were fully realizable as of December 31, 2015 and December 31, 2016. Accordingly, the Company maintained a full valuation allowance against its net U.S., Ireland, and Israel deferred tax assets.

As of December 31, 2016, the Company had \$254.8 million of federal and \$94.9 million of state net operating loss carryforwards available to reduce future taxable income, which will begin to expire in 2031 for federal and 2030 for state tax purposes.

Included in the net operating loss carryforward amount above, approximately \$8.1 million of federal and \$2.1 million of state net operating loss carryforwards relate to benefits associated with stock option deductions. Under the Company's accounting policy in effect as of December 31, 2016, the benefits of these stock option deductions were credited directly to stockholder's equity when recognized. However, the Company adopted ASU No. 2016-09, *Improvements to Employee Share-Based Payment Accounting (Topic 718)* effective as of January 1, 2017. As a result, the benefits of these stock option deductions recognized in 2017 or later years are credited to the income statement.

As of December 31, 2016, the Company had research credit carryforwards of \$35.4 million and \$21.6 million for federal and state income tax purposes, respectively, of which \$8.7 million and \$5.3 million is the unrecognized tax benefit portion related to the research credit carryforwards for federal and state, respectively. The federal credit carryforward will begin to expire in 2027. The state research credits have no expiration date. The Company also had \$1.5 million of federal alternative minimum tax credit carryforwards, which will carryforward indefinitely, and \$3.6 million of state enterprise zone credit carryforwards, which will begin to expire in 2023.

As of December 31, 2016, the Company also had \$247.9 million of foreign net operating loss carryforwards available to reduce future taxable income, which will carryforward indefinitely. In addition, the Company had \$22.9 million of foreign acquired net operating losses, which will carryforward indefinitely.

Under Section 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change net operating loss carryforwards and other pre-change attributes, such as research tax credits, to offset its post-change income may be limited. In general, an "ownership change" will occur if there is a cumulative change in our ownership by "5-percent shareholders" that exceeds 50 percentage points over a rolling three-year period. Similar rules may apply under state tax laws. The Company performed a study for the period through June 30, 2017, and determined that no ownership changes exceeding 50 percentage points have occurred. The Company's ability to use net operating loss and tax credit carryforwards to reduce future taxable income and liabilities may be subject to annual limitations as a result of ownership changes from July 1, 2017, and subsequent years or as a result of this offering.

As of December 31, 2016, the balance of unrecognized tax benefits was \$15.7 million of which \$1.6 million, if recognized, would affect the effective tax rate and \$14.1 million would result in adjustment to deferred tax assets with corresponding adjustments to the valuation allowance.

A reconciliation of the beginning and ending amount of unrecognized tax benefit is as follows:

	As of December 31,	
	2015	2016
Balance of gross unrecognized tax benefits at the beginning of the fiscal year	\$ 3.1	\$ 7.9
Gross increases related to prior period tax positions	1.1	2.2
Gross increases related to current period tax positions	3.7	5.6
Balance of gross unrecognized tax benefits at the end of the fiscal year	<u>\$ 7.9</u>	<u>\$ 15.7</u>

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The Company recognizes interest and/or penalties related to income tax matters as a component of income tax expense. As of December 31, 2016, the amount of accrued interest and penalties related to uncertain tax positions was \$0.4 million, and the Company did not have accrued interest and penalties related to uncertain tax positions as of December 31, 2015. Interest and penalties recognized for the year ended December 31, 2016, was \$0.4 million and the Company did not recognize any interest and penalties for the year ended December 31, 2015.

The Company files income tax returns in the U.S. federal, multiple states, and foreign jurisdictions. All of the Company's tax years from 2007 remain open for examination by the federal and state authorities, and from 2013 by foreign authorities.

The Company generally does not provide deferred income taxes for the undistributed earnings of its foreign subsidiaries as the Company intends to reinvest such earnings indefinitely. Should circumstances change and it becomes apparent that some or all of the undistributed earnings will no longer be indefinitely reinvested, the Company will accrue for income taxes not previously recognized. As of December 31, 2016, there were no cumulative undistributed earnings in its Irish subsidiary and, as a result, there were no unrecorded deferred tax liabilities. The amount of undistributed earnings in the Company's other foreign subsidiaries, if any, are immaterial.

### **Note 15. Related Party Transactions**

#### ***Dropbox Charitable Foundation***

During the year ended December 31, 2016, two of the Company's controlling shareholders formed the Dropbox Charitable Foundation, a Delaware non-stock corporation (the "Foundation"). The primary purpose of the Foundation is to engage in charitable and educational activities within the meaning of Section 501(c)(3) of the Code. The Foundation is governed by a Board of Directors, a majority of which are independent. Both shareholders made contributions to the Foundation during the year ended December 31, 2016, comprised entirely of shares of Dropbox common stock. The Company has not consolidated the Foundation in the accompanying consolidated financial statements, as the Company does not have control of the entity.

During the second quarter of 2017, the Company recorded \$9.4 million of expense for a non-cash charitable contribution, whereby the Company donated Class B common shares to initially fund the Foundation. The expense was recorded to general and administrative expenses based on the Company's estimate of the then current fair value of the contributed shares. Additionally, during the first half of 2017, the Company made cash contributions of \$0.4 million to the Foundation.

### **Note 16. Geographic Areas**

#### ***Long-lived assets***

The following table sets forth long-lived assets by geographic area:

	<u>As of December 31,</u>		<u>As of June 30,</u>
	<u>2015</u>	<u>2016</u>	<u>2017</u>
			<i>(Unaudited)</i>
United States	\$427.2	\$425.1	\$359.0
International <sup>(1)</sup>	10.4	18.9	18.6
Total property and equipment, net	<u>\$437.6</u>	<u>\$444.0</u>	<u>\$377.6</u>

(1) No single country other than the United States had a property and equipment balance greater than 10% of total property and equipment, net, as of December 31, 2015 and 2016, and June 30, 2017.



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### **Revenue**

Revenue by geography is generally based on the address of the customer as defined in the Company's subscription agreement. The following table sets forth revenue by geographic area for the years ended December 31, 2015 and 2016, and the six months ended June 30, 2016 and 2017:

	<u>Year ended December 31,</u>		<u>Six months ended June 30,</u>	
	<u>2015</u>	<u>2016</u>	<u>2016</u>	<u>2017</u>
United States	\$ 326.1	\$ 455.9	\$ 208.2	\$ 271.7
International <sup>(1)</sup>	277.7	388.9	177.6	242.9
<b>Total revenue</b>	<b>\$ 603.8</b>	<b>\$ 844.8</b>	<b>\$ 385.8</b>	<b>\$ 514.6</b>

- (1) No single country outside of the United States accounted for more than 10 percent of total revenue or accounts receivable during the years ended December 31, 2015 and 2016, and the six months ended June 30, 2016 and 2017.

### **Note 17. Subsequent Events**

The Company has evaluated subsequent events through October 10, 2017, the date the consolidated financial statements as of and for the years ended December 31, 2015 and 2016, and as of June 30, 2017 (unaudited) and for the six month periods ended June 30, 2016 and 2017 (unaudited), were available for issuance.

In August 2017, September 2017, and October 2017, the Board of Directors approved grants of RSUs of 3,797,735, 5,995,405, and 727,120, respectively. These RSUs will result in estimated stock-based compensation of \$117.9 million, which is expected to be recognized over a weighted-average period of 3.9 years from the respective grant dates.

In October 2017, the Company entered into a lease agreement to rent office space in San Francisco, California, to serve as the Company's new corporate headquarters. The 15-year lease is for approximately 736,000 square feet. The Company expects to start making payments under the lease in the fourth quarter of 2018. The total minimum lease payments under the lease agreement are expected to be approximately \$848.4 million, which does not include expected tenant improvement reimbursements from the landlord of approximately \$73.6 million and variable operating expenses. The Company's obligations under the lease will be supported by a \$34.2 million letter of credit, which will reduce its borrowing capacity under its revolving credit facility.





**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.**

The following table sets forth all expenses to be paid by us, other than underwriting discounts and commissions, upon completion of this offering. All amounts shown are estimates except for the SEC registration fee, the FINRA filing fee and the exchange listing fee.

	<b>Amount to be paid</b>
SEC registration fee	\$ *
FINRA filing fee	*
Exchange listing fee	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Transfer agent and registrar fees	*
Miscellaneous	*
Total	<u>\$ *</u>

\* To be filed by amendment.

**ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS.**

Section 145 of the Delaware General Corporation Law authorizes a corporation's board of directors to grant, and authorizes a court to award, indemnity to officers, directors, and other corporate agents.

We expect to adopt an amended and restated certificate of incorporation, which will become effective immediately prior to the completion of this offering, and which will contain provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by Delaware law. 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 the following:

- any breach of their duty of loyalty to our company 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 Delaware General Corporation Law; or
- any transaction from which they derived an improper personal benefit.

Any amendment to, or repeal of, these provisions will not eliminate or reduce the effect of these provisions in respect of any act, omission, or claim that occurred or arose prior to that amendment or repeal. If the Delaware General Corporation Law is amended to provide for further limitations on the personal liability of directors of corporations, then the personal liability of our directors will be further limited to the greatest extent permitted by the Delaware General Corporation Law.

In addition, we expect to adopt amended and restated bylaws, which will become effective immediately prior to the completion of this offering, and which will provide that we will indemnify, to the fullest extent permitted by law, any person who is or was a party or is threatened to be made a party to any action, suit, or

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proceeding by reason of the fact that he or she is or was one of our directors or officers or is or was serving at our request as a director or officer of another corporation, partnership, joint venture, trust, or other enterprise. Our amended and restated bylaws are expected to provide that we may indemnify to the fullest extent permitted by law any person who is or was a party or is threatened to be made a party to any action, suit, or proceeding by reason of the fact that he or she is or was one of our employees or agents or is or was serving at our request as an employee or agent of another corporation, partnership, joint venture, trust, or other enterprise. Our amended and restated bylaws will also provide that we must advance expenses incurred by or on behalf of a director or officer in advance of the final disposition of any action or proceeding, subject to limited exceptions.

Further, we have entered into or will enter into indemnification agreements with each of our directors and executive officers that may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements require us, among other things, to indemnify our directors and executive officers against liabilities that may arise by reason of their status or service. These indemnification agreements also require us to advance all expenses incurred by the directors and executive officers in investigating or defending any such action, suit, or proceeding. We believe that these agreements are necessary to attract and retain qualified individuals to serve as directors and executive officers.

The limitation of liability and indemnification provisions that are expected to be included in our amended and restated certificate of incorporation, amended and restated bylaws, and the indemnification agreements that we have entered into or will enter into with our directors and executive officers may discourage stockholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duties. They may also reduce the likelihood of derivative litigation against our directors and executive 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 executive officers as required by these indemnification provisions. At present, we are not aware of any pending litigation or proceeding 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.

We have obtained insurance policies under which, subject to the limitations of the policies, coverage is provided to our directors and executive officers against loss arising from claims made by reason of breach of fiduciary duty or other wrongful acts as a director or executive officer, including claims relating to public securities matters, and to us with respect to payments that may be made by us to these directors and executive officers pursuant to our indemnification obligations or otherwise as a matter of law.

Certain of our non-employee directors may, through their relationships with their employers, be insured and/or indemnified against certain liabilities incurred in their capacity as members of our Board of Directors.

The underwriting agreement filed as Exhibit 1.1 to this registration statement will provide 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.**

Since January 1, 2014, we have issued the following unregistered securities:

#### **Preferred Stock Issuances**

From January 2014 through April 2014, we sold an aggregate of 18,460,901 shares of our Series C convertible preferred stock to 55 accredited investors at a purchase price of approximately \$19.1012 per share, for an aggregate purchase price of \$352,625,362.

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### **Option and RSU Issuances**

From January 1, 2014 to June 30, 2017, we granted to our directors, officers, employees, consultants, and other service providers options to purchase an aggregate of 15,443,120 shares of our Class B common stock under our 2008 Plan at exercise prices ranging from approximately \$13.84 to \$16.82 per share.

From January 1, 2014 to June 30, 2017, we granted to our directors, officers, employees, consultants, and other service providers an aggregate of 15,371,211 RSUs to be settled in shares of our Class A common stock under our 2017 Plan and an aggregate of 76,983,474 RSUs to be settled in shares of our Class B common stock under our 2008 Plan.

### **Shares Issued in Connection with Third-Party Tender Offer**

From January 1, 2014 to June 30, 2017, we issued an aggregate of 8,193,202 shares of our Class A common stock in connection with a third-party tender offer to purchase shares of our capital stock from certain holders of our Class B common stock and convertible preferred stock. Each share of our Class B common stock and convertible preferred stock transferred in connection with the tender offer was automatically converted to one share of our Class A common stock.

### **Shares Issued in Connection with Acquisitions**

From January 1, 2014 to June 30, 2017, we issued an aggregate of 6,265,795 shares of our Class B common stock in connection with our acquisitions of certain companies or their assets and as consideration to individuals and entities who were former service providers and/or stockholders of such companies.

None of the foregoing transactions involved any underwriters, underwriting discounts or commissions, or any public offering. We believe the offers, sales, and issuances of the above securities were exempt from registration under the Securities Act (or Regulation D or Regulation S promulgated thereunder) by virtue of Section 4(2) of the Securities Act because the issuance of securities to the recipients did not involve a public offering, or in reliance on Rule 701 because the transactions were pursuant to compensatory benefit plans or contracts relating to compensation as provided under such rule. 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. All recipients had adequate access, through their relationships with us, to information about us. The sales of these securities were made without any general solicitation or advertising.

## **ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.**

### **(a) Exhibits.**

See the Exhibit Index immediately preceding the signature page hereto for a list of exhibits filed as part of this registration statement on Form S-1, which Exhibit Index is incorporated herein by reference.

### **(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.

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Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the 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 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 of 1933, 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 of 1933, 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.

**EXHIBIT INDEX**

<b><u>Exhibit Number</u></b>	<b><u>Description</u></b>
1.1*	Form of Underwriting Agreement.
3.1	Restated Certificate of Incorporation of the Registrant, as amended and currently in effect.
3.2	Certificate of Amendment to the Restated Certificate of Incorporation, as filed on April 4, 2014.
3.3	Certificate of Amendment to the Restated Certificate of Incorporation, as filed on April 21, 2016.
3.4*	Form of Amended and Restated Certificate of Incorporation of the Registrant, to be in effect upon completion of this offering.
3.5	Bylaws of the Registrant, as amended and currently in effect.
3.6*	Form of Amended and Restated Bylaws of the Registrant, to be in effect upon completion of this offering.
4.1*	Form of common stock certificate of the Registrant.
4.2*	Amended and Restated Investors' Rights Agreement among the Registrant and certain holders of its capital stock, dated as of January 30, 2014, as amended.
5.1*	Opinion of Wilson Sonsini Goodrich & Rosati, P.C.
10.1+*	Form of Indemnification Agreement between the Registrant and each of its directors and executive officers.
10.2+*	Dropbox, Inc. 2018 Equity Incentive Plan and related form agreements.
10.3+*	Dropbox, Inc. 2018 Employee Stock Purchase Plan and related form agreements.
10.4+	Dropbox, Inc. 2017 Equity Incentive Plan and related form agreements.
10.5+	Dropbox, Inc. 2008 Equity Incentive Plan, as amended, and related form agreements.
10.6+*	Dropbox, Inc. Executive Incentive Compensation Plan.
10.7+*	Employment Arrangement between the Registrant and Andrew W. Houston.
10.8+*	Employment Arrangement between the Registrant and Quentin J. Clark.
10.9+*	Employment Arrangement between the Registrant and Dennis M. Woodside.
10.10	Office Lease between the Registrant and Kilroy Realty Finance Partnership, L.P., dated as of January 31, 2014.
10.11	First Amendment to Office Lease between the Registrant and Kilroy Realty Finance Partnership, L.P., dated as of June 5, 2015.
10.12	Second Amendment to Office Lease between the Registrant and Kilroy Realty Finance Partnership, L.P., dated as of May 3, 2016.
10.13	Third Amendment to Office Lease between the Registrant and Kilroy Realty Finance Partnership, L.P., dated as of October 6, 2017.
10.14*	Office Lease between the Registrant and KR Mission Bay, LLC, dated as of October 6, 2017.
10.15	Second Amendment and Restatement to the Revolving Credit and Guaranty Agreement among the Registrant, the lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent, dated as of April 3, 2017.
21.1	List of subsidiaries of the Registrant.
23.1*	Consent of Independent Registered Public Accounting Firm.
23.2*	Consent of Wilson Sonsini Goodrich & Rosati, P.C. (included in Exhibit 5.1).
24.1	Power of Attorney (included on page II-6).

\* To be filed by amendment.

+ Indicates management contract or compensatory plan.



## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 San Francisco, California, on the      day of      ,      .

### DROPBOX, INC.

By: \_\_\_\_\_  
Andrew W. Houston  
Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Andrew W. Houston, Ajay V. Vashee, and Bart E. Volkmer, and each one of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in their name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to sign any registration statement for the same offering covered by this registration statement that is to be effective on filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, 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 to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-1 has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
_____ Andrew W. Houston	Chief Executive Officer and Chairman (Principal Executive Officer)	
_____ Ajay V. Vashee	Chief Financial Officer (Principal Financial Officer)	
_____ Timothy J. Regan	Chief Accounting Officer (Principal Accounting Officer)	
_____ Arash Ferdowsi	Director	
_____ Paul E. Jacobs	Director	
_____ Robert J. Mylod, Jr.	Director	
_____ Condoleezza Rice	Director	

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
_____ R. Bryan Schreier	Director	
_____ Margaret C. Whitman	Director	

**RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**DROPBOX, INC.**

Dropbox, Inc., a Delaware corporation, hereby certifies that:

1. The name of the corporation is Dropbox, Inc. The date of filing its original Certificate of Incorporation with the Secretary of State of the State of Delaware was May 8, 2007. The corporation was originally incorporated under the name Evenflow, Inc.

2. This 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 Certificate of Incorporation of this corporation as heretofore amended and/or restated, has been duly adopted by the corporation's Board of Directors and by the 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, the 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: January 28, 2014

**DROPBOX, INC.**

By: /s/ Andrew Houston

Name: Andrew Houston

Title: Chief Executive Officer

**EXHIBIT "1"**  
**RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**DROPBOX, INC.**  
**ARTICLE I: NAME**

The name of the corporation is Dropbox, Inc. (the "**Corporation**").

**ARTICLE II: REGISTERED AGENT**

The address of the registered office of the Corporation in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808. The name of its registered agent at such address is Corporation Service Company.

**ARTICLE III: PURPOSE**

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware (the "**Delaware General Corporation Law**").

**ARTICLE IV: AUTHORIZED SHARES**

The Corporation is authorized to issue a total of 1,526,661,381 shares of its capital stock, which shall be divided into three (3) classes, designated "Class A Common Stock," "Class B Common Stock" and "Preferred Stock." The total number of shares of Class A Common Stock authorized to be issued is 700,000,000 shares, \$0.00001 par value per share. The total number of shares of Class B Common Stock authorized to be issued is 600,000,000 shares, \$0.00001 par value per share. The total number of shares of Preferred Stock authorized to be issued is 226,661,381 shares, \$0.00001 par value per share, of which 95,810,910 are designated as "Series A Preferred Stock", 78,023,640 are designated as "Series A-1 Preferred Stock", 29,268,103 are designated as "Series B Preferred Stock" and 23,558,728 are designated as "Series C Preferred Stock."

**ARTICLE V: TERMS OF CLASSES AND SERIES**

The rights, preferences, privileges and restrictions granted to and imposed on the Preferred Stock, the Class A Common Stock and the Class B Common Stock are as follows:

**1. Definitions.** For purposes of this Article V. the following definitions apply:

1.1 "**Affiliate**" shall mean, with respect to any specified entity, any other entity which, directly or indirectly, controls, is controlled by, or is under common control with such specified entity, including, without limitation, any general partner, officer, director or manager of such person and any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, is under common investment management with, shares the same management or advisory company with or is otherwise affiliated with such entity.

1.2 **“Board”** shall mean the Board of Directors of the Corporation.

1.3 **“Class A Common Stock”** shall mean the Class A Common Stock, \$0.00001 par value, of the Corporation.

1.4 **“Class B Common Stock”** shall mean the Class B Common Stock, \$0.00001 par value, of the Corporation.

1.5 **“Common Stock Dividend”** shall mean a stock dividend declared and paid on the Class A Common Stock that is payable in shares of Class A Common Stock or on the Class B Common Stock that is payable in shares of Class B Common Stock.

1.6 **“Corporation”** shall mean this corporation.

1.7 **“Dividend Rate”** shall mean \$0.0051 per share per annum for the Series A Preferred Stock, \$0.0013 per share per annum for the Series A-1 Preferred Stock, \$0.7240 per share per annum for the Series B Preferred Stock and \$1.5281 per share per annum for the Series C Preferred Stock (each as adjusted for any additional stock splits, combinations, stock dividends, reclassifications, recapitalizations or the like, with respect to each such series of Preferred Stock).

1.8 **“Original Issue Date”** shall mean the date on which the first share of Series C Preferred Stock was issued by the Corporation.

1.9 **“Original Issue Price”** shall mean \$0.06263 per share for the Series A Preferred Stock, \$0.01605 per share for the Series A-1 Preferred Stock, \$9.0491 per share for the Series B Preferred Stock and \$19.1012 per share for the Series C Preferred Stock. The Original Issue Price shall be as adjusted for any additional stock splits or combinations of such Preferred Stock, stock dividends on such Preferred Stock, recapitalizations or reclassifications of such Preferred Stock or the like with respect to such Preferred Stock.

1.10 **“Permitted Repurchases”** shall mean the repurchase by the Corporation of shares of Class A Common Stock or Class B Common Stock held by employees, officers, directors, consultants, independent contractors, advisors, or other persons performing services for the Corporation or a Subsidiary that are subject to restricted stock purchase agreements, stock option exercise agreements, vesting agreements or any such similar agreements under which the Corporation 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 Corporation’s exercise of a right of first refusal to repurchase such shares.

1.11 **“Preferred Stock”** shall mean the Series A Preferred Stock, the Series A-1 Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock.

1.12 “**Series A Preferred Stock**” shall mean the Series A Preferred Stock, \$0.00001 par value per share, of the Corporation.

1.13 “**Series A-I Preferred Stock**” shall mean the Series A-1 Preferred Stock, \$0.00001 par value per share, of the Corporation.

1.14 “**Series B Preferred Stock**” shall mean the Series B Preferred Stock, \$0.00001 par value per share, of the Corporation.

1.15 “**Series C Preferred Stock**” shall mean the Series C Preferred Stock, \$0.00001 par value per share, of the Corporation.

1.16 “**Subsidiary**” shall mean any corporation or other entity of which at least fifty percent (50%) of the outstanding voting stock (or equivalent equity interests) is at the time owned directly or indirectly by the Corporation or by one or more of such subsidiary corporations or other entities.

## **2. Dividend Rights.**

2.1 Dividend Preference. In each calendar year, the holders 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 Corporation legally available therefor, noncumulative dividends at the annual Dividend Rate for each such series of Preferred Stock, prior and in preference to the payment of any dividends on the Class A Common Stock or Class B Common Stock in such calendar year (other than a Common Stock Dividend). No dividends (other than a Common Stock Dividend) shall be paid with respect to the Class A Common Stock or Class B Common Stock or Preferred Stock during any calendar year unless dividends in the total amount of the annual Dividend Rate for each such series of Preferred Stock shall have first been paid or declared and set apart for payment to the holders of each such series of Preferred Stock, respectively, during that calendar year; provided, however, that these restrictions shall not apply to Permitted Repurchases. Notwithstanding the foregoing, payments of any dividends to the holders of each such series 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 Corporation shall fail to declare or pay dividends on the Preferred Stock in the amount of the respective annual Dividend Rate for each such series or in any other amount in any calendar year or any fiscal year of the Corporation, whether or not the earnings or assets of the Corporation in any calendar year or fiscal year were sufficient to pay such dividends in whole or in part.

2.2 Participation Rights. If, after dividends in the full preferential amounts specified in subsection 2.1 for the Preferred Stock have been paid or declared and set apart in any calendar year of the Corporation, the Board shall declare additional dividends (other than a Common Stock Dividend) out of funds and assets legally available therefor in that calendar year, then such additional dividends shall be declared pro rata on the Class A Common Stock, Class B Common Stock and the Preferred Stock on a pari passu basis according to the number of shares of Class A Common Stock and Class B 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 Class B Common Stock then issuable upon conversion of all shares of Preferred Stock held by such holder pursuant to Section 6.

2.3 **Non-Cash Dividends.** Whenever a dividend provided for in this Section 2 shall be payable in property other than (x) cash or (y) in the case of a Common Stock Dividend, shares of Class A Common Stock or Class B Common Stock, 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.

2.4 **Dividends on Class A Common Stock.** No dividend shall be declared or paid on shares of the Class A Common Stock unless the same dividend with the same record date and payment date shall be declared and paid on the shares of Class B Common Stock; provided, however, that dividends payable in shares of Class A Common Stock or rights to acquire Class A Common Stock may be declared and paid to the holders of Class A Common Stock without the same dividend being declared and paid to the holders of Class B Common Stock if and only if a dividend payable in shares of Class B Common Stock or rights to acquire Class B Common Stock (as the case may be) at the same rate and with the same record date and payment date as the dividend declared and paid to the holders of the Class A Common Stock shall be declared and paid to the holders of Class B Common Stock.

2.5 **Dividends on Class B Common Stock.** No dividend shall be declared or paid on shares of the Class B Common Stock unless the same dividend with the same record date and payment date shall be declared and paid on the shares of Class A Common Stock; provided, however, that dividends payable in shares of Class B Common Stock or rights to acquire Class B Common Stock may be declared and paid to the holders of Class B Common Stock without the same dividend being declared and paid to the holders of Class A Common Stock if and only if a dividend payable in shares of Class A Common Stock or rights to acquire Class A Common Stock (as the case may be) at the same rate and with the same record date and payment date as the dividend declared and paid to the holders of the Class B Common Stock shall be declared and paid to the holders of Class A Common Stock

3. **Liquidation Rights.** In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the funds and assets that may be legally distributed to the Corporation's stockholders (the "**Available Funds and Assets**") shall be distributed to stockholders in the following manner.

3.1 **Liquidation Preferences.** The holders of each share 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 shares of Class A Common Stock or Class B Common Stock, an amount per share equal to the Original Issue Price for each such series of Preferred Stock, plus all declared but unpaid dividends thereon. If upon any liquidation, dissolution or winding up of the Corporation the Available Funds and Assets shall be insufficient to permit the payment to holders of the Preferred Stock of their full preferential amounts described in this subsection, then all the remaining Available Funds and Assets shall be distributed among the holders of the then outstanding Preferred Stock pro rata, on an equal priority, pari passu basis, according to their respective liquidation preferences as set forth herein.

3.2 Remaining Assets. 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 in subsection 3.1, then all such remaining Available Funds and Assets shall be distributed among the holders of the then outstanding Class A Common Stock and Class B Common Stock pro rata according to the number of shares of Class A Common Stock and Class B Common Stock held by each holder thereof. Notwithstanding the above, for purposes of determining the amount each holder of shares of Preferred Stock is entitled to receive with respect to a Liquidation Event, as defined below, each such holder of shares of a series of Preferred Stock shall be deemed to have converted (regardless of whether such holder actually converted) such holder's shares of such series into shares of Class B Common Stock immediately prior to the Liquidation Event if, as a result of an actual conversion of such series of Preferred Stock (assuming also the conversion into Class B Common Stock of all shares of any other series of Preferred Stock that would be deemed converted pursuant to this sentence), such holder would receive, in the aggregate, an amount greater than the amount that would be distributed to such holder if such holder did not convert such series of Preferred Stock into shares of Class B Common Stock. If any such holder shall be deemed to have converted shares of a series of Preferred Stock into Class B Common Stock pursuant to this paragraph, then such holder shall not be entitled to receive any distribution that would otherwise be made to holders of such series of Preferred Stock that have not converted (or have not been deemed to have converted) into shares of Class B Common Stock.

3.3 Deemed Liquidation Events. Unless otherwise approved by vote of each of (i) the holders of at least two-thirds in voting power of the shares of the Preferred Stock then outstanding, acting as a separate class, (ii) the holders of at least 70% in voting power of the shares of the Series B Preferred Stock then outstanding (so long as a majority of the shares of Series B Preferred Stock originally issued remains outstanding), acting as a separate series, and (iii) the holders of a majority in voting power of the shares of the Series C Preferred Stock then outstanding (so long as a majority of the shares of Series C Preferred Stock originally issued remains outstanding), acting as a separate series, each of the following transactions shall be deemed to be a liquidation, dissolution or winding up of the Corporation as those terms are used in this Section 3 (collectively, a "**Liquidation Event**"): (a) any reorganization by way of share exchange, consolidation or merger, in one transaction or series of related transactions (each, a "**combination transaction**"), in which the Corporation is a constituent corporation or is a party with another entity if, as a result of such combination transaction, the voting securities of the Corporation 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 entity of such combination transaction (or such surviving entity's parent entity if the surviving entity is owned by the parent entity) that, immediately after the consummation of such combination transaction, together possess at least a majority of the total voting power of all securities of such surviving entity (or its parent entity, if applicable) that are outstanding immediately after the consummation of such combination transaction, including securities of such surviving entity (or its parent entity, if applicable) that are held by the Acquiring Stockholder; or (b) a sale, transfer, exclusive license or other disposition of all or substantially all of the assets or intellectual property of the Corporation. For purposes of this subsection 3.3, an "**Acquiring Stockholder**" means a stockholder or stockholders of the Corporation that (i) merges or combines with the Corporation in such combination transaction or (ii) owns or controls a majority of the stock or other equity interests of another entity that merges or combines with the Corporation in such combination transaction.



3.4 **Non-Cash Consideration.** If any assets of the Corporation distributed to stockholders in connection with any liquidation, dissolution, or winding up of the Corporation are other than cash, then the value of such assets shall be their fair market value as determined by each of (i) the Board in good faith, (ii) the holders of at least 70% in voting power of the then outstanding shares of Series B Preferred Stock (so long as a majority of the shares of Series B Preferred Stock originally issued remains outstanding), and (iii) the holders of a majority in voting power of the then outstanding shares of Series C Preferred Stock (so long as a majority of the shares of Series C Preferred Stock originally issued remains outstanding) (each an “**Appraising Group**”), except that any securities to be distributed to stockholders in a liquidation, dissolution or winding up of the Corporation 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) unless otherwise specified in a definitive agreement for the acquisition of the Corporation, if the securities are then traded on a national securities exchange or the Nasdaq National Market (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 thirty (30) day period ending three (3) days prior to the distribution; and

(ii) if (i) above does not apply but the securities are actively traded over-the-counter, then, unless otherwise specified in a definitive agreement for the acquisition of the Corporation, the value shall be deemed to be the average of the closing bid prices over the thirty (30) calendar day period ending three (3) trading days prior to the distribution; and

(iii) if there is no active public market as described in clauses (i) or (ii) above, then the value shall be the fair market value thereof, as mutually determined by the Appraising Groups. This mutual determination shall be made as follows: (x) the Appraising Groups will separately calculate a value of such securities (each a “**Securities Valuation**”); and (y) if the Securities Valuations are within twenty (20%) of each other (as calculated by subtracting the lower Securities Valuation from the higher Securities Valuation and dividing the difference by the higher Securities Valuation), then the fair market value for such securities will be equal to the average of the two Securities Valuations. If the Securities Valuations are not within twenty percent (20%) of each other, the Appraising Groups shall mutually agree upon an independent valuation consulting firm (a “**Valuation Firm**”) to select a Securities Valuation applicable to such securities. If the Appraising Groups cannot mutually agree on a Valuation Firm, each shall select a Valuation Firm and such selected Valuation Firms shall designate a third Valuation Firm whose Securities Valuation shall be determinative. The cost of the foregoing Valuation Firms, in all instances, shall be paid for by the Corporation.

(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 3.4(a)(i)-(iii) to reflect the approximate fair market value thereof, as mutually determined by the Appraising Groups. This mutual determination of the appropriate discount from the fair market value shall be made in the same manner as the mutual determination of the fair market value set forth in subparagraph 3.4(a)(iii) above.

3.5 Allocation of Escrow and Contingent Consideration. Notwithstanding anything to the contrary contained herein, in the event of a Liquidation Event that provides for any of the cash, securities or other consideration payable to the holders of Preferred Stock in connection with such Liquidation Event to be heldback, withheld or placed in escrow or other similar arrangement in order to satisfy any representation and warranty, indemnification, purchase price adjustment, guarantee or similar obligations of the holders of Preferred Stock or rights of another party in connection with such Liquidation Event (the amount of such cash, securities or other consideration being the “**Holdback Consideration**”), (i) the portion of such consideration that is not subject to the Holdback Consideration (the “**Initial Consideration**”) shall be allocated among the holders of capital stock of the Corporation in accordance with subsections 3.1 and 3.2 hereof as if the Initial Consideration were the only consideration payable in connection with such Liquidation Event and (ii) the Holdback Consideration, upon its release from escrow, the satisfaction of applicable contingencies or similar such event, shall be allocated among the holders of capital stock of the Corporation in accordance with subsections 3.1 and 3.2 hereof after taking into account the previous payment of the Initial Consideration as part of the same transaction.

4. Redemption. The Preferred Stock is not redeemable at the option of the holder thereof.

5. Voting Rights.

5.1 Class A Common Stock and Class B Common Stock. Each holder of shares of Class A Common Stock, as such, shall be entitled to one (1) vote for each share of Class A Common Stock held of record by such holder on each matter on which such holders of such shares are entitled to vote. Each holder of shares of Class B Common Stock, as such, shall be entitled to ten (10) votes for each share of Class B Common Stock held of record by such holder on each matter on which such holders of such shares are entitled to vote. The number of authorized shares of Class A Common Stock or Class B 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 in voting power of the outstanding shares of stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the Delaware General Corporation Law.

5.2 Preferred Stock. Each holder of shares of Preferred Stock, as such, shall be entitled to ten (10) votes for each share of Class B Common Stock into which the shares of Preferred Stock held of record by such holder could then be converted pursuant to the provisions of Section 6 below at the record date for the determination of the stockholders entitled to vote on such matter at a meeting or, in the case of an action by written consent of stockholders in lieu of a meeting, the record date for the determination of stockholders entitled to consent to corporate action in writing without a meeting.

5.3 **General.** Subject to the other provisions of this Restated Certificate of Incorporation, each holder of Preferred Stock shall have full voting rights and powers equal to the voting rights and powers of the holders of Class B Common Stock, and shall be entitled to notice of any stockholders' meeting in accordance with the bylaws of the Corporation (as the same may be amended and/or restated from time to time, the "**Bylaws**") and applicable law, and shall be entitled to vote, together with the holders of Class A Common Stock and Class B Common Stock, with respect to any question upon which holders of Class A Common Stock and Class B Common Stock have the right to vote, except as may be otherwise provided by applicable law. Except as otherwise expressly provided in this Restated Certificate of Incorporation or as required by law, the holders of Preferred Stock, Class A Common Stock and Class B Common Stock shall vote together and not as separate classes.

5.4 **Board Size.** The authorized number of directors of the Corporation's Board shall be five (5). So long as at least 45,000,000 shares of Preferred Stock are outstanding (as may be adjusted for additional stock splits, combinations, stock dividends, recapitalizations, reclassifications and the like), the Corporation shall not alter the authorized number of directors in this Restated Certificate of Incorporation without first obtaining the written consent, or affirmative vote at a meeting, of (i) the holders of at least a majority in voting power of the then outstanding shares of the Preferred Stock, voting as a separate class, and (ii) the holders of at least a majority in voting power of the then outstanding shares of Class A Common Stock and Class B Common Stock, voting as a separate class.

5.5 **Board of Directors Election.** (i) So long as at least 45,000,000 shares of Preferred Stock are outstanding (as may be adjusted for additional stock splits, combinations, stock dividends, recapitalizations, reclassifications and the like), the holders of the Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director (the "**Preferred Director**") of the Corporation at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such director without cause and to fill any vacancy caused by the resignation, death or removal of such director; and (ii) the holders of the Class A Common Stock and Class B Common Stock, voting as a separate class, shall be entitled to elect four (4) directors of the Corporation at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors without cause and to fill any vacancy caused by the resignation, death or removal of such directors.

5.6 **Vote by Ballot.** Election of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

**6. Preferred Stock Conversion Rights.** The outstanding shares of Preferred Stock shall be convertible into Class B Common Stock as follows:

6.1 **Optional Conversion.**

(a) At the option of the holder thereof, each share of Preferred Stock shall be convertible into fully paid and nonassessable shares of Class B Common Stock as provided in this Restated Certificate of Incorporation.

(b) Each holder of Preferred Stock who elects to convert the same into shares of Class B Common Stock shall surrender the certificate or certificates therefor, duly endorsed, at the principal corporate office of the Corporation or any transfer agent for the Preferred Stock or Class B Common Stock, and shall give written notice to the Corporation at its principal corporate office that such holder elects to convert the same and shall state therein the number of shares of Preferred Stock being converted and the name or names in which the shares of Class B Common Stock issuable upon such conversion are to be issued. Thereupon, the Corporation shall promptly register in book-entry form the number of shares of Class B Common Stock issued to such holder upon such conversion. The Corporation shall not be obligated to issue any certificates evidencing the shares of Class B Common Stock into which any shares of Preferred Stock shall have been converted pursuant to this subsection 6.1. 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 Preferred Stock to be converted, and the person entitled to receive the shares of Class B Common Stock issuable upon such conversion shall be treated for all purposes as the record holder of such shares of Class B Common Stock at such time on such date. If a conversion election under this subsection 6.1 is made in connection with an underwritten offering of the Corporation's securities pursuant to the Securities Act of 1933, as amended, (which underwritten offering does not cause an automatic conversion pursuant to subsection 6.2 to take place) the conversion may, at the option of the holder tendering shares of Preferred Stock for conversion, be conditioned upon the closing with the underwriters of the sale of the Corporation's securities pursuant to such offering, in which event the holders making such elections who are entitled to receive Class B Common Stock upon conversion of their Preferred Stock shall not be deemed to have converted such shares of Preferred Stock until immediately prior to the closing of such sale of the Corporation's securities in the offering.

#### 6.2 Automatic Conversion.

(a) Each share of Preferred Stock shall automatically be converted into fully paid and nonassessable shares of Class B Common Stock as provided in this Restated Certificate of Incorporation: (i) immediately prior to the closing of a firm commitment underwritten public offering on an internationally recognized securities exchange or trading system pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, covering the offer and sale of Class A Common Stock and/or Class B Common Stock for the account of the Corporation in which the aggregate public offering price (before deduction of underwriters' discounts and commissions) equals or exceeds thirty-five million dollars (\$35,000,000) before deduction of underwriters' discounts and commissions (a "**Qualified IPO**"); or (ii) subject to obtaining the approval required under Article V. Sections 8.2(c) and 8.3(c), upon the Corporation's receipt of the written consent of the holders of at least a majority in voting power of the then outstanding shares of Preferred Stock to the conversion of all of the then outstanding Preferred Stock under this subsection 6.2.

(b) Upon the occurrence of any event specified in subparagraph 6.2(a) (i) or (ii) above, the outstanding shares of Preferred Stock shall be converted into Class B Common Stock automatically without the need for any further action by the holders of such shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent. Upon the occurrence of such automatic conversion of the

Preferred Stock, the holders of Preferred Stock shall surrender the certificates representing such shares at the principal corporate office of the Corporation or any transfer agent for the Preferred Stock or Class B Common Stock. Notwithstanding the foregoing, whether or not any such certificate shall have been so surrendered, each certificate that immediately prior to the automatic conversion of the Preferred Stock as provided in subparagraph 6.2(a) (i) or (ii) above shall, from and after the time of such conversion, be deemed cancelled and shall no longer represent shares of Preferred Stock or be transferable. The Corporation shall not be obligated to issue any certificates evidencing the shares of Class B Common Stock into which any shares of Preferred Stock shall have been converted.

6.3 Conversion Price. Each share of Preferred Stock shall be convertible in accordance with subsection 6.1 or subsection 6.2 above into the number of shares of Class B Common Stock which results from dividing the Original Issue Price for such series of Preferred Stock by the conversion price for such series of Preferred Stock that is in effect at the time of conversion (the "**Conversion Price**"). The initial Conversion Price for each such series of Preferred Stock shall be the Original Issue Price for such series of Preferred Stock. The Conversion Price of the Preferred Stock shall be subject to adjustment from time to time as provided below. Following each adjustment of the Conversion Price, such adjusted Conversion Price shall remain in effect until a further adjustment of such Conversion Price hereunder.

6.4 Adjustment Upon Common Stock Event. Upon the happening of a Common Stock Event (as hereinafter defined), the Conversion Price of each such series of Preferred Stock shall, simultaneously with the happening of such Common Stock Event, be adjusted by multiplying the Conversion Price of such series of Preferred Stock in effect immediately prior to such Common Stock Event by a fraction, (i) the numerator of which shall be the number of shares of Class A Common Stock and Class B 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 Class A Common Stock and Class B Common Stock issued and outstanding immediately after such Common Stock Event, and the product so obtained shall thereafter be the Conversion Price for such series of Preferred Stock. The Conversion Price for a series of Preferred Stock shall be readjusted in the same Timmer upon the happening of each subsequent Common Stock Event. As used herein, the term the "**Common Stock Event**" shall mean at any time or from time to time after the Original Issue Date, (i) the issue by the Corporation of additional shares of Class A Common Stock or Class B Common Stock as a dividend or other distribution on outstanding Class A Common Stock or Class B Common Stock, (ii) a subdivision of the outstanding shares of Class A Common Stock or Class B Common Stock into a greater number of shares of Class A Common Stock or Class B Common Stock, or (iii) a combination of the outstanding shares of Class A Common Stock or Class B Common Stock into a smaller number of shares of Class A Common Stock or Class B Common Stock.

6.5 Adjustments for Other Dividends and Distributions. If at any time or from time to time after the Original Issue Date the Corporation pays a dividend or makes another distribution to the holders of the Class A Common Stock or Class B Common Stock payable in securities of the Corporation, other than an event constituting a Common Stock Event, then in each such event provision shall be made so that the holders of the Preferred Stock shall receive upon conversion thereof, in addition to the number of shares of Class B Common Stock receivable upon conversion thereof, the amount of securities of the Corporation which they

would have received had their Preferred Stock been converted into Class B 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 6 with respect to the rights of the holders of the Preferred Stock or with respect to such other securities by their terms.

6.6 Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the Original Issue Date the Class B 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, reclassification or otherwise (other than by a Common Stock Event or a stock dividend, reorganization, merger, or consolidation provided for elsewhere in this Section 6), then in any such event each holder of Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Class B Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change, all subject to further adjustment as provided in this Restated Certificate of Incorporation or with respect to such other securities or property by the terms thereof

6.7 Reorganizations, Mergers and Consolidations. If at any time or from time to time after the Original Issue Date there is a reorganization of the Corporation (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 6) or a merger or consolidation of the Corporation with or into another entity (except an event which is governed under subsection 3.3), then, as a part of such reorganization, merger or consolidation, provision shall be made so that the holders of the 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 of the Corporation, or of such successor entity resulting from such reorganization, merger or consolidation, to which a holder of Class B Common Stock deliverable upon conversion would have been entitled on such reorganization, merger or consolidation. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 6 with respect to the rights of the holders of the Preferred Stock after the reorganization, merger or consolidation to the end that the provisions of this Section 6 (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 subsection 6.7 shall similarly apply to successive reorganizations, mergers and consolidations. Notwithstanding anything to the contrary contained in this Section 6, if any reorganization, merger or consolidation is approved by the vote of stockholders required by Section 8 hereof, then such transaction and the rights of the holders of Preferred Stock, Class A Common Stock and Class B Common Stock pursuant to such reorganization, merger or consolidation will be governed by the documents entered into in connection with such transaction and not by the provisions of this subsection 6.7.

6.8 Sale of Shares Below Conversion Price.

(a) Adjustment Formula. If at any time or from time to time after the Original Issue Date the Corporation issues or sells, or is deemed by the provisions of this subsection 6.8 to have issued or sold, Additional Shares (as hereinafter defined), otherwise than in connection with a Common Stock Event as provided in subsection 6.4, a dividend or distribution as provided in subsection 6.5 or a recapitalization, reclassification or other change as provided in subsection 6.6, or a reorganization, merger or consolidation as provided in subsection 6.7, for an Effective Price (as hereinafter defined) that is less than the Conversion Price for a series of Preferred Stock in effect immediately prior to such issue or sale (or deemed issue or sale), then, and in each such case, the Conversion Price for such series of Preferred Stock 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:

(i) The numerator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding (as hereinafter defined) immediately prior to such issue or sale of Additional Shares plus (B) the quotient obtained by dividing the Aggregate Consideration Received (as hereinafter defined) by the Corporation for the total number of Additional Shares so issued or sold (or deemed so issued and sold) by the Conversion Price for such series of Preferred Stock in effect immediately prior to such issue or sale; and

(ii) The denominator of which shall be the sum of (A) the number of Common Stock Equivalents Outstanding immediately prior to such issue or sale plus (B) the number of Additional Shares so issued or sold (or deemed so issued and sold).

(b) Certain Definitions. For the purpose of making any adjustment required under this subsection 6.8:

(i) The "**Additional Shares**" shall mean all shares of Class A Common Stock or Class B Common Stock issued by the Corporation, or deemed issued as provided in paragraph 6.8(c) below, whether or not subsequently reacquired or retired by the Corporation, other than:

(A) shares of Class B Common Stock issued or issuable upon conversion of the shares of the Preferred Stock outstanding on the Original Issue Date;

(B) any shares of Class A Common Stock, Class B Common Stock or Preferred Stock (or options, warrants or rights therefor) granted or issued after the Original Issue Date to employees, officers, directors, contractors, consultants or advisers to, the Corporation or any Subsidiary pursuant to incentive agreements, stock purchase or stock option plans, stock bonuses or awards, warrants, contracts or other arrangements that are approved by the Board; *provided* such grants or issuances are not primarily for capital raising purposes;

(C) any shares of Class A Common Stock, Class B Common Stock or Preferred Stock (and/or options or warrants therefor) issued to (i) parties that are strategic partners investing in connection with a commercial relationship or development project with the Corporation, which issuance is not primarily for capital raising purposes, or (ii) parties in connection with their providing the Corporation with equipment leases, real property leases, loans, credit lines, guaranties of indebtedness, cash price reductions or similar transactions, under arrangements, in each case, approved by the Board as additional consideration for such arrangements;

(D) shares of Class A Common Stock, Class B Common Stock or Preferred Stock issued (i) as consideration for the acquisition of another corporation or entity by the Corporation by consolidation, merger, purchase of all or substantially all of the assets, or other reorganization in which the Corporation 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; provided that such transaction or series of transactions has been approved by the Board or (ii) as consideration for the purchase of equity ownership in connection with a joint venture or other strategic arrangement or other commercial relationship, provided such an arrangement is approved by the Board;

(E) shares of Preferred Stock issued under the Series C Preferred Stock Purchase Agreement, dated on or around January 27, 2014 (the “**Series C Preferred Stock Purchase Agreement**”), as such agreement may be amended;

(F) shares of Class A Common Stock, Class B Common Stock or Preferred Stock issuable upon exercise of any options, warrants or rights to purchase any securities of the Corporation outstanding as of the Original Issue Date (at such exercise or purchase price in effect as of the Original Issue Date, subject to adjustment for any stock splits, combinations, stock dividends, reclassifications, recapitalizations or the like) and any securities issuable upon the conversion thereof;

(G) shares of Class A Common Stock, Class B Common Stock or Preferred Stock issued in connection with any stock split, stock dividend, recapitalization or reclassification for which adjustments are otherwise made under Article V, subsections 6.5, 6.6 or 6.7, or issued pursuant to a Common Stock Event;

(H) shares of Class A Common Stock or Class B Common Stock issued or issuable in a public offering prior to or in connection with which all outstanding shares of Preferred Stock will be converted to Class B Common Stock;

(I) shares of Class A Common Stock, Class B Common Stock or Preferred Stock (or options or warrants therefor) issued pursuant to the terms of a settlement of a lawsuit approved by the Board;

(J) shares of Class A Common Stock issued or issuable upon conversion of shares of Class B Common Stock in accordance with Article V, subsection 7; and



(K) any shares of Class A Common Stock, Class B Common Stock or Preferred Stock (or options, or warrants or rights to acquire the same), issued or issuable after the Original Issue Date that are approved by the Board including the director elected by the holders of the Preferred Stock and by holders of at least 70% in voting power of the then outstanding shares of Series B Preferred Stock (so long as a majority of the shares of Series B Preferred Stock originally issued remains outstanding) and a majority in voting power of the then outstanding shares of Series C Preferred Stock (so long as a majority of the shares of Series C Preferred Stock originally issued remains outstanding), and each such approval specifically states that such shares shall be excluded from the definition of “Additional Shares” under this subparagraph 6.8(b).

(ii) The “**Aggregate Consideration Received**” by the Corporation 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 Corporation before deduction of any underwriting or similar commissions, compensation or concessions paid or allowed by the Corporation in connection with such issue or sale and without deduction of any expenses payable by the Corporation; (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, Convertible Securities or Rights or Options to purchase either Additional Shares or Convertible Securities are issued or sold together with other stock or securities or other assets of the Corporation 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, Convertible Securities or Rights or Options.

(iii) The “**Common Stock Equivalents Outstanding**” shall mean the number of shares equal to the sum of (A) all shares of Class A Common Stock and Class B Common Stock of the Corporation that are outstanding at the time in question, plus (B) all shares of Class A Common Stock or Class B Common Stock of the Corporation issuable upon conversion of all Convertible Securities that are outstanding at the time in question, plus (C) all shares of Class A Common Stock or Class B Common Stock of the Corporation 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 Class A Common Stock or Class B Common Stock of all such Rights or Options that are Rights or Options to purchase or acquire Convertible Securities into or for Class A Common Stock or Class B Common Stock, in all cases without double counting.

(iv) The “**Convertible Securities**” shall mean stock or other securities convertible into or exchangeable for shares of Class A Common Stock or Class B Common Stock, including Preferred Stock.

(v) The “**Effective Price**” of Additional Shares shall mean the quotient determined by dividing the total number of Additional Shares issued or sold, or deemed to have been issued or sold, by the Corporation under this subsection 6.8, into the Aggregate Consideration Received, or deemed to have been received, by the Corporation under this subsection 6.8, for the issue of such Additional Shares; and

(vi) The “**Rights or Options**” shall mean warrants, options or other rights to purchase or acquire shares of Class A Common Stock, Class B Common Stock or Convertible Securities.

(c) **Deemed Issuances.** For the purpose of making any adjustment to the Conversion Price of any series of Preferred Stock required under this subsection 6.8, if the Corporation issues or sells any Rights or Options or Convertible Securities and if the Effective Price of the shares of Class A Common Stock or Class B 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 the Conversion Price then in effect for a series of Preferred Stock, then the Corporation shall be deemed to have issued (each a “**Deemed Issuance**”), at the time of the issuance of such Rights or Options or Convertible Securities, that number of Additional Shares that is equal to the maximum number of shares of Class A Common Stock or Class B Common Stock issuable upon exercise or conversion of such Rights or 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 Corporation 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 Corporation 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 Corporation (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 amounts of such consideration cannot be ascertained in such Deemed Issuance, but are a function of antidilution or similar protective clauses, then the Corporation shall be deemed to have received the minimum amounts of consideration without reference to such clauses;

(ii) if the minimum amount of consideration payable to the Corporation 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 other than by reason of antidilution or similar protective adjustments, then the Effective Price shall be recalculated using the figure to which such minimum amount of consideration is reduced; and

(iii) if the minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of Convertible Securities in accordance with the terms of such Rights, Options or Convertible Securities, as applicable, is subsequently increased, then the Effective Price shall again be recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise of such Rights or Options or the conversion or exchange of such Convertible Securities in accordance with the terms of such Rights, Options or Convertible Securities, as applicable.

No further adjustment of the 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 Class A Common Stock or Class B Common Stock 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 Class A Common Stock or Class B Common Stock so issued were the shares of Class A Common Stock or Class B 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 Class A Common Stock or Class B Common Stock, if any, were issued or sold for the consideration actually received by the Corporation upon such exercise, plus the consideration, if any, actually received by the Corporation 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 Corporation (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.

6.9 Certificate of Adjustment. In each case of an adjustment or readjustment of the Conversion Price for a series of Preferred Stock, the Corporation, at its expense, shall cause its Chief Financial 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 the Preferred Stock at the holder's address as shown in the Corporation's books.

6.10 Fractional Shares. No fractional shares of Class B 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 Corporation shall pay the holder cash equal to the product of such fraction multiplied by the Class B Common Stock's fair market value as determined in good faith by the Board as of the date of conversion.

6.11 Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class B Common Stock, solely for the purpose of effecting the conversion of the shares of the Preferred Stock, such number of its shares of Class B Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Preferred Stock; and if at any time the number of authorized but unissued shares of Class B Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Preferred Stock, the Corporation will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Class B Common Stock to such number of shares as shall be sufficient for such purpose.

6.12 Notices. Any notice required by the provisions of this Restated Certificate of Incorporation to be given to the holders of shares of the Preferred Stock shall be deemed given upon the earlier of actual receipt or deposit in the United States mail, by certified or registered mail, return receipt requested, postage prepaid, or delivery by a recognized express courier, fees prepaid, addressed to each holder of record at the address of such holder appearing on the books of the Corporation.

## **7. Class B Common Stock Conversion.**

7.1 **Optional Conversion.** Each share of Class B Common Stock shall be convertible into one (1) fully paid and nonassessable share of Class A Common Stock at the option of the holder thereof at any time upon written notice to the Corporation. Before any holder of Class B Common Stock shall be entitled to convert any shares of such Class B Common Stock, such holder shall deliver a written notice to the Corporation at its principal corporate office, of the election to convert the Class B Common Stock and shall state therein the number of shares of Class B Common Stock being converted and the name or names in which the shares of Class A Common Stock are to be registered. The Corporation shall, as soon as practicable thereafter, register such holder of Class B Common Stock, or the nominee or nominees or such holder, on the Corporation's books as the owner of the number of shares of Class A Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior the close of business on the date of such notice of the election to convert is received by the Corporation, and the person or persons entitled to receive the shares of Class A Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Class A Common Stock as of such date. Each share of Class B Common Stock that is converted pursuant to this subsection 7.1 shall be retired by the Corporation and shall not be reissued by the Corporation.

7.2 **Conversion Upon Transfer.** This subsection 7.2 shall become effective immediately prior to the closing of a Qualified IPO, provided that the Class B Common Stock is then a "covered security" pursuant to Section 18 of the Securities Act of 1933, as amended (the "***Covered Security Date***"). On or after the Covered Security Date, each share of Class B Common Stock shall be automatically, without further action by the holder thereof, converted into one (1) fully paid and nonassessable share of Class A Common Stock, upon the occurrence of a Transfer (as defined in subsection 7.5(d)), other than a Permitted Transfer (as defined in subsection 7.5(0)), of such share of Class B Common Stock. Each share of Class B Common Stock that is converted pursuant to this subsection 7.2 shall be retired by the Corporation and shall not be reissued by the Corporation.

7.3 **Automatic Conversion.** Each share of Class B Common Stock shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock (the "***Automatic Conversion***"), upon the earliest to occur of:

(a) the date specified by the holders of a majority of the then outstanding shares of Class B Common Stock, voting as a separate class, provided however, that such date is on or after the one (1) year anniversary of the Covered Security Date;

(b) the date on which the outstanding shares of Class B Common Stock represent less than five percent (5%) of the aggregate number of shares of the then outstanding Class A Common Stock and Class B Common Stock; or

(c) the date of the death of the Founder that is the last to die.

The Corporation shall provide notice of the Automatic Conversion of shares of Class B Common Stock pursuant to this subsection 7.3 to holders of record of such shares of Class B Common Stock as soon as practicable following the Automatic Conversion; provided, however, that the Corporation may satisfy such notice requirements by providing such notice prior to the Automatic Conversion. Such notice shall be provided by any means then permitted by the Delaware General Corporation Law; provided, however, that no failure to give such notice nor any defect therein shall affect the validity of the Automatic Conversion. Upon and after the Automatic Conversion, the outstanding shares of Class B Common Stock shall be converted into Class A Common Stock automatically without the need for any further action by the holders of such shares. Each share of Class B Common Stock that is converted pursuant to this subsection 7.3 shall be retired and shall not be reissued by the Corporation. Immediately upon the effectiveness of the Automatic Conversion, the rights of the holders of shares of Class B Common Stock as such shall cease, and the holders shall be treated for all purposes as having become the record holder or holders of such shares of Class A Common Stock; provided, however, that if the date on which any share of Class B Common Stock is converted into Class A Common Stock pursuant to the provisions of this subsection 7.3 is after the record date for the determination of the holders of Class B Common Stock entitled to receive any dividend to be paid to such holders, the holder of such Class B Common Stock as of such record date will be entitled to receive such dividend on such payment date; and provided, further, that to the extent that such dividend is payable in Class B Common Stock, no shares of Class B Common Stock shall be issued in payment thereof and such dividend shall instead be paid by the issuance of such number of shares of Class A Common Stock into which such shares of Class B Common Stock, if issued, would have been convertible on such payment date

**7.4 Policies and Procedures.** The Corporation may, from time to time, establish such policies and procedures, not in violation of applicable law or the other provisions of this Restated Certificate of Incorporation, relating to the conversion of the Class B Common Stock into Class A Common Stock and the dual class common stock structure contemplated by this Restated Certificate of Incorporation as it may deem necessary or advisable. If the Corporation has reason to believe that a Transfer giving rise to a conversion of shares of Class B Common Stock into Class A Common Stock has occurred but has not theretofore been reflected on the books of the Corporation, the Corporation may request that the holder of such shares furnish affidavits or other evidence to the Corporation as it reasonably deems necessary to determine whether a conversion of shares of Class B Common Stock to Class A Common Stock has occurred, and if such holder does not within ten (10) days after the date of such request furnish sufficient evidence to the Corporation (in the manner provided in the request) to enable the Corporation to determine that no such conversion has occurred, any such shares of Class B Common Stock, to the extent not previously converted, shall be automatically converted into shares of Class A Common Stock and the same shall thereupon be registered on the books and records of the Corporation. In connection with any action of stockholders taken at a meeting or by written consent, the stock ledger of the Corporation shall be presumptive evidence as to who are the stockholders entitled to vote in person or by proxy at any meeting of stockholders or in connection with any written consent and the classes of shares held by each such stockholder and the number of shares of each class held by such stockholder.

**7.5 Definitions.** For purposes of this Section 7:

(a) **“Family Member”** shall mean with respect to any natural person who is a Qualified Stockholder (as defined below), the spouse, parents, grandparents, lineal descendants, siblings and lineal descendants of siblings of such Qualified Stockholder.

(b) **“Founders”** shall mean Andrew Houston and Arash Ferdowsi (and each of them is referred to as a **“Founder”**).

(c) **“Qualified Stockholder”** shall mean (i) the registered holder of a share of Class B Common Stock immediately following the Covered Security Date; (ii) the initial registered holder of any shares of Class B Common Stock that are originally issued by the Corporation after the Covered Security Date pursuant to the exercise of Rights or Options or conversion of Convertible Securities that, in each case, are outstanding as of the Covered Security Date; (iii) each natural person who, prior to the Covered Security Date, Transferred shares of Common Stock of the Corporation to a Permitted Entity that becomes a Qualified Stockholder; (iv) each natural person who Transferred shares of, or equity awards for, Class B Common Stock (including any Rights or Options exercisable or Convertible Security convertible into shares of Class B Common Stock) to a Permitted Entity that is or becomes a Qualified Stockholder; and (v) a Permitted Transferee.

(d) **“Permitted Entity”** shall mean with respect to a Qualified Stockholder (i) a Permitted Trust (as defined below) solely for the benefit of (A) such Qualified Stockholder, (B) one or more Family Members of such Qualified Stockholder and/or (C) any other Permitted Entity of such Qualified Stockholder, or (ii) any general partnership, limited partnership, limited liability company, corporation or other entity exclusively owned by (A) such Qualified Stockholder, (B) one or more Family Members of such Qualified Stockholder and/or (C) any other Permitted Entity of such Qualified Stockholder.

(e) **“Transfer”** of a share of Class B Common Stock shall mean any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law, including, without limitation, a transfer of a share of Class B Common Stock to a broker or other nominee (regardless of whether there is a corresponding change in beneficial ownership), or the transfer of, or entering into a binding agreement with respect to, Voting Control (as defined below) over such share by proxy or otherwise; provided, however, that the following shall not be considered a “Transfer” within the meaning of this Section 7:

(i) the granting of a revocable proxy to officers or directors of the Corporation at the request of the Board in connection with actions to be taken at an annual or special meeting of stockholders;

(ii) entering into a voting trust, agreement or arrangement (with or without granting a proxy) solely with stockholders who are holders of Class B Common Stock that (A) is disclosed either in a Schedule 13D filed with the Securities and Exchange Commission or in writing to the Secretary of the Corporation, (B) either has a term not exceeding one (1) year or is terminable by the holder of the shares subject thereto at any time and (C) does not involve any payment of cash, securities, property or other consideration to the holder of the shares subject thereto other than the mutual promise to vote shares in a designated manner; or

(iii) the pledge of shares of Class B Common Stock by a stockholder that creates a mere security interest in such shares pursuant to a bona fide loan or indebtedness transaction for so long as such stockholder continues to exercise Voting Control over such pledged shares; provided, however, that a foreclosure on such shares or other similar action by the pledgee shall constitute a Transfer unless such foreclosure or similar action qualifies as a Permitted Transfer.

A Transfer shall also be deemed to have occurred with respect to a share of Class B Common Stock beneficially held by (x) an entity that is a Permitted Entity, if there occurs any act or circumstance that causes such entity to no longer be a Permitted Entity or (y) an entity that is a Qualified Stockholder, if there occurs a Transfer on a cumulative basis, from and after the Covered Security Date, of a majority of the voting power of the voting securities of such entity or any direct or indirect Parent of such entity, other than a Transfer to parties that are, as of the Covered Security Date, holders of voting securities of any such entity or Parent of such entity.

(f) **“Parent”** of an entity shall mean any entity that directly or indirectly owns or controls a majority of the voting power of the voting securities of such entity.

(g) **“Permitted Transfer”** shall mean, and be restricted to, any Transfer of a share of Class B Common Stock:

(i) by a Qualified Stockholder to (A) one or more Family Members of such Qualified Stockholder, or (B) any Permitted Entity of such Qualified Stockholder; or

(ii) by a Permitted Entity of a Qualified Stockholder to (A) such Qualified Stockholder or one or more Family Members of such Qualified Stockholder, or (B) any other Permitted Entity of such Qualified Stockholder.

(h) **“Permitted Transferee”** shall mean a transferee of shares of Class B Common Stock received in a Transfer that constitutes a Permitted Transfer.

(i) **“Permitted Trust”** shall mean a bona fide trust where each trustee is (i) a Qualified Stockholder, (ii) a Family Member or (iii) a professional in the business of providing trustee services, including private professional fiduciaries, trust companies and bank trust departments.

(j) **“Voting Control”** shall mean, with respect to a share of Class B Common Stock, the power (whether exclusive or shared) to vote or direct the voting of such share by proxy, voting agreement or otherwise.

#### **8. Restrictions and Limitations.**

8.1 **Class Protective Provisions.** So long as 45,000,000 shares of Preferred Stock remain outstanding (as may be adjusted for additional stock splits, combinations, stock dividends, recapitalizations, reclassifications and the like), the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority in voting power of the then outstanding shares of Preferred Stock, voting as a single class, take any of the actions below, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(a) alter or change the rights, preferences, privileges or restrictions of the Preferred Stock so as to materially and adversely affect such Preferred Stock by amending this Restated Certificate of Incorporation or the Bylaws;

(b) authorize, designate or issue, whether by reclassification or otherwise, any capital stock having rights, preferences or privileges senior to or being on a parity with the Preferred Stock in right of redemption, liquidation preference, voting or dividends or any increase in the authorized or designated number of any such new class or series;

(c) redeem or repurchase Class A Common Stock or Class B Common Stock other than Permitted Repurchases;

(d) effect a Liquidation Event in which each holder of Series A Preferred Stock, Series A-1 Preferred Stock, Series B Preferred Stock or Series C Preferred Stock receives less than two (2) times such holder’s Original Issue Price per share;

(e) declare or pay any dividends (other than dividends payable solely in shares of its own Class A Common Stock or Class B Common Stock) on or make any purchase, redemption or acquisition (other than Permitted Repurchases), directly or indirectly, on account of any shares of Class A Common Stock, Class B Common Stock or Preferred Stock now or hereafter outstanding; or

(f) voluntarily dissolve or liquidate the Corporation or reclassify or recapitalize the outstanding capital stock of the Corporation.

8.2 **Series B Preferred Stock Protective Provision.** So long as a majority of the shares of Series B Preferred Stock originally issued remains outstanding, and notwithstanding anything to the contrary herein, the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least 70% in voting power of the then outstanding shares of Series B Preferred Stock, voting together as a single class, take any of the actions below, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:



(a) alter or change the rights, preferences or privileges of the shares of Series B Preferred Stock so as to affect them adversely (provided, however, that for clarity it is acknowledged that the authorization or issuance of a new series of preferred stock by the Corporation shall not, on its own, be deemed to adversely affect the rights, preferences or privileges of the Series B Preferred Stock);

(b) create or authorize the creation of additional shares of Series B Preferred Stock;

(c) convert any shares of Series B Preferred Stock into Class B Common Stock, except pursuant to a Qualified IPO; or

(d) redeem or repurchase any shares of Class A Common Stock, Class B Common Stock or Preferred Stock (excluding such redemptions or repurchases (i) that are Permitted Repurchases and (ii) pursuant to the Corporation's rights of first refusal).

**8.3 Series C Preferred Stock Protective Provision.** So long as a majority of the shares of Series C Preferred Stock originally issued remains outstanding, and notwithstanding anything to the contrary herein, the Corporation shall not (by amendment, reclassification, merger, consolidation, recapitalization or otherwise) without first obtaining the approval (by vote or written consent, as provided by law) of the holders of a majority in voting power of the then outstanding shares of Series C Preferred Stock, voting together as a single class, take any of the actions below, and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(a) alter or change the rights, preferences or privileges of the shares of Series C Preferred Stock so as to affect them adversely (provided, however, that for clarity it is acknowledged that the authorization or issuance of a new series of preferred stock by the Corporation shall not, on its own, be deemed to adversely affect the rights, preferences Or privileges of the Series C Preferred Stock);

(b) create or authorize the creation of additional shares of Series C Preferred Stock;

(c) convert any shares of Series C Preferred Stock into Class B Common Stock, except pursuant to a Qualified IPO;

(d) redeem or repurchase any shares of Class A Common Stock, Class B Common Stock or Preferred Stock (excluding such redemptions or repurchases (i) that are Permitted Repurchases or (ii) pursuant to the Corporation's rights of first refusal);

(e) effect the sale of any shares of Series C Preferred Stock other than pursuant to the Series C Preferred Stock Purchase Agreement; or

(f) consummate any liquidation, dissolution or winding up of the Corporation or any Liquidation Event unless the consideration received by the holders of Series C Preferred Stock in connection therewith is at least equal to the amount payable with respect to the Series C Preferred Stock under Article V. subsection 3.

## 9. Miscellaneous

9.1 No Reissuance of Preferred Stock. No share or shares of Preferred Stock acquired by the Corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares which the Corporation shall be authorized to issue.

9.2 Preemptive Rights. No stockholder of the Corporation shall have a right to purchase shares of capital stock of the Corporation sold or issued by the Corporation except to the extent that such a right may from time to time be set forth in a written agreement between the Corporation and a stockholder.

9.3 Waiver. Any of the rights, powers, preferences and other terms of a series of the Preferred Stock or the Preferred Stock as a class that are set forth herein may be waived on behalf of all holders of such series of Preferred Stock or the Preferred Stock as a class by the affirmative written consent or vote of the holders of at least a majority in voting power of the shares of such series of Preferred Stock or such Preferred Stock as a class that are then outstanding; provided, that:

(a) any waiver of the rights of the holders of Preferred Stock set forth in Article V, subsection 3.3 shall require the affirmative written consent or vote of the holders of at least two-thirds in voting power of the shares of Preferred Stock then outstanding, acting as a separate class;

(b) any waiver of the rights of the holders of Series B Preferred Stock set forth in subsection 3.3, subsection 3.4, subparagraph 6.8(b)(i)(K) or subsection 8.2 of Article V shall require the affirmative written consent or vote of the holders of at least 70% in voting power of the shares of the Series B Preferred Stock then outstanding (so long as a majority of the shares of Series B Preferred Stock originally issued remains outstanding); and

(c) any waiver of the rights of the holders of Series C Preferred Stock set forth in subsection 3.3, subsection 3.4, subparagraph 6.8(b)(i)(K) or subsection 8.3 of Article V shall require the affirmative written consent or vote of the holders of a majority in voting power of the shares of the Series C Preferred Stock then outstanding (so long as a majority of the shares of Series C Preferred Stock originally issued remains outstanding).

9.4 Equal Status of Class A Common Stock and Class B Common Stock. Except as expressly set forth in this Article V, the Class A Common Stock shall have the same rights and powers of, rank equally to, share ratably with and be identical in all respects and to all matters to the Class B Common Stock. If the Corporation in any manner subdivides or combines the outstanding shares of Class B Common Stock, then the outstanding shares of Class A Common Stock will be subdivided or combined in the same proportion and manner. If the Corporation in any manner subdivides or combines the outstanding shares of Class A Common Stock, then the outstanding shares of Class B Common Stock will be subdivided or combined in the same proportion and manner.

## ARTICLE VI: AMENDMENT OF BYLAWS

The Board of Directors of the Corporation shall have the power to adopt, amend or repeal Bylaws of the Corporation.

## ARTICLE VII: DIRECTOR 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 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 Corporation 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 VII, nor the adoption of any provision of this Restated 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: DIRECTORS AND CORPORATE OPPORTUNITIES

In the event that a director of the Corporation who is also a partner or employee of an entity that is a holder of Preferred Stock and that is in the business of investing and reinvesting in other entities (each, a **“Fund”**), acquires knowledge of a potential transaction or matter in such person’s capacity as a partner or employee of the Fund and that may be a corporate opportunity for both the Corporation and such Fund, such director shall to the fullest extent permitted by law have fully satisfied and fulfilled such director’s fiduciary duty to the Corporation and its stockholders with respect to such corporate opportunity, and the Corporation to the fullest extent permitted by law waives any claim that such business opportunity constituted a corporate opportunity that should have been presented to the Corporation or any of its affiliates, if such director acts in good faith in a trimmer consistent with the following policy: a corporate opportunity offered to any person who is a director of the Corporation and who is also a partner or employee of a Fund shall belong to such Fund, unless such opportunity was expressly offered to such person solely in his or her capacity as a director of the Corporation.

Without limiting the foregoing provision of this Article VIII, the Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, or in being informed about, an Excluded Opportunity. An **“Excluded Opportunity”** is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any affiliate, partner, member, director, stockholder, employee, agent or other related person of any such holder, other than any person who is an employee of the Corporation or any of its subsidiaries (collectively, **“Covered Persons”**), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a director of the Corporation.

**CERTIFICATE OF AMENDMENT**  
**OF**  
**RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**DROPBOX, INC.**

Dropbox, Inc., a Delaware corporation (the “**Corporation**”), does hereby certify that the following amendment to the Corporation’s Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Section 242 of the Delaware General Corporation Law, with the approval of such amendment by the Corporation’s stockholders having been given by written consent without a meeting in accordance with Sections 228(d) and 242 of the Delaware General Corporation Law:

1. The first paragraph of Article IV of the Corporation’s Restated Certificate of Incorporation is hereby amended to read in its entirety as follows:

“The Corporation is authorized to issue a total of 1,526,818,439 shares of its capital stock, which shall be divided into three (3) classes, designated “Class A Common Stock,” “Class B Common Stock” and “Preferred Stock.” The total number of shares of Class A Common Stock authorized to be issued is 700,000,000 shares, \$0.00001 par value per share. The total number of shares of Class B Common Stock authorized to be issued is 600,000,000 shares, \$0.00001 par value per share. The total number of shares of Preferred Stock authorized to be issued is 226,818,439 shares, \$0.00001 par value per share, of which 95,810,910 are designated as “Series A Preferred Stock”, 78,023,640 are designated as “Series A-1 Preferred Stock,” 29,268,103 are designated as “Series B Preferred Stock” and 23,715,786 are designated as “Series C Preferred Stock.”

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IN WITNESS WHEREOF, Dropbox, Inc. has caused this Certificate of Amendment to be signed by its duly authorized officer this 4th day of April, 2014 and the foregoing facts stated herein are true and correct.

**DROPBOX, INC.**

By: /s/ Andrew Houston  
Name: Andrew Houston  
Title: Chief Executive Officer

**CERTIFICATE OF AMENDMENT**  
**OF**  
**RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**DROPBOX, INC.**

Dropbox, Inc., a Delaware corporation (the “**Corporation**”), does hereby certify that the following amendment to the Corporation’s Restated Certificate of Incorporation has been duly adopted in accordance with the provisions of Section 242 of the Delaware General Corporation Law, with the approval of such amendment by the Corporation’s stockholders having been given by written consent without a meeting in accordance with Sections 228(d) and 242 of the Delaware General Corporation Law:

1. The first paragraph of Article IV of the Corporation’s Restated Certificate of Incorporation is hereby amended to read in its entirety as follows:

“The Corporation is authorized to issue a total of 1,726,818,439 shares of its capital stock, which shall be divided into three (3) classes, designated “Class A Common Stock,” “Class B Common Stock” and “Preferred Stock.” The total number of shares of Class A Common Stock authorized to be issued is 800,000,000 shares, \$0.00001 par value per share. The total number of shares of Class B Common Stock authorized to be issued is 700,000,000 shares, \$0.00001 par value per share. The total number of shares of Preferred Stock authorized to be issued is 226,818,439 shares, \$0.00001 par value per share, of which 95,810,910 are designated as “Series A Preferred Stock”, 78,023,640 are designated as “Series A-1 Preferred Stock”, 29,268,103 are designated as “Series B Preferred Stock” and 23,715,786 are designated as “Series C Preferred Stock.”

2. Section 5.4 of Article V of the Corporation’s Restated Certificate of Incorporation is hereby amended to read in its entirety as follows:

“5.4 Board Size. The authorized number of directors of the Corporation’s Board shall be eight (8). So long as at least 45,000,000 shares of Preferred Stock are outstanding (as may be adjusted for additional stock splits, combinations, stock dividends, recapitalizations, reclassifications and the like), the Corporation shall not alter the authorized number of directors in this Restated Certificate of Incorporation without first obtaining the written consent, or affirmative vote at a meeting, of (i) the holders of at least a majority in voting power of the then outstanding shares of the Preferred Stock, voting as a separate class, and (ii) the holders of at least a majority in voting power of the then outstanding shares of Class A Common Stock and Class B Common Stock, voting as a separate class.”

3. Section 5.5 of Article V of the Corporation's Restated Certificate of Incorporation is hereby amended to read in its entirety as follows:

"5.5 Board of Directors Election. (i) So long as at least 45,000,000 shares of Preferred Stock are outstanding (as may be adjusted for additional stock splits, combinations, stock dividends, recapitalizations, reclassifications and the like), the holders of the Preferred Stock, voting as a separate class, shall be entitled to elect one (1) director (the "***Preferred Director***") of the Corporation at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such director without cause and to fill any vacancy caused by the resignation, death or removal of such director; and (ii) the holders of the Class A Common Stock and Class B Common Stock, voting as a separate class, shall be entitled to elect seven (7) directors of the Corporation at each meeting or pursuant to each consent of the Corporation's stockholders for the election of directors, and to remove from office such directors without cause and to fill any vacancy caused by the resignation, death or removal of such directors."

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IN WITNESS WHEREOF, Dropbox, Inc. has caused this Certificate of Amendment to be signed by its duly authorized officer this 21st day of April, 2016 and the foregoing facts stated herein are true and correct.

**DROPBOX, INC.**

By: /s/ Andrew Houston

Name: Andrew Houston

Title: Chief Executive Officer



**BYLAWS OF**

**DROPBOX, INC.**

**Adopted June 11, 2007,**

**as amended April 18, 2011, September 12, 2011 and October 11, 2013**

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## BYLAWS

### ARTICLE I - MEETINGS OF STOCKHOLDERS

1.1 **Place of Meetings.** Meetings of stockholders of Dropbox, Inc. (the “**Company**”) shall be held at any place, within or outside the State of Delaware, determined by the Company’s board of directors (the “**Board**”). The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the Delaware General Corporation Law (the “**DGCL**”). In the absence of any such designation or determination, stockholders’ meetings shall be held at the Company’s principal executive office.

1.2 **Annual Meeting.** An annual meeting of stockholders shall be held for the election of directors at such date and time as may be designated by resolution of the Board from time to time. Any other proper business may be transacted at the annual meeting. The Company shall not be required to hold an annual meeting of stockholders, *provided* that (i) the stockholders are permitted to act by written consent under the Company’s certificate of incorporation and these bylaws, (ii) the stockholders take action by written consent to elect directors and (iii) the stockholders unanimously consent to such action or, if such consent is less than unanimous, all of the directorships to which directors could be elected at an annual meeting held at the effective time of such action are vacant and are filled by such action.

1.3 **Special Meeting.** A special meeting of the stockholders may be called at any time by the Board, Chairperson of the Board, Chief Executive Officer or President (in the absence of a Chief Executive Officer) or by one or more stockholders holding shares in the aggregate entitled to cast not less than 10% of the votes at that meeting.

If any person(s) other than the Board calls a special meeting, the request shall:

(i) be in writing;

(ii) specify the time of such meeting and the general nature of the business proposed to be transacted; and

(iii) be delivered personally or sent by registered mail or by facsimile transmission to the Chairperson of the Board, the Chief Executive Officer, the President (in the absence of a Chief Executive Officer) or the Secretary of the Company.

The officer(s) receiving the request shall cause notice to be promptly given to the stockholders entitled to vote at such meeting, in accordance with these bylaws, that a meeting will be held at the time requested by the person or persons calling the meeting. No business may be transacted at such special meeting other than the business specified in such notice to stockholders. Nothing contained in this paragraph of this section 1.3 shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board may be held.

1.4 **Notice of Stockholders' Meetings.** Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour 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, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the DGCL, the certificate of incorporation or these bylaws, the written notice of any meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting.

1.5 **Quorum.** Except as otherwise provided by law, the certificate of incorporation or these bylaws, at each meeting of stockholders the presence in person or by proxy of the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. If, however, such quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, in the manner provided in section 1.6, until a quorum is present or represented.

1.6 **Adjourned Meeting; Notice.** Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

1.7 **Conduct of Business.** Meetings of stockholders shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by the Chief Executive Officer, or in the absence of the foregoing persons by the President, or in the absence of the foregoing persons by a Vice President, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting. The chairperson 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 business.

1.8 **Voting.** The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of **section 1.10** of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote for each share of capital stock held by such stockholder which has voting power upon the matter in question.

Voting at meetings of stockholders need not be by written ballot and, unless otherwise required by law, need not be conducted by inspectors of election unless so determined by the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote thereon which are present in person or by proxy at such meeting. If authorized by the Board, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission (as defined in **section 7.2** of these bylaws), *provided* that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder.

Except as otherwise required by law, the certificate of incorporation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise required by law, the certificate of incorporation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors.

**1.9 Stockholder Action by Written Consent Without a Meeting.** Unless otherwise provided in the certificate of incorporation, any action required by the DGCL to be taken at any annual or special meeting of stockholders of a corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

An electronic transmission (as defined in **section 7.2**) consenting to an action to be taken and transmitted by a stockholder or proxy holder, or by a person or persons authorized to act for a stockholder or proxy holder, shall be deemed to be written, signed and dated for purposes of this section, *provided* that any such electronic transmission sets forth or is delivered with information from which the Company can determine (i) that the electronic transmission was transmitted by the stockholder or proxy holder or by a person or persons authorized to act for the stockholder or proxy holder and (ii) the date on which such stockholder or proxy holder or authorized person or persons transmitted such electronic transmission.

In the event that the Board shall have instructed the officers of the Company to solicit the vote or written consent of the stockholders of the Company, an electronic transmission of a stockholder written consent given pursuant to such solicitation may be delivered to the Secretary or the President of the Company or to a person designated by the Secretary or the President. The Secretary or the President of the Company or a designee of the Secretary or the President shall cause any such written consent by electronic transmission to be reproduced in paper form and inserted into the corporate records.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing 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 Company as provided in Section 228 of the DGCL. In the event that the action which is consented to is such as would have required the filing of a certificate under any provision of the DGCL, if such action had been voted on by stockholders at a meeting thereof, the certificate filed under such provision shall state, in lieu of any statement required by such provision concerning any vote of stockholders, that written consent has been given in accordance with Section 228 of the DGCL.

**1.10 Record Date for Stockholder Notice; Voting; Giving Consents.** In order that the Company may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board 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:

(i) in the case of determination of stockholders entitled to notice of or to vote at any meeting of stockholders or adjournment thereof, shall, unless otherwise required by law, not be more than sixty nor less than ten days before the date of such meeting;

(ii) in the case of determination of stockholders entitled to express consent to corporate action in writing without a meeting, shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the Board; and

(iii) in the case of determination of stockholders for any other action, shall not be more than 60 days prior to such other action.

If no record date is fixed by the Board:

(i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held;

(ii) the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting when no prior action of the Board is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company in accordance with applicable law, or, if prior action by the Board is required by law, shall be at the close of business on the day on which the Board adopts the resolution taking such prior action; and

(iii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, *provided* that the Board may fix a new record date for the adjourned meeting.

1.11 **Proxies.** Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL.

1.12 **List of Stockholders Entitled to Vote.** The officer who has charge of the stock ledger of the Company shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The Company shall not be required to include electronic mail addresses or other electronic contact information on such list. 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 days prior to the meeting: (i) on a reasonably accessible electronic network, *provided* that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Company's principal place of business. In the event that the Company determines to make the list available on an electronic network, the Company may take reasonable steps to ensure that such information is available only to stockholders of the Company. If the meeting is to be held at a place, then the list shall 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. If the meeting is to be held solely by means of remote communication, then the list shall also 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 such list shall be provided with the notice of the meeting.

## ARTICLE II - DIRECTORS

2.1 **Powers.** The business and affairs of the Company shall be managed by or under the direction of the Board, except as may be otherwise provided in the DGCL or the certificate of incorporation.

2.2 **Number of Directors.** The Board shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of incorporation fixes the number of directors, the number of directors shall be determined from time to time by resolution of the Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

2.3 **Election, Qualification and Term of Office of Directors.** Except as provided in section 2.4 of these bylaws, and subject to sections 1.2 and 1.9 of these bylaws, directors shall be elected at each annual meeting of stockholders. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors. Each director shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.



**2.4 Resignation and Vacancies.** Any director may resign at any time upon notice given in writing or by electronic transmission to the Company. When one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws:

(i) Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Company should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the voting stock at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office and until such director's successor is elected and qualified, or until such director's earlier death, resignation or removal.

**2.5 Place of Meetings; Meetings by Telephone.** The Board may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

2.6 **Conduct of Business.** Meetings of the Board shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

2.7 **Regular Meetings.** Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

2.8 **Special Meetings; Notice.** Special meetings of the Board for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, the President, the Secretary or any two directors.

Notice of the time and place of special meetings shall be:

- (i) delivered personally by hand, by courier or by telephone;
- (ii) sent by United States first-class mail, postage prepaid;
- (iii) sent by facsimile; or
- (iv) sent by electronic mail,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the Company's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the Company's principal executive office) nor the purpose of the meeting.

2.9 **Quorum.** At all meetings of the Board, a majority of the total number of directors shall constitute a quorum for the transaction of business. The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the certificate of incorporation or these bylaws. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

**2.10 Board Action by Written Consent Without a Meeting.** Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee thereof, may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**2.11 Fees and Compensation of Directors.** Unless otherwise restricted by the certificate of incorporation or these bylaws, the Board shall have the authority to fix the compensation of directors.

**2.12 Removal of Directors.** Unless otherwise restricted by statute, the certificate of incorporation or these bylaws, any director or the entire Board 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.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

### ARTICLE III - COMMITTEES

**3.1 Committees of Directors.** The Board may designate one or more committees, each committee to consist of one or more of the directors of the Company. 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 a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the Company.

**3.2 Committee Minutes.** Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

**3.3 Meetings and Actions of Committees.** Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

- (i) **section 2.5** (Place of Meetings; Meetings by Telephone);
- (ii) **section 2.7** (Regular Meetings);

- (iii) **section 2.8** (Special Meetings; Notice);
- (iv) **section 2.9** (Quorum);
- (v) **section 2.10** (Board Action by Written Consent Without a Meeting); and
- (vi) **section 7.5** (Waiver of Notice)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board and its members. *However:*

- (vii) the time of regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee;
- (viii) special meetings of committees may also be called by resolution of the Board; and

(ix) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

**3.4 Subcommittees.** Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

#### **ARTICLE IV - OFFICERS**

**4.1 Officers.** The officers of the Company shall be a President and a Secretary. The Company may also have, at the discretion of the Board, a Chairperson of the Board, a Vice Chairperson of the Board, a Chief Executive Officer, one or more Vice Presidents, a Chief Financial Officer, a Treasurer, one or more Assistant Treasurers, one or more Assistant Secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

**4.2 Appointment of Officers.** The Board shall appoint the officers of the Company, except such officers as may be appointed in accordance with the provisions of section 4.3 of these bylaws.

**4.3 Subordinate Officers.** The Board may appoint, or empower the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President, to appoint, such other officers and agents as the business of the Company may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

4.4 **Removal and Resignation of Officers.** Any officer may be removed, either with or without cause, by an affirmative vote of the majority of the Board at any regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time by giving written notice to the Company. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the officer is a party.

4.5 **Vacancies in Offices.** Any vacancy occurring in any office of the Company shall be filled by the Board or as provided in section 4.3.

4.6 **Representation of Shares of Other Corporations.** Unless otherwise directed by the Board, the President or any other person authorized by the Board or the President is authorized to vote, represent and exercise on behalf of the Company all rights incident to any and all shares of any other corporation or corporations standing in the name of the Company. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

4.7 **Authority and Duties of Officers.** Except as otherwise provided in these bylaws, the officers of the Company shall have such powers and duties in the management of the Company as may be designated from time to time by the Board and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

## ARTICLE V - INDEMNIFICATION

5.1 **Indemnification of Directors and Officers in Third Party Proceedings.** Subject to the other provisions of this Article V, the Company shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**") (other than an action by or in the right of the Company) by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

**5.2 Indemnification of Directors and Officers in Actions by or in the Right of the Company.** Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

**5.3 Successful Defense.** To the extent that a present or former director or officer of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described in Section 5.1 or Section 5.2, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

**5.4 Indemnification of Others.** Subject to the other provisions of this **Article V**, the Company shall have power to indemnify its employees and agents to the extent not prohibited by the OGCL or other applicable law. The Board shall have the power to delegate to such person or persons the determination of whether employees or agents shall be indemnified.

**5.5 Advanced Payment of Expenses.** Expenses (including attorneys' fees) incurred by an officer or director of the Company in defending any Proceeding shall be paid by the Company in advance of the final disposition of such Proceeding upon receipt of an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this **Article V** or the DGCL. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Company deems appropriate.

Notwithstanding the foregoing, unless otherwise determined pursuant to Section 5.8, no advance shall be made by the Company to an officer of the Company (except by reason of the fact that such officer is or was a director of the Company, in which event this paragraph shall not apply) in any Proceeding if a determination is reasonably and promptly made (i) by a majority vote of the directors who are not parties to such Proceeding, even though less than a quorum, or (ii) by a committee of such directors designated by majority vote of such directors, even though

less than a quorum, or (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, that facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Company.

**5.6 Limitation on Indemnification and Advancement of Expenses.** Subject to the requirements in Section 5.3 and the DGCL, the Company shall not be required to provide indemnification or, with respect to clauses (i), (iii) and (iv) below, advance expenses to any person pursuant to this **Article V**:

(i) in connection with any Proceeding (or part thereof) initiated by such person except (i) as otherwise required by law, (ii) in specific cases if the Proceeding was authorized by the Board, or (iii) as is required to be made under Section 5.7;

(ii) in connection with any Proceeding (or part thereof) against such person providing for an accounting or disgorgement of profits pursuant to the provisions of Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of any federal, state or local statutory law or common law;

(iii) for amounts for which payment has actually been made to or on behalf of such person under any statute, insurance policy or indemnity provision, except with respect to any excess beyond the amount paid; or

(iv) if prohibited by applicable law.

**5.7 Determination; Claim.** If a claim for indemnification or advancement of expenses under this **Article V** is not paid in full within 60 days after a written claim therefor has been received by the Company, the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such suit, the Company shall have the burden of proving that the claimant was not entitled to the requested indemnification or advancement of expenses under applicable law.

**5.8 Non-Exclusivity of Rights.** The indemnification and advancement of expenses provided by, or granted pursuant to, this **Article V** shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of incorporation or any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. The Company is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or other applicable law.

**5.9 Insurance.** The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Company would have the power to indemnify such person against such liability under the provisions of the DGCL.

5.10 **Survival.** The rights to indemnification and advancement of expenses conferred by this **Article V** shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

5.11 **Effect of Repeal or Modification.** Any repeal or modification of this **Article V** shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

5.12 **Certain Definitions.** For purposes of this **Article V**, references to the “**Company**” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this **Article V** with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this **Article V**, references to “**other enterprises**” shall include employee benefit plans; references to “**finances**” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “**servicing at the request of the Company**” shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “**not opposed to the best interests of the Company**” as referred to in this **Article V**.

## ARTICLE VI - STOCK

6.1 **Stock Certificates; Partly Paid Shares.** The shares of the Company shall be represented by certificates, *provided* that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Company. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Company by the Chairperson of the Board or Vice Chairperson of the Board, or the President or a Vice President, and by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Company 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 Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The Company shall not have power to issue a certificate in bearer form.



The Company may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, or upon the books and records of the Company in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the Company shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

6.2 **Special Designation on Certificates.** If the Company is authorized to issue more than one class of stock or more than one series of any class, the Company shall (i) cause the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of any certificate that the Company issues to represent such class or series of stock or (ii) in the case of uncertificated shares, within a reasonable time after the issuance or transfer of such shares, deliver to the registered owner thereof a written notice containing the information required to be set forth on certificates as specified in clause (i) above; *provided that*, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of such certificate or, in the case of uncertificated shares, on such written notice, a statement that the Company will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

6.3 **Lost Certificates.** Except as provided in this **section 6.3**, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the Company and cancelled at the same time. The Company may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company 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.

6.4 **Dividends.** The Board, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the Company's capital stock. Dividends may be paid in cash, in property, or in shares of the Company's capital stock, subject to the provisions of the certificate of incorporation.

The Board may set apart out of any of the funds of the Company available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

**6.5 Stock Transfer Agreements.** The Company shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the Company to restrict the transfer of shares of stock of the Company of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

**6.6 Registered Stockholders.** The Company:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;

(ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and

(iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

**6.7 Transfers.** If a certificate representing shares of the Company is presented to the Company with an endorsement requesting the registration of transfer of such shares or an instruction is presented to the Company requesting the registration of transfer of uncertificated shares, the Company shall register the transfer as requested if:

(i) in the case of certificated shares, the certificate representing such shares has been surrendered;

(ii) (a) with respect to certificated shares, the endorsement is made by the person specified by the certificate as entitled to such shares; (b) with respect to uncertificated shares, an instruction is made by the registered owner of such uncertificated shares; or (c) with respect to certificated shares or uncertificated shares, the endorsement or instruction is made by any other appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(iii) the Company has received a guarantee of signature of the person signing such endorsement or instruction or such other reasonable assurance that the endorsement or instruction is genuine and authorized as the Company may request;

(iv) the transfer does not violate any restriction on transfer imposed by the Company; and

(v) such other conditions for such transfer as shall be provided for under applicable law have been satisfied.

Whenever any transfer of shares shall be made for collateral security and not absolutely, the Company shall so record such fact in the entry of transfer if, when the certificate for such shares is presented to the Company for transfer or, if such shares are uncertificated, when the instruction for registration of transfer thereof is presented to the Company, both the transferor and transferee request the Company to do so.

### 6.8 Restrictions on Transfer.

The holder of any security of the Company (a “**Security Holder**”) shall not transfer, assign, encumber or otherwise dispose of any security of the Company (a “**Security**”), other than by means of a Permitted Transfer (as defined below). If any provision(s) of any agreement(s) currently in effect by and between the Company and any Security Holder (the “**Security Holder Agreement(s)**”) conflicts with this Section 6.8 of the bylaws, this Section 6.8 shall govern, and the non-conflicting remainder of the Security Holder Agreement(s) shall continue in full force and effect. A “**Permitted Transfer**” as used in this Section 6.8 shall be defined as:

(a) any repurchase of a Security by the Company: (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;

(b) any transfer to a Security Holder’s Immediate Family (as defined below) or a trust for the benefit of the Security Holder or the Security Holder’s Immediate Family. As used herein, the term “**Immediate Family**” will mean Stockholder’s spouse or Spousal Equivalent, the lineal descendant or antecedent, brother or sister, of Stockholder or Stockholder’s spouse or Spousal Equivalent, or the spouse or Spousal Equivalent of any lineal descendant or antecedent, brother or sister of Stockholder, or Stockholder’s spouse or Spousal Equivalent, whether or not any of the above are adopted. 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 relevant person 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;

(c) any transfer effected pursuant to the Security Holder’s will or the laws of intestate succession;

(d) if the Security Holder is a partnership, limited liability company or a corporation, any transfer to (A) a partner of such partnership, a member of such limited liability company or stockholder of such corporation, (B) an Affiliate (as defined below) of such partnership, limited liability company or corporation, (C) a retired partner of such partnership or a retired member of such limited liability company, (D) the estate of any such partner, member or stockholder; and/or

(e) any transfer approved by the Company’s Board; notwithstanding the foregoing, if a Permitted Transfer is approved pursuant to this Section 6.8(e) and the Securities of the transferring party are subject to co-sale rights (the “**Co-Sale Rights**”), the persons and/or entities entitled to the Co-Sale Rights shall be permitted to exercise their respective Co-Sale Rights in conjunction with this specific Permitted Transfer without any additional approval of the Board.

The foregoing restriction on transfer shall lapse upon the earlier of (i) immediately prior to a Liquidation Event (as defined in the Company's Restated Certificate of Incorporation), or (ii) immediately prior to a Qualified IPO (as defined in the Company's Restated Certificate of Incorporation).

For the purposes of this Section 6.8, "Affiliate" shall mean, with respect to any specified entity, any other entity which, directly or indirectly, controls, is controlled by, or is under common control with such specified entity, including, without limitation, any general partner, officer, director or manager of such person and any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, is under common investment management with, shares the same management or advisory company with or is otherwise affiliated with such entity.

#### ARTICLE VII - MANNER OF GIVING NOTICE AND WAIVER

**7.1 Notice of Stockholder Meetings.** Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the Company's records. An affidavit of the Secretary or an Assistant Secretary of the Company or of the transfer agent or other agent of the Company that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

**7.2 Notice by Electronic Transmission.** Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the Company 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. Any such consent shall be revocable by the stockholder by written notice to the Company. Any such consent shall be deemed revoked if:

(i) the Company is unable to deliver by electronic transmission two consecutive notices given by the Company in accordance with such consent; and

(ii) such inability becomes known to the Secretary or an Assistant Secretary of the Company or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(iii) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(iv) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(v) 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

(vi) If by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Company that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

An “**electronic transmission**” means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Notice by a form of electronic transmission shall not apply to Sections 164,296,311,312 or 324 of the DGCL.

**7.3 Notice to Stockholders Sharing an Address.** Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Company under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the Company. Any stockholder who fails to object in writing to the Company, within 60 days of having been given written notice by the Company of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

**7.4 Notice to Person with Whom Communication is Unlawful.** Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Company is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

**7.5 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, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed

equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

#### ARTICLE VIII - GENERAL MATTERS

8.1 **Fiscal Year.** The fiscal year of the Company shall be fixed by resolution of the Board and may be changed by the Board.

8.2 **Seal.** The Company may adopt a corporate seal, which shall be in such form as may be approved from time to time by the Board. The Company may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

8.3 **Annual Report.** The Company shall cause an annual report to be sent to the stockholders of the Company to the extent required by applicable law. If and so long as there are fewer than 100 holders of record of the Company's shares, the requirement of sending an annual report to the stockholders of the Company is expressly waived (to the extent permitted under applicable law).

8.4 **Construction; Definitions.** Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws.

Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person.

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**ARTICLE IX - AMENDMENTS**

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote. However, the Company may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

## DROPBOX, INC.

## 2017 EQUITY INCENTIVE PLAN

As Adopted on March 8, 2017

**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 2.3 and 11 hereof, the total number of Shares reserved and available for grant and issuance pursuant to this Plan will be equal to the sum (a) the reserved shares not issued or subject to outstanding grants under the Company's 2008 Equity Incentive Plan (the "**Prior Plan**") on the Effective Date (as defined in Section 13.1 hereof), (b) shares that are subject to awards granted under the Prior Plan that cease to be subject to such awards by forfeiture or otherwise after the Effective Date, (c) shares issued under the Prior Plan before or after the Effective Date pursuant to the exercise of stock options that are, after the Effective Date, forfeited, (d) shares issued under the Prior Plan that are repurchased by the Company at the original issue price and (e) shares that are subject to stock options or other awards under the Prior Plan that are used to pay the exercise price of an option or withheld to satisfy the tax withholding obligations related to any award. Any shares of the Company's Class B Common Stock recycled from the Prior Plan into this Plan pursuant to this Section 2.1 shall be issuable hereunder as the Company's Class A Common Stock.

**2.2 Lapse, Returned Awards.** Subject to Sections 2.3 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. 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 Three Hundred Million (300,000,000) Shares (adjusted in proportion to any adjustments under Section 2.3 hereof) over the term of the Plan (the "**ISO Limit**").

**2.3 Adjustment of Shares.** In the event that the number of outstanding shares of Common Stock is changed by a stock dividend, recapitalization, stock split, reverse stock split, subdivision, combination, reclassification 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 of Shares reserved for issuance under this Plan, (b) the Exercise Prices of and number of Shares subject to outstanding Options and SARs, and (c) the Purchase Prices of and/or number 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* such consultants render 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.

**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. 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.

**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 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 (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 13.3 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 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 of award. If any such dividends or distributions are paid in shares of Common Stock, such 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. 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 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. 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 of Common Stock 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 13.1 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 For Cause.** 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 (by check) 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 Shares 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.

### **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 applicable 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 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 the applicable tax withholding obligation by electing to have the Company withhold from the Shares to be issued up to the number of Shares having a Fair Market Value on the date that the amount of tax to be withheld is to be determined equal to the amount 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. 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.

## **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 Common Stock 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 Common Stock 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 Common Stock 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 Common Stock 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.

**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, Common Stock (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 Common Stock 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.

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;

(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 officers of the Company the authority to grant an Award under this Plan, *provided* that each such officer is a member of the Board.

**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 later of (i) the Effective Date, or (ii) the most recent increase in the number of Shares reserved under Section 2 that was approved by stockholders.

**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 or Subsidiaries 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 taken as a whole 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 (i) any willful, material violation by the Participant of any law or regulation applicable to the business of the Company or a Parent or Subsidiary of the Company, 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, (ii) 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, (iii) any material breach by the Participant of any provision of any agreement or understanding between the Company or any Parent or Subsidiary of the Company 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 of the Company, 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 of the Company, 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 of the Company and the Participant, (iv) Participant’s disregard of the policies of the Company or any Parent or Subsidiary of the Company so as to cause loss, damage or injury to the property, reputation or employees of the Company or a Parent or Subsidiary of the Company, or (v) 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 of the Company.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Committee**” means the committee created and appointed by the Board to administer this Plan, or if no committee is created and appointed, the Board.

“**Common Stock**” means the Company’s Class A Common Stock, \$0.00001 par value per share, or the Company’s Class B Common Stock, \$0.00001 par value per share.

“**Company**” means Dropbox, Inc., a Delaware corporation, or any successor corporation.

“**Disability**” means a disability, whether temporary or permanent, partial or total, as determined by the Committee.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**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 determined as follows:

(a) if such Share 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 Share 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 2017 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 Class A Common Stock, \$0.00001 par value per share 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.

\* \* \* \* \*

2017 EQUITY INCENTIVE PLAN

NOTICE OF RESTRICTED STOCK UNIT AWARD

Unless otherwise defined herein, the terms defined in the Company's 2017 Equity Incentive Plan (the "**Plan**") shall have the same meanings in this Notice of Restricted Stock Unit Award ("**Notice of Grant**").

**Name:** «Name»  
**Address:** «Address1»  
«Address2»

You ("**Participant**") have been granted an award of Restricted Stock Units ("**RSUs**") under the Plan, subject to the terms and conditions of the Plan and the attached Restricted Stock Unit Agreement (hereinafter "**RSU Agreement**"), as follows:

**RSU Grant Number:** «GrantNo»  
**Total Number of RSUs:** «Shares»  
**RSU Grant Date:** «GrantDate»  
**Vesting Start Date:** «VCD»

**Expiration Date:** The earlier to occur of (a) the date on which settlement of all RSUs granted hereunder occurs and (b) the tenth anniversary of the RSU Grant Date. Notwithstanding the foregoing, this RSU expires earlier if your Continuous Service Status (defined below) terminates earlier, as described in the RSU Agreement.

**Vesting Schedule:** Subject to the limitations set forth in this Notice, the Plan and the RSU Agreement, 25% of the total number of RSUs will vest on the 12 month anniversary of the Vesting Start Date and 6.25% of the total number of RSUs will vest on each quarterly anniversary thereafter so long as your Continuous Service Status continues. "**Continuous Service Status**" means Participant continues to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary of the Company.

Participant understands that his or her employment or consulting relationship with the Company is for an unspecified duration, can be terminated at any time (*i.e.*, is "at-will"), and that nothing in this Notice of Grant, the RSU Agreement or the Plan changes the at-will nature of that relationship. Participant also understands that this Notice of Grant is subject to the terms and conditions of both the RSU Agreement and the Plan, both of which are incorporated herein by reference. Participant has read both the RSU Agreement and the Plan.

You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through an on-line or electronic system established and maintained by the Company or any third party involved in administering the Plan that the Company may designate. By your acceptance hereof (whether written, electronic or otherwise), you agree, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, you accept the electronic delivery of any documents the Company, or any third party involved in administering the Plan which the Company may designate, may deliver in connection with this grant (including the Plan, the Notice of Grant, this Agreement, 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.



By your signature and the signature of the Company's representative on the Notice of Grant, Participant and the Company agree that this RSU is granted under and governed by the terms and conditions of the Plan, the Notice of Grant and the RSU Agreement.

**PARTICIPANT**

**DROPBOX, INC.**

«NAME»

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**DROPBOX, INC.**  
**RSU AGREEMENT UNDER THE**  
**2017 EQUITY INCENTIVE PLAN**

You have been granted Restricted Stock Units (“**RSUs**”) subject to the terms, restrictions and conditions of the Company’s 2017 Equity Incentive Plan (the “**Plan**”), the Notice of Restricted Stock Unit Award (“**Notice of Grant**”) and this Agreement. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this RSU Agreement (the “**Agreement**”).

**1. Settlement.** Settlement of RSUs shall be made no later March 15 of the calendar year following the applicable date of vesting under the vesting schedule set forth in the Notice. Settlement of RSUs shall be in Shares. Settlement means the delivery of the Shares vested under an RSU. No fractional RSUs or rights for fractional Shares shall be created pursuant to this RSU Agreement.

**2. No Stockholder Rights.** Unless and until such time as Shares are issued in settlement of vested RSUs, Participant shall have no ownership of the Shares allocated to the RSUs and shall have no right to dividends or to vote such Shares.

**3. Dividend Equivalents.** Dividends, if any (whether in cash or Shares), shall not be credited to Participant, except as provided in the Plan.

**4. No Transfer.** The RSUs and any interest therein shall not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of, other than by will or by the laws of descent and distribution. Notwithstanding the foregoing, Participant may, in the manner established by the Committee, designate a beneficiary or beneficiaries to exercise the rights of Participant and receive any property distributable with respect to the RSUs upon the death of Participant. Any transferee who receives an interest in the RSU or the underlying Shares upon the death of Participant shall acknowledge in writing that the RSU shall continue to be subject to the restrictions set forth in this Section 4.

**5. Termination.** The RSUs shall terminate on the Expiration Date or earlier as provided in this Section 5. If Participant’s Continuous Service Status terminates for any reason, all RSUs for which vesting is no longer possible under the terms of the Notice of Grant and this Agreement shall be forfeited to the Company forthwith, and all rights of Participant to such RSUs shall immediately terminate. In case of any dispute as to whether such termination has occurred, the Committee shall have sole discretion to determine whether such termination has occurred and the effective date of such termination.

**6. Acknowledgement.** The Company and Participant agree that the RSUs are granted under and governed by the Notice of Grant, this Agreement and by the provisions of the Plan (incorporated herein by reference). Participant: (i) acknowledges receipt of a copy of each of the foregoing documents, (ii) represents that Participant has carefully read and is familiar with their provisions, and (iii) hereby accepts the RSUs subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice of Grant.

**7. Limitations on Transfer of Stock.** In addition to any other limitation on transfer created by applicable securities laws, Participant shall not assign, encumber or dispose of any interest in the Shares issued pursuant to this Agreement except with the Company’s prior written consent and in compliance with the provisions of Article 12 of the Plan, the Bylaws, the Company’s then current Insider Trading Policy, and applicable securities laws. The restrictions on transfer also include a prohibition on any short position, any “put equivalent position” or any “call equivalent position” by the RSU holder with respect to the RSU itself as well as any shares issuable upon settlement of the RSU prior to the settlement thereof until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.

**8. Restrictions Binding on Transferees.** All transferees of Shares or any interest therein will receive and hold such shares or interest subject to the provisions of this Agreement, including the transfer restrictions of Sections 4 and 7, and the transferee shall acknowledge such restrictions in writing. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

**9. Withholding of Tax.** When, under applicable tax laws, Participant incurs tax liability in connection with the vesting and/or settlement of the RSUs as income subject to withholding and the Participant is obligated to pay the Company the amount required to be withheld, the Committee may in its sole discretion allow Participant to satisfy the applicable tax withholding obligation by electing to have the Company withhold from the Shares to be issued in settlement of the RSUs up to the number of Shares having a fair market value on the date that the amount of tax to be withheld is to be determined equal to the amount 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 will result in adverse accounting consequences to the Company. 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 in writing in a form acceptable to the Committee.

**10. Code Section 409A.** For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a “separation from service” as defined in Section 409A of the Code and the regulations thereunder (“Section 409A”). Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Participant’s termination of employment constitute deferred compensation subject to Section 409A, and Participant is deemed at the time of such termination of employment to be a “specified employee” under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the six-month period measured from Participant’s separation from service from the Company or (ii) the date of Participant’s death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Participant including, without limitation, the additional tax for which Participant would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Participant’s termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A, the provision will be read in such a manner so that all payments hereunder comply with Section 409A. To the extent any payment under this Agreement may be classified as a “short-term deferral” within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this section are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

**11. Award Subject to Company Clawback or Recoupment.** The RSU shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant’s Continuous Service Status with the Company that is applicable to executive officers, employees, directors or other service providers of the Company, and in addition to any other remedies available under such policy and applicable law may require the cancellation of Participant’s RSU (whether vested or unvested) and the recoupment of any gains realized with respect to Participant’s RSU.

**12. Tax Consequences.** Participant acknowledges that there will be tax consequences upon vesting and/or settlement of the RSUs and/or disposition of the Shares, if any, received in connection therewith, and Participant should consult a tax adviser regarding Participant’s tax obligations prior to such settlement or disposition.

**13. Compliance with Laws and Regulations.** The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant (including any written representations, warranties and agreements as the Committee may request of Participant for compliance with Applicable Laws) with all applicable state and federal laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's securities may be listed or quoted at the time of such issuance or transfer. Participant may not be issued any Shares if such issuance would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any Shares shall relieve the Company of any liability in respect of the failure to issue or sell such shares.

**14. Legend.** The Shares issued hereunder shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan, this Agreement or the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such shares of the Company's securities are listed, and any applicable Federal or state laws, and the Committee may cause a legend or legends to be put on any such book-entries to make appropriate reference to such restrictions.

**15. Successors and Assigns.** The Company may assign any of its rights under this Agreement. 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 will be binding upon Participant and Participant's heirs, executors, administrators, legal representatives, successors and assigns.

**16. Entire Agreement; Severability.** The Plan and Notice of Grant are incorporated herein by reference. The Plan, the Notice of Grant and this Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof (including, without limitation, any commitment to make any other form of equity award (such as stock options) that may have been set forth in any employment offer letter or other agreement between the parties). 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.

**17. Market Standoff Agreement.** Participant agrees that 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, Participant will not sell or otherwise dispose of shares of the Company's capital stock without the prior written consent of the Company or such underwriters, as the case may be, for such reasonable period of time after the effective date of such registration as may be requested by such managing underwriters and subject to all restrictions as the Company or the underwriters may specify. Participant will enter into any agreement reasonably required by the underwriters to implement the foregoing.

**18. No Rights as Employee, Director or Consultant.** Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a Parent or Subsidiary of the Company, to terminate Participant's Continuous Service Status, for any reason, with or without cause.

**19. Information to Participants.** If the Company is relying on an exemption from registration under Section 12(h)-1 of the Exchange Act and such information is required to be provided by such Section 12(h)-1, the Company shall provide the information described in Rules 701(e)(3), (4), and (5) of the Securities Act by a method allowed under Section 12(h)-1 of the Exchange Act in accordance with Section 12(h)-1 of the Exchange Act, provided that Participant agrees to keep the information confidential.

**20. Delivery of Documents and Notices.** Any document relating to participating in the Plan and/or notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, with postage and fees prepaid, addressed to the other party at the e-mail address, if any, provided for Participant by the Company or at such other address as such party may designate in writing from time to time to the other party.

[End of document]

## DROPBOX, INC.

## 2008 EQUITY INCENTIVE PLAN

As Adopted on January 18, 2008

As Amended on October 29, 2008, June 10, 2011, November 10, 2011, January 13, 2012,  
April 30, 2013, February 14, 2014, May 6, 2014, January 29, 2015, May 29, 2015,  
November 5, 2015 and November 2, 2016

**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 awards of Options, Restricted Stock and Restricted Stock Units. Capitalized terms not defined in the text are defined in Section 23 hereof. 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) of the California Corporations Code ("**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 provides.

**2. SHARES SUBJECT TO THE PLAN.**

**2.1 Number of Shares Available.** Subject to Sections 2.2 and 18 hereof, the total number of Shares reserved and available for grant and issuance pursuant to this Plan will be 165,873,715 Shares. Subject to Sections 2.2, 5.10 and 12 hereof, Shares subject to Awards that are cancelled, forfeited, settled in cash, expire by their terms, used to pay withholding obligations or used to pay the exercise price of an Option will again be available for grant and issuance in connection with other Awards. 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 331,747,430 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 or similar change in the capital structure of the Company without consideration, then (i) the number of Shares reserved for issuance under this Plan, (ii) the Exercise Prices of and number of Shares subject to outstanding Options and (iii) the Purchase Prices of and number of Shares subject to other 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 of any Option may not be decreased to below the par value of the Shares.

**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 of the Company. NQSOs (as defined in Section 5 hereof), Restricted Stock Awards and RSUs (as defined in Section 7 hereof) may be granted to employees, officers, directors and consultants of the Company or any Parent or Subsidiary of the Company; provided such consultants render bona fide services not in connection with the offer and sale of securities in a capital-raising transaction. A person may be granted more than one Award under this Plan.

**4. ADMINISTRATION.**

**4.1 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 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 under this Plan or awards under any other incentive or compensation plan of the Company or any Parent or Subsidiary of the Company;

(g) grant waivers of any conditions of this Plan or any Award;

(h) determine the terms of vesting, exercisability and payment of Awards;

(i) 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;

(j) determine whether an Award has been earned;

(k) make all other determinations necessary or advisable for the administration of this Plan; and

(l) extend the vesting period beyond a Participant's Termination Date.

**4.2 Committee Discretion.** 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 (i) at the time of grant of the Award, or (ii) subject to Section 5.9 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.

**5. 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:

**5.1 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.

**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 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.

**5.3 Exercise Period.** Options may be exercisable immediately but subject to repurchase pursuant to Section 12 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 no Option will be exercisable after the expiration of ten (10) years from the date the Option is granted; and provided further that 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 Shareholder**") will be exercisable after the expiration of five (5) years from the date the ISO is granted. 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. An Option may not be exercised for a fraction of a share.

**5.4 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 unless expressly determined in writing by the Committee on the Option's date of grant; provided that the Exercise Price of an ISO will not be less than one hundred percent (100%) of the Fair Market Value of the Shares on the date of grant and (ii) the Exercise Price of an ISO granted to a Ten Percent Shareholder 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.



**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 (i) the number of Shares being purchased, (ii) the restrictions imposed on the Shares purchased under such Exercise Agreement, if any, and (iii) 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 18 and 19 hereof and notwithstanding the exercise periods set forth in the Stock Option Agreement, exercise of an Option will always be 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, 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 the Participant ceases to be an employee deemed to be an NQSO) but in any event, no later than the expiration date of the Options.

(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, 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 (i) three (3) months after the date the 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 (ii) twelve (12) months after the date the 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.

(c) 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.

**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 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 19 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.

**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.

**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.

**5.11 Information to Optionees.** If the Company is relying on the exemption from registration under Section 12(g) of the Exchange Act pursuant to Rule 12h-1(f)(1) promulgated under the Exchange Act, then the Company shall provide by physical or electronic delivery the Required Information (as defined below) in the manner required by Rule 12h-1(f)(1) to all optionees every six months until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or is no longer relying on the

exemption pursuant to Rule 12h-1(f)(1); *provided, that*, prior to receiving access to the Required Information the optionee must agree to keep the Required Information confidential pursuant to a written agreement in the form provided by the Company. For purposes of this Section 5.11, “**Required Information**” means the information described in Rules 701(e)(3), (4) and (5) under the Securities Act, with the financial statements being as of a date not more than 180 days before the sale of securities to which it relates.

**6. 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:

**6.1 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 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.

**6.2 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.

**6.3 Restrictions.** Restricted Stock Awards may be subject to the restrictions set forth in Section 12 hereof or such other restrictions not inconsistent with Section 25102(o) of the California Corporations Code.

## **7. RESTRICTED STOCK UNITS.**

**7.1 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. 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.

**7.2 Form and Timing of Settlement.** To the extent permissible under applicable law, the Committee may permit a Participant to defer payment 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. Payment may be made in the form of cash or whole Shares or a combination thereof, all as the Committee determines.

**7.3 Restrictions.** RSU Awards may be subject to the restrictions set forth in Section 12 hereof or such other restrictions not inconsistent with Section 25102(o) of the California Corporations Code.

**8. PAYMENT FOR SHARE PURCHASES.**

**8.1 Payment.** Payment for Shares purchased pursuant to this Plan may be made in cash (by check) 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: (i) either (A) 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 (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) variable accounting treatment under Financial Accounting Standards Board Interpretation No. 44 to APB No. 25; 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;

(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) with respect only to purchases upon exercise of an Option, and provided that a public market for the Company’s securities 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

(g) by any combination of the foregoing or any other method of payment approved by the Committee.

**8.2 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.

## **9. WITHHOLDING TAXES.**

**9.1 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 federal, state and local withholding tax requirements prior to the delivery of any book-entry records evidencing 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 federal, state, and local withholding tax requirements.

**9.2 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 the applicable withholding tax obligation by electing to have the Company withhold from the Shares to be issued that number of Shares having a Fair Market Value equal to the 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. All elections by a Participant to have Shares withheld 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.

**10. PRIVILEGES OF STOCK OWNERSHIP.** No Participant will have any of the rights of a stockholder with respect to any Shares until the 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 pursuant to Section 12 hereof.

**11. 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.

## **12. RESTRICTIONS ON SHARES.**

**12.1 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, provided that such right of first refusal terminates upon the Company’s initial public offering of the Company’s securities pursuant to an effective registration statement filed under the Securities Act.

**12.2 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.

**12.3 Transfer Restrictions.** Participants shall be bound by any and all restrictions on transfers of securities as set forth in the Company’s Bylaws (as may be amended from time to time), including, but not limited to, those transfer restrictions set forth in Section 6.8.

**13. ISSUANCE OF SHARES.** All Shares or other securities delivered under this Plan will be issued in book-entry form and 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.

**14. ESCROW; PLEDGE OF SHARES.** To enforce any restrictions on a Participant’s Shares set forth in Section 12 hereof, the Committee may require the Participant to deposit 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 book-entries evidencing the Shares. 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.

**15. 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. 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.

**16. 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) of the California Corporations Code. 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 if the Committee so provides. 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 any book-entry records evidencing the Shares under this Plan prior to (i) obtaining any approvals from governmental agencies that the Company determines are necessary or advisable, and/or (ii) 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.

**17. 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.

**18. CORPORATE TRANSACTIONS.**

**18.1 Assumption or Replacement of Awards by Successor or Acquiring Company.** In the event of (i) a dissolution or liquidation of the Company, (ii) 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 Shareholder (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 Shareholder; or (b) 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 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 18.1. For purposes of this Section 18.1, an “**Acquiring Shareholder**” means a stockholder or stockholders of the Company that (i) merges or combines with the Company in such combination transaction or (ii) 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) does not assume, convert replace or substitute Awards, as provided above, pursuant to a transaction described in this Section 18.1, then notwithstanding any other provision in this Plan to the contrary, the vesting of such Awards will accelerate and the Options will become exercisable in full prior to the consummation of such event at such times and on such conditions as the Committee determines, and all Options that are not exercised prior to the consummation of the corporation transaction and all other Awards, shall terminate in accordance with the provisions of the Plan.

**18.2 Other Treatment of Awards.** Subject to any greater rights granted to Participants under the foregoing provisions of this Section 18, in the event of the occurrence of any transaction described in Section 18.1 hereof, any outstanding Awards will be treated as provided in the applicable agreement or plan of reorganization, merger, consolidation, dissolution, liquidation or sale of assets.

**18.3 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 (i) granting an Award under this Plan in substitution of such other company’s award or (ii) 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 option 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 rather than assuming an existing option, such new Option may be granted with a similarly adjusted Exercise Price.

**19. 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: (i) no Option may be exercised prior to initial stockholder approval of this Plan; (ii) no Option 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; (iii) 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 (iv) 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.

**20. TERM OF PLAN/GOVERNING LAW.** Unless earlier terminated as provided herein, this Plan will automatically terminate ten (10) years after the later of (i) the Effective Date, or (ii) the most recent increase in the number of Shares reserved under Section 2 that was approved by stockholders. This Plan and all agreements hereunder shall be governed by and construed in accordance with the laws of the State of California.

**21. 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) of the California Corporations Code or the Code or the regulations promulgated thereunder 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.

**22. 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.

**23. DEFINITIONS.** As used in this Plan, the following terms will have the following meanings:

“**Award**” means any award under this Plan, including any Option, RSU 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, including the Stock Option Agreement, Restricted Stock Agreement, and Restricted Stock Unit Agreement, which may be executed via written or electronic means.

“**Board**” means the Board of Directors of the Company.

“**Cause**” means Termination because of (i) any willful, material violation by the Participant of any law or regulation applicable to the business of the Company or a Parent or Subsidiary of the Company, 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, (ii) 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, (iii) any material breach by the Participant of any provision of any agreement or understanding between the Company or any Parent or Subsidiary of the Company 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 of the Company, 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 of the Company, 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 of the Company and the Participant, (iv) Participant’s disregard of the policies of the Company or any Parent or Subsidiary of the Company so as to cause loss, damage or injury to the property, reputation or employees of the Company or a Parent or Subsidiary of the Company, or (v) 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 of the Company.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Committee**” means the committee created and appointed by the Board to administer this Plan, or if no committee is created and appointed, the Board.

“**Common Stock**” means the Class B Common Stock, \$0.00001 par value per share, of the Company.

“**Company**” means Dropbox, Inc., or any successor corporation.

**“Disability”** means a disability, whether temporary or permanent, partial or total, as determined by the Committee.

**“Exchange Act”** means the Securities Exchange Act of 1934, as amended.

**“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 the Company’s Class A Common Stock is then publicly traded on a national securities exchange, the Fair Market Value of the Common Stock will be equal to the closing price of such Class A Common Stock on the date of determination on the principal national securities exchange on which the Class A Common Stock is listed or admitted to trading as reported in The Wall Street Journal;

(b) if the Company’s Class A 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 Fair Market Value of the Common Stock will be equal to the average of the closing bid and asked prices of such Class A Common Stock 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, 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 Dropbox, Inc. 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 of Shares pursuant to Section 6 hereof.

“**Restricted Stock Unit**” or “**RSU**” means an award made pursuant to Section 7 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 reserved for issuance under this Plan, as adjusted pursuant to Sections 2 and 18 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.

“**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 in the case of (i) sick leave, (ii) military leave, or (iii) any other leave of absence approved by the Committee, provided that such leave is for a period of not more than ninety (90) days (a) unless 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 (b) unless 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 (i) sick leave, (ii) military leave or (iii) 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 of the Company 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.

**DROPBOX, INC.**

**2008 EQUITY INCENTIVE PLAN**

**STOCK OPTION AGREEMENT**

This Stock Option Agreement (the "*Agreement*") is made and entered into as of the date of grant set forth below (the "*Date of Grant*") by and between Dropbox, Inc., a Delaware corporation (the "*Company*"), and the participant named below (the "*Participant*"). Capitalized terms not defined herein shall have the meaning ascribed to them in the Company's 2008 Equity Incentive Plan (the "*Plan*").

**Grant Number:** \_\_\_\_\_  
**Participant:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Total Option Shares:** \_\_\_\_\_  
**Exercise Price Per Share:** \$ \_\_\_\_\_  
**Date of Grant:** \_\_\_\_\_  
**First Vesting Date:** \_\_\_\_\_  
**Expiration Date:** \_\_\_\_\_

(unless earlier terminated under Section 5.6 of the Plan)

**Type of Stock Option**  
**(Check one):**                     **Incentive Stock Option**  
    **Nonqualified Stock Option**

**1. Grant of Option.** The Company hereby grants to Participant an option (this "*Option*") to purchase the total number of shares of Common Stock of the Company set forth above as Total Option Shares (the "*Shares*") at the Exercise Price Per Share set forth above (the "*Exercise Price*"), subject to all of the terms and conditions of this Agreement and the Plan. If designated as an Incentive Stock Option above, the 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*").

**2. Exercise Period.**

**2.1 Exercise Period of Option.** This Option is immediately exercisable although the Shares issued upon exercise of the Option will be subject to the restrictions on transfer and Repurchase Options set forth in Sections 7, 8 and 9 below. Provided Participant continues to provide services to the Company or to any Parent or Subsidiary of the Company, the Shares issuable upon exercise of this Option will become vested with respect to % of the Shares on the First Vesting Date set forth on the first page of this Agreement (the "*First Vesting Date*") and thereafter on the corresponding day of the month as the First Vesting Date an additional of the Shares will become vested (or if there is no such day in any month, then the last day of such calendar month) until the Shares are vested with respect to all of

the Shares. Unvested Shares may not be sold or otherwise transferred by Participant without the Company's prior written consent. Notwithstanding any provision in the Plan or this Agreement to the contrary, Options for Unvested Shares (as defined in Section 2.2 of this Agreement) will not be exercisable on or after Participant's Termination Date. Participant agrees and acknowledges that the vesting schedule set forth in this Section 2.1 may change prospectively in the event that Participant's service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards.

2.2 Vesting of Options. Shares that are vested pursuant to the schedule set forth in Section 2.1 are "**Vested Shares**." Shares that are not vested pursuant to the schedule set forth in Section 2.1 are "**Unvested Shares**."

2.3 Expiration. The Option shall expire on the Expiration Date set forth above 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, then (a) on and after Participant's Termination Date, the Option shall expire immediately with respect to any Shares that are Unvested Shares and (b) the Option, to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Participant's Termination Date, may be exercised by Participant no later than three (3) 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) then (a) on and after Participant's Termination Date, the Option shall expire immediately with respect to any Shares that are Unvested Shares and (b) the Option, to the extent that it is exercisable with respect to Vested Shares 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 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 (ii) 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, is deemed to be an NQSO.

3.3 Termination 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. On and after Participant's Termination Date, the Option shall expire immediately with respect to any Shares that are Unvested Shares.

3.4 No Obligation to Employ. Nothing in the Plan or this 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 this 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 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**"), deliver payment for the shares being purchased in accordance with this Agreement and satisfy any applicable federal, state and local withholding obligations of the Company. The Exercise Agreement 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) provided that a public market for the Company's securities exists: (i) through a "same day sale" commitment from Participant and a broker-dealer that is a member of the National Association of Securities Dealers (an "**NASD Dealer**") whereby Participant irrevocably elects to exercise the Option and to sell a portion of the Shares so purchased sufficient to pay for 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 Participant and an NASD Dealer whereby 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;

- (d) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;
- (e) any other form of consideration approved by the Committee; or
- (f) 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 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; 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 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 in book-entry form, registered in the name of Participant, Participant's authorized assignee, or Participant's legal representative, and upon request from the Participant, shall deliver book-entry records evidencing 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.** The Plan and this Agreement are intended to comply with Section 25102(o) of the California Corporations Code and any regulations relating thereto. Any provision of this Agreement which is inconsistent with Section 25102(o) or any regulations relating thereto shall, without further act or amendment by the Company or the Board, be reformed to comply with the requirements of Section 25102(o) and any regulations relating thereto. 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 securities 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 “immediate family” as that term is defined in 17 C.F.R. 240.16a-1(e), 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.** Unvested Shares may not be sold or otherwise transferred by Participant without the Company’s prior written consent. 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. Tax Consequences.** Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal and California 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 or California 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 and California 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 and California 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 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. 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. Transfer Restrictions**. Participant hereby agrees to be bound by any and all restrictions on transfers of securities as set forth in the Company's Bylaws (as may be amended from time to time), including, but not limited to, those transfer restrictions set forth in Section 6.8.

**12. 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.

**13. 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.

**14. Entire Agreement.** The Plan is incorporated herein by reference. This Agreement and the Plan 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, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.

**15. 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.

All notices for delivery outside the United States will be sent by facsimile or by express courier. All notices not delivered personally or by facsimile will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or facsimile number set forth below the signature lines of this Agreement, 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. Notices to the Company will be marked "Attention: President". Notices by facsimile shall be machine verified as received.

**16. Successors and Assigns.** The Company may assign any of its rights under this Agreement including its rights to purchase Shares under the Repurchase Option and the Right of First Refusal. No other party to this Agreement 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 set forth herein, this Agreement shall be binding upon Participant and Participant's heirs, executors, administrators, legal representatives, successors and assigns.

**17. Governing Law.** This 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.

**18. Acceptance.** Participant hereby acknowledges receipt of a copy of the Plan and this 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 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.

**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.

**23. Facsimile Signatures.** 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. The original signature copy shall be delivered to the other party by express overnight delivery. The failure to deliver the original signature copy and/or the nonreceipt of the original signature copy shall have no effect upon the binding and enforceable nature of this Agreement.

[Signature Page follows]

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed in triplicate by its duly authorized representative and Participant has executed this Agreement in triplicate, effective as of the Date of Grant.

**DROPBOX, INC.**

By: /s/ Ramsey Homsany

Ramsey Homsany  
(Please print name)

General Counsel  
(Please print title)

Address: 185 Berry Street, Suite 400

San Francisco, CA 94107

Phone No.: \_\_\_\_\_

**PARTICIPANT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Please print name)

Address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_

Email: \_\_\_\_\_

**DROPBOX, INC.**  
**2008 EQUITY INCENTIVE PLAN**  
**STOCK OPTION AGREEMENT**

This Stock Option Agreement (the "**Agreement**") is made and entered into as of the date of grant set forth below (the "**Date of Grant**") by and between Dropbox, Inc., a Delaware corporation (the "**Company**"), and the participant named below (the "**Participant**"). Capitalized terms not defined herein shall have the meaning ascribed to them in the Company's 2008 Equity Incentive Plan (the "**Plan**").

**Grant Number:** \_\_\_\_\_

**Participant:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Total Option Shares:** \_\_\_\_\_

**Exercise Price Per Share:** \$ \_\_\_\_\_

**Date of Grant:** \_\_\_\_\_

**Vesting Commencement Date:** \_\_\_\_\_

**Expiration Date:** \_\_\_\_\_  
(unless earlier terminated under Section 5.6 of the Plan)

**Type of Stock Option**  
**(Check one):**  **Incentive Stock Option**  
 **Nonqualified Stock Option**

**1. GRANT OF OPTION.** The Company hereby grants to Participant an option (this "**Option**") to purchase the total number of shares of Common Stock of the Company set forth above as Total Option Shares (the "**Shares**") at the Exercise Price Per Share set forth above (the "**Exercise Price**"), subject to all of the terms and conditions of this Agreement and the Plan. If designated as an Incentive Stock Option above, the 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**").

**2. EXERCISE PERIOD.**

**2.1 Exercise Period of Option.** Provided Participant continues to provide services to the Company or any Subsidiary or Parent of the Company, the Option will become vested and exercisable as to portions of the Shares as follows: Twenty-five percent (25%) of the Shares subject to this Option shall vest on the one (1) year anniversary of the Vesting

Commencement Date set forth on the first page of this Agreement (the “**Vesting Commencement Date**”) and an additional one forty-eighth (1/48<sup>th</sup>) of the Shares subject to this Option shall vest each month thereafter on the corresponding day of the month as the Vesting Commencement Date (or if there is no such day in any month, then the last day of such calendar month), until the Shares are vested with respect to one hundred percent (100%) of the Shares. Participant agrees and acknowledges that the vesting schedule set forth in this Section 2.1 may change prospectively in the event that Participant’s service status changes between full and part time status in accordance with Company policies relating to work schedules and vesting of equity awards.

**2.2 Vesting of Options.** Shares that are vested pursuant to the schedule set forth in Section 2.1 are “**Vested Shares.**” Shares that are not vested pursuant to the schedule set forth in Section 2.1 are “**Unvested Shares.**”

**2.3 Expiration.** The Option shall expire on the Expiration Date set forth above 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, then (a) on and after Participant’s Termination Date, the Option shall expire immediately with respect to any Shares that are Unvested Shares and (b) the Option, to the extent (and only to the extent) that it is exercisable with respect to Vested Shares on Participant’s Termination Date, may be exercised by Participant no later than three (3) 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) then (a) on and after Participant’s Termination Date, the Option shall expire immediately with respect to any Shares that are Unvested Shares and (b) the Option, to the extent that it is exercisable with respect to Vested Shares 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 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 (ii) 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, is deemed to be an NQSO.

**3.3 Termination 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. On and after Participant’s Termination Date, the Option shall expire immediately with respect to any Shares that are Unvested Shares.

**3.4 No Obligation to Employ.** Nothing in the Plan or this 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 this 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 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**"), deliver payment for the shares being purchased in accordance with this Agreement and satisfy any applicable federal, state and local withholding obligations of the Company. The Exercise Agreement 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) provided that a public market for the Company's securities exists: (i) through a "same day sale" commitment from Participant and a broker-dealer that is a member of the National Association of Securities Dealers (an "**NASD Dealer**") whereby Participant irrevocably elects to exercise the Option and to sell a portion of the Shares so purchased sufficient to pay for 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 Participant and an NASD Dealer whereby 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;



(d) by participating in a formal cashless exercise program implemented by the Committee in connection with the Plan;

(e) any other form of consideration approved by the Committee; or

(f) 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 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; 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 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.

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**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.** The Plan and this Agreement are intended to comply with Section 25102(o) of the California Corporations Code and any regulations relating thereto. Any provision of this Agreement which is inconsistent with Section 25102(o) or any regulations relating thereto shall, without further act or amendment by the Company or the Board, be reformed to comply with the requirements of Section 25102(o) and any regulations relating thereto. 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 securities 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 “immediate family” as that term is defined in 17 C.F.R. 240.16a-1(e), 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 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.

**9. TAX CONSEQUENCES.** Set forth below is a brief summary as of the Effective Date of the Plan of some of the federal and California 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.

**9.1 Exercise of ISO.** If the Option qualifies as an ISO, there will be no regular federal or California 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.

**9.2 Exercise of Nonqualified Stock Option.** If the Option does not qualify as an ISO, there may be a regular federal and California 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.

**9.3 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 the transfer 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 and California 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) 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 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 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. TRANSFER RESTRICTIONS.** Participant hereby agrees to be bound by any and all restrictions on transfers of securities as set forth in the Company's Bylaws (as may be amended from time to time), including, but not limited to, those transfer restrictions set forth in Section 6.8.

**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 Agreement and the Plan 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, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.

**14. 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.

All notices for delivery outside the United States will be sent by facsimile or by express courier. All notices not delivered personally or by facsimile will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or facsimile number set forth below the signature lines of this Agreement, 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. Notices to the Company will be marked "Attention: President". Notices by facsimile shall be machine verified as received.

**15. 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. No other party to this Agreement 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 set forth herein, this Agreement shall be binding upon Participant and Participant's heirs, executors, administrators, legal representatives, successors and assigns.

**16. GOVERNING LAW.** This 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. ACCEPTANCE.** Participant hereby acknowledges receipt of a copy of the Plan and this 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 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.

**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 Agreement.

**19. 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.

**20. 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.

**21. 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.

**22. FACSIMILE SIGNATURES.** 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.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized representative and Participant has executed this Agreement, effective as of the Date of Grant.

**DROPBOX, INC.**

By: /s/ Ramsey Homsany

Ramsey Homsany  
(Please print name)

General Counsel  
(Please print title)

Address: 185 Berry Street, Suite 400  
San Francisco, CA 94107  
Phone No.: \_\_\_\_\_

**PARTICIPANT**

\_\_\_\_\_  
Signature

«Name»  
(Please print name)

Address: «Address1»  
«Address2»  
Phone No.: \_\_\_\_\_  
Email: \_\_\_\_\_

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**EXHIBIT A**

**FORM OF STOCK OPTION EXERCISE AGREEMENT**

DROPBOX, INC.

2008 EQUITY INCENTIVE PLAN

STOCK OPTION EXERCISE AGREEMENT

This Stock Option Exercise Agreement (the "Exercise Agreement") is made and entered into as of , 20 (the "Effective Date") by and between Dropbox, Inc., a Delaware corporation (the "Company"), and the purchaser named below (the "Purchaser"). Capitalized terms not defined herein shall have the meanings ascribed to them in the Company's 2008 Equity Incentive Plan (the "Plan").

Purchaser: \_\_\_\_\_

Taxpayer ID: \_\_\_\_\_

Address: \_\_\_\_\_

Total Number of Shares: \_\_\_\_\_

Exercise Price Per Share: \_\_\_\_\_

Date of Grant: \_\_\_\_\_

Vesting Commencement Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

(Unless earlier terminated under Section 5.6 of the Plan)

Type of Stock Option

- (Check one): [ ] Incentive Stock Option [ ] Nonqualified Stock Option

1. Exercise of Option.

1.1 Exercise. Pursuant to exercise of that certain option (the "Option") granted to Purchaser under the Plan and subject to the terms and conditions of this Exercise Agreement, Purchaser hereby purchases from the Company, and the Company hereby sells to Purchaser, the Total Number of Shares set forth above (the "Shares") of the Company's Common Stock at the Exercise Price Per Share set forth above (the "Exercise Price"). As used in this Exercise Agreement, the term "Shares" refers to the Shares purchased under 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.



1.2 Title to Shares. The exact spelling of the name(s) under which Purchaser will take title to the Shares is:

[Name]

To assign the Shares to a trust, a stock transfer agreement in the form provided by the Company (the “**Stock Transfer Agreement**”) must be completed and executed.

1.3 Payment. Purchaser hereby delivers payment of the Exercise Price in the manner permitted in the Stock Option Agreement 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 \$ \_\_\_\_\_.

## 2. Delivery.

2.1 Deliveries by Purchaser. Purchaser hereby delivers to the Company (i) this Exercise Agreement, (ii) two (2) copies of a blank Stock Power and Assignment Separate from Stock Certificate in the form of Exhibit 1 attached hereto (the “**Stock Powers**”), both executed by Purchaser (and Purchaser’s spouse, if any) and (iii) the Exercise Price and payment or other provision for any applicable tax obligations in the form of a wire, a copy of which is attached hereto as Exhibit 2.

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 Purchaser to the Company under Section 2.1, the Company will issue the Shares in book-entry form in the name of Purchaser subject to the Company’s Repurchase Option and Right of First Refusal described in Sections 8, 9 and 10.

## 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 Stock Option Agreement 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.

3.6 Spouse Consent. If Purchaser is married, Purchaser agrees to seek the consent of Purchaser's spouse to the extent required by the Company to enforce the terms and conditions of the Plan, the Stock Option Agreement and this Exercise Agreement.

#### **4. Compliance with Securities Laws.**

4.1 Compliance with U.S. Federal Securities Laws. 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.

4.2 Compliance with California Securities Laws. *THE PLAN, THE STOCK OPTION AGREEMENT, AND THIS EXERCISE AGREEMENT ARE INTENDED TO COMPLY WITH SECTION 25102(o) OF THE CALIFORNIA CORPORATIONS CODE AND ANY RULES (INCLUDING COMMISSIONER RULES, IF APPLICABLE) OR REGULATIONS PROMULGATED THEREUNDER BY THE CALIFORNIA DEPARTMENT OF CORPORATIONS (THE "REGULATIONS"). ANY PROVISION OF THIS EXERCISE AGREEMENT THAT IS INCONSISTENT WITH SECTION 25102(o) SHALL, WITHOUT FURTHER ACT OR AMENDMENT BY THE COMPANY OR THE BOARD, BE REFORMED TO COMPLY WITH THE REQUIREMENTS OF SECTION 25102(o). 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 the Company’s securities 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 4.2 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 Repurchase Option or the Company's Right of First Refusal 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) 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 7 hereof, to the same extent such Shares would be so subject if retained by the Purchaser.

6.4 Additional Transfer Restrictions. Purchaser hereby agrees to be bound by any and all restrictions on transfers of securities as set forth in the Company's Bylaws (as may be amended from time to time), including, but not limited to, those transfer restrictions set forth in Section 6.8.

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 of the Company's capital stock 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 Purchaser's Unvested Shares (as defined in the Stock Option Agreement and determined as of the date on which the Company's option is to be exercised) 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 Purchaser's 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 Purchaser's spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of the Purchaser or the 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 Participant 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 the Company's securities 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 securities 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 the 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.

11. **Escrow.** As security for Purchaser's faithful performance of this Exercise Agreement, Purchaser agrees to deliver 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 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 Stock Powers will be released from escrow upon termination of both the Repurchase Option and the 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 book-entries 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:

*THESE SECURITIES 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 INCLUDING, BUT NOT LIMITED TO, RESTRICTIONS ON TRANSFERABILITY AND RESALE SET FORTH IN THE COMPANY'S BYLAWS, 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) AND THE COMPANY'S GOVERNING DOCUMENTS. 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.*

*THESE SHARES ARE SUBJECT TO CERTAIN RESTRICTIONS ON PUBLIC RESALE AND TRANSFER, INCLUDING THE RIGHT OF 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 RIGHT OF REPURCHASE AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.*

*THESE SHARES 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 SECURITIES 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 and California 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 or California 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 and a California 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 federal and California 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 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 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. A form of Election under Section 83(b) is attached hereto as **Exhibit 3** for reference.

**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 securities 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 the 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) 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.

All notices for delivery outside the United States will be sent by facsimile or by express courier. All notices not delivered personally or by facsimile will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or facsimile number set forth below the signature lines of this Exercise Agreement, 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. Notices to the Company will be marked "Attention: President". Notices by facsimile shall be machine verified as received.

**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 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. Counterparts.** This Exercise 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 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.

**23. Facsimile Signatures.** This Exercise 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.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Company has caused this Exercise Agreement to be executed in triplicate by its duly authorized representative and Purchaser has executed this Exercise Agreement in triplicate as of the Effective Date, indicated above.

**DROPBOX, INC.**

**PURCHASER**

By: /s/ Ramsey Homsany

\_\_\_\_\_

Ramsey Homsany  
(Please print name)

(Signature)

General Counsel  
(Please print title)

\_\_\_\_\_

(Please print name)

Address: \_\_\_\_\_

Address: \_\_\_\_\_

185 Berry Street, Suite 400

\_\_\_\_\_

San Francisco, CA 94107

Phone No.: \_\_\_\_\_

**List of Exhibits**

Exhibit 1: Stock Power and Assignment Separate from Stock Certificate

Exhibit 2: Copy of Purchaser's Check

Exhibit 3: Section 83(b) Election

*[Signature page to Dropbox, Inc. Stock Option Exercise Agreement]*

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**EXHIBIT 1**

**STOCK POWER AND ASSIGNMENT**

**SEPARATE FROM STOCK CERTIFICATE**

**Stock Power and Assignment**  
**Separate from Stock Certificate**

FOR VALUE RECEIVED and pursuant to that certain Stock Option Exercise Agreement No. \_\_\_\_\_ dated as of \_\_\_\_\_, 20\_\_\_\_ (the “*Agreement*”), the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_, \_\_\_\_\_ shares of the Common Stock of Dropbox, Inc., a Delaware corporation (the “*Company*”), standing in the undersigned’s name on the books of the Company represented by book-entry record no(s) \_\_\_\_\_, 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: \_\_\_\_\_, 20\_\_\_\_

**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 and to exercise its “Repurchase Option” and/or “Right of First Refusal” set forth in the Exercise Agreement without requiring additional signatures on the part of the Purchaser or Purchaser’s Spouse.

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**EXHIBIT 2**

**COPY OF PURCHASER'S CHECK**

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**EXHIBIT 3**

**SECTION 83(b) ELECTION**



**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 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: \_\_\_\_\_
2. TAXPAYER'S ADDRESS: \_\_\_\_\_
3. SOCIAL SECURITY NUMBER: \_\_\_\_\_
4. The property with respect to which the election is made is described as follows: \_\_\_\_\_ shares of Class B Common Stock of Dropbox, 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.
5. The date on which the shares were transferred pursuant to the exercise of the option was \_\_\_\_\_, 20\_\_\_\_ and this election is made for calendar year 20\_\_\_\_.
6. 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.
7. The fair market value of the shares (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 = \$ \_\_\_\_\_.
8. The amount paid for such shares upon exercise of the option was \$ \_\_\_\_\_ per share x \_\_\_\_\_ shares = \$ \_\_\_\_\_.
9. The Taxpayer has submitted a copy of this statement to the Company.
10. The amount to include in the Taxpayer's gross income for the Taxpayer's current taxable year is \$ \_\_\_\_\_.

*THIS ELECTION MUST BE FILED WITH THE INTERNAL REVENUE SERVICE ("IRS"), AT THE OFFICE WHERE THE TAXPAYER FILES ANNUAL INCOME TAX RETURNS, WITHIN 30 DAYS AFTER THE DATE OF TRANSFER OF THE SHARES, AND MUST ALSO BE FILED WITH THE TAXPAYER'S INCOME TAX RETURNS FOR THE CALENDAR YEAR. THE ELECTION CANNOT BE REVOKED WITHOUT THE CONSENT OF THE IRS.*

Dated: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Taxpayer Signature)

## DROPOX, INC.

## 2008 EQUITY INCENTIVE PLAN

## STOCK OPTION EXERCISE AGREEMENT

This Stock Option Exercise Agreement (the “*Exercise Agreement*”) is made and entered into as of \_\_\_\_\_, (the “*Effective Date*”) by and between Dropbox, Inc., a Delaware corporation (the “*Company*”), and the purchaser named below (the “*Purchaser*”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Company’s 2008 Equity Incentive Plan (the “*Plan*”).

**Purchaser:** \_\_\_\_\_ «Name»

**Taxpayer ID:** \_\_\_\_\_ «SSN»

**Address:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Total Number of Shares:** \_\_\_\_\_

**Exercise Price Per Share:** \_\_\_\_\_ «ExPrice»

**Date of Grant:** \_\_\_\_\_ «GrantDate»

**Vesting Commencement Date:** \_\_\_\_\_ «VCD»

**Expiration Date:** \_\_\_\_\_ «ExpDate»  
 (Unless earlier terminated under Section 5.6 of the Plan)

**Type of Stock Option**

(Check one):  Incentive Stock Option  
 Nonqualified Stock Option

**1. Exercise of Option.**

1.1 Exercise. Pursuant to exercise of that certain option (the “*Option*”) granted to Purchaser under the Plan and subject to the terms and conditions of this Exercise Agreement, Purchaser hereby purchases from the Company, and the Company hereby sells to Purchaser, the Total Number of Shares set forth above (the “*Shares*”) of the Company’s Common Stock at the Exercise Price Per Share set forth above (the “*Exercise Price*”). As used in this Exercise Agreement, the term “*Shares*” refers to the Shares purchased under 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.

1.2 Title to Shares. The exact spelling of the name(s) under which Purchaser will take title to the Shares is:

To assign the Shares to a trust, a stock transfer agreement in the form provided by the Company (the “**Stock Transfer Agreement**”) must be completed and executed.

1.3 Payment. Purchaser hereby delivers payment of the Exercise Price in the manner permitted in the Stock Option Agreement 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 \$ \_\_\_\_\_; or

by any combination of the foregoing.

## 2. Delivery.

2.1 Deliveries by Purchaser. Purchaser hereby delivers to the Company (i) this Exercise Agreement, (ii) two (2) copies of a blank Stock Power and Assignment Separate from Stock Certificate in the form of Exhibit 1 attached hereto (the “**Stock Powers**”), both executed by Purchaser (and Purchaser’s spouse, if any) and (iii) the Exercise Price and payment or other provision for any applicable tax obligations in the form of check, a copy of which is attached hereto as Exhibit 2.

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 Purchaser to the Company under Section 2.1, the Company will issue the Shares in book-entry form in the name of Purchaser subject to the Company’s Right of First Refusal described in Sections 8, 9 and 10.

## 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 Stock Option Agreement 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.

3.6 Spouse Consent. If Purchaser is married, Purchaser agrees to seek the consent of Purchaser's spouse to the extent required by the Company to enforce the terms and conditions of the Plan, the Stock Option Agreement and this Exercise Agreement.

#### **4. Compliance with Securities Laws.**

4.1 Compliance with U.S. Federal Securities Laws. 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.

4.2 Compliance with California Securities Laws. *THE PLAN, THE STOCK OPTION AGREEMENT, AND THIS EXERCISE AGREEMENT ARE INTENDED TO COMPLY WITH SECTION 25102(o) OF THE CALIFORNIA CORPORATIONS CODE AND ANY RULES (INCLUDING COMMISSIONER RULES, IF APPLICABLE) OR REGULATIONS PROMULGATED THEREUNDER BY THE CALIFORNIA DEPARTMENT OF CORPORATIONS (THE "REGULATIONS"). ANY PROVISION OF THIS EXERCISE AGREEMENT THAT IS INCONSISTENT WITH SECTION 25102(o) SHALL, WITHOUT FURTHER ACT OR AMENDMENT BY THE COMPANY OR THE BOARD, BE REFORMED TO COMPLY WITH THE REQUIREMENTS OF SECTION 25102(o). 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*

**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 the Company’s securities 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 4.2 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 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.

6.4 Additional Transfer Restrictions. Purchaser hereby agrees to be bound by any and all restrictions on transfers of securities as set forth in the Company's Bylaws (as may be amended from time to time), including, but not limited to, those transfer restrictions set forth in Section 6.8.

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 of the Company's capital stock 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 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**").

8.1 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.

8.2 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.

8.3 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.

8.4 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.

8.5 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.

8.6 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 Purchaser’s spouse, the lineal descendant or antecedent, father, mother, brother or sister, child, adopted child, grandchild or adopted grandchild of the Purchaser or the 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 Participant 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.

8.7 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 the Company’s securities 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 securities 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.

8.8 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.

9. 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 Right of First Refusal. Upon an exercise of the 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.



**10. Escrow.** As security for Purchaser's faithful performance of this Exercise Agreement, Purchaser agrees to deliver 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 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 Stock Powers will be released from escrow upon termination of the Right of First Refusal.

**11. Restrictive Legends and Stop-Transfer Orders.**

11.1 Legends. Purchaser understands and agrees that the Company will place the legends set forth below or similar legends on any book-entries 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:

*THESE SECURITIES 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 INCLUDING, BUT NOT LIMITED TO, RESTRICTIONS ON TRANSFERABILITY AND RESALE SET FORTH IN THE COMPANY'S BYLAWS, 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) AND THE COMPANY'S GOVERNING DOCUMENTS. 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.*

*THESE SHARES ARE SUBJECT TO CERTAIN RESTRICTIONS ON PUBLIC RESALE AND TRANSFER, INCLUDING THE 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 RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.*

*THESE SHARES 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 SECURITIES OF THE ISSUER HEREOF. SUCH RESTRICTION IS BINDING ON TRANSFEREES OF THESE SHARES.*

11.2 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.

11.3 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.

**12. 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.* 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 and California 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.*

12.1 Exercise of Incentive Stock Option. If the Option qualifies as an ISO, there will be no regular U.S. Federal income tax liability or California 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.

12.2 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 and a California 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.

12.3 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 the transfer 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 and California 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 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 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. 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 securities may be listed or quoted at the time of such issuance or transfer.

**14. 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 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.

**15. 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.

**16. 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) 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.

All notices for delivery outside the United States will be sent by facsimile or by express courier. All notices not delivered personally or by facsimile will be sent with postage and/or other charges prepaid and properly addressed to the party to be notified at the address or facsimile number set forth below the signature lines of this Exercise Agreement, 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. Notices to the Company will be marked "Attention: President". Notices by facsimile shall be machine verified as received.

**17. 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.

**18. 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.

**19. Entire Agreement.** The Plan, the Stock Option Agreement 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.

**20. Counterparts.** This Exercise 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.

**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.

**22. Facsimile Signatures.** 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 Exercise Agreement to be executed in triplicate by its duly authorized representative and Purchaser has executed this Exercise Agreement in triplicate as of the Effective Date, indicated above.

**DROPBOX, INC.**

**PURCHASER**

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Ramsey Homsany  
\_\_\_\_\_  
(Please print name)

«Name»  
\_\_\_\_\_  
(Please print name)

General Counsel  
\_\_\_\_\_  
(Please print title)

Address:

Address:

185 Berry Street, Suite 400  
\_\_\_\_\_

\_\_\_\_\_

San Francisco, CA 94104  
\_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_

Email: «Email» \_\_\_\_\_

Phone No.: \_\_\_\_\_

**List of Exhibits**

- Exhibit 1: Stock Power and Assignment Separate from Stock Certificate
- Exhibit 2: Copy of Purchaser's Check

**[Signature page to Dropbox, Inc. Stock Option Exercise Agreement]**

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**EXHIBIT 1**

**STOCK POWER AND ASSIGNMENT**  
**SEPARATE FROM STOCK CERTIFICATE**

**Stock Power and Assignment**  
**Separate from Stock Certificate**

FOR VALUE RECEIVED and pursuant to that certain Stock Option Exercise Agreement No. «GrantNo» dated as of \_\_\_\_\_, (the “**Agreement**”), the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_, \_\_\_\_\_ shares of the Common Stock of Dropbox, Inc., a Delaware corporation (the “**Company**”), standing in the undersigned’s name on the books of the Company represented by book-entry record no(s). \_\_\_\_\_, 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**

«Name» \_\_\_\_\_  
(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 to exercise its “Right of First Refusal” set forth in the Exercise Agreement without requiring additional signatures on the part of the Purchaser or Purchaser’s Spouse.

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**EXHIBIT 2**

**COPY OF PURCHASER'S CHECK**



**DROPBOX, INC.**

**2008 EQUITY INCENTIVE PLAN**

**NOTICE OF RESTRICTED STOCK UNIT AWARD**

Terms defined in the Company's 2008 Equity Incentive Plan (the "**Plan**") shall have the same meanings in this Notice of Restricted Stock Unit Award ("**Notice of Grant**").

**Name:** «Name»  
**Address:** «Address1»  
«Address2»

You ("**Participant**") have been granted an award of Restricted Stock Units ("**RSUs**"), subject to the terms and conditions of the Plan and the attached Restricted Stock Unit Agreement (hereinafter "**RSU Agreement**") under the Plan, as follows:

**RSU Grant Number:** «GrantNo»  
**Total Number of RSUs:** «Shares»  
**RSU Grant Date:** «GrantDate»  
**Vesting Start Date:** «VCD»  
**Expiration Date:** The earlier to occur of: (a) the date on which settlement of all vested RSUs granted hereunder occurs and (b) the tenth anniversary of the Grant Date.

**Vesting: (a)** No RSUs will vest until the earlier to occur of: (i) the date that is the earlier of (x) six (6) months after the effective date of an initial public offering of the Company's securities ("**IPO**") or (y) March 15 of the calendar year following the year in which the IPO was declared effective; and (ii) the date of a Change in Control; (the earlier of the foregoing (i) and (ii) being the "**Initial Vesting Event**").

**(b)** The number of RSUs that vest on the Initial Vesting Event shall be calculated as follows: (i) If Participant has been in Continuous Service Status for at least one year from the Vesting Start Date, the number of RSUs that shall vest on the Initial Vesting Event shall be equal to the product obtained by multiplying the "Total Number of RSUs" identified above by a fraction, the numerator of which is the number of monthly anniversaries from the Vesting Start Date on which the Participant was in Continuous Service Status through the date of the Initial Vesting Event and the denominator of which is forty-eight (48); and (ii) If Participant has not been in Continuous Service Status for at least one year from the Vesting Start Date, then the number of vested RSUs on the date of the Initial Vesting Event shall be zero. If Participant is not in Continuous Service Status on the date of the Initial Vesting Event but had completed one year from the Vesting Start Date, then the number of RSUs that shall vest on the Initial Vesting Event shall be equal to the product obtained by multiplying the "Total Number of RSUs" identified above by a fraction, the numerator of which is the number of monthly anniversaries from the Vesting Start Date until the date on which the Participant ceased Continuous Service Status and the denominator of which is forty-eight (48).

**(c)** If Participant is in Continuous Service Status on the date of the Initial Vesting Event, then with respect to RSUs that have not vested as of such Initial Vesting Event, vesting shall be determined as follows (each vesting date under either of the following (i) or (ii) being a "**Subsequent Vesting Event**"): (i) If Participant has not been in Continuous Service Status for at least one year from the Vesting Start Date at the time of the Initial Vesting Event, then on the first anniversary of the Vesting Start Date, twenty-five percent (25%) of the RSUs will vest provided

that Participant remains in Continuous Service Status through such first anniversary, and thereafter on each subsequent quarterly anniversary, 3/48th of the RSUs will vest provided that Participant remains in Continuous Service Status through each such date; and (ii) If Participant has been in Continuous Service Status for at least one year from the Vesting Start Date at the time of the Initial Vesting Event, vesting of any unvested RSUs shall continue on each subsequent quarterly anniversary of the Vesting Start Date at a rate of 3/48th of the RSUs provided that Participant remains in Continuous Service Status through each such date (provided that vesting shall be at the rate of N/48th of the RSUs on the first quarterly anniversary of the Vesting Start Date after the Initial Vesting Event, where N is 3 or such lesser number of months in that quarter from the date of the Initial Vesting Event). “**Continuous Service Status**” means Participant continues to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary of the Company.

**Settlement:** RSUs that vest as of the Initial Vesting Event shall be settled immediately upon the Initial Vesting Event. Within 30 days following the occurrence of any Subsequent Vesting Event as set forth above, RSUs that vest as of the Subsequent Vesting Event shall be settled. Settlement means the delivery of the Shares vested under an RSU. Settlement of RSUs on the Initial Vesting Event or any Subsequent Vesting Event shall be in Shares unless at the time of settlement the Committee, in its sole discretion, determines that settlement shall, in whole or in part, be in the form of cash. Settlement of vested RSUs shall occur whether or not Participant is in Continuous Service Status at the time of settlement. No fractional RSUs or rights for fractional Shares shall be created pursuant to this Notice of Grant.

Participant understands that his or her employment or consulting relationship with the Company is for an unspecified duration, can be terminated at any time (*i.e.*, is “at-will”), and that nothing in this Notice of Grant, the RSU Agreement or the Plan changes the at-will nature of that relationship. Participant acknowledges that the vesting of the RSUs pursuant to this Notice of Grant is conditioned on the occurrence of an Initial Vesting Event or a Subsequent Vesting Event. Participant also understands that this Notice of Grant is subject to the terms and conditions of both the RSU Agreement and the Plan, both of which are incorporated herein by reference. Participant has read both the RSU Agreement and the Plan.

By your acceptance hereof (whether written, electronic or otherwise), you agree, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, you accept the electronic delivery of any documents the Company, or any third party involved in administering the Plan which the Company may designate, may deliver in connection with this grant (including the Plan, the Notice of Grant, this Agreement, 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.

By your signature and the signature of the Company’s representative on the Notice of Grant, Participant and the Company agree that this RSU is granted under and governed by the terms and conditions of the Plan, the Notice of Grant and the RSU Agreement.

**PARTICIPANT**

**DROPBOX, INC.**

«NAME»

/s/ Ramsey Homsany

**DROPBOX, INC.**  
**RSU AGREEMENT UNDER THE**  
**2008 EQUITY INCENTIVE PLAN**

You have been granted Restricted Stock Units (“**RSUs**”) subject to the terms, restrictions and conditions of the Company’s 2008 Equity Incentive Plan (the “**Plan**”), the Notice of Restricted Stock Unit Award (“**Notice of Grant**”) and this Agreement. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this RSU Agreement (the “**Agreement**”).

**1. No Stockholder Rights.** Unless and until such time as Shares are issued in settlement of vested RSUs, Participant shall have no ownership of the Shares allocated to the RSUs and shall have no right to dividends or to vote such Shares.

**2. Dividend Equivalents.** Cash dividends, if any, shall not be credited to Participant.

**3. No Transfer.** The RSUs and any interest therein shall not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of, other than by will or by the laws of descent and distribution. Notwithstanding the foregoing, Participant may, in the manner established by the Committee, designate a beneficiary or beneficiaries to exercise the rights of Participant and receive any property distributable with respect to the RSUs upon the death of Participant. Any transferee who receives an interest in the RSU or the underlying Shares upon the death of Participant shall acknowledge in writing that the RSU shall continue to be subject to the restrictions set forth in this Section 3.

**4. Termination.** If Participant’s Continuous Service Status terminates for any reason, all RSUs for which vesting is no longer possible under the terms of the Notice of Grant and this Agreement shall be forfeited to the Company forthwith, and all rights of Participant to such RSUs shall immediately terminate. In case of any dispute as to whether such termination has occurred, the Committee shall have sole discretion to determine whether such termination has occurred and the effective date of such termination.

**5. Acknowledgement.** The Company and Participant agree that the RSUs are granted under and governed by the Notice of Grant, this Agreement and by the provisions of the Plan (incorporated herein by reference). Participant: (i) acknowledges receipt of a copy of each of the foregoing documents, (ii) represents that Participant has carefully read and is familiar with their provisions, and (iii) hereby accepts the RSUs subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice of Grant.

**6. Limitations on Transfer of Stock.** In addition to any other limitation on transfer created by applicable securities laws, Participant shall not assign, encumber or dispose of any interest in the Shares issued pursuant to this Agreement except with the Company’s prior written consent and in compliance with the provisions of Article 12 of the Plan, the Company’s then current Insider Trading Policy, and applicable securities laws. The restrictions on transfer also include a prohibition on any short position, any “put equivalent position” or any “call equivalent position” by the RSU holder with respect to the RSU itself as well as any shares issuable upon settlement of the RSU prior to the settlement thereof until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.

**7. Restrictions Binding on Transferees.** All transferees of Shares or any interest therein will receive and hold such shares or interest subject to the provisions of this Agreement, including the transfer restrictions of Sections 3 and 6, and the transferee shall acknowledge such restrictions in writing. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

**8. Withholding of Tax.** When the RSUs are vested and/or settled the fair market value of the Shares is treated as income subject to withholding by the Company for income and employment taxes if

Participant is or was an employee of the Company. The Company shall withhold an amount equal to the tax due at vesting and/or settlement from the Participant's other compensation or require Participant to remit to the Company an amount equal to the tax then due. In its sole discretion, the Company may instead withhold a number of Shares with a fair market value (determined on the date the Shares are settled) equal to the minimum amount the Company is then required to withhold for taxes.

**9. Code Section 409A.** For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A of the Code and the regulations thereunder ("**Section 409A**"). Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Participant's termination of employment constitute deferred compensation subject to Section 409A, and Participant is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the 6-month period measured from Participant's separation from service from the Company or (ii) the date of Participant's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Participant including, without limitation, the additional tax for which Participant would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Participant's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A, the provision will be read in such a manner so that all payments hereunder comply with Section 409A. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this section are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

**10. U.S. Tax Consequences.** Participant acknowledges that there will be tax consequences upon vesting and/or settlement of the RSUs and/or disposition of the Shares, if any, received in connection therewith, and Participant should consult a tax adviser regarding Participant's tax obligations prior to such settlement or disposition.

**11. Compliance with Laws and Regulations.** The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant (including any written representations, warranties and agreements as the Committee may request of Participant for compliance with Applicable Laws) with all applicable state and federal laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's securities may be listed or quoted at the time of such issuance or transfer. Participant may not be issued any Shares if such issuance would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any Shares shall relieve the Company of any liability in respect of the failure to issue or sell such shares.

**12. Legend.** The Shares issued hereunder shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan, this Agreement or the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such shares of the Company's securities are listed, and any applicable Federal or state laws, and the Committee may cause a legend or legends to be put on any such book-entries to make appropriate reference to such restrictions.

**13. Successors and Assigns.** The Company may assign any of its rights under this Agreement. 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 will be binding upon Participant and Participant's heirs, executors, administrators, legal representatives, successors and assigns.

**14. Entire Agreement; Severability.** The Plan and Notice of Grant are incorporated herein by reference. The Plan, the Notice of Grant and this Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof (including, without limitation, any commitment to make any other form of equity award (such as stock options) that may have been set forth in any employment offer letter or other agreement between the parties). 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.

**15. Market Standoff Agreement.** Participant agrees that 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, Participant will not sell or otherwise dispose of shares of the Company's capital stock without the prior written consent of the Company or such underwriters, as the case may be, for such reasonable period of time after the effective date of such registration as may be requested by such managing underwriters and subject to all restrictions as the Company or the underwriters may specify. Participant will enter into any agreement reasonably required by the underwriters to implement the foregoing.

**16. No Rights as Employee, Director or Consultant.** Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a Parent or Subsidiary of the Company, to terminate Participant's Continuous Service Status, for any reason, with or without cause.

**17. Information to Participants.** If the Company is relying on an exemption from registration under Section 12(h)-1 of the Exchange Act and such information is required to be provided by such Section 12(h)-1, the Company shall provide the information described in Rules 701(e)(3), (4), and (5) of the Securities Act by a method allowed under Section 12(h)-1 of the Exchange Act in accordance with Section 12(h)-1 of the Exchange Act, provided that Participant agrees to keep the information confidential.

**18. Assumption or Replacement of Awards by Successor or Acquiring Company.** For purposes of this RSU only, the last sentence of Section 18.1 of the Plan shall read as follows: In the event such successor or acquiring corporation (if any) does not assume, convert, replace or substitute this RSU, as provided above, pursuant to a transaction described in this Section 18.1, then notwithstanding any other provision in this Plan to the contrary, the vesting of such Award will accelerate in full.

**19. Delivery of Documents and Notices.** Any document relating to participating in the Plan and/or notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, with postage and fees prepaid, addressed to the other party at the e-mail address, if any, provided for Participant by the Company or at such other address as such party may designate in writing from time to time to the other party.

**20. Definition. "Change in Control"** shall mean (i) a dissolution or liquidation of the Company, (ii) 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 Shareholder (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 Shareholder; or (b) 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; provided in each case that the transaction constitutes a change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company as defined in the regulations under Section 409A of the Code. An "**Acquiring Stockholder**" means a stockholder or stockholders of the Company that (i) merges or combines with the Company in such combination transaction or (ii) owns or controls a majority of another corporation that merges or combines with the Company in such combination transaction.

**DROPBOX, INC.**

**2008 EQUITY INCENTIVE PLAN**

**NOTICE OF RESTRICTED STOCK UNIT AWARD**

Unless otherwise defined herein, the terms defined in the Company's 2008 Equity Incentive Plan (the "**Plan**") shall have the same meanings in this Notice of Restricted Stock Unit Award ("**Notice of Grant**").

**Name:** «Name»  
**Address:** «Address1»  
«Address2»

You ("**Participant**") have been granted an award of Restricted Stock Units ("**RSUs**") under the Plan, subject to the terms and conditions of the Plan and the attached Restricted Stock Unit Agreement (hereinafter "**RSU Agreement**"), as follows:

**RSU Grant Number:** «GrantNo»  
**Total Number of RSUs:** «Shares»  
**RSU Grant Date:** «GrantDate»  
**Vesting Start Date:** «VCD»

**Expiration Date:** The earlier to occur of (a) the date on which settlement of all RSUs granted hereunder occurs and (b) the tenth anniversary of the RSU Grant Date. Notwithstanding the foregoing, this RSU expires earlier if your Continuous Service Status (defined below) terminates earlier, as described in the RSU Agreement.

**Vesting Schedule:** Subject to the limitations set forth in this Notice, the Plan and the RSU Agreement, 25% of the total number of RSUs will vest on the 12 month anniversary of the Vesting Start Date and 6.25% of the total number of RSUs will vest on each quarterly anniversary thereafter so long as your Continuous Service Status continues. "**Continuous Service Status**" means Participant continues to provide services as an employee, officer, director or consultant to the Company or a Parent or Subsidiary of the Company.

Participant understands that his or her employment or consulting relationship with the Company is for an unspecified duration, can be terminated at any time (*i.e.*, is "at-will"), and that nothing in this Notice of Grant, the RSU Agreement or the Plan changes the at-will nature of that relationship. Participant also understands that this Notice of Grant is subject to the terms and conditions of both the RSU Agreement and the Plan, both of which are incorporated herein by reference. Participant has read both the RSU Agreement and the Plan.

By your acceptance hereof (whether written, electronic or otherwise), you agree, to the fullest extent permitted by law, that in lieu of receiving documents in paper format, you accept the electronic delivery of any documents the Company, or any third party involved in administering the Plan which the Company may designate, may deliver in connection with this grant (including the Plan, the Notice of Grant, this Agreement, 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.

By your signature and the signature of the Company's representative on the Notice of Grant, Participant and the Company agree that this RSU is granted under and governed by the terms and conditions of the Plan, the Notice of Grant and the RSU Agreement.

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**PARTICIPANT**

**DROPBOX, INC.**

«NAME»

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**DROPBOX, INC.**  
**RSU AGREEMENT UNDER THE**  
**2008 EQUITY INCENTIVE PLAN**

You have been granted Restricted Stock Units (“**RSUs**”) subject to the terms, restrictions and conditions of the Company’s 2008 Equity Incentive Plan (the “**Plan**”), the Notice of Restricted Stock Unit Award (“**Notice of Grant**”) and this Agreement. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this RSU Agreement (the “**Agreement**”).

**1. Settlement.** Settlement of RSUs shall be made no later March 15 of the calendar year following the applicable date of vesting under the vesting schedule set forth in the Notice. Settlement of RSUs shall be in Shares. Settlement means the delivery of the Shares vested under an RSU. No fractional RSUs or rights for fractional Shares shall be created pursuant to this RSU Agreement.

**2. No Stockholder Rights.** Unless and until such time as Shares are issued in settlement of vested RSUs, Participant shall have no ownership of the Shares allocated to the RSUs and shall have no right to dividends or to vote such Shares.

**3. Dividend Equivalents.** Dividends, if any (whether in cash or Shares), shall not be credited to Participant.

**4. No Transfer.** The RSUs and any interest therein shall not be sold, assigned, transferred, pledged, hypothecated, or otherwise disposed of, other than by will or by the laws of descent and distribution. Notwithstanding the foregoing, Participant may, in the manner established by the Committee, designate a beneficiary or beneficiaries to exercise the rights of Participant and receive any property distributable with respect to the RSUs upon the death of Participant. Any transferee who receives an interest in the RSU or the underlying Shares upon the death of Participant shall acknowledge in writing that the RSU shall continue to be subject to the restrictions set forth in this Section 4.

**5. Termination.** The RSUs shall terminate on the Expiration Date or earlier as provided in this Section 5. If Participant’s Continuous Service Status terminates for any reason, all RSUs for which vesting is no longer possible under the terms of the Notice of Grant and this Agreement shall be forfeited to the Company forthwith, and all rights of Participant to such RSUs shall immediately terminate. In case of any dispute as to whether such termination has occurred, the Committee shall have sole discretion to determine whether such termination has occurred and the effective date of such termination.

**6. Acknowledgement.** The Company and Participant agree that the RSUs are granted under and governed by the Notice of Grant, this Agreement and by the provisions of the Plan (incorporated herein by reference). Participant: (i) acknowledges receipt of a copy of each of the foregoing documents, (ii) represents that Participant has carefully read and is familiar with their provisions, and (iii) hereby accepts the RSUs subject to all of the terms and conditions set forth herein and those set forth in the Plan and the Notice of Grant.

**7. Limitations on Transfer of Stock.** In addition to any other limitation on transfer created by applicable securities laws, Participant shall not assign, encumber or dispose of any interest in the Shares issued pursuant to this Agreement except with the Company’s prior written consent and in compliance with the provisions of Article 12 of the Plan, the Company’s then current Insider Trading Policy, and applicable securities laws. The restrictions on transfer also include a prohibition on any short position, any “put equivalent position” or any “call equivalent position” by the RSU holder with respect to the RSU itself as well as any shares issuable upon settlement of the RSU prior to the settlement thereof until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.

**8. Restrictions Binding on Transferees.** All transferees of Shares or any interest therein will receive and hold such shares or interest subject to the provisions of this Agreement, including the transfer restrictions of Sections 4 and 7, and the transferee shall acknowledge such restrictions in writing. Any sale or transfer of the Shares shall be void unless the provisions of this Agreement are satisfied.

**9. Withholding of Tax.** When the RSUs are vested and/or settled the fair market value of the Shares is treated as income subject to withholding by the Company for income and employment taxes if Participant is or was an employee of the Company. The Company shall withhold an amount equal to the tax due at vesting and/or settlement from the Participant's other compensation or require Participant to remit to the Company an amount equal to the tax then due. In its sole discretion, the Company may instead withhold a number of Shares with a fair market value (determined on the date the Shares are settled) equal to the minimum amount the Company is then required to withhold for taxes.

**10. Code Section 409A.** For purposes of this Agreement, a termination of employment will be determined consistent with the rules relating to a "separation from service" as defined in Section 409A of the Code and the regulations thereunder ("**Section 409A**"). Notwithstanding anything else provided herein, to the extent any payments provided under this Agreement in connection with Participant's termination of employment constitute deferred compensation subject to Section 409A, and Participant is deemed at the time of such termination of employment to be a "specified employee" under Section 409A, then such payment shall not be made or commence until the earlier of (i) the expiration of the six-month period measured from Participant's separation from service from the Company or (ii) the date of Participant's death following such a separation from service; provided, however, that such deferral shall only be effected to the extent required to avoid adverse tax treatment to Participant including, without limitation, the additional tax for which Participant would otherwise be liable under Section 409A(a)(1)(B) in the absence of such a deferral. The first payment thereof will include a catch-up payment covering the amount that would have otherwise been paid during the period between Participant's termination of employment and the first payment date but for the application of this provision, and the balance of the installments (if any) will be payable in accordance with their original schedule. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A, the provision will be read in such a manner so that all payments hereunder comply with Section 409A. To the extent any payment under this Agreement may be classified as a "short-term deferral" within the meaning of Section 409A, such payment shall be deemed a short-term deferral, even if it may also qualify for an exemption from Section 409A under another provision of Section 409A. Payments pursuant to this section are intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

**11. Award Subject to Company Clawback or Recoupment.** The RSU shall be subject to clawback or recoupment pursuant to any compensation clawback or recoupment policy adopted by the Board or required by law during the term of Participant's Continuous Service Status with the Company that is applicable to executive officers, employees, directors or other service providers of the Company, and in addition to any other remedies available under such policy and applicable law may require the cancellation of Participant's RSU (whether vested or unvested) and the recoupment of any gains realized with respect to Participant's RSU.

**12. Tax Consequences.** Participant acknowledges that there will be tax consequences upon vesting and/or settlement of the RSUs and/or disposition of the Shares, if any, received in connection therewith, and Participant should consult a tax adviser regarding Participant's tax obligations prior to such settlement or disposition.

**13. Compliance with Laws and Regulations.** The issuance of Shares will be subject to and conditioned upon compliance by the Company and Participant (including any written representations, warranties and agreements as the Committee may request of Participant for compliance with Applicable Laws) with all applicable state and federal laws and regulations and with all applicable requirements of any stock exchange or automated quotation system on which the Company's securities may be listed or quoted at the time of such issuance or transfer. Participant may not be issued any Shares if such issuance

would constitute a violation of any applicable federal, state or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance and sale of any Shares shall relieve the Company of any liability in respect of the failure to issue or sell such shares.

**14. Legend.** The Shares issued hereunder shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan, this Agreement or the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such shares of the Company's securities are listed, and any applicable Federal or state laws, and the Committee may cause a legend or legends to be put on any such book-entries to make appropriate reference to such restrictions.

**15. Successors and Assigns.** The Company may assign any of its rights under this Agreement. 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 will be binding upon Participant and Participant's heirs, executors, administrators, legal representatives, successors and assigns.

**16. Entire Agreement; Severability.** The Plan and Notice of Grant are incorporated herein by reference. The Plan, the Notice of Grant and this Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof (including, without limitation, any commitment to make any other form of equity award (such as stock options) that may have been set forth in any employment offer letter or other agreement between the parties). 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.

**17. Market Standoff Agreement.** Participant agrees that 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, Participant will not sell or otherwise dispose of shares of the Company's capital stock without the prior written consent of the Company or such underwriters, as the case may be, for such reasonable period of time after the effective date of such registration as may be requested by such managing underwriters and subject to all restrictions as the Company or the underwriters may specify. Participant will enter into any agreement reasonably required by the underwriters to implement the foregoing.

**18. No Rights as Employee, Director or Consultant.** Nothing in this Agreement shall affect in any manner whatsoever the right or power of the Company, or a Parent or Subsidiary of the Company, to terminate Participant's Continuous Service Status, for any reason, with or without cause.

**19. Information to Participants.** If the Company is relying on an exemption from registration under Section 12(h)-1 of the Exchange Act and such information is required to be provided by such Section 12(h)-1, the Company shall provide the information described in Rules 701(e)(3), (4), and (5) of the Securities Act by a method allowed under Section 12(h)-1 of the Exchange Act in accordance with Section 12(h)-1 of the Exchange Act, provided that Participant agrees to keep the information confidential.

**20. Assumption or Replacement of Awards by Successor or Acquiring Company.** For purposes of this RSU only, the last sentence of Section 18.1 of the Plan shall read as follows: In the event such successor or acquiring corporation (if any) does not assume, convert, replace or substitute this RSU, as provided above, pursuant to a transaction described in this Section 18.1, then notwithstanding any other provision in this Plan to the contrary, the vesting of such Award will accelerate in full.

**21. Delivery of Documents and Notices.** Any document relating to participating in the Plan and/or notice required or permitted hereunder shall be given in writing and shall be deemed effectively given (except to the extent that this Agreement provides for effectiveness only upon actual receipt of such notice) upon personal delivery, electronic delivery, or upon deposit in the U.S. Post Office or foreign postal service, by registered or certified mail, with postage and fees prepaid, addressed to the other party at the e-mail address, if any, provided for Participant by the Company or at such other address as such party may designate in writing from time to time to the other party.

[End of document]

OFFICE LEASE

333 BRANNAN STREET

KILROY REALTY FINANCE PARTNERSHIP, L.P.,  
a Delaware limited partnership,

as Landlord,

and

DROPBOX, INC.,  
a Delaware corporation,

as Tenant.

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**333 BRANNAN STREET**

**OFFICE LEASE**

This Office Lease (the “**Lease**”), dated as of the date set forth in Section 1 of the Summary of Basic Lease Information (the “**Summary**”), below, is made by and between KILROY REALTY FINANCE PARTNERSHIP, L.P., a Delaware limited partnership (“**Landlord**”), and DROPBOX, INC., a Delaware corporation (“**Tenant**”).

**SUMMARY OF BASIC LEASE INFORMATION**

TERMS OF LEASE

<u>TERMS OF LEASE</u>	<u>DESCRIPTION</u>
1. Date:	January 31, 2014.
2. Premises ( <u>Article 1</u> ).	
2.1 Building:	The six (6) story building (the “ <b>Building</b> ”) located at 333 Brannan Street, San Francisco, California, consisting of one (1) terrace-basement level and five (5) floors, and including all walkways, plazas, patios and parking areas. Landlord and Tenant hereby agree that the Building contains a total rentable area of 185,054 square feet.
2.2 Premises:	182,054 rentable square feet of space, consisting of the all of the office space in the Building, as further set forth in <u>Exhibit A</u> to this Lease, excluding the approximately 3,000 rentable square feet of retail space on the ground floor of the Building (the “ <b>Retail Space</b> ”). The Premises shall consist of (i) approximately 97,747 rentable square feet located on the third (3 <sup>rd</sup> ), fourth (4 <sup>th</sup> ) and fifth (5 <sup>th</sup> ) floors of the Building (the “ <b>Phase I Premises</b> ”) and (ii) approximately 84,307 rentable square feet located on the terrace-basement level, first (1 <sup>st</sup> ), second (2 <sup>nd</sup> ), and third (3 <sup>rd</sup> ) floors of the Building (the “ <b>Phase II Premises</b> ”).  Terrace-Basement Level; 19,233 rentable square feet Floor 1: 32,276 rentable square feet Floor 2: 32,798 rentable square feet Floor 3: 33,701 rentable square feet Floor 4: 32,023 rentable square feet Floor 5: 32,023 rentable square feet



3. Lease Term (Article 2).

3.1 Length of Term:

Twelve (12) years from the "Lease Commencement Date", as defined below.

3.2 Lease Commencement Date:

Four (4) months after the date on which Landlord has delivered possession of the entire Premises to Tenant in the "Delivery Condition", as that term is defined in Section 1 of **Exhibit B** attached hereto, provided, however, in no event shall the Lease Commencement Date occur until Landlord has caused the "Final Condition" of the Building to occur, as that term is defined in Section 1 of **Exhibit B** attached hereto.

3.3 Lease Expiration Date:

If the Lease Commencement Date shall be the first day of a calendar month, then the day immediately preceding the twelfth (12<sup>th</sup>) anniversary of the Lease Commencement Date; or if the Lease Commencement Date shall be other than the first day of a calendar month, then the last day of the calendar month in which the twelfth (12<sup>th</sup>) anniversary of the Lease Commencement Date occurs.

3.4 Option Terms:

Two (2) five (5)-year options to extend the Lease Term, as more particularly set forth in Section 2.2 of this Lease.

4. Base Rent (Article 3):

<u>Period During Lease Term</u>	<u>Annual Base Rent*</u>	<u>Monthly Installment of Base Rent*</u>	<u>Approximate Annual Base Rental Rate Per Rentable Square Foot</u>
Lease Year 1	\$12,561,726.00	\$1,046,810.50	\$ 69.00
Lease Year 2	\$12,938,577.78	\$1,078,214.82	\$ 71.07
Lease Year 3	\$13,326,735.11	\$1,110,561.26	\$ 73.20
Lease Year 4	\$13,726,537.16	\$1,143,878.10	\$ 75.40

Lease Year 5	\$14,138,333.27	\$1,178,194.44	\$77.66
Lease Year 6	\$14,562,483.27	\$1,213,540.27	\$79.99
Lease Year 7	\$14,999,357.77	\$1,249,946.48	\$82.39
Lease Year 8	\$15,449,338.50	\$1,287,444.88	\$84.86
Lease Year 9	\$15,912,818.66	\$1,326,068.22	\$87.41
Lease Year 10	\$16,390,203.22	\$1,365,850.27	\$90.03
Lease Year 11	\$16,881,909.32	\$1,406,825.78	\$92.73
Lease Year 12	\$17,388,366.60	\$1,449,030.55	\$95.51

- \* The initial Annual Base Rent amount was calculated by multiplying the initial Annual Rental Rate per Rentable Square Foot by the number of rentable square feet of space in the Premises, and the initial Monthly Installment of Base Rent amount was calculated by dividing the initial Annual Base Rent amount by twelve (12). Both Tenant and Landlord acknowledge and agree that multiplying the Monthly Installment of Base Rent amount by twelve (12) does not always equal the Annual Base Rent amount. In all subsequent Base Rent payment periods during the Lease Term commencing on the first (1st) day of Lease Year 2, the calculation of each Annual Base Rent amount reflects an annual increase of three percent (3%) and each Monthly Installment of Base Rent amount was calculated by dividing the corresponding Annual Base Rent amount by twelve (12).
- ◇ Subject to the terms set forth in Section 3.2 below, the Base Rent attributable to the periods specified in Section 3.2 below shall be abated.
- \*\* The amounts identified in the column entitled “Annual Rental Rate per Rentable Square Foot” are rounded amounts and are provided for informational purposes only.

- 5. Base Year (Article 4): Calendar year 2015; provided, however, if the “Final Condition” (as that term is defined in Section 1.2 of the Work Letter) occurs after September 1, 2015, then the Base Year shall be the calendar year 2016.
- 6. Tenant’s Share (Article 4): 100% (regardless of the rentable square footage of the Retail Space), but subject to the Retail Space “Cost Pool” (as that term is defined in Section 4.3 below).

7. Permitted Use (Article 5): General office use together with ancillary uses consistent with high-tech, single-tenant first-class office buildings, subject to the terms and conditions set forth in Section 5.1 of the Lease.
8. Letter of Credit (Article 21): \$13,654,050.00, subject to the terms and conditions of Article 21 of this Lease.
9. Parking Passes (Article 28): Thirty-four (34) on-site parking passes, subject to the terms of Article 28 of the Lease.
10. Address of Tenant (Section 29.18):  
Dropbox, Inc.  
185 Berry Street  
4th Floor  
San Francisco, California 94107  
Attention: Chris Coleman and Molly Strong  
  
With at all times, a copy to:  
  
Dropbox, Inc.  
185 Berry Street  
4th Floor  
San Francisco, California 94107  
Attention: General Counsel  
  
Shartsis Friese LLP  
One Maritime Plaza, 18th Floor  
San Francisco, California 94111  
Attention: Jonathan M. Kennedy
11. Address of Landlord (Section 29.18):  
Kilroy Realty Finance Partnership, L.P.  
c/o Kilroy Realty Corporation  
12200 W. Olympic Blvd., Suite 200  
Los Angeles, California 90064  
Attention: Legal Department  
Phone: # # # # #  
Facsimile: # # # # #  
  
and to:  
  
Kilroy Realty, L.P.  
c/o Kilroy Realty Corporation  
12200 W. Olympic Blvd., Suite 200  
Los Angeles, California 90064  
Attention: Mr. John Fucci  
Phone: # # # # #  
Facsimile: # # # # #

and

Kilroy Realty Corporation  
100 First Street  
Office of the Building, Suite 250  
San Francisco, California 94105  
Attention: Asset Management

With a Copy to:

Allen Matkins Leck Gamble Mallory & Natsis LLP  
1901 Avenue of the Stars, Suite 1800  
Los Angeles, California 90067  
Attention: Anton N. Natsis, Esq.

Wiring Instructions:

Union Bank  
445 S. Figueroa Street  
Los Angeles, California 90071  
Attention: # # # # #  
ABA Number # # # # #  
Account Number # # # # #  
Account Name: Kilroy Realty Finance  
Partnership LP

12. Brokers (Section 29.24):

CBRE, Inc.  
(representing Landlord)

CBRE, Inc.  
(representing Tenant)

13. Improvement Allowance (Exhibit B):

\$12,743,780.00 (i.e., an amount equal to \$70.00 per rentable square foot of the Premises).

## ARTICLE 1

### PREMISES, BUILDING, PROJECT, AND COMMON AREAS

#### 1.1 Premises, Building, Project and Common Areas.

1.1.1 **The Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises set forth in Section 2.2 of the Summary (the "**Premises**"). The outline of the Premises is set forth in Exhibit A attached hereto and each floor of the Premises has the number of rentable square feet as set forth in Section 2.2 of the Summary. The parties hereto agree that the lease of the Premises is upon and subject to the terms, covenants and conditions herein set forth, and Tenant covenants as a material part of the consideration for this Lease to keep and perform each and all of such terms, covenants and conditions by it to be kept and performed and that this Lease is made upon the condition of such performance. The parties hereto hereby acknowledge that the purpose of Exhibit A is to show the location of the Premises in the "Building," as that term is defined in Section 1.1.2, below, only, and such Exhibit is not meant to constitute an agreement, representation or warranty as to the construction of the Premises, the precise area thereof or the specific location of the "Common Areas," as that term is defined in Section 1.1.3, below, or the elements thereof or of the accessways to the Premises or the "Project," as that term is defined in Section 1.1.2, below. Except as specifically set forth in this Lease and in the Work Letter attached hereto as Exhibit B (the "**Work Letter**"), Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement of the Premises. Tenant also acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty regarding the condition of the Premises, the Building or the Project or with respect to the suitability of any of the foregoing for the conduct of Tenant's business, except as specifically set forth in this Lease and the Work Letter.

1.1.2 **The Building and The Project.** The Premises is a part of the building set forth in Section 2.1 of the Summary (the "**Building**"). The term "**Project**," as used in this Lease, shall mean (i) the Building and the Common Areas, (ii) the land (which is improved with landscaping, subterranean parking facilities and other improvements) upon which the Building and the Common Areas are located, and (iii) at Landlord's discretion, any additional real property, areas, land, buildings or other improvements added thereto outside of the Project.

1.1.3 **Common Areas.** Tenant shall have the non-exclusive right to use in common with other tenants in the Project, and subject to the rules and regulations referred to in Article 5 of this Lease, those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and any other tenants of the Project (such areas, together with such other portions of the Project designated by Landlord, in its discretion, are collectively referred to herein as the "**Common Areas**"). The Common Areas shall consist of the "Project Common Areas" and the "Building Common Areas." The term "**Project Common Areas**," as used in this Lease, shall mean the portion of the Project designated as such by Landlord (inclusive of any exterior landscaped areas). The term "**Building Common Areas**," as used in this Lease, shall mean the portions of the Common Areas located within the Building designated as such by Landlord. The manner in which the Common Areas are maintained and operated shall be at the reasonable discretion of Landlord (but shall at least be consistent with the

provision of Article 7 below and the manner in which the common areas of the “Comparable Buildings,” as defined in Exhibit G attached hereto, are maintained and operated) and the use thereof shall be subject to such reasonable rules, regulations and restrictions as Landlord may make from time to time. Landlord reserves the right to close temporarily, make alterations or additions to, or change the location of elements of the Project and the Common Areas, provided that, in connection therewith, Landlord shall perform such closures, alterations, additions or changes in a commercially reasonable manner and, in connection therewith, shall use commercially reasonable efforts to minimize any material interference with Tenant’s use of and access to the Premises. Any such closures, alterations or additions will be subject to the terms of Section 19.5.2 below.

1.1.4 **Bridges.** The parties acknowledge that the Building is located adjacent to that certain building located at 345 Brannan Street, San Francisco, California (the “**Adjacent Building**”), and that Tenant may or may not enter into a lease for all of the office space at the Adjacent Building (the “**Adjacent Building Lease**”). The owner of the Adjacent Building shall be referred to herein as the “**Adjacent Owner**”. In the event that Tenant enters into the Adjacent Building Lease, pursuant to the terms of Section 1.3 of the Work Letter, and subject to the terms and conditions thereof and subject to the approval of, and compliance with, applicable governmental authorities and regulatory agencies as required by “Applicable Laws” (as defined in Article 24 below), Landlord shall use commercially reasonable efforts to install no more than eight (8) bridges (“**Building Bridges**”) connecting floors two (2) through five (5) of the Premises (i.e., two (2) Building Bridges shall be located on each floor of the Premises) to the corresponding floors of the Adjacent Building. Subject to the terms of this Section 1.1.4, Tenant shall have the exclusive license to use the Building Bridges to access the Adjacent Building; provided however, (i) Tenant shall not allow any persons other than Tenant and the “Tenant Parties” (as that term is defined in Section 10.1 of this Lease) and if applicable, “Transferees” (as that term is defined in Section 14.1 below) to use the Building Bridges, (ii) Landlord is not responsible for supervising and controlling access through the Building Bridges, (iii) Tenant assumes the risk for any loss, claim, damage or liability arising out of the use or misuse of the Building Bridges by Tenant or the Tenant Parties or any Transferees, and Tenant releases and discharges Landlord from and against any such loss, claim, damage or liability, (iv) Tenant further agrees to indemnify, defend and hold Landlord and the Landlord Parties, harmless from and against any and all losses and claims relating to or arising out of the use or misuse of the Building Bridges by Tenant or the Tenant Parties (the Building Bridges and the openings in the Building for the Building Bridges and all other improvements constructed by Landlord related to the Building Bridges shall collectively be referred to as the “**Bridge Structures**”). In addition, Landlord shall have the right to demolish the Building Bridges and any other component of the Bridge Structures and restore the Building to the condition it would have been in but for the Bridge Structures, at Landlord’s sole cost and expense, upon the expiration or earlier termination of this Lease or the Adjacent Building Lease. Landlord and Tenant acknowledge and agree that, despite Tenant’s exclusive license to use the Building Bridges, the Bridge Structures, up to the point of connection to the Adjacent Building, are part of the “Building Structure” (as that term is defined in Article 7 below), and Landlord, as part of Operating Expenses, shall be solely responsible for performing all repair and maintenance obligations for the Building Bridges. Notwithstanding the foregoing, or any contrary provision set forth in this Lease, Tenant shall be solely responsible for the installation of all “Lines” (as that term is defined in Section 29.32 below) in, and through, the Bridge Structures, and for paying for the cost of all electricity serving the Bridge Structures (the “**Bridge Structures Electricity**”) and for performing all janitorial services in the Bridge Structures, in accordance with the terms of Section 6.1.5 of this Lease.

1.2 **Stipulation of Rentable Square Feet of Premises and Building.** For purposes of this Lease, the rentable square feet of the Premises shall be deemed as set forth in Section 2.2 of the Summary and the rentable square feet of the Building shall be deemed as set forth in Section 2.1 of the Summary.

1.3 **Right of First Offer.** “KRLP” (defined hereinbelow) hereby grants to Dropbox, Inc., a Delaware corporation (the “Original Tenant”) and its Permitted Transferee Assignee (as that term is defined in Section 14.8 of this Lease) a one-time right of first offer with respect to all of rentable office space in that certain building (the “**301 Building**”) located at 301 Brannan Street, San Francisco, California for office use (the “**First Offer Space**”), which 301 Building is owned by an affiliate of Landlord, Kilroy Realty, L.P., a Delaware limited partnership (“**KRLP**”). Notwithstanding the foregoing, such first offer right of Tenant shall commence only following the expiration or earlier termination of the existing leases of the First Offer Space (including renewals and expansions of any such lease, irrespective of whether any such renewal or expansion is currently set forth in such lease or is subsequently granted or agreed upon, and regardless of whether such renewal or expansion is consummated pursuant to a lease amendment or a new lease) (the “**Superior Rights**”). All such tenants of the First Offer Space, and all such third party tenants in the 301 Building holding Superior Rights, are collectively referred to as the “**Superior Right Holders**”. Tenant’s right of first offer shall be on the terms and conditions set forth in this Section 1.3.

1.3.1 **Procedure for Offer.** Subject to the terms of this Section 1.3, KRLP shall notify Tenant (the “**First Offer Notice**”) from time to time when the First Offer Space or any portion thereof will become available for lease to third parties, subject to the rights of any Superior Right Holder. Pursuant to such First Offer Notice, KRLP shall offer to lease to Tenant the then available First Offer Space. The First Offer Notice shall describe the space so offered to Tenant and the length of the term, base rent, and the other economic concessions upon which KRLP is willing to lease such space to Tenant (collectively, the “**Material Economic Terms**”).

1.3.2 **Procedure for Acceptance.** If Tenant wishes to exercise Tenant’s right of first offer with respect to the space described in the First Offer Notice, then within ten (10) days of delivery of the First Offer Notice to Tenant, Tenant shall deliver notice to KRLP of Tenant’s election to exercise its right of first offer with respect to the entire space described in the First Offer Notice on the terms contained in such notice. If Tenant does not so notify KRLP within such ten (10) day period, then KRLP shall be free to lease the space described in the First Offer Notice to anyone to whom KRLP desires on any terms KRLP desires and the lease rights of such tenant, including the right of such tenant to expand or renew its lease, whether or not set forth in the lease, shall become Superior Rights; provided, however, KRLP shall not lease such First Offer Space to a third party on Material Economic Terms less than ninety percent (90%) as favorable to KRLP as the Material Economic Terms offered in such First Offer Notice to Tenant, without first providing Tenant with a new First Offer Notice on such reduced Material Economic Terms. If KRLP provides such a new First Offer Notice to Tenant, Tenant’s Exercise Period with respect to such new First Offer Notice shall be a period of ten (10) days. Notwithstanding anything to the contrary contained herein, Tenant must elect to exercise its right of first offer, if at all, with respect to all of the space offered by KRLP to Tenant at any particular time, and Tenant may not elect to lease only a portion thereof.

1.3.3 **Construction In First Offer Space.** Tenant shall take the First Offer Space in its “as is” condition. Any improvement allowance to which Tenant may be entitled shall be as set forth in the First Offer Notice.

1.3.4 **Lease.** If Tenant timely exercises Tenant’s right to lease the First Offer Space as set forth herein, then KRLP and Tenant shall within thirty (30) days thereafter execute a separate lease for such First Offer Space which lease shall contain the terms and conditions as set forth in the First Offer Notice and this Section 1.3, and the non-business oriented terms of this Lease which, in the reasonable discretion of KRLP, are consistent with the terms of the separate lease (including, without limitation, Article 8) given the terms of the First Offer Notice and the nature of the 301 Building as a multi-tenant office building. The rentable square footage of any First Offer Space leased by Tenant shall be determined by KRLP in accordance with KRLP’s then current standard of measurement for the 301 Building. Tenant shall commence payment of rent for the First Offer Space, and the term of Tenant’s lease of the First Offer Space shall commence, upon the date of delivery of the First Offer Space to Tenant, subject to any construction build-out time offered as part of the Material Economic Terms and shall terminate on the date set forth in the First Offer Notice.

1.3.5 **Termination of Right of First Offer.** Tenant’s rights under this Section 1.3 shall be personal to the Original Tenant and its Permitted Transferee Assignee and may only be exercised by the Original Tenant or its Permitted Transferee Assignee (and not any other assignee, or any sublessee or other transferee of the Original Tenant’s interest in the Lease) if the Original Tenant or its Permitted Transferee Assignee has not subleased more than twenty-five percent (25%) of the rentable square footage of the initial Premises pursuant to a sublease or subleases then in effect. The right of first offer granted herein shall terminate as to particular First Offer Space upon Tenant’s failure to timely exercise its right of first offer with respect to such particular First Offer Space. In addition, the right of first offer granted herein shall terminate in its entirety upon the transfer or sale of the Building or the 301 Building to any entity which is not an affiliate (an entity which controls, is controlled by, or is under common control with) of Landlord or KRLP. Tenant shall not have the right to lease First Offer Space, as provided in this Section 1.3, if, as of the date of the attempted exercise of any right of first offer by Tenant, or, at KRLP’s option, as of the scheduled date of delivery of such First Offer Space to Tenant, Tenant is in default under this Lease (beyond the expiration of any applicable notice and cure period set forth in this Lease).

## **ARTICLE 2**

### **LEASE TERM**

2.1 **Lease Term.** The terms and provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease (the “**Lease Term**”) shall be as set forth in Section 3.1 of the Summary, shall commence on the date set forth in Section 3.2 of the Summary (the “Lease Commencement Date”), and shall terminate on the date set forth in Section 3.3 of the Summary (the “**Lease Expiration Date**”) unless this Lease is sooner



terminated as hereinafter provided. Tenant shall cause the “Substantial Completion” of the “Improvements” (as that term is defined in [Section 2.1](#) of the Work Letter) within five (5) months of the occurrence of the Delivery Condition (subject to extension for “Landlord Caused Delay” (as that term is defined in Section 5.1 of the Work Letter) and for events of “Force Majeure” (as that term is defined in Section 29.16 of this Lease below)). If Landlord is unable for any reason to deliver possession of the Premises to Tenant on any specific date, then, except as expressly set forth in this Lease, Landlord shall not be subject to any liability for its failure to do so, and such failure shall not affect the validity of this Lease or the obligations of Tenant hereunder. For purposes of this Lease, the term “**Lease Year**” shall mean each consecutive twelve (12) calendar month period during the Lease Term; provided, however, that the first Lease Year shall commence on the Lease Commencement Date and end on the last day of the month in which the first anniversary of the Lease Commencement Date occurs (or if the Lease Commencement Date is the first day of a calendar month, then the first Lease Year shall commence on the Lease Commencement Date and end on the day immediately preceding the first anniversary of the Lease Commencement Date), and the second and each succeeding Lease Year shall commence on the first day of the next calendar month; and further provided that the last Lease Year shall end on the Lease Expiration Date. At any time during the Lease Term, Landlord may deliver to Tenant a notice in the form as set forth in [Exhibit C](#), attached hereto, as a confirmation only of the information set forth therein, which Tenant shall execute and return to Landlord within ten (10) business days of receipt thereof; provided, however, that if such notice is not factually correct, then Tenant shall make such changes as are necessary to make such notice factually correct and shall thereafter return such notice to Landlord within said ten (10) business day period. Tenant’s failure to execute and return such notice to Landlord within such time shall be conclusive upon Tenant that the information set forth in such notice is as specified therein.

## 2.2 **Option Term.**

2.2.1 **Option Right.** Landlord hereby grants to the Original Tenant, and any Permitted Transferee Assignee, two (2) successive options to extend the Lease Term for a period of five (5) years each (each, an “**Option Term**” and each option, an “**Option to Extend**”). Each Option to Extend shall be exercisable only by notice delivered by Original Tenant or a “Permitted Transferee Assignee” to Landlord as provided in [Section 2.2.3](#) below; provided that, as of the date of delivery of such notice, Tenant has not received notice that Tenant is in “Default” (as that term is defined in [Section 19.1](#) below). The rights contained in this [Section 2.2](#) shall be personal to the Original Tenant and any Permitted Transferee Assignee and may only be exercised by the Original Tenant or a Permitted Transferee Assignee (and not any other assignee or sublessee or Transferee of Tenant’s interest in this Lease) provided that the Original Tenant or such Permitted Transferee Assignee has not subleased more than thirty-three percent (33%) of the rentable square footage of the Premises pursuant to a sublease or subleases then in effect. In the event that Tenant fails to timely and appropriately exercise an Option to Extend in accordance with the terms of this [Section 2.2](#), then such Option to Extend shall automatically terminate and shall be of no further force or effect. Further, notwithstanding any contrary provision of this [Section 2.2](#), in no event may Tenant exercise its right to extend the Lease Term for the second Option Term under this [Section 2.2](#) if Tenant fails to timely exercise its right to extend the initial Lease Term for the first Option Term under this [Section 2.2](#).

**2.2.2 Option Rent.** The Rent payable by Tenant during each Option Term shall be equal to the Market Rent, as such Market Rent is determined pursuant to **Exhibit G**, attached to this Lease (such rent payable during any Option Term, the “**Option Rent**”) and the Base Year shall be the calendar year in which the then-current term expires (if it expires on or before July 31) or the following calendar year (if it expires after July 31). Except as set forth in the preceding sentence or as otherwise expressly set forth in this Lease, all of the terms of this Lease shall apply during any Option Term and the Lease Expiration Date shall be extended to the last day of the Option Term. The calculation of the “Market Rent” shall be derived from a review of, and comparison to, the “Net Equivalent Lease Rates” of the “Comparable Transactions,” as provided for in **Exhibit G**, and, thereafter, the Market Rent shall be stated as a “Net Equivalent Lease Rate” for the Option Term.

**2.2.3 Exercise of Option.** An Option to Extend shall be exercised by Tenant, if at all, and only in the following manner: (i) at Tenant’s election, Tenant shall deliver written notice (the “**Option Interest Notice**”) to Landlord not more than eighteen (18) months nor less than seventeen (17) months prior to the expiration of the initial Lease Term or the first (1<sup>st</sup>) Option Term, as applicable, stating that Tenant is interested in exercising its Option Extend; (ii) if Tenant delivers the Option Interest Notice, Landlord shall, within thirty (30) days following Landlord’s receipt of the Option Interest Notice, deliver notice (the “**Option Rent Notice**”) to Tenant setting forth Landlord’s good faith determination of the Option Rent; and (iii) if Tenant wishes to exercise such option, whether or not Tenant has given the Option Interest Notice, Tenant shall, on or before the date which is fifteen (15) months prior to the expiration of the initial Lease Term or the first (1<sup>st</sup>) Option Term, as applicable, deliver written notice thereof to Landlord, which notice shall be Tenant’s irrevocable exercise of Tenant’s Option to Extend, and upon, and concurrent with, such exercise, Tenant may, at its option, accept or reject the Option Rent set forth in the Option Rent Notice (if Tenant has previously delivered an Option Interest Notice). If Tenant exercises its Option to Extend the Lease but fails to accept or reject the Option Rent set forth in the Option Rent Notice (if Tenant delivered an Option Interest Notice), then Tenant shall be deemed to have rejected the Option Rent set forth in the Option Rent Notice.

**2.2.4 Determination of Option Rent.** In the event Tenant timely and appropriately exercises an Option to Extend but rejects (or is deemed to reject) the Option Rent set forth in the Option Rent Notice pursuant to **Section 2.2.3**, above (or if Tenant did not deliver an Option Interest Notice, and therefore Landlord did not deliver an Option Rent Notice), then Landlord and Tenant shall attempt to agree upon the Option Rent using their best good-faith efforts. If Landlord and Tenant fail to reach agreement upon the Option Rent applicable to the Option Term on or before the date that is ninety (90) days prior to the expiration of the initial Lease Term or the first Option Term, as applicable (the “**Outside Agreement Date**”), then the Option Rent shall be determined by arbitration pursuant to the terms of this **Section 2.2.4**. Each party shall make a separate determination of the Option Rent, within five (5) days following the Outside Agreement Date, and such determinations shall be submitted to arbitration in accordance with **Sections 2.2.4.1** through **2.2.4.4**, below.

**2.2.4.1** Landlord and Tenant shall each appoint one arbitrator who shall by profession be a MAI appraiser who shall have been active over the five (5) year period ending on the date of such appointment in the appraising and/or leasing of first class office properties in the

vicinity of the Building. The determination of the arbitrators shall be limited solely to the issue area of whether Landlord's or Tenant's submitted Option Rent is the closest to the actual Option Rent as determined by the arbitrators, taking into account the requirements of Section 2.2.2 of this Lease. Each such arbitrator shall be appointed within fifteen (15) days after the Outside Agreement Date. Landlord and Tenant may consult with their selected arbitrators prior to appointment and may select an arbitrator who is favorable to their respective positions (including an arbitrator who has previously represented Landlord and/or Tenant, as applicable). The arbitrators so selected by Landlord and Tenant shall be deemed "**Advocate Arbitrators.**"

2.2.4.2 The two Advocate Arbitrators so appointed shall be specifically required pursuant to an engagement letter within ten (10) days of the date of the appointment of the last appointed Advocate Arbitrator to agree upon and appoint a third arbitrator ("**Neutral Arbitrator**") who shall be qualified under the same criteria set forth hereinabove for qualification of the two Advocate Arbitrators except that (i) neither the Landlord or Tenant or either parties' Advocate Arbitrator may, directly or indirectly, consult with the Neutral Arbitrator prior or subsequent to his or her appearance, and (ii) the Neutral Arbitrator cannot be someone who has represented Landlord and/or Tenant or their affiliates during the five (5) year period prior to such appointment. The Neutral Arbitrator shall be retained via an engagement letter jointly prepared by Landlord's counsel and Tenant's counsel. Each party shall pay for the costs of its own Advocate Arbitrator and fifty percent (50%) of the cost of the Neutral Arbitrator.

2.2.4.3 Within ten (10) days following the appointment of the Neutral Arbitrator, Landlord and Tenant shall enter into an arbitration agreement (the "**Arbitration Agreement**") which shall set forth the following:

2.2.4.3.1 Each of Landlord's and Tenant's best and final and binding determination of the Option Rent exchanged by the parties pursuant to Section 2.2.4, above;

2.2.4.3.2 An agreement to be signed by the Neutral Arbitrator, the form of which agreement shall be attached as an exhibit to the Arbitration Agreement, whereby the Neutral Arbitrator shall agree to undertake the arbitration and render a decision in accordance with the terms of this Lease, as modified by the Arbitration Agreement, and shall require the Neutral Arbitrator to demonstrate to the reasonable satisfaction of the parties that the Neutral Arbitrator has no conflicts of interest with either Landlord or Tenant;

2.2.4.3.3 Instructions to be followed by the Neutral Arbitrator when conducting such arbitration;

2.2.4.3.4 That Landlord and Tenant shall each have the right to submit to the Neutral Arbitrator (with a copy to the other party), on or before the date that occurs fifteen (15) days following the appointment of the Neutral Arbitrator, an advocate statement (and any other information such party deems relevant) prepared by or on behalf of Landlord or Tenant, as the case may be, in support of Landlord's or Tenant's respective determination of Option Rent (the "**Briefs**");

2.2.4.3.5 That within five (5) business days following the exchange of Briefs, Landlord and Tenant shall each have the right to provide the Neutral Arbitrator (with a copy to the other party) with a written rebuttal to the other party's Brief (the "**Rebuttals**"); provided, however, such Rebuttals shall be limited to the facts and arguments raised in the other party's Brief and shall identify clearly which argument or fact of the other party's Brief is intended to be rebutted;

2.2.4.3.6 The date, time and location of the arbitration, which shall be mutually and reasonably agreed upon by Landlord and Tenant, taking into consideration the schedules of the Neutral Arbitrator, the Advocate Arbitrators, Landlord and Tenant, and each party's applicable consultants, which date shall in any event be within thirty (30) days following the appointment of the Neutral Arbitrator;

2.2.4.3.7 That no discovery shall take place in connection with the arbitration, other than to verify the factual information that is presented by Landlord or Tenant;

2.2.4.3.8 That the Neutral Arbitrator shall not be allowed to undertake an independent investigation or consider any factual information other than presented by Landlord or Tenant, except that the Neutral Arbitrator shall be permitted to visit the Project and the buildings containing the Comparable Transactions;

2.2.4.3.9 The specific persons that shall be allowed to attend the arbitration;

2.2.4.3.10 Tenant shall have the right to present oral arguments to the Neutral Arbitrator at the arbitration for a period of time not to exceed two (2) hours ("**Tenant's Initial Statement**");

2.2.4.3.11 Following Tenant's Initial Statement, Landlord shall have the right to present oral arguments to the Neutral Arbitrator at the arbitration for a period of time not to exceed two (2) hours ("**Landlord's Initial Statement**");

2.2.4.3.12 Following Landlord's Initial Statement, Tenant shall have up to one (1) additional hour to present additional arguments and/or to rebut the arguments of Landlord ("**Tenant's Rebuttal Statement**");

2.2.4.3.13 Following Tenant's Rebuttal Statement, Landlord shall have up to one (1) additional hour to present additional arguments and/or to rebut the arguments of Tenant;

2.2.4.3.14 That, not later than ten (10) days after the date of the arbitration, the Neutral Arbitrator shall render a decision (the "**Ruling**") indicating whether Landlord's or Tenant's submitted Option Rent is closer to the Option Rent;

2.2.4.3.15 That following notification of the Ruling, Landlord's or Tenant's submitted Option Rent determination, whichever is selected by the Neutral Arbitrator as being closer to the Option Rent shall become the then applicable Option Rent; and

If a date by which an event described in Section 2.2.4.3, above, is to occur falls on a weekend or a holiday, the date shall be deemed to be the next business day.

2.2.4.4 In the event that the Option Rent shall not have been determined pursuant to the terms hereof prior to the commencement of the applicable Option Term, Tenant shall be required to pay the Option Rent, initially provided by Landlord to Tenant in Landlord's Option Rent Notice, and upon the final determination of the Option Rent, the payments made by Tenant shall be reconciled with the actual amounts due, and the appropriate party shall make any corresponding payment to the other party.

2.3 **Entry Before Lease Commencement Date.** Notwithstanding the definition of Lease Commencement Date for the Premises set forth above, Tenant shall have the right, at any time after Landlord's delivery of the Premises in the "Delivery Condition" pursuant to Section 1 of the Work Letter, to construct and install the Improvements in the Premises and/or to test equipment and/or to install its furniture, fixtures, and equipment in the Premises. Tenant's entry into the Premises for such purposes shall not constitute the commencement of business, provided that all of the terms and conditions of this Lease and the Work Letter shall apply, except that Tenant shall have no obligation to pay Base Rent, Tenant's Share of Direct Expenses, and Tenant's payment of any other costs or expenses attributable to the period of such approved entry shall be as set forth in the Work Letter. Notwithstanding the foregoing, to the extent that Tenant occupies any portion of the Premises for the conduct of Tenant's business commencing prior to Tenant's obligation to pay Rent with respect thereto, Tenant shall pay to Landlord the janitorial and utility costs actually incurred by Landlord with respect thereto, and which would not otherwise have been incurred by Landlord but for Tenant's occupancy of the Premises, without application of any Base Year.

### **ARTICLE 3**

#### **BASE RENT**

3.1 **Base Rent.** Commencing on the date set forth in Section 3.2 of the Summary (the "**Lease Commencement Date**") (as the same may be delayed by the express provisions of this Lease), Tenant shall pay, without prior notice or demand, to Landlord or Landlord's agent at the management office of the Project, or, by wire transfer to the address set forth in Section 11 of the Summary, or at Landlord's option, at such other place as Landlord may from time to time designate in writing, by a check or wire transfer for currency which, at the time of payment, is legal tender for private or public debts in the United States of America, base rent ("**Base Rent**") as set forth in Section 4 of the Summary, payable in equal monthly installments as set forth in Section 4 of the Summary in advance on or before the first day of each and every calendar month during the Lease Term, without any setoff or deduction whatsoever except as expressly set forth elsewhere in this Lease. The Base Rent for the first full month of the Lease Term which occurs after the expiration of any free rent period shall be paid at the time of Tenant's execution of this Lease. If any Rent payment date (including the Lease Commencement Date) falls on a day of the month other than the first day of such month or if

any payment of Rent is for a period which is shorter than one month, the Rent for any fractional month shall accrue on a daily basis for the period from the date such payment is due to the end of such calendar month or to the end of the Lease Term at a rate per day which is equal to 1/365 of the applicable annual Rent. All other payments or adjustments required to be made under the terms of this Lease that require proration on a time basis shall be prorated on the same basis.

3.2 **Base Rent Abatement.** Provided that Tenant is not then in Default, and subject to the terms of this Section 3.2 below, then (i) during the last six (6) full calendar months of the Lease Term with respect to the Phase I Premises and (ii) during the last ten (10) full calendar months of the Lease Term with respect to the Phase II Premises (collectively, the "**Base Rent Abatement Period**"), Tenant shall not be obligated to pay any Base Rent otherwise attributable to the Premises or the Phase II Premises, as applicable, during such Base Rent Abatement Period (collectively, the "**Rent Abatement Amount**"). Tenant acknowledges and agrees that the foregoing Base Rent Abatement has been granted to Tenant as additional consideration for entering into this Lease, and for agreeing to pay the rental and perform the terms and conditions otherwise required under this Lease. Notwithstanding the foregoing, Landlord shall have the right, at Landlord's option, on a month by month basis commencing on the Lease Commencement Date, to accelerate any remaining Base Rent Abatement Amount relating to a full month during the Base Rent Abatement Period for a particular phase of the Premises (the "**Phase**") forward, to apply to the Base Rent that would otherwise be due with respect to the next occurring month of the Lease Term for such Phase (the "**Landlord Base Rent Abatement Acceleration Election**"), in which case Tenant shall have no obligation to pay Base Rent attributable to such next occurring month of the Lease Term for such Phase, and the Base Rent Abatement Amount that is accelerated forward shall no longer be applicable during the Base Rent Abatement Period. Landlord may make such election on a month by month basis with respect to each of the months of the Base Rent Abatement Period. In addition, commencing on the Lease Commencement Date, if Landlord has not exercised the Landlord Base Rent Abatement Acceleration Election on or before the date that the next installment of Base Rent is due under the Lease, and provided that the Lease has not been terminated as a result of any Default of Tenant or rejection of the Lease in bankruptcy (the "**Abatement Condition**"), then Tenant shall have the right, at Tenant's option, on a month by month basis commencing on the Lease Commencement Date, to accelerate any Base Rent Abatement Amount relating to a full month during the Base Rent Abatement Period for a Phase forward to apply to the Base Rent that would otherwise be due with respect to the next occurring month of the Lease Term for such Phase (the "**Tenant Base Rent Abatement Acceleration Election**"), in which case Tenant shall have no obligation to pay Base Rent attributable in such next occurring month of the Lease Term for such Phase, and the Base Rent Abatement Amount that is accelerated forward shall no longer be applicable during the Base Rent Abatement Period. Tenant may not elect to accelerate more than one (1) month of such Base Rent Abatement at any particular time. Notwithstanding the foregoing, as long as the Abatement Condition is satisfied, if Tenant fails to deliver notice to Landlord exercising the Tenant Base Rent Abatement Acceleration Election for a particular month of the Lease Term, then Tenant shall be deemed to have elected to exercise the Tenant Base Rent Abatement Acceleration Election for such month without the requirement of providing notice to Landlord. Notwithstanding the different monetary amount of one (1) full calendar month at the end of the Lease Term from the monetary amount of one (1) full calendar month at the beginning of the Lease Term, the value of any full month of Base Rent Abatement, whether accelerated by Landlord or by Tenant, shall be equal to one (1) full month of Base Rent at the time it is applied.

ARTICLE 4

ADDITIONAL RENT

4.1 **General Terms.** In addition to paying the Base Rent specified in Article 3 of this Lease, Tenant shall pay, following the Lease Commencement Date, "Tenant's Share" of the annual "Direct Expenses," as those terms are defined in Sections 4.2.6 and 4.2.2 of this Lease, which are in excess of the amount of Direct Expenses applicable to the "Base Year," as that term is defined in Section 4.2.1, below; provided that if the Base Year is the calendar year 2016, and the Lease Commencement Date occurs in the calendar year 2015, then Tenant shall not be obligated to pay any Direct Expenses during the calendar year 2015, and further; provided, however, that in no event shall any decrease in Direct Expenses for any Expense Year, as that term is defined in Section 4.2.3 below, below Direct Expenses for the Base Year entitle Tenant to any decrease in Base Rent or any credit against sums due under this Lease. Such payments by Tenant, together with any and all other amounts payable by Tenant to Landlord pursuant to the terms of this Lease, are hereinafter collectively referred to as the "**Additional Rent**", and the Base Rent and the Additional Rent are herein collectively referred to as "**Rent**." All amounts due under this Article 4 as Additional Rent shall be payable for the same periods and in the same manner as the Base Rent. Without limitation on other obligations of Tenant which survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent and of Landlord to reconcile and reimburse Tenant for overpayments of Additional Rent provided for in this Article 4 shall survive the expiration of the Lease Term.

4.2 **Definitions of Key Terms Relating to Additional Rent.** As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 "**Base Year**" shall mean the period set forth in Section 5 of the Summary.

4.2.2 "**Direct Expenses**" shall mean "Operating Expenses" and "Tax Expenses."

4.2.3 "**Expense Year**" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires, provided that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of Direct Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.2.4 "**Operating Expenses**" shall mean all expenses, costs and amounts of every kind and nature which Landlord pays or accrues during any Expense Year because of or in connection with the ownership, management, maintenance, security, repair, or operation of the Project, or any portion thereof. Without limiting the generality of the foregoing, Operating Expenses shall specifically include any and all of the following: (i) the cost of supplying all utilities (but, subject to Section 6.1.2 below, excluding the cost of electricity, gas, water and

sewer services consumed in the Premises, and in the premises of other tenants of the Building (since Tenant is separately paying for the cost of electricity, gas, water and sewer services pursuant to Section 6.1.2 of the Lease)), the cost of operating, repairing, maintaining, and renovating the utility, telephone, mechanical, sanitary, storm drainage, and elevator systems, and the cost of maintenance and service contracts in connection therewith; (ii) the cost of licenses, certificates, permits and inspections and the cost of contesting any governmental enactments which may affect Operating Expenses, and the costs incurred in connection with a governmentally-mandated transportation system management program or similar program or any transportation system management program or similar program that Tenant participates; (iii) the cost of all insurance carried by Landlord in connection with the Project as reasonably determined by Landlord (including, without limitation, commercial general liability insurance, physical damage insurance covering damage or other loss caused by fire, earthquake, flood and other water damage, explosion, vandalism and malicious mischief, theft or other casualty, rental interruption insurance and such insurance as may be required by any lessor under any present or future ground or underlying lease of the Building or Project or any holder of a mortgage, trust deed or other encumbrance now or hereafter in force against the Building or Project or any portion thereof); (iv) the cost of landscaping, relamping, and all supplies, tools, equipment and materials used in the operation, repair and maintenance of the Project, or any portion thereof; (v) costs incurred in connection with the parking areas servicing the Project; (vi) fees and other costs, including management fees, consulting fees, legal fees (subject to exclusion (u), below) and accounting fees, of all contractors and consultants incurred by Landlord in connection with the management, operation, maintenance and repair of the Project; (vii) payments under any equipment rental agreements and the fair rental value of any management office space (provided, however, that if and to the extent that the personnel in such management office perform management responsibilities for other properties in addition to the Project, then the rental value of such management office shall be equitably allocated between the Project and such other properties; provided further, however, upon request from Tenant not more than once in any twelve (12) month period, Landlord shall inform Tenant of any personnel in such management office that performs management responsibilities for other properties in addition to the Project); (viii) wages, salaries and other compensation and benefits, including taxes levied thereon, of all persons engaged in the operation, management, maintenance and security of the Project (other than persons generally considered to be higher in rank than the position of the person, regardless of title, who supervises property managers that manage the Project and other projects of Landlord and affiliates of Landlord, which person the Landlord refers to as a "Senior Asset Manager"); (ix) costs under any instrument pertaining to the sharing of costs by the Project; (x) operation, repair, maintenance and replacement of all systems and equipment and components thereof of the Building; (xi) the cost of, alarm, security and other services, the cost of janitorial services provided to Common Areas, the cost of replacement of wall and floor coverings, ceiling tiles and fixtures in Common Areas, maintenance and replacement of curbs and walkways, repair to roofs and re-roofing; (xii) amortization (including interest on the unamortized cost at an interest rate (the "**Amortization Interest Rate**") equal to the annual "Bank Prime Loan" rate, as that term is set forth in Article 25 of this Lease, plus two (2) percentage points) of the cost of acquiring or the rental expense of personal property used in the maintenance, operation and repair of the Project, or any portion thereof; (xiii) the cost of capital improvements, capital repairs or other capital costs incurred in connection with the Project (A) which are reasonably intended by Landlord, based upon qualified third party advice, to effect savings in the operation,



cleaning or maintenance of the Project, or any portion thereof, to the extent of cost savings reasonably anticipated by Landlord at the time of such expenditure to be incurred in connection therewith (“**Cost Saving Capital Expenditures**”), or (B) that are required under any governmental law or regulation, except for capital improvements to remedy a condition existing prior to the Lease Commencement Date which an applicable governmental authority, if it had knowledge of such condition prior to the Lease Commencement Date, would have then required to be remedied pursuant to then-current governmental laws or regulations in their form existing as of the Lease Commencement Date and pursuant to the then-current interpretation of such governmental laws or regulations by the applicable governmental authority as of the Lease Commencement Date (the costs described in clauses (xii) and (xiii)(A) and (B) being referred to collectively as “**Permitted Capital Expenditures**”); provided, however, that the cost of Permitted Capital Expenditures shall (subject to the limitation set forth above with respect to Landlord’s ability to pass through the cost of Cost Saving Capital Expenditures) be amortized with interest at the Amortization Interest Rate over the useful life of the capital item in question, as reasonably determined by Landlord, in a manner consistent with the practices of landlords of Comparable Buildings and otherwise in accordance with sound real estate management and accounting principles or, with respect to Cost Saving Capital Expenditures, their recovery/payback period as Landlord shall reasonably determine, in a manner consistent with the practices of landlords of Comparable Buildings and otherwise in accordance with sound real estate management and accounting practices, consistently applied; (xiv) costs, fees, charges or assessments imposed by, or resulting from any mandate imposed on Landlord by, any federal, state or local government for fire and police protection, trash removal, community services, or other services which do not constitute “Tax Expenses” as that term is defined in Section 4.2.4, below; and (xv) payments under any easement, license, operating agreement, declaration, restrictive covenant, or instrument pertaining to the sharing of costs by Landlord with respect to the Building, including, without limitation, any covenants, conditions and restrictions affecting the Project, and reciprocal easement agreements affecting the Project, any parking licenses, and any agreements with transit agencies affecting the Project. Notwithstanding the foregoing, for purposes of this Lease, the following items shall be excluded from Operating Expenses:

(a) cost of repairs or other work incurred by reason of fire, windstorm or other casualty or by the exercise of the right of eminent domain to the extent Landlord is compensated through proceeds or insurance or condemnation awards, or would have been so reimbursed if Landlord had in force all of the insurance required to be carried by Landlord under this Lease;

(b) the cost and expense of correcting defects in the construction of the Project or repairs that are covered by warranties;

(c) costs, including fines or penalties, incurred due to a violation of Applicable Laws in force and effect as of the Lease Commencement Date relating to the Project, but not including on-going recurring compliance costs (by way of example only, costs to comply with an existing Applicable Law requiring periodic elevator maintenance, or related to fire-extinguisher inspections, shall be included in Operating Expenses);

(d) costs incurred due to the presence of Hazardous Substances (as defined in Section 5.2), except to the extent caused by the release or emission thereof by Tenant;

(e) charitable and political contributions or reserves of any kind;

(f) depreciation, interest and principal payments on mortgages and other debt costs, if any, penalties and interest, and any other costs which would properly be capitalized, other than Permitted Capital Expenditures;

(g) fees payable by Landlord for management of the Project in excess of two and one-half percent (2 ½%) (the “**Management Fee Percentage**”) of Landlord’s gross revenues from the Project, adjusted and grossed up to reflect a one hundred percent (100%) occupancy of the Project with all tenants paying full rent, as contrasted with free rent, half-rent and the like, including Base Rent, Additional Rent, and parking fees from the Project for any calendar year or portion thereof (provided that, that for the purpose of the calculation of the Management Fee Percentage, “gross revenues” shall not include (i) percentage rent received from retail tenants, or (ii) any lump sum or accelerated termination payment received by Landlord from Tenant unless such termination payment is, for the purposes of calculating gross revenues, spread proportionately over the number of years which the terminated lease have continued); or

(h) expense reserves;

(i) Landlord’s and Landlord’s managing agent’s general corporate or partnership overhead and general administrative expenses, and all costs associated with the operation of the business of the ownership or entity which constitutes “Landlord,” as distinguished from the costs of Building operations, management, maintenance or repair, including, but not limited to, costs of entity accounting and legal matters, costs of any disputes with any ground lessor or mortgagee, costs of acquiring, selling syndicating, financing, mortgaging or hypothecating any of the Landlord’s interest in all or any part of the Project and/or Common Areas;

(j) costs (including permit, license and inspection fees) incurred in renovating or otherwise improving or decorating, painting or redecorating space for tenants or other occupants or in renovating or redecorating vacant space, including the cost of alterations or improvements to the Premises or to the premises of any other tenant or occupant of the Project and any cash or other consideration paid by Landlord on account of, with respect to, or in lieu of the improvement or alteration work described herein;

(k) costs in connection with the original construction of the Project and related facilities, including costs of insurance, property taxes and other soft costs incurred during the “Construction Period” (as that term is defined in Section 10.2 below);

(l) intentionally omitted;

(m) costs for which the Landlord is to be reimbursed by any tenant (other than as a reimbursement of operating expenses) or occupant of the Project or by insurance by its carrier or any tenant’s carrier or by anyone else including, without limitation, the cost of providing any janitorial services to any other tenant’s space (or occupiable space) in the Project;

(n) costs of all items and services for which Tenant reimburses Landlord or pays to third parties or which Landlord provides selectively to one or more tenants or occupants of the Building (other than Tenant);

(o) depreciation and amortization except as permitted pursuant to items (xii) and (xiii), above;

(p) costs incurred due to violation by Landlord or its managing agent or any tenant of the terms and conditions of any lease;

(q) payments to subsidiaries or affiliates of Landlord, for management or other services in or to the Project, or for supplies or other materials to the extent that the costs of such services, supplies, or materials exceed the costs that would have been paid had the services, supplies or materials been provided by parties unaffiliated with the Landlord on a competitive basis;

(r) intentionally omitted;

(s) any compensation and benefits paid to personnel working in or managing a food service or health club or other commercial concession operated by Landlord or Landlord's managing agent;

(t) marketing, advertising and promotional costs and cost of signs in or on the Building identifying the owner of the Building or other tenants' signs;

(u) leasing commissions, attorneys fees, costs and disbursements and other expenses incurred in connection with negotiations or disputes with tenants or other occupants or prospective tenants or other occupants, or associated with the enforcement of any leases or the defense of Landlord's title to or interest in the Project or any part thereof or Common Areas or any part thereof;

(v) intentionally omitted;

(w) costs of repair or replacement for any item covered by a warranty to the extent actually covered by the warranty;

(x) costs of which Landlord is actually reimbursed by its insurance carrier or by any tenant's insurance carrier or by any other entity;

(y) costs, fees, dues, contributions or similar expenses for political or charitable organizations;

(z) bad debt loss, rent loss, or reserves for bad debt or rent loss;

(aa) acquisition or insurance costs for sculptures, paintings, or other art;

(bb) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Project unless such wages and benefits are prorated to reflect time spent on operating and managing the Project vis-à-vis time spent on matters unrelated to operating and managing the Project;

(cc) the cost of any electric power and other utilities used by any Project tenant or any portion of the Project other than the Common Areas;

(dd) the cost of providing janitorial services to any Project tenant or any portion of the Project other than Common Areas;

(ee) Tax Expenses and costs expressly excluded from Tax Expenses;

(ff) the cost of tenant newsletters and Building promotional gifts, events or parties for existing occupants, and any costs related to the celebration or acknowledgment of holidays in excess of costs consistent with the general practice of landlords of the Comparable Buildings and any costs for parties for prospective occupants;

(gg) costs associated with the marketing of the Building for sale or lease or the actual sale of the Building, and costs, fees, dues, contributions or similar expenses for industry associations or similar organizations and entertainment expenses and travel expenses of Landlord, its employees, agents, partners and affiliates; and

(hh) the cost of installing, operating and maintaining any observatory, broadcasting facilities, luncheon club, museum, athletic or recreational club, or child care facility.

If Landlord does not carry earthquake insurance for the Building during the entire Base Year but subsequently obtains earthquake insurance for the Building during the Lease Term, then from and after the date upon which Landlord obtains such earthquake insurance and continuing throughout the period during which Landlord maintains such insurance, Operating Expenses for the Base Year shall be deemed to be increased by the amount of the premium Landlord would have incurred had Landlord maintained such insurance for the same period of time during the Base Year as such insurance is maintained by Landlord during such subsequent Expense Year. If Landlord is not furnishing any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Project is not at least one hundred percent (100%) occupied during all or a portion of any Expense Year (inclusive of the Base Year), Landlord shall make an appropriate adjustment to the components of Operating Expenses for such year to determine the amount of Operating Expenses that would have been incurred had the Project been one hundred percent (100%) occupied by tenants paying full rent; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Operating Expenses for the Base Year shall include (i) temporary market-wide cost increases (including utility rate increases) due to extraordinary circumstances, including, but not limited to, Force Majeure, boycotts, strikes, conservation surcharges, embargoes or shortages, or (ii) amortized costs relating to Permitted Capital Expenditures (such items to be known

collectively as “Increases”); provided, however, that at such time as any such particular Increase is no longer being incurred by Landlord, the cost of such Increase shall be excluded from the Base Year calculation, and any future calculation, of Operating Expenses.

#### 4.2.5 Taxes.

4.2.5.1 “Tax Expenses” shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary, (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Project, or any portion thereof), which shall be paid or accrued during any Expense Year (without regard to any different fiscal year used by such governmental or municipal authority) because of or in connection with the ownership, leasing and operation of the Project, or any portion thereof.

4.2.5.2 Tax Expenses shall include, without limitation: (i) any tax on the rent, right to rent or other income from the Project, or any portion thereof, or as against the business of leasing the Project, or any portion thereof; (ii) any assessment, tax, fee, levy or charge in addition to, or 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 (“**Proposition 13**”) 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, and, in further recognition of the decrease in the level and quality of governmental services and amenities as a result of Proposition 13, Tax Expenses shall also include any governmental or private assessments or the Project’s contribution towards a governmental or private cost-sharing agreement for the purpose of augmenting or improving the quality of services and amenities normally provided by governmental agencies; (iii) any assessment, tax, fee, levy, or charge allocable to or measured by the area of the Premises or the Rent payable hereunder, including, without limitation, any business or gross income tax or excise tax with respect to the receipt of such rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof; (iv) 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; and (v) all of the real estate taxes and assessments imposed upon or with respect to the Building and all of the real estate taxes and assessments imposed on the land and improvements comprising the Project.

4.2.5.3 If Tax Expenses for any period during the Lease Term or any extension thereof are increased after payment thereof for any reason, including, without limitation, error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord within thirty (30) days following demand accompanied by reasonably detailed back-up documentation, Tenant’s Share of any such increased Tax Expenses included

by Landlord as Tax Expenses pursuant to the terms of this Lease. Notwithstanding anything to the contrary contained in this Section 4.2.5 (except as set forth in Section 4.2.5.1, above), there shall be excluded from Tax Expenses (i) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Project), (ii) any items included as Operating Expenses, (iii) any items paid by Tenant under Section 4.5 of this Lease (as well as any similar items payable by other Project tenants pursuant to similar provisions contained in their leases), (iv) tax penalties incurred as a result of Landlord's failure to make payments and/or to file any tax or informational returns when due, and (v) any assessments on real property or improvements located outside of the Project. All assessments which can be paid by Landlord in installments, shall be paid by Landlord in the maximum number of installments permitted by law and shall be included as Tax Expenses in the year in which the installment is actually paid. For purposes of calculating Tax Expenses for the Project for the Base Year or any Expense Year, if such Tax Expenses do not reflect an assessment (or Tax Expenses) for a one hundred percent (100%) leased, completed and occupied project (such that existing or future leasing, improvements and/or occupancy may result in an increased assessment and/or increased Tax Expenses) with the Project being 100% occupied by tenants paying full rent, such Tax Expenses for the Base Year or any subsequent Expense Year, as applicable, shall be adjusted, on a basis consistent with sound real estate accounting principles, to reflect an assessment for (and Tax Expenses for) a one hundred percent (100%) leased, completed and occupied project with the Project being 100% occupied by tenants paying full rent.

4.2.5.4 Notwithstanding anything to the contrary set forth in this Lease, the amount of Tax Expenses for the Base Year and any Expense Year shall be calculated without taking into account any decreases in real estate taxes obtained in connection with Proposition 8, and, therefore, in such event the Tax Expenses in the Base Year and/or an Expense Year may be greater than those actually incurred by Landlord, but shall, nonetheless, be the Tax Expenses due under this Lease; provided that in such event (i) any costs and expenses incurred by Landlord in securing any Proposition 8 reduction shall not be included in Direct Expenses for purposes of this Lease, and (ii) tax refunds under Proposition 8 shall not be deducted from Tax Expenses, but rather shall be the sole property of Landlord. Landlord and Tenant acknowledge that this Section 4.2.5.4 is not intended to in any way affect (A) the inclusion in Tax Expenses of the statutory two percent (2.0%) annual increase in Tax Expenses (as such statutory increase may be modified by subsequent legislation), to the extent such annual permitted increase in assessed value was actually applied in any particular year, or (B) the inclusion or exclusion of Tax Expenses pursuant to the terms of Proposition 13, which shall be governed pursuant to the terms of Sections 4.2.5.1 through 4.2.5.3, above. Notwithstanding anything to the contrary set forth in this Lease, only Landlord may institute proceedings to reduce Tax Expenses and the filing of any such proceeding by Tenant without Landlord's consent shall constitute a Default by Tenant. Notwithstanding the foregoing, Landlord shall not be obligated to file any application or institute any proceeding seeking a reduction in Tax Expenses.

4.2.6 "**Tenant's Share**" shall mean the percentage set forth in Section 6 of the Summary.

**4.3 Cost Pools.** The parties acknowledge that certain of the costs and expenses incurred in connection with the Project (*i.e.*, the Direct Expenses) should be separately allocated to the office space and the Retail Space. Direct Expenses shall be allocated between the office space and Retail Space (each, a “**Cost Pool**”) based on the estimated benefit derived by the space which is the subject of the Cost Pool, and such allocations shall be reasonably determined by Landlord. Accordingly, Direct Expenses shall be charged to the Retail Space and the office space by virtue of the creation of Cost Pools. Direct Expenses and Tax Expenses which apply equally to the Retail Space and the office space (such as Landlord’s insurance costs), as reasonably determined by Landlord, shall be allocated to the office space Cost Pool and the Retail Space Cost Pool based on the square footage of each of those spaces, respectively, compared to the total square footage of the Building. Any costs allocated to a Cost Pool (e.g. the Retail Space Cost Pool) which does not include a portion of the Premises shall be excluded from the definition of Direct Expenses for the purposes of this Lease.

**4.4 Calculation and Payment of Additional Rent.** If for any Expense Year ending or commencing within the Lease Term, Tenant’s Share of Direct Expenses for such Expense Year exceeds Tenant’s Share of Direct Expenses applicable to the Base Year, then Tenant shall pay to Landlord, in the manner set forth in Section 4.4.1, below, and as Additional Rent, an amount equal to the excess (the “**Excess**”).

**4.4.1 Statement of Actual Direct Expenses and Payment by Tenant.** Landlord shall give to Tenant following the end of each Expense Year, a statement (the “**Statement**”) which shall state in general the major categories the Direct Expenses incurred or accrued for the Base Year or such preceding Expense Year, as applicable (inclusive of a reasonable description of any Permitted Capital Expenditures which are included in Operating Expenses and, if applicable, the calculations made by Landlord to adjust Direct Expenses pursuant to the final paragraph of Section 4.2.4 and the final sentence of Section 4.2.5.3), and which shall indicate the amount of the Excess. Landlord shall use commercially reasonable efforts to deliver such Statement to Tenant on or before May 1 following the end of the Expense Year to which such Statement relates. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, if an Excess is present, Tenant shall pay, within thirty (30) days after receipt of the Statement, the full amount of the Excess for such Expense Year, less the amounts, if any, paid during such Expense Year as “Estimated Excess,” as that term is defined in Section 4.4.2, below, and if Tenant paid more as Estimated Excess than the actual Excess, Tenant shall receive a credit in the amount of Tenant’s overpayment against Rent next due under this Lease. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord or Tenant from enforcing its rights under this Article 4. Even though the Lease Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant’s Share of Direct Expenses for the Expense Year in which this Lease terminates, if an Excess is present, Tenant shall, within thirty (30) days after receipt of the Statement, pay to Landlord such amount, and if Tenant paid more as Estimated Excess than the actual Excess, Landlord shall, within thirty (30) days, deliver a check payable to Tenant in the amount of the overpayment. The provisions of this Section 4.4.1 shall survive the expiration or earlier termination of the Lease Term. Notwithstanding the immediately preceding sentence, Tenant shall not be responsible for Tenant’s Share of any Direct Expenses attributable to any Expense Year which are first billed to Tenant more than two (2) calendar years after the Lease Expiration Date, provided that in any event Tenant shall be responsible for Tenant’s Share of Direct Expenses levied by any governmental authority or by any public utility companies at any time following the Lease Expiration Date which are attributable to any Expense Year.

**4.4.2 Statement of Estimated Direct Expenses.** In addition, Landlord shall give Tenant a yearly expense estimate statement (the “**Estimate Statement**”) which shall set forth in the general major categories Landlord’s reasonable estimate (the “**Estimate**”) of what the total amount of Building Direct Expenses for the then-current Expense Year shall be and the estimated excess (the “**Estimated Excess**”) as calculated by comparing the Building Direct Expenses for such Expense Year, which shall be based upon the Estimate, to the amount of Building Direct Expenses for the Base Year. Landlord shall use commercially reasonable efforts to deliver such Estimate Statement to Tenant on or before May 1 following the end of the Expense Year to which such Estimate Statement relates. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights to collect any Additional Rent under this Article 4, nor shall Landlord be prohibited from revising any Estimate Statement or Estimated Excess theretofore delivered to the extent necessary. Thereafter, Tenant shall pay, on the first day of the next calendar month which occurs at least thirty (30) days after receipt of the Estimate Statement, a fraction of the Estimated Excess for the then-current Expense Year (reduced by any amounts paid pursuant to the second to last sentence of this Section 4.4.2). Such fraction shall have as its numerator the number of months which have elapsed in such current Expense Year, including the month of such payment, and twelve (12) as its denominator. Until a new Estimate Statement is furnished (which Landlord shall have the right to deliver to Tenant at any time), Tenant shall pay monthly, with the monthly Base Rent installments, an amount equal to one-twelfth (1/12) of the total Estimated Excess set forth in the previous Estimate Statement delivered by Landlord to Tenant. Throughout the Lease Term Landlord shall maintain books and records with respect to Building Direct Expenses in accordance with generally accepted real estate accounting and management practices, consistently applied.

**4.5 Taxes and Other Charges for Which Tenant Is Directly Responsible.**

4.5.1 Tenant shall be liable for and shall pay ten (10) days before delinquency, taxes levied against Tenant’s equipment, furniture, fixtures and any other personal property located in or about the Premises. If any such taxes on Tenant’s equipment, furniture, fixtures and any other personal property are levied against Landlord or Landlord’s property or if the assessed value of Landlord’s property is increased by the inclusion therein of a value placed upon such equipment, furniture, fixtures or any other personal property and if Landlord pays the taxes based upon such increased assessment, which Landlord shall have the right to do regardless of the validity thereof but only under proper protest if requested by Tenant, Tenant shall upon demand repay to Landlord the taxes so levied against Landlord or the proportion of such taxes resulting from such increase in the assessment, as the case may be.

4.5.2 If the improvements in the Premises, whether installed and/or paid for by Landlord or Tenant and whether or not affixed to the real property so as to become a part thereof, are assessed for real property tax purposes at a valuation higher than the valuation at which “building standard” improvements are assessed, then the Tax Expenses levied against Landlord or the property by reason of such excess assessed valuation shall be deemed to be taxes levied against personal property of Tenant and shall be governed by the provisions of Section 4.5.1, above. Landlord and Tenant hereby agree that the valuation of Landlord’s “building standard” improvements shall be equal to Seventy and 00/100 Dollars (\$70.00) per rentable square foot.



4.5.3 Notwithstanding any contrary provision herein, Tenant shall pay prior to delinquency any (i) rent tax or sales tax, service tax, transfer tax or value added tax, or any other applicable tax on the rent or services herein or otherwise respecting this Lease, or (ii) taxes assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Project, including the Project parking facility.

4.6 **Landlord's Books and Records.** Following Tenant's receipt of a Statement, Tenant shall have the right by written notice to Landlord to commence and complete an audit of Landlord's books concerning the Direct Expenses for the Expense Year which are the subject to such Statement, within the later to occur of (x) six (6) months following the delivery of such Statement and (y) the date that is sixty (60) days after Landlord makes Landlord's books and records available for Tenant's audit, provided that Tenant notifies Landlord of Tenant's intent to audit Landlord's books and records within the six (6) month period described in clause (x) above (the "**Audit Period**"); notwithstanding the foregoing, on the first (1st) occasion within the initial three (3) years of the Lease Term on which Tenant exercises its right to audit Landlord's books and records concerning Direct Expenses pursuant to the provisions of this Section 4.6, Tenant shall be entitled to audit Landlord's books and records concerning Direct Expenses for the Base Year as well as the books and records for the Expense Year which is the subject of the applicable Statement. Following the giving of such written notice, Tenant shall have the right during Landlord's regular business hours taking into account the workload of Landlord's employees involved in the audit at the time of the audit request and on reasonable prior notice, to audit, at Landlord's corporate offices, at Tenant's sole cost, Landlord's records, provided that Tenant is not then in Default. The audit of Landlord's records may be conducted only by a reputable certified public accountant, subject to Landlord's approval, which approval shall not be unreasonably withheld. Any accounting firm selected by Tenant in connection with the audit (i) shall be a reputable independent nationally or regionally recognized certified public accounting firm which has previous experience in auditing financial operating records of landlords of office buildings; (ii) shall not already be providing accounting and/or lease administration services to Tenant and shall not have provided accounting and/or lease administration services to Tenant in the past three (3) years; (iii) shall not be retained by Tenant on a contingency fee basis (i.e. Tenant must be billed based on the actual time and materials that are incurred by the accounting firm in the performance of the audit), a copy of the executed audit agreement, between Tenant and auditor, shall be provided to Landlord prior to the commencement of the audit; and (iv) at Landlord's option, both Tenant and its agent shall be required to execute a commercially reasonable confidentially agreement prepared by Landlord. Any audit report prepared by Tenant's auditors shall be delivered concurrently to Landlord and Tenant within the Audit Period. If, after such audit of Landlord's records, Tenant disputes the amount of Direct Expenses for the year under audit, Landlord and Tenant shall meet and attempt in good faith to resolve the dispute. If the parties are unable to resolve the dispute within sixty (60) days after completion of Tenant's audit, then, at Tenant's request, a certified public accounting firm selected by Landlord, and reasonably approved by Tenant, shall, at Tenant's cost, conduct an audit of the relevant Direct Expenses (the "**Neutral Audit**"). Tenant shall pay all costs and expenses of the Neutral Audit unless the final determination in such

Neutral Audit is that Landlord overstated Direct Expenses in the Statement for the year being audited by more than five percent (5%) in which case Landlord shall pay all costs and expenses of the Neutral Audit, as well as Tenant's reasonable out-of-pocket costs actually incurred by Tenant in the audit of Landlord's books and records. In any event, Landlord will reimburse or provide a credit for any overstatement of Direct Expenses and Tenant shall pay to Landlord any understatement of Direct Expenses. If the Direct Expenses for the Base Year are adjusted as a result of such Neutral Audit, then any such change in the Direct Expenses for the Base Year shall be included in the foregoing calculation to determine if the Direct Expenses were overstated by more than five percent (5%). To the extent Landlord and Tenant fail to otherwise reach mutual agreement regarding Direct Expenses, the foregoing audit and Neutral Audit procedures shall be the sole methods to be used by Tenant to dispute the amount of any Direct Expenses payable by Tenant pursuant to the terms of the Lease.

## ARTICLE 5

### USE OF PREMISES

5.1 **Permitted Use.** Tenant shall use the Premises solely for the Permitted Use set forth in Section 7 of the Summary and Tenant shall not use or permit the Premises or the Project to be used for any other purpose or purposes whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

5.2 **Prohibited Uses.** The uses prohibited under this Lease shall include, without limitation, use of the Premises or a portion thereof for (i) offices of any agency or bureau of the United States or any state or political subdivision thereof; (ii) offices or agencies of any foreign governmental or political subdivision thereof; (iii) offices of any health care professionals or service organization; (iv) schools or other training facilities which are not ancillary to corporate, executive or professional office use; (v) retail use or the operation of any restaurant offering services to the public; or (vi) communications firms such as radio and/or television stations. Tenant further covenants and agrees that Tenant shall not use, or suffer or permit any person or persons to use, the Premises or any part thereof for any use or purpose contrary to the provisions of the Rules and Regulations set forth in Exhibit D, attached hereto, or in violation of the laws of the United States of America, the State of California, or the ordinances, regulations or requirements of the local municipal or county governing body or other lawful authorities having jurisdiction over the Project, including, without limitation, any such laws, ordinances, regulations or requirements relating to Hazardous Substances. Tenant shall not do or permit anything to be done in or about the Premises which will in any way damage the reputation of the Project or obstruct or interfere with the rights of other tenants or occupants of the Building, or injure or annoy them or use or allow the Premises to be used for any unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall comply with all recorded covenants, conditions, and restrictions now or hereafter affecting the Project. Except for small quantities customarily used in business offices, Tenant shall not cause or permit any Hazardous Substance to be kept, maintained, used, stored, produced, generated or disposed of (into the sewage or waste disposal system or otherwise) on or in the Premises by Tenant or Tenant's agents, employees, contractors, invitees, assignees or sublessees, without first obtaining Landlord's written consent. Tenant shall immediately notify, and shall direct Tenant's agents, employees contractors, invitees, assignees and sublessees to immediately

notify, Landlord of any incident in, on or about the Premises, the Building or the Project that would require the filing of a notice under any federal, state, local or quasi-governmental law (whether under common law, statute or otherwise), ordinance, decree, code, ruling, award, rule, regulation or guidance document now or hereafter enacted or promulgated, as amended from time to time, in any way relating to or regulating any Hazardous Substance. As used herein, "**Hazardous Substance**" means any substance which is toxic, ignitable, reactive, or corrosive and which is regulated by any local government, the State of California, or the United States government. "Hazardous Substance" includes any and all material or substances which are defined as "hazardous waste," "extremely hazardous waste" or a "hazardous substance" pursuant to state, federal or local governmental law. "Hazardous Substance" also includes asbestos, polychlorobiphenyls (i.e., PCB's) and petroleum.

5.3 **Tenant's Bicycles.** Tenant's employees shall be permitted to bring their bicycles ("**Bicycles**") into the designated portions of the Building, subject to the provisions of this Section 5.3, and such additional reasonable rules and regulations as may be promulgated by Landlord from time to time (in Landlord's reasonable discretion) that do not unreasonably interfere with Tenant's ability to park its Bicycles as contemplated herein and provided to Tenant, and only to the extent such Bicycles are used on a daily basis for commuting to and from work by such employees. **AT NO TIME ARE RIDERS ALLOWED TO RIDE ANY BICYCLE IN THE PREMISES, THE PROJECT PARKING FACILITIES, THE BUILDING, OR ANYWHERE ELSE WITHIN THE PROJECT. RIDERS MUST ALWAYS WALK THEIR BICYCLES WITHIN THE PROJECT BOUNDARIES.** Storage of any Bicycle anywhere on the Project other than as expressly set forth in this Section 5.3 is prohibited. Tenant shall keep its employees informed of these rules and regulations and any modifications thereto.

5.3.1 **Bicycle Storage Area.** Tenant shall have the non-exclusive right, on a first-come, first-served basis, at no cost to Tenant, to utilize that portion of the Building's parking garage (the "**Garage**") designated by Landlord for the day use parking of operable non-motorized Bicycles by tenants and occupants of the Building (the "**Bicycle Storage Area**"). Motorized vehicles of any kind, including motorcycles and mopeds, are prohibited in the Bicycle Storage Area, as is the storage of any property other than Bicycles. Each rider shall use the Bicycle Storage Area at is sole risk. Landlord specifically reserves the right to reasonably change the location, size, configuration, design, layout and all other aspects of the Bicycle Storage Area at any time (provided that no such action will materially diminish the capacity of the Bicycle Storage Area on other than a temporary basis), and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, temporarily close-off or restrict access to the Bicycle Storage Area for purposes of permitting or facilitating any such construction, alteration or improvements. Landlord has no obligation to provide any security whatsoever in connection with the Bicycle Storage Area except as expressly set forth in this Section 5.3.1. Landlord shall provide twenty-four (24) hours per day, seven (7) days per week, reasonable access control services for the Bicycle Storage Area in a manner materially consistent with the services provided by landlords of Comparable Buildings. Notwithstanding the foregoing, Landlord shall in no case be liable for personal injury or property damage for any error with regard to the admission to or exclusion from the Bicycle Storage Area of any person. Upon the expiration or earlier termination of this Lease, Tenant shall have removed all Bicycles belonging to its

employees from the Bicycle Storage Area and Tenant, at Tenant's sole cost and expense, shall repair all damage to the Bicycle Storage Area caused by the removal of Tenant's property therefrom, and if Tenant fails to repair such damage, Landlord may undertake such repair on account of Tenant and Tenant shall pay to Landlord upon demand the cost of such repair. If Tenant fails to remove any Bicycles at the expiration or earlier termination of this Lease, Landlord may dispose of said Bicycles in such lawful manner as it shall determine in its sole and absolute discretion.

5.3.2 **Bicycles in the Premises.** Tenant's employees shall be permitted to bring their Bicycles in the Premises in accordance with the terms of this Section 5.3.2. The right provided to Tenant and its employees to bring Bicycles into the Premises shall be subject to the following terms and conditions: (i) Bicycles may only enter and exit the Building through the Garage entrance; (ii) Bicycles may enter and exit the Building at all times; (iii) Bicycles must be taken directly from the Garage to the Premises via the Building's freight elevator or another elevator designated by Landlord, which Tenant's employees shall be entitled to operate at any time, and in no event shall Tenant's employees bring any Bicycles into or through the ground floor lobby of the Building; (iv) Landlord shall have the right to reasonably designate the path of travel that Tenant's employees must follow to/from the Garage and the freight elevator, or another elevator designated by Landlord; and (v) in no event shall Tenant permit any bicycles to be located within the Common Areas (other than the Bicycle Storage Area) at any time.

## ARTICLE 6

### SERVICES AND UTILITIES

6.1 **Standard Tenant Services.** Landlord shall provide the following services during the Lease Term.

6.1.1 **HVAC.** In accordance with the "Base Building" definition as provided in Section 1 of the Work Letter, the Building shall be equipped with a heating and air conditioning ("**HVAC**") system serving the Building (the "**BB HVAC System**"). Subject to limitations imposed by all governmental rules, regulations and guidelines applicable thereto, Landlord shall provide BB HVAC System service during the "HVAC System Hours" (defined below). Tenant shall have the right to specify the hours of availability of the BB HVAC System (the "**HVAC System Hours**"); provided, however, (i) any initial determination or changes to the HVAC System Hours shall require at least thirty (30) days prior notice to Landlord, and shall not be effective until the first day of the subsequent calendar month occurring after the expiration of the thirty (30) day period, (ii) the HVAC System Hours shall consist of, at a minimum, the hours of 8:00 A.M. to 6:00 P.M. on Monday through Friday, and (iii) the HVAC System Hours shall consist only of consecutive time periods, as determined on a daily basis. Tenant shall cooperate fully with Landlord at all times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the BB HVAC System. If the HVAC System Hours consist of more than seventy-five (75) hours per week ("**Excess Hours**"), then Landlord shall supply such HVAC to Tenant at Landlord's actual cost (which shall be treated as Additional Rent, but not as an Operating Expense), including the cost of increased depreciation on the BB HVAC System, but excluding the cost of electricity to the extent already paid for directly by Tenant, but including the electrical costs specified as follows. Landlord shall

reasonably and equitably allocate the portion of the electrical costs of the BB HVAC System attributable to Tenant's direct use of the BB HVAC System for the Excess Hours to Tenant, and Tenant shall pay for the costs of such direct use along with the increased depreciation as set forth above, within thirty (30) days after demand, and as Additional Rent under this Lease (and not as part of the Operating Expenses) (the "Extra HVAC Costs").

6.1.2 **Electricity.** Landlord shall provide adequate electrical wiring and facilities for connection to Tenant's lighting and Tenant's incidental use equipment, provided that the combined electrical load of Tenant's incidental use equipment and the connected electrical load of Tenant's lighting fixtures does not exceed an average of six and one-half (6 ½) watts per rentable square foot of the Premises. Notwithstanding the foregoing, during the Construction Period (i) Tenant may not utilize, and may not request Landlord's consent to utilize, electrical equipment or lighting exceeding such connected load, and (ii) Tenant may not request that Landlord make, and Tenant shall not be responsible for, any upgrade to the Building Systems to accommodate any such increased electrical load; provided, however, that after the Construction Period, Landlord's consent to Tenant's use of electrical equipment or lighting requiring a greater connected load will not be unreasonably withheld if Tenant agrees in writing to bear the cost of (a) any necessary upgrade to the Building Systems to provide for such increased electrical load, and (b) any reasonably necessary additional heating, ventilating and air conditioning supplied to the Premises as a result of such increased electrical load, and the electricity so furnished for incidental use equipment will be at a nominal one hundred twenty (120) volts and no electrical circuit for the supply of such incidental use equipment will require a current capacity exceeding twenty (20) amperes, which electrical usage shall be subject to Applicable Laws, including Title 24. Tenant shall bear the cost of replacement of lamps, starters and ballasts for non-Building standard lighting fixtures within the Premises (Landlord, as part of Operating Expenses, will replace Building-standard lamps, starters and ballasts). Tenant shall reasonably cooperate with Landlord at all times and abide by all regulations and requirements that Landlord may reasonably prescribe for the proper functioning and protection of the Building electrical systems. All electricity usage at the Project shall be monitored using separate submeters (the "Submetering Equipment") installed by Landlord for (i) the Retail Space, (ii) the Premises (not including the "Building Systems", as that term is defined in Article 7 of this Lease), and (iii) the Common Areas and Building Systems. Tenant at Tenant's sole cost and expense shall pay for the costs of installing the Submetering Equipment for the Premises. Tenant shall have no obligation to pay for any costs of electricity (including as part of Operating Expenses) shown on the Submetering Equipment described in item (i) above. Tenant shall be responsible to pay directly, and not as a part of Operating Expenses, for the cost of all electricity shown on the Submetering Equipment described in item (ii) above. The cost of all electricity shown on the Submetering Equipment described in item (iii) above (except to the extent included in the Extra HVAC Costs and Bridge Structures Electricity) shall be included in Operating Expenses. Tenant may audit Landlord's readings of the Submetering Equipment and Landlord shall deliver reasonably detailed invoices to Tenant reflecting Landlord's reading of the Submetering Equipment and resulting electricity costs.

6.1.3 **Water and Sewer.** Landlord shall cause water and sewer to be supplied to the Building. Landlord shall reasonably and equitably allocate the portion of such utilities attributable to Tenant's direct use to Tenant, and Tenant shall pay for the costs of such direct use, within thirty (30) days after demand and as Additional Rent under this Lease (and not as part of

the Operating Expenses), and other water and sewer costs shall be reasonably and equitably included as part of Operating Expenses, to the extent permitted by the terms of Section 4.2.4 above or charged directly to other tenants of the Building. Landlord shall designate the utility providers from time to time.

6.1.4 **Gas.** Landlord shall cause gas to be supplied to the Project. The portion of the gas used in connection with the Retail Space shall be separately submetered and paid for directly by such retail tenants. The cost of all other gas supplied to the Project shall be included in Operating Expenses; provided, however, if Tenant elects to install a kitchen/cafeteria within the Premises (or other equipment using gas), which would require the use of gas within the Premises, then Tenant shall, at Tenant's sole cost and expense, be responsible for installing a submeter to separately monitor such gas usage. Thereafter, Tenant shall pay for the costs of such direct gas use, within thirty (30) days after demand and as Additional Rent under this Lease (and not as part of the Operating Expenses).

6.1.5 **Janitorial.** Landlord shall provide janitorial services for the Common Areas and exterior window washing services, in a manner consistent with the standards of other first-class, institutionally owned office buildings in the City of San Francisco, but shall not provide janitorial services for the Premises. Tenant shall perform all janitorial services and other cleaning within the Premises and to the Bridge Structures in a manner consistent with the standards of other first-class, institutionally owned office buildings in the City of San Francisco. Without Landlord's prior consent, Tenant shall not use (and upon notice from Landlord shall cease using) janitorial service providers who would, in Landlord's reasonable and good faith judgment, disturb labor harmony with the workforce or trades engaged in performing other work, labor or services in or about the Building or the Common Areas.

6.1.6 **Elevator.** Landlord shall provide non-attended automatic passenger elevator service during the building hours reasonably designated by Landlord (the "**Building Hours**"), and shall have one (1) elevator available at all other times.

6.1.7 **Loading Dock.** Landlord shall provide use of the Building loading dock for deliveries to Tenant.

6.1.8 **Risers, Raceways, Shafts, Conduits.** Subject to Landlord's rules, regulations, and restrictions and the terms of this Lease, Landlord shall permit Tenant, at no additional charge to Tenant, to utilize the Building risers, raceways, shafts and conduit, provided that there is available space in the Building risers, raceways, shafts and/or conduit for Landlord's reasonable use and reasonable use by the other tenants of the Building, which availability shall be determined by Landlord in Landlord's reasonable discretion. Landlord shall have the right to re-route the planned location of Tenant's cabling in such risers, raceways, shafts and conduit, as determined by Landlord in its reasonable discretion.

6.1.9 **Security Systems.** As part of the construction of the Base Building Landlord shall install an access-control system for the Building. Landlord shall not provide any other security equipment and shall not provide any security personnel to the Building and, in no case, shall Landlord be liable for personal injury or property damage for any lack of security in the Building or for any error with regard to the admission to or exclusion from the Building or

Project of any person. Landlord hereby agrees that Tenant shall have the right to install a card key security system (“**Tenant’s Security System**”) in the Premises and to connect such system to Landlord’s access-control system for the Building. Tenant’s Security Systems shall be subject to Landlord’s prior review and approval (not to be unreasonably withheld), and the installation thereof shall be deemed an Alteration and shall be performed pursuant to Article 8 of this Lease, below. In addition, Tenant shall coordinate the selection, installation and operation of Tenant’s Security System with Landlord in order to ensure that Tenant’s Security System is compatible with Landlord’s Building security systems and equipment, and to the extent that Tenant’s Security System is not compatible with Landlord’s Building systems and equipment, Tenant shall not be entitled to install and/or operate the Tenant’s Security System. Tenant shall be solely responsible, at Tenant’s sole cost and expense, for the installation, monitoring, operation and removal of Tenant’s Security System.

6.1.10 **Access.** Subject to Applicable Laws and the other provisions of this Lease, and except in the event of an emergency, Tenant shall have access to the above utilities and the Building, the Premises and the Common Areas, other than common areas requiring access with a Building engineer, the parking garage and freight elevator, if any, twenty-four (24) hours per day, seven (7) days per week, every day of the year; provided, however, that Tenant shall pay Landlord’s reasonable out-of-pocket costs that are incurred if Tenant uses the loading dock, mailroom and other limited-access areas of the Building during other than normal Building Hours.

6.2 **Interruption of Use.** Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise (except as specifically set forth in Section 19.5.2 of this Lease), for failure to furnish or delay in furnishing any service (including telephone and telecommunication services), or for any diminution in the quality or quantity thereof, when such failure or delay or diminution is occasioned, in whole or in part, by breakage, repairs, replacements, or improvements, by any strike, lockout or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Building or Project after reasonable effort to do so, by any riot or other dangerous condition, emergency, accident or casualty whatsoever, by act or default of Tenant or other parties, or by any other cause; and such failures or delays or diminution shall never be deemed to constitute an eviction or disturbance of Tenant’s use and possession of the Premises or relieve Tenant from paying Rent (except as specifically set forth in Section 19.5.2 of this Lease) or performing any of its obligations under this Lease.

6.3 **Use of Shafts and Utility Connections.** Landlord shall have reasonable access, and shall be entitled to allow other tenants reasonable access, through existing Building shafts to other portions of the Building (including the roof, mechanical floors and tenant spaces (including the Premises)), or to utility connections outside the Building, for the installation, repair, and maintenance of ducts, pipes, connections, and equipment for cables, conduits, transmitters, receivers, and other office, computer, communications and word and data processing equipment and facilities, including any technological devices not yet developed, whether similar or dissimilar to the foregoing, which may hereafter become necessary or desirable for any permitted use of the Project; provided, however, that to the extent such shafts or utility connections are located within the Premises, such access shall not materially and unreasonably interfere with Tenant’s occupancy of the Premises (Landlord’s efforts in such regard will include, where reasonably possible, limiting the performance of any such work

which might be disruptive to weekends or the evening and the cleaning of any work area prior to the commencement of the next business day). To the extent that Landlord installs, maintains, uses, repairs or replaces pipes, cables, ductwork, conduits, utility lines, and/or wires through hung ceiling space, exterior perimeter walls and column space, adjacent to and in demising partitions and columns, in or beneath the floor slab or above, below, or through the Premises, then in the course of making any such installation or repair: (x) Landlord shall not reduce Tenant's usable space, except to a de minimus extent, if the same are not installed behind existing walls or ceilings; (y) Landlord shall box in any of the same installed adjacent to existing walls with construction materials substantially similar to those existing in the affected area(s) of the Premises; and (z) Landlord shall repair all damage caused by the same and restore such area(s) of the Premises to substantially the condition existing immediately prior to such work. The terms of this Section 6.3 shall be subject to the terms of Section 29.33 below.

6.4 **Supplemental HVAC.** Subject to Landlord's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed, Tenant shall have the right to install a supplemental HVAC system serving all or any portion of the Premises. Any such supplemental HVAC system shall be installed pursuant to the terms of Article 8 and shall be deemed an Alteration for purposes of this Lease; provided, however, it shall be deemed reasonable for Landlord to withhold its approval to the extent any such installation would materially interfere with, or materially increase the cost of, Landlord's maintenance or operation of the Building, unless Tenant agrees to pay for such increased costs. Any such supplemental HVAC system installed by Tenant shall utilize the Building's chilled or condenser water, at Landlord's actual cost without markup. If Tenant connects into the Building's chilled or condenser water system pursuant to the terms of the foregoing sentence, then Landlord shall install a submetering device at Tenant's sole cost and expense, which shall measure the flow of chilled or condenser water to the Premises, and Tenant shall pay Landlord for Tenant's use of chilled or condenser water at Landlord's actual cost. In no event shall any of the costs associated with the installation or use of the supplemental HVAC system be included within the Base Year. Tenant shall bear all costs of the equipment, and all costs of installation and removal thereof.

## ARTICLE 7

### REPAIRS

Landlord shall at all times during the Lease Term maintain in good condition and operating order and in a manner reasonably commensurate with the maintenance standards of owners of Comparable Buildings, the structural portions of the Building, including, without limitation, the foundation, floor slabs, ceilings, roof, columns, beams, shafts, stairs, stairwells, escalators, elevators, base building restrooms and all Common Areas (collectively, the "**Building Structure**"), and the Base Building mechanical, electrical, life safety, plumbing, sprinkler and HVAC systems installed or furnished by Landlord (collectively, the "**Building Systems**"). In addition, Landlord shall use commercially reasonable efforts, at all times during the Lease Term, to cause the Building Systems to perform in accordance with the design specifications for such equipment as set forth in the "Base Building Plans" as that term is defined in Section 1 of the Work Letter. Except as specifically set forth in this Lease to the contrary, Tenant shall not be required to repair the Building Structure and/or the Building Systems except to the extent required because of Tenant's use of the Premises for other than normal and customary business



office operations. Tenant shall, at Tenant's own expense, pursuant to the terms of this Lease, including without limitation, Article 8 hereof, keep the Premises, including all improvements, fixtures and furnishings therein, and the floor or floors of the Building on which the Premises is located, in good order, repair and condition at all times during the Lease Term. In addition, Tenant shall, at Tenant's own expense, but under the supervision and subject to the prior approval of Landlord and the terms of Article 8 hereof, promptly and adequately repair all damage to the Premises and replace or repair all damaged, broken, or worn fixtures and appurtenances, except for damage caused by ordinary wear and tear or beyond the reasonable control of Tenant; provided however, that if Tenant fails to commence to make such repairs within ten (10) business days following notice from Landlord, Landlord may, but need not, make such repairs and replacements, and Tenant shall pay Landlord the cost thereof, including a percentage of the cost thereof (to be uniformly established for the Building and/or the Project) sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs or expenses arising from Landlord's involvement with such repairs and replacements forthwith upon being billed for same. Subject to the provisions of Section 6.4, above, Landlord may, but shall not be required to, enter the Premises at all reasonable times to make such repairs, alterations, improvements or additions to the Premises or to the Project or to any equipment located in the Project as Landlord shall desire or deem necessary or as Landlord may be required to do by governmental or quasi-governmental authority or court order or decree. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932 and Sections 1941 and 1942 of the California Civil Code or under any similar law, statute, or ordinance now or hereafter in effect.

## ARTICLE 8

### ADDITIONS AND ALTERATIONS

8.1 **Landlord's Consent to Alterations.** Tenant may not make any improvements, alterations, additions or changes to the Premises or any mechanical, plumbing or HVAC facilities or systems pertaining to the Premises (collectively, the "**Alterations**") without first procuring the prior written consent of Landlord to such Alterations, which consent shall be requested by Tenant not less than twenty (20) business days prior to the commencement thereof, and which consent shall not be unreasonably withheld by Landlord, provided it shall be deemed reasonable for Landlord to withhold its consent to any Alteration which may adversely affect the Building Structure or Building Systems, or is visible from the exterior of the Building, and further provided, that in no event shall Tenant use black paint to paint the underside or top of the structural slab. Notwithstanding the foregoing, Tenant shall be permitted to make Alterations following ten (10) business days' notice to Landlord, but without Landlord's prior consent, to the extent that such Alterations (i) do not affect the Building Structure, Building Systems or equipment, (ii) are not visible from the exterior of the Building, (iii) do not require a building or construction permit, (iv) cost less than \$100,000.00 for a particular job of work, (v) do not consist of using black paint to paint the underside or top of the structural slab. The construction of the initial improvements to the Premises shall be governed by the terms of the Work Letter and not the terms of this Article 8.

8.2 **Manner of Construction.** Landlord may impose, as a condition of its consent to any and all Alterations or repairs of the Premises or about the Premises, such requirements as

Landlord in its sole discretion may deem desirable, including, but not limited to, the requirement that Tenant utilize for such purposes only contractors, subcontractors, materials, mechanics and materialmen selected by Tenant from a list provided and approved by Landlord, the requirement that upon Landlord's request, Tenant shall, at Tenant's expense, remove any "Specialty Alterations" (defined below) upon the expiration or any early termination of the Lease Term. Tenant shall construct such Alterations and perform such repairs in a good and workmanlike manner, in conformance with any and all applicable federal, state, county or municipal laws, rules and regulations and pursuant to a valid building permit, issued by the City in which the Building is located, all in conformance with Landlord's construction rules and regulations. In the event Tenant performs any Alterations in the Premises which require or give rise to governmentally required changes to the "Base Building," as that term is defined below, then Landlord shall, at Tenant's expense, make such changes to the Base Building. The "**Base Building**" shall mean the Building Structure, the Building Systems, including the Building Systems on the floor or floors on which the Premises is located as well as the Common Areas. In performing the work of any such Alterations, Tenant shall have the work performed in such manner so as not to obstruct access to the Project or any portion thereof, by any other tenant of the Project, and so as not to obstruct the business of Landlord or other tenants in the Project. In addition to Tenant's obligations under Article 9 of this Lease, upon completion of any Alterations, Tenant agrees to cause a Notice of Completion to be recorded in the office of the Recorder of the County in which the Building is located in accordance with Section 8182 of the Civil Code of the State of California or any successor statute, and Tenant shall deliver to the Project management office a reproducible copy of the "as built" drawings of the Alterations as well as all permits, approvals and other documents issued by any governmental agency in connection with the Alterations.

8.3 **Payment for Improvements.** If payment is made directly to contractors, Tenant shall, at Tenant's cost, comply with Landlord's requirements for final lien releases and waivers in connection with Tenant's payment for work to contractors. For purposes of determining the cost of an Alteration, work done in phases or stages shall be considered part of the same Alteration, and any Alteration shall be deemed to include all trades and materials involved in accomplishing a particular result.

8.4 **Construction Insurance.** In addition to the requirements of Article 10 of this Lease, in the event that Tenant makes any Alterations, prior to the commencement of such Alterations, Tenant shall provide Landlord with evidence that Tenant carries "**Builder's All Risk**" insurance in an amount approved by Landlord covering the construction of such Alterations, and such other insurance as Landlord may require, it being understood and agreed that all of such Alterations shall be insured by Tenant pursuant to Article 10 of this Lease immediately upon completion thereof. In addition, Tenant shall reimburse Landlord for Landlord's reasonable, actual, out-of-pocket costs and expenses actually incurred in connection with Landlord's review of Tenant's work. Landlord may, in its discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of such Alterations and naming Landlord as a co-obligee.

8.5 **Specialty Alterations.** At any time during the Lease Term, Tenant may remove any of "Tenant's Property" (as that term is defined in Section 15.2 below) located in the

Premises. Landlord may, by written notice to Tenant prior to the end of the Lease Term, or given following any earlier termination of this Lease, require Tenant, at Tenant's expense, to remove any Specialty Alterations and to repair any damage to the Premises and Building and return the affected portion of the Premises to the condition existing prior to the installation of such Specialty Alteration as reasonably determined by Landlord; provided; however, that notwithstanding the foregoing, upon request by Tenant at the time of Tenant's request for Landlord's consent to any Alteration or improvement (or at the time of Landlord's approval of the "Final Space Plan" or the "Final Working Drawings" (as defined in the Work Letter)), Landlord shall notify Tenant whether the applicable Alteration or Improvement constitutes a Specialty Alteration that will be required to be removed pursuant to the terms of this Section 8.5. If Tenant fails to complete any required removal and/or to repair any damage caused by the required removal of any Specialty Alterations, and return the affected portion of the Premises to the condition existing prior to the installation of such Specialty Alteration as reasonably determined by Landlord, Landlord may do so and may charge the actual and reasonable cost thereof to Tenant. Tenant hereby protects, defends, indemnifies and holds Landlord harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such Alterations, improvements, fixtures and/or equipment in, on or about the Premises, which obligations of Tenant shall survive the expiration or earlier termination of this Lease. As used herein, "**Specialty Alterations**" shall mean any Alteration or Improvement that is not a normal and customary general office improvement, including, but not limited to improvements which (i) perforate, penetrate or require reinforcement of a floor slab (including, without limitation, interior stairwells or high-density filing or racking systems), (ii) consist of the installation of a raised flooring system, (iii) consist of the installation of a vault or other similar device or system intended to secure the Premises or a portion thereof in a manner that exceeds the level of security necessary for ordinary office space, (iv) involve material plumbing connections (such as, for example but not by way of limitation, kitchens, saunas, showers, and executive bathrooms outside of the Building core and/or special fire safety systems), (v) consist of the dedication of any material portion of the Premises to non-office usage (such as classrooms, bicycle storage rooms or kitchens), or (vi) can be seen from outside the Premises. An open ceiling will not be considered a Specialty Alteration.

## ARTICLE 9

### COVENANT AGAINST LIENS

Tenant shall keep the Project, Building and Premises free from any liens or encumbrances arising out of the work performed, materials furnished or obligations incurred by or on behalf of Tenant, and shall protect, defend, indemnify and hold Landlord harmless from and against any claims, liabilities, judgments or costs (including, without limitation, reasonable attorneys' fees and costs) arising out of same or in connection therewith. Tenant shall give Landlord notice at least twenty (20) days prior to the commencement of any such work on the Premises (or such additional time as may be necessary under Applicable Laws) to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility. Tenant shall remove any such lien or encumbrance by bond or otherwise within five (5) business days after notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove such lien or encumbrance, without being responsible for investigating the

validity thereof. The amount so paid shall be deemed Additional Rent under this Lease payable within thirty (30) days after demand, without limitation as to other remedies available to Landlord under this Lease. Nothing contained in this Lease shall authorize Tenant to do any act which shall subject Landlord's title to the Project, Building or Premises to any liens or encumbrances whether claimed by operation of law or express or implied contract.

## **ARTICLE 10**

### **INSURANCE**

**10.1 Indemnification and Waiver.** Except to the extent arising from the negligence or willful misconduct of Landlord or any Landlord Parties (defined below) but subject to this Section 10.1, Tenant hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause whatsoever and agrees that Landlord, its partners, subpartners and their respective officers, agents, servants, employees, and independent contractors (collectively, "**Landlord Parties**") shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property or resulting from the loss of use thereof, which damage is sustained by Tenant or by other persons claiming through Tenant. Subject to this Section 10.1, Tenant shall indemnify, defend, protect, and hold harmless the Landlord Parties from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) incurred in connection with or arising from (a) any cause in, on or about the Premises, or (b) the negligence or willful misconduct of Tenant or of any person claiming by, through or under Tenant, or of the contractors, agents, servants, employees, invitees of Tenant who are at the Project at Tenant's requests, as well as guests or licensees of Tenant occurring in, on or about the Project but outside of the Premises, provided that the terms of the foregoing indemnity shall not apply to the negligence or willful misconduct of Landlord or any Landlord Party. Should Landlord be named as a defendant in any suit brought against Tenant for which Tenant's indemnity obligation is applicable, Tenant shall pay to Landlord its reasonable and actual out-of-pocket costs and expenses incurred in such suit, including without limitation, its actual professional fees such as appraisers', accountants' and attorneys' fees. Subject to this Section 10.1, Landlord shall indemnify, defend, protect, and hold harmless Tenant, its partners, and their respective officers, agents, servants, employees, and independent contractors (collectively, "**Tenant Parties**") from any and all loss, cost, damage, expense and liability (including without limitation reasonable attorneys' fees) arising from the negligence or willful misconduct of Landlord or any Landlord party in, on or about the Project, except to the extent caused by the negligence or willful misconduct of the Tenant Parties. Should Tenant be named as a defendant in any suit brought against Landlord for which Landlord's indemnity obligation is applicable, Landlord shall pay to Tenant its reasonable and actual out-of-pocket costs and expenses incurred in such suit, including without limitation, its actual professional fees such as appraisers', accountants' and attorneys' fees. Notwithstanding anything to the contrary set forth in this Lease, either party's agreement to indemnify the other party as set forth in this Section 10.1 shall be ineffective to the extent the matters for which the indemnitor agreed to indemnify the indemnitee are covered by insurance required to be carried by the indemnitee pursuant to this Lease (or would have been covered had the indemnitee carried the insurance required). Further, Tenant's agreement to indemnify Landlord and Landlord's agreement to indemnify Tenant pursuant to this Section 10.1 are not intended to and shall not relieve any

insurance carrier of its obligations under policies required to be carried pursuant to the provisions of this Lease, to the extent such policies cover, or if carried, would have covered the matters, subject to the parties' respective indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease. The provisions of this Section 10.1 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

10.2 **Construction Period.** Notwithstanding anything set forth in the foregoing Section 10.1 or any other provision of this Lease or the Work Letter to the contrary, during the "Construction Period" (defined below) only, the following provisions shall be applicable:

10.2.1 with respect to any indemnity obligation of Tenant arising at any time during the Construction Period only, (A) the term "Landlord Parties" shall mean and shall be limited to Kilroy Realty Finance Partnership, L.P. (or any entity that that succeeds to Kilroy Realty Finance Partnership, L.P.'s interest as Landlord under this Lease) and shall not include any other person or entity; provided, however, that Landlord may include in any claim owed by Tenant to it any amount which Landlord shall pay or be obligated to indemnify any other person or entity, and (B) any indemnity obligation shall be limited to losses caused by, or arising as a result of any act or failure to act of, Tenant or Tenant's employees, agents or contractors; and

10.2.2 during the Construction Period only, Tenant's liability under this Lease for (A) Tenant's actions or failures to act under the Lease during the Construction Period, including, without limitation, Tenant's indemnity obligations (calculated in accordance with Accounting Standards Codification (ASC) 840-40-55) plus (B) Base Rent and Additional Rent (though the parties acknowledge that Tenant's obligation to pay Base Rent and Additional Rent shall not occur until Tenant is obligated to pay the same pursuant to the terms of Articles 3 and 4 of this Lease) shall be limited to eighty-nine and five-tenths percent (89.5%) of "Landlord's Project Costs" (defined hereinbelow) determined as of the date of Landlord's claim for such amount owed by Tenant. As used herein, "**Landlord's Project Costs**" shall mean the amount capitalized in the Project by Landlord in accordance with U.S. generally accepted accounting principles, plus other costs related to the Project paid to third parties (other than lenders or owners of Landlord), excluding land acquisition costs, but including land carrying costs, such as interest or ground rent incurred during the construction period, and including all costs incurred by Landlord in connection with the development and construction of the Base Building and Common Areas of the Project.

For the avoidance of doubt, Landlord and Tenant agree that:

(x) no claim by Landlord for Tenant's repudiation of this Lease at any time shall be limited under this Section 10.2; and

(y) for any claim other than under clause (x) above, if during the Construction Period, Landlord makes any claim for any anticipatory breach by Tenant of any obligation under this Lease owed to Landlord for any period after the Construction Period and the amount payable by Tenant for such claim is limited by the provisions of Section 10.2.2 above, the entire amount (to the extent not theretofore paid) shall be payable promptly after the Construction Period.

As used herein, "Construction Period" shall mean the period from the date that Landlord commences demolition work for the Project to the date that that Landlord substantially completes construction of the Base Building, regardless of the occurrence of any delays caused by Tenant.

10.3 **Tenant's Insurance.** Tenant shall maintain the following coverages in the following amounts.

10.3.1 Commercial General Liability Insurance covering the insured against claims of bodily injury, personal injury and property damage (including loss of use thereof) arising out of Tenant's operations, and contractual liabilities (covering the performance by Tenant of its indemnity agreements) including a Broad Form endorsement covering the insuring provisions of this Lease and the performance by Tenant of the indemnity agreements set forth in Section 10.1 of this Lease. Such insurance shall be written on an "occurrence" basis. The coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations. Limits of liability insurance shall not be less than the following; provided, however, such limits may be achieved through the use of an Umbrella/Excess Policy :

Bodily Injury and Property Damage Liability	\$10,000,000 each occurrence
Personal Injury and Advertising Liability	\$10,000,000 each occurrence
Tenant Legal Liability/Damage to Rented Premises Liability	\$1,000,000.00

10.3.2 Property Damage Insurance covering (i) all office furniture, business and trade fixtures, office equipment, free-standing cabinet work, movable partitions, merchandise and all other items of Tenant's property on the Premises installed by, for, or at the expense of Tenant, (ii) the "Improvements," as that term is defined in Section 2.1 of the Work Letter, and any other improvements which exist in the Premises as of the Lease Commencement Date (excluding the Base Building) (the "**Original Improvements**"), and (iii) all other improvements, alterations and additions to the Premises. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the full replacement cost value (subject to reasonable deductible amounts) new without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies of insurance and shall include coverage for damage or other loss caused by fire or other peril including, but not limited to, vandalism and malicious mischief, theft, water damage of any type, including sprinkler leakage, bursting or stoppage of pipes, and explosion. Tenant shall use the proceeds from any such insurance for the replacement of personal property, trade fixtures, Improvements, Original Improvements and Alterations.

10.3.3 Worker's Compensation or other similar insurance pursuant to all applicable state and local statutes and regulations, and Employer's Liability with minimum limits of not less than \$1,000,000 each accident/employee/disease.

10.3.4 Commercial Automobile Liability Insurance covering all Owned (if any), Hired, or Non-owned vehicles with limits not less than \$1,000,000 combined single limit for bodily injury and property damage.

10.4 **Form of Policies.** The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall (i) name Landlord, and any other party the Landlord reasonably specifies in writing, as an additional insured as their interests may appear using Insurance Service Organization's form CG2011 or a comparable form approved by Landlord, including Landlord's managing agent, ground lessor and/or lender, if any; (ii) cover the liability assumed by Tenant under this Lease, including, but not limited to, Tenant's obligations under Section 10.1 of this Lease; (iii) be issued by an insurance company having a rating of not less than A-VIII in Best's Insurance Guide or which is otherwise acceptable to Landlord and permitted to do business in the State of California; (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance requirement of Tenant, as evidenced by an endorsement or policy excerpt; and (v) be in form and content reasonably acceptable to Landlord. Tenant shall endeavor to cause said insurance to provide that said insurance shall not be canceled or coverage changed unless thirty (30) days' prior written notice (ten (10) days' in the event of non-payment of premium) shall have been given to Landlord and any mortgagee of Landlord. Tenant shall deliver certificates thereof and applicable endorsements or policy excerpts which meet the requirements of this Article 10 to Landlord on or before (I) the earlier to occur of: (x) the Lease Commencement Date, and (y) the date Tenant and/or its employees, contractors and/or agents first enter the Premises for occupancy, construction of improvements, alterations, or any other move-in activities, and (II) ten (10) business days after the renewal of such policies. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificate and applicable endorsements, Landlord may, at its option with notice to Tenant, procure such policies for the account of Tenant, and the cost thereof shall be paid to Landlord within five (5) days after delivery to Tenant of bills therefor.

10.5 **Property Insurance Subrogation.** Landlord and Tenant intend that their respective property loss risks shall be borne by reasonable insurance carriers to the extent above provided, and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder or is actually covered by insurance maintained by a party hereto. Accordingly, notwithstanding any other provision of this Lease to the contrary, the parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers, provided such waiver of subrogation shall not affect the right to the insured to recover thereunder. The parties agree that their respective insurance policies are now, or shall be, endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder, so long as no material additional premium is charged therefor.

10.6 **Additional Insurance Obligations.** Tenant shall carry and maintain during the entire Lease Term, at Tenant's sole cost and expense, increased amounts of the insurance required to be carried by Tenant pursuant to this Article 10 and such other reasonable types of insurance coverage and in such reasonable amounts covering the Premises and Tenant's

operations therein, as may be reasonably requested by Landlord; provided, however, that (a) in no event shall such new or increased amounts or types of insurance exceed that required of comparable tenants by landlords of the Comparable Buildings and (b) Landlord shall not have the right to require that Tenant adjust its insurance coverage more than once in any twenty-four (24) month period, and not during the initial twenty-four (24) months of the Lease Term.

10.7 **Landlord's Fire and Casualty Insurance.** Landlord shall insure the Building during the period following the mutual execution of this Lease and thereafter during Lease Term against loss or damage due to fire and other casualties covered within the classification of fire and extended coverage, vandalism coverage and malicious mischief, sprinkler leakage, water damage and special extended coverage. Such coverage shall be in such amounts, from such companies, and on such other terms and conditions, as Landlord may from time to time reasonably determine. Landlord shall also carry rental loss insurance. Additionally, at the option of Landlord, such insurance coverage may include the risks of earthquakes and/or flood damage and additional hazards, a rental loss endorsement and one or more loss payee endorsements in favor of the holders of any mortgages or deeds of trust encumbering the interest of Landlord in the Building or the ground or underlying lessors of the Building, or any portion thereof. Notwithstanding the foregoing provisions of this Section 10.7, the coverage and amounts of insurance carried by Landlord in connection with the Building shall, at a minimum, be comparable to the coverage and amounts of insurance which are carried by reasonably prudent landlords of Comparable Buildings (provided that in no event shall Landlord be required to carry earthquake insurance). Tenant shall, at Tenant's expense, promptly following notice, comply with all insurance company requirements pertaining to the use of the Premises. If Tenant's conduct or use of the Premises causes any increase in the premium for such insurance policies then Tenant shall reimburse Landlord for any such increase. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body.

## ARTICLE 11

### DAMAGE AND DESTRUCTION

11.1 **Repair of Damage to Premises by Landlord.** Tenant shall promptly notify Landlord of any damage to the Premises resulting from fire or any other casualty. If the Premises or any Common Areas serving or providing access to the Premises or any Building Systems necessary for the use and occupancy of the Premises shall be damaged by fire or other casualty, Landlord will, as soon as reasonably possible following the date of the damage, deliver to Tenant an estimate of the time necessary to repair the damage in question such that the Premises may be used by and accessible to Tenant and the Building and Common Areas operable in a manner consistent with the operation prior to such damage; such notice will be based upon the review and opinions of Landlord's architect and contractor ("**Landlord's Completion Notice**"). Landlord shall promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control, and subject to all other terms of this Article 11, restore the Building Structure and Building Systems. Such restoration shall be to substantially the same condition of the Building Structure and Building Systems prior to the casualty, except for modifications required by zoning and building codes



and other laws or by the holder of a mortgage on the Building or Project or any other modifications to the Common Areas deemed desirable by Landlord, provided that access to the Premises and any common restrooms serving the Premises shall not be materially impaired. Upon the occurrence of any damage to the Premises, upon notice (the "**Landlord Repair Notice**") to Tenant from Landlord delivered on or before the date that is sixty (60) days after the date of the damage, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under clauses (ii) and (iii) of Section 10.3.2 of this Lease, and Landlord shall repair any injury or damage to the Improvements and the Original Improvements and shall return such Improvements and Original Improvements to their original condition (any such work will be competitively bid by Landlord to ensure that Landlord receives commercially reasonable pricing for the performance of such work so that, to the extent reasonably possible, the cost of such work does not unnecessarily exceed the proceeds of Tenant's insurance); provided that if the cost of such repair by Landlord exceeds the amount of insurance proceeds received by Landlord from Tenant's insurance carrier, as assigned by Tenant, the portion of the cost of such repairs which is not so covered by Tenant's insurance proceeds shall be paid by Tenant to Landlord prior to Landlord's commencement of repair of the damage. In the event that Landlord does not deliver the Landlord Repair Notice within sixty (60) days following the date the casualty becomes known to Landlord, Tenant shall, at its sole cost and expense, repair any injury or damage to the Improvements and the Original Improvements installed in the Premises and shall return such Improvements and Original Improvements to their original condition, or an alternate condition described by Tenant (but subject to Landlord's prior written approval). Whether or not Landlord delivers a Landlord Repair Notice, prior to the commencement of construction, Tenant shall submit to Landlord, for Landlord's review and approval, all plans, specifications and working drawings relating thereto (it being acknowledged that the cost to prepare such plans may be paid for out of the applicable insurance proceeds received by Tenant), and Landlord shall select the contractors to perform such improvement work. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof; provided however, that if such fire or other casualty shall have damaged the Premises, Common Areas or Building Systems necessary to Tenant's occupancy, Landlord shall allow Tenant a proportionate abatement of Rent, during the time and to the extent the Premises is unfit for occupancy for the purposes permitted under this Lease, and not occupied by Tenant as a result thereof; provided, further, however, that if the damage or destruction is due to the negligence or willful misconduct of Tenant or any of its agents, employees, contractors, invitees or guests, Tenant shall be responsible for any reasonable, applicable insurance deductible (which shall be payable to Landlord upon demand, not to materially exceed the levels of deductibles for such insurance then maintained by owners of Comparable Buildings). In the event that Landlord shall not deliver the Landlord Repair Notice, Tenant's right to rent abatement pursuant to the preceding sentence shall terminate as of the date which is reasonably determined by Landlord to be the date Tenant should have completed repairs to the Premises assuming Tenant used reasonable due diligence in connection therewith.

11.2 **Landlord's Option to Repair**. Notwithstanding the terms of Section 11.1 of this Lease, Landlord may elect not to rebuild and/or restore the Premises, Building and/or Project, and instead terminate this Lease, by notifying Tenant in writing of such termination within sixty (60) days after the date of discovery of the damage, such notice to include a

termination date giving Tenant sixty (60) days to vacate the Premises, but Landlord may so elect only if the Building or Project shall be damaged by fire or other casualty or cause, whether or not the Premises is affected, provided that Landlord terminates the leases of all tenants of the Building whose premises are similarly damaged by the casualty (to the extent Landlord retains such right pursuant to the terms of the applicable tenants' leases), and one or more of the following conditions is present: (i) in Landlord's reasonable judgment, as set forth in Landlord's Completion Notice, the repairs cannot reasonably be completed so as to render the Premises suitable for occupancy within two hundred seventy (270) days after the date of discovery of the damage (when such repairs are made without the payment of overtime or other premiums); (ii) the holder of any mortgage on the Building or Project or ground lessor with respect to the Building or Project shall require that the insurance proceeds or any portion thereof be used to retire the mortgage debt, or shall terminate the ground lease, as the case may be; (iii) at least Two Million Dollars (\$2,000,000.00) of the cost of repair of the damage is not fully covered by Landlord's insurance policies; or (iv) the damage materially affects the Building and occurs during the last twelve (12) months of the Lease Term; provided, however, that if such fire or other casualty shall have damaged the Premises or a portion thereof or Common Areas necessary to Tenant's occupancy and as a result of such damage the Premises is unfit for occupancy, and provided that Landlord does not elect to terminate this Lease pursuant to Landlord's termination right as provided above, and either (a) the repairs cannot, in the reasonable opinion of Landlord's contractor, as set forth in Landlord's Completion Notice, be completed within two hundred seventy (270) days after being commenced, or (b) the damage occurs during the last twelve months of the Lease Term and will reasonably require in excess of ninety (90) days to repair, Tenant may elect, no earlier than sixty (60) days after the date of the damage and not later than the later of (A) forty-five (45) days following the date of delivery of Landlord's Completion Notice, and (B) ninety (90) days after the date of the damage, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant. In addition, if such restoration is not substantially complete on or before the later of (i) the date that occurs twelve (12) months after the date of discovery of the damage, and (ii) the date that occurs ninety (90) days after the expiration of the estimated period of time to substantially complete such restoration, as set forth in Landlord's Completion Notice (the "**Outside Restoration Date**"), then Tenant shall have the additional right during the first ten (10) business days of each calendar month following the Outside Restoration Date until such repairs are complete, to terminate this Lease by delivery of written notice to Landlord (the "**Damage Termination Notice**"), which termination shall be effective on a date specified by Tenant in such Damage Termination Notice (the "**Damage Termination Date**"), which Damage Termination Date shall not be less than ten (10) business days, nor greater than thirty (30) days, following the date such Damage Termination Notice was delivered to Landlord. In the event this Lease is terminated in accordance with the terms of this Section 11.2, Tenant shall assign to Landlord (or to any party designated by Landlord) all insurance proceeds payable to Tenant under Tenant's insurance required under subsections (ii) and (iii) of Section 10.3.2 of this Lease.

**11.3 Waiver of Statutory Provisions.** The provisions of this Lease, including this Article 11, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Premises, the Building or the Project, and any statute or regulation of the State of California, including, without limitation, Sections

1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Premises, the Building or the Project.

## **ARTICLE 12**

### **NONWAIVER**

No provision of this Lease shall be deemed waived by either party hereto unless expressly waived in a writing signed thereby. The waiver by either party hereto of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No acceptance of a lesser amount than the Rent herein stipulated shall be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Lease Term or of Tenant's right of possession hereunder, or after the giving of any notice shall reinstate, continue or extend the Lease Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit, or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment. No payment of Rent by Tenant after a breach by Landlord shall be deemed a waiver of any breach by Landlord.

## **ARTICLE 13**

### **CONDEMNATION**

If the whole or any material part of the Premises, Building or Project shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any material part of the Premises, Building or Project, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority; provided, however, that Landlord shall only have the right to terminate this Lease as provided above if Landlord terminates the leases of all other tenants in the Building similarly affected by the taking and provided further that to the extent that the Premises is not adversely affected by such taking and Landlord continues to operate the Building as an office building, Landlord may not terminate this Lease. If more than twenty-five percent

(25%) of the rentable square feet of the Premises is taken, or if access to the Premises is substantially impaired, in each case for a period in excess of one hundred eighty (180) days, Tenant shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not because of such taking assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, so long as such claims do not diminish the award available to Landlord, its ground lessor with respect to the Building or Project or its mortgagee, and such claim is payable separately to Tenant. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately abated. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure. Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred and eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the ratio that the amount of rentable square feet of the Premises taken bears to the total rentable square feet of the Premises. Landlord shall be entitled to receive the entire award made in connection with any such temporary taking.

#### ARTICLE 14

##### ASSIGNMENT AND SUBLETTING

14.1 **Transfers.** Except as otherwise specifically provided or permitted in this Article 14, Tenant shall not, without the prior written consent of Landlord, assign, mortgage, pledge, hypothecate, encumber, or permit any lien to attach to, or otherwise transfer, this Lease or any interest hereunder, permit any assignment, or other transfer of Tenant's interest in this Lease or any interest hereunder by operation of law, sublet the Premises or any part thereof, or enter into any license or concession agreements or otherwise permit the occupancy or use of the Premises or any part thereof by any persons other than Tenant and its employees and contractors (all of the foregoing are hereinafter sometimes referred to collectively as "**Transfers**" and any person to whom any Transfer is made or sought to be made is hereinafter sometimes referred to as a "**Transferee**"). If Tenant desires Landlord's consent to any Transfer, Tenant shall notify Landlord in writing, which notice (the "**Transfer Notice**") shall include (i) the proposed effective date of the Transfer, which shall not be less than twenty (20) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice, (ii) a description of the portion of the Premises to be transferred (the "**Subject Space**"), (iii) all of the terms of the proposed Transfer and the consideration therefor, including calculation of the "Transfer Premium", as that term is defined in Section 14.3 below, in connection with such Transfer, the name and address of the proposed Transferee, and a copy of all existing executed and/or proposed documentation pertaining to the proposed Transfer, including all existing operative documents to be executed to evidence such Transfer or the agreements incidental or related to such Transfer, (iv) current financial statements of the proposed Transferee certified by an officer, partner or owner thereof, business credit and

personal references and history of the proposed Transferee, (v) any other information required by Landlord which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Transferee, nature of such Transferee's business and proposed use of the Subject Space, which information is requested within five (5) business days following Tenant's submission to Landlord of the items described in clauses (i), (ii), (iii), (iv) and (vi) of this Section 14.1, and (vi) an executed estoppel certificate from Tenant in the form attached hereto as **Exhibit E**. Any Transfer requiring Landlord's consent which is made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute a Default by Tenant under this Lease if not rescinded or terminated within ten (10) business days following notice from Tenant. Whether or not Landlord consents to any proposed Transfer, Tenant shall pay Landlord's review and processing fees, as well as any reasonable professional fees (including, without limitation, attorneys', accountants', architects', engineers' and consultants' fees) incurred by Landlord, not to exceed \$2,500.00 for a Transfer in the ordinary course of business, within thirty (30) days after written request by Landlord.

14.2 **Landlord's Consent.** Landlord shall not unreasonably withhold its consent to any proposed Transfer of the Subject Space to the Transferee on the terms specified in the Transfer Notice and shall grant or withhold such consent within twenty (20) days following the date upon which Landlord receives a "complete" Transfer Notice from Tenant (i.e., a Transfer Notice that includes all documents and information required pursuant to Section 14.1 of this Lease, above). If Landlord fails to timely deliver to Tenant notice of Landlord's consent, or the withholding of consent, to a proposed Transfer, Tenant may send a second (2nd) notice to Landlord, which notice must contain the following inscription, in bold faced lettering: **"SECOND NOTICE DELIVERED PURSUANT TO ARTICLE 14 OF LEASE — FAILURE TO TIMELY RESPOND WITHIN FIVE (5) BUSINESS DAYS SHALL RESULT IN DEEMED APPROVAL OF ASSIGNMENT OR SUBLEASE."** If Landlord fails to deliver notice of Landlord's consent to, or the withholding of Landlord's consent, to the proposed assignment or sublease within such five (5) business day period, Landlord shall be deemed to have approved the assignment or sublease in question. If Landlord at any time timely delivers notice to Tenant or Landlord's withholding of consent to a proposed assignment or sublease, Landlord shall specify in reasonable detail in such notice, the basis for such withholding of consent. Without limitation as to other reasonable grounds for withholding consent, the parties hereby agree that it shall be reasonable under this Lease and under any Applicable Law for Landlord to withhold consent to any proposed Transfer where one or more of the following apply:

14.2.1 The Transferee is of a character or reputation or engaged in a business which is not consistent with the quality of the Building or the Project;

14.2.2 The Transferee intends to use the Subject Space for purposes which are not permitted under this Lease;

14.2.3 The Transferee is either a governmental agency or instrumentality thereof; provided, however, that Tenant shall be entitled to assign, sublet or otherwise transfer to a governmental agency or instrumentality thereof to the extent Landlord has leased or has permitted the lease of space to a comparable (in terms of security, foot traffic, prestige, eminent domain and function oriented issues) governmental agency or instrumentality thereof in comparably located space of comparable size; or

14.2.4 The Transferee is not a party of reasonable financial worth and/or financial stability in light of the responsibilities to be undertaken in connection with the Transfer on the date consent is requested.

If Landlord consents to any Transfer pursuant to the terms of this Section 14.2, Tenant may thereafter enter into such Transfer of the Premises or portion thereof, provided that if there are any changes in the terms and conditions from those specified in the Transfer Notice such that Landlord would initially have been entitled to refuse its consent to such Transfer under this Section 14.2, Tenant shall again submit the Transfer to Landlord for its approval and other action under this Article 14. Notwithstanding anything to the contrary in this Lease, if Tenant or any proposed Transferee claims that Landlord has unreasonably withheld or delayed its consent under Section 14.2 or otherwise has breached or acted unreasonably under this Article 14, their sole remedies shall be a suit for contract damages (other than damages for injury to, or interference with, Tenant's business including, without limitation, loss of profits, however occurring) or a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives the provisions of Section 1995.310 of the California Civil Code, or any successor statute, and all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all Applicable Laws, on behalf of the proposed Transferee. Tenant shall indemnify, defend and hold harmless Landlord from any and all liability, losses, claims, damages, costs, expenses, causes of action and proceedings involving any third party or parties (including without limitation Tenant's proposed subtenant or assignee) who claim they were damaged by Landlord's wrongful withholding or conditioning of Landlord's consent.

14.3 **Transfer Premium.** If Landlord consents to a Transfer, as a condition thereto which the parties hereby agree is reasonable, Tenant shall pay to Landlord fifty percent (50%) of any "Transfer Premium," as that term is defined in this Section 14.3, received by Tenant from such Transferee. "**Transfer Premium**" shall mean all rent, additional rent or other consideration payable by such Transferee in connection with the Transfer in excess of the Rent and Additional Rent payable by Tenant under this Lease during the term of the Transfer on a per rentable square foot basis if less than all of the Premises is transferred, after deducting the reasonable expenses incurred by Tenant for (i) any changes, alterations and improvements to the Premises in connection with the Transfer, (ii) any free base rent reasonably provided to the Transferee, (iii) marketing costs associated with such Transfer, (iv) reasonable attorneys' fees incurred in the documentation and negotiation of such Transfer and (v) any brokerage commissions in connection with the Transfer. "**Transfer Premium**" shall also include, but not be limited to, key money, bonus money or other cash consideration paid by Transferee to Tenant in connection with such Transfer, and any payment in excess of fair market value for services rendered by Tenant to Transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to Transferee in connection with such Transfer. For purposes of calculating any such effective rent all such concessions shall be amortized on a straight-line basis over the relevant term.

**14.4 Landlord's Option as to Contemplated Transfer Space.** Notwithstanding anything to the contrary contained in this Article 14, in the event Tenant contemplates a Transfer of the entire Premises or a portion of the Premises consisting of not less than a full floor of the Building, for all or substantially all of the remaining Lease Term, Tenant shall give Landlord notice (the "**Intention to Transfer Notice**") of such contemplated Transfer (whether or not the contemplated Transferee or the terms of such contemplated Transfer have been determined). The Intention to Transfer Notice shall specify the portion of and amount of rentable square feet of the Premises which Tenant intends to Transfer (the "**Contemplated Transfer Space**"), the contemplated date of commencement of the contemplated Transfer (the "**Contemplated Effective Date**"), and the contemplated length of the term of such contemplated Transfer, and shall specify that such Intention to Transfer Notice is delivered to Landlord pursuant to this Section 14.4 in order to allow Landlord to elect to recapture the Contemplated Transfer Space. Thereafter, Landlord shall have the option, by giving written notice to Tenant within thirty (30) days after receipt of any Intention to Transfer Notice, to recapture the Contemplated Transfer Space. Such recapture shall cancel and terminate this Lease with respect to the Contemplated Transfer Space as of the Contemplated Effective Date stated in the Intention to Transfer Notice. In the event of a recapture by Landlord, if this Lease shall be canceled with respect to less than the entire Premises, the Rent reserved herein shall be prorated on the basis of the number of rentable square feet retained by Tenant in proportion to the number of rentable square feet contained in the Premises, and this Lease as so amended shall continue thereafter in full force and effect, and upon request of either party, the parties shall execute written confirmation of the same. If Landlord declines, or fails to elect in a timely manner to recapture the Contemplated Transfer Space under this Section 14.4, then, subject to the other terms of this Article 14, for a period of six (6) months (the "**Six Month Period**") commencing on the last day of such thirty (30) day period, Landlord shall not have any right to recapture the Contemplated Transfer Space with respect to any Transfer made during the Six Month Period, provided that any such Transfer is substantially on the terms set forth in the Intention to Transfer Notice, and provided further that any such Transfer shall be subject to the remaining terms of this Article 14. If such a Transfer is not so consummated within the Six Month Period (or if a Transfer is so consummated, then upon the expiration of the term of any Transfer of such Contemplated Transfer Space consummated within such Six Month Period), Tenant shall again be required to submit a new Intention to Transfer Notice to Landlord with respect any contemplated Transfer of the Contemplated Transfer Space, as provided above in this Section 14.4.

**14.5 Effect of Transfer.** If Landlord consents to a Transfer, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) such consent shall not be deemed consent to any further Transfer by either Tenant or a Transferee, (iii) Tenant shall deliver to Landlord, promptly after execution, an original executed copy of all documentation pertaining to the Transfer in form reasonably acceptable to Landlord, (iv) Tenant shall furnish upon Landlord's request a complete statement, certified by an independent certified public accountant, or Tenant's chief financial officer, setting forth in detail the computation of any Transfer Premium Tenant has derived and shall derive from such Transfer, and (v) no Transfer relating to this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant or any guarantor of the Lease from any liability under this Lease, including, without limitation, in connection with the Subject Space. Landlord or its authorized representatives shall have the right at all reasonable times to

audit the books, records and papers of Tenant relating to any Transfer, and shall have the right to make copies thereof. If the Transfer Premium respecting any Transfer shall be found understated, Tenant shall, within thirty (30) days after demand, pay the deficiency, and if understated by more than two percent (2%), Tenant shall pay Landlord's reasonable costs of such audit.

14.6 **Additional Transfers.** For purposes of this Lease, the term "**Transfer**" shall also include (i) if Tenant is a partnership, the withdrawal or change, voluntary, involuntary or by operation of law, of more than fifty percent (50%) of the partners, or transfer of more than fifty percent (50%) of partnership interests, within a twelve (12)-month period, or the dissolution of the partnership without immediate reconstitution thereof, and (ii) if Tenant is a closely held corporation (*i.e.*, whose stock is not publicly held and not traded through an exchange or over the counter), (A) the dissolution, merger, consolidation or other reorganization of Tenant or (B) the sale or other transfer of an aggregate of more than fifty percent (50%) of the voting shares of Tenant (other than to immediate family members by reason of gift or death), within a twelve (12)-month period, or (C) the sale, mortgage, hypothecation or pledge of an aggregate of more than fifty percent (50%) of the value of the unencumbered assets of Tenant within a twelve (12)-month period.

14.7 **Occurrence of Default.** Any Transfer hereunder shall be subordinate and subject to the provisions of this Lease, and if this Lease shall be terminated during the term of any Transfer, Landlord shall have the right to: (i) treat such Transfer as cancelled and repossess the Subject Space by any lawful means, or (ii) require that such Transferee attorn to and recognize Landlord as its landlord under any such Transfer. If Tenant shall be in Default, Landlord is hereby irrevocably authorized to direct any Transferee to make all payments under or in connection with the Transfer directly to Landlord (which Landlord shall apply towards Tenant's obligations under this Lease) until such Default is cured. Such Transferee shall rely on any representation by Landlord that Tenant is in Default hereunder, without any need for confirmation thereof by Tenant. Upon any assignment, the assignee shall assume in writing all obligations and covenants of Tenant thereafter to be performed or observed under this Lease. No collection or acceptance of rent by Landlord from any Transferee shall be deemed a waiver of any provision of this Article 14 or the approval of any Transferee or a release of Tenant from any obligation under this Lease, whether theretofore or thereafter accruing. In no event shall Landlord's enforcement of any provision of this Lease against any Transferee be deemed a waiver of Landlord's right to enforce any term of this Lease against Tenant or any other person. If Tenant's obligations hereunder have been guaranteed, Landlord's consent to any Transfer shall not be effective unless the guarantor also consents to such Transfer.

14.8 **Deemed Consent Transfers.** Notwithstanding anything to the contrary contained in this Lease (including Section 14.6, above), (A) an assignment or subletting of all or a portion of the Premises to an "**Affiliate**" of Tenant (an entity which is controlled by, controls, or is under common control with, Tenant as of the date of the assignment or subletting), (B) an assignment of Tenant's interest in this Lease to an entity which acquires all or substantially all of the stock or assets of Tenant and has a "**Tangible Net Worth**" (defined below) equal to or greater than that of Tenant immediately prior to such assignment, or (C) an assignment of this Lease to an entity which is the resulting or surviving entity of a merger or consolidation of Tenant during the Lease Term and has a Tangible Net Worth equal to or greater than that of



Tenant immediately prior to such assignment, shall not be deemed a Transfer requiring Landlord's consent under this Article 14 or triggering Landlord's rights under Section 14.3 or 14.4 (any such assignee or sublessee described in items (A) through (C) of this Section 14.8 hereinafter referred to as a "**Permitted Transferee**"), provided that (i) Tenant notifies Landlord at least five (5) business days prior to the effective date of any such assignment or sublease (unless such prior notice is prohibited by Applicable Law or the terms of an applicable confidentiality agreement, in which event Tenant shall notify Landlord as soon as permissible) and promptly supplies Landlord with any documents or information reasonably requested by Landlord regarding such transfer or transferee as set forth above, (ii) such assignment or sublease is not a subterfuge by Tenant to avoid its obligations under this Lease, and (iii) no assignment relating to this Lease, whether with or without Landlord's consent, shall relieve Tenant from any liability under this Lease, and, in the event of an assignment of Tenant's entire interest in this Lease, the liability of Tenant and such transferee shall be joint and several. An assignee of Tenant's entire interest in this Lease who qualifies as a Permitted Transferee may also be referred to herein as a "**Permitted Transferee Assignee**". "**Control**", as used in this Section 14.8, shall mean 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, of at least fifty-one percent (51%) of the voting interest in, any person or entity. For purposes of this Lease, the term "**Tangible Net Worth**" shall mean total assets (not including good will as an asset) less total liabilities.

**14.9 Occupancy by Others.** Furthermore, and notwithstanding any contrary provision of this Article 14, the Tenant shall have the right, without the receipt of Landlord's consent and without payment to Landlord of the Transfer Premium, but on not less than five (5) business days prior written notice to Landlord, to permit the occupancy of up to fifteen percent (15%) of the rentable square footage of the Premises, pursuant to an occupancy agreement between Tenant and such occupant, which agreement must be approved in advance by Landlord (such approval not to be unreasonably withheld, conditioned or delayed), to any individual(s) or entity(ies) with an ongoing business relationship with Tenant. Such occupancy pursuant to this Section 14.9 shall include the use of a corresponding interior support area and other portions of the Premises which shall be common to Tenant and the permitted occupants, on and subject to the following conditions: (i) each individual or entity shall be of a character and reputation consistent with the quality of the Building and the Project; (ii) no individual or entity shall occupy a separately demised portion of the Premises or which contains an entrance to such portion of the Premises other than the primary entrance to the Premises; (iii) the rent, if any, paid by such occupants shall not be greater than the rent allocable on a pro rata basis to the portion of the Premises occupied by such occupants; (iv) such occupancy shall not be a subterfuge by Tenant to avoid its obligations under this Lease or the restrictions on Transfers pursuant to this Article 14; and (v) no such occupant shall be required to maintain the insurance coverage required to be maintained by Tenant hereunder (and, solely for the purposes of determining Tenant's liability hereunder for the acts or omissions of such occupants and the applicability of Tenant's insurance coverage towards such liability, any such occupant shall be deemed to be an employee of Tenant for the purposes of insurance and indemnity provisions of this Lease). Any occupancy permitted under this Section 14.9 shall not be deemed a Transfer under this Article 14. Notwithstanding the foregoing, no such occupancy shall relieve Tenant from any liability under this Lease.

**ARTICLE 15**

**SURRENDER OF PREMISES; OWNERSHIP AND  
REMOVAL OF TRADE FIXTURES**

15.1 **Surrender of Premises.** No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Premises unless such intent is specifically acknowledged in writing by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises or terminate any or all such sublessees or subtenancies.

15.2 **Removal of Tenant Property by Tenant.** Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall, subject to the provisions of Section 8.5 above and this Article 15, quit and surrender possession of the Premises to Landlord in as good order and condition as when Tenant took possession and as thereafter improved by Landlord and/or Tenant, reasonable wear and tear and repairs which are specifically made the responsibility of Landlord hereunder (including casualty or condemnation) excepted. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, business and trade fixtures, free-standing cabinet work, movable partitions and other articles of personal property, including all Lines, owned by Tenant or installed or placed by Tenant at its expense in the Premises, and such similar articles of any other persons claiming under Tenant (collectively, "**Tenant's Property**"), as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Premises and Building resulting from such removal. Other than Tenant's Property and any Specialty Alterations required to be removed by Tenant pursuant to the terms of Section 8.5 above, upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall not be required, and shall have no right, to remove any other Alterations or Improvements in the Premises.

**ARTICLE 16**

**HOLDING OVER**

If Tenant holds over after the expiration of the Lease Term or earlier termination thereof, with or without the express or implied consent of Landlord, such tenancy shall be from month-to-month only, and shall not constitute a renewal hereof or an extension for any further term, and in such case Rent shall be payable at a monthly rate equal to (i) one hundred fifty percent (150%) of the Base Rent applicable during the last rental period of the Lease Term under this Lease for the first (1<sup>st</sup>) two (2) months of such holdover, and (ii) two hundred percent (200%) thereafter

plus one hundred percent (100%) of all Additional Rent. Such month-to-month tenancy shall be subject to every other applicable term, covenant and agreement contained herein. Nothing contained in this Article 16 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender and any lost profits to Landlord resulting therefrom.

#### **ARTICLE 17**

##### **ESTOPPEL CERTIFICATES**

Within ten (10) business days following a request in writing by Landlord, Tenant shall execute, and deliver to Landlord an estoppel certificate, which, as submitted by Landlord, shall be substantially in the form of Exhibit E, attached hereto (or such other form as may be required by any prospective mortgagee or purchaser of the Project, or any portion thereof), indicating therein any exceptions thereto that may exist at that time, and shall also contain any other information reasonably requested by Landlord or Landlord's mortgagee or prospective mortgagee; provided, however, that if such estoppel certificate is not factually correct, then Tenant may make such changes as are necessary to make such estoppel certificate factually correct and shall thereafter return such signed estoppel certificate to Landlord within said ten (10) business day period. Any such certificate may be relied upon by any prospective mortgagee or purchaser of all or any portion of the Project. Tenant shall execute and deliver whatever other instruments may be reasonably required for such purposes. At any time during the Lease Term, but only in the case of (x) a proposed sale or financing of the Project, (y) a Default by Tenant or (z) a proposed Permitted Transfer by Tenant, Landlord may require Tenant to provide Landlord with a current financial statement and financial statements of the two (2) years prior to the current financial statement year. Such statements shall be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Tenant, shall be audited by an independent certified public accountant. Failure of Tenant to timely execute, acknowledge and deliver such estoppel certificate or other instruments shall constitute an acceptance of the Premises and an acknowledgment by Tenant that statements included in the estoppel certificate are true and correct, without exception.

#### **ARTICLE 18**

##### **SUBORDINATION**

This Lease shall be subject and subordinate to all present and future ground or underlying leases of the Building or Project and to the lien of any mortgage, trust deed or other encumbrances now or hereafter in force against the Building or Project or any part thereof, if

any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of such mortgages or trust deeds, unless the holders of such mortgages, trust deeds or other encumbrances, or the lessors under such ground lease or underlying leases, require in writing that this Lease be superior thereto (collectively, the “**Superior Holders**”). Landlord represents to Tenant that as of the date of this Lease the Project is not encumbered by a deed of trust. However, in consideration of and a condition precedent to Tenant’s agreement to subordinate this Lease to any future mortgage, trust deed or other encumbrances, shall be the receipt by Tenant of a subordination non-disturbance and attornment agreement in a commercially reasonable form (a “**SNDA**”) executed by Landlord and the appropriate Superior Holder. Pursuant to such SNDA, Tenant covenants and agrees in the event any proceedings are brought for the foreclosure of any such mortgage or deed in lieu thereof (or if any ground lease is terminated), to attorn, without any deductions or set-offs whatsoever, to the lienholder or purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof (or to the ground lessor), and to recognize such purchaser or lienholder or ground lessor as the lessor under this Lease, and such lienholder or purchaser or ground lessor shall agree to accept this Lease and perform the obligations of Landlord hereunder (including, without limitation, the funding of the Improvement Allowance (or in the alternative, the recognition of Tenant’s right to offset rent for failure of Landlord to pay the Improvement Allowance as provided in Section 2 of the Work Letter), but excluding any obligation to complete any of Landlord’s construction obligations set forth in Section 1 of the Work Letter), and not disturb Tenant’s occupancy, so long as Tenant timely pays the rent and observes and performs the terms, covenants and conditions of this Lease to be observed and performed by Tenant. Landlord’s interest herein may be assigned as security at any time to any lienholder. Tenant shall, within ten (10) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm the subordination or superiority of this Lease to any such mortgages, trust deeds, ground leases or underlying leases. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale. Landlord represents to Tenant that there are not any Superior Holders as of the date of this Lease.

## **ARTICLE 19**

### **DEFAULTS; REMEDIES**

19.1 **Events of Default.** The occurrence of any of the following shall constitute a “**Default**” of this Lease by Tenant:

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, when due, which failure is not cured within five (5) days after written notice from Landlord that said amount was not paid when due; or

19.1.2 Any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default; or

19.1.3 Abandonment of the Premises by Tenant pursuant to California Civil Code Section 1951.3; or

19.1.4 The failure by Tenant to observe or perform according to the provisions of Articles 5, 10, 14, 17 or 18 of this Lease where such failure continues for more than three (3) business days after notice from Landlord.

The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by law.

19.2 **Remedies Upon Default.** Upon the occurrence of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever.

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim for damages therefor; and Landlord may recover from Tenant the following:

(i) The worth at the time of any unpaid rent which has been earned at the time of such termination; plus

(ii) The worth at the time of 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 Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been 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, specifically including but not limited to, brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant ("**Costs of Reletting**"); notwithstanding the above, if Landlord relets the Premises for a term (the "**Relet Term**") that extends past the originally scheduled Lease Expiration Date, the Costs of Reletting which may be included in Landlord's damages shall be limited to a prorated portion of the Costs of Reletting, based on the percentage that the length of the originally scheduled Lease Term remaining on the date Landlord terminates this Lease or Tenant's right to possession bears to the

length of the Relet Term. For example, if there are two (2) years left on the Lease Term at the time that Landlord terminates possession and, prior to the expiration of the two (2) year period, Landlord enters into a lease with a new tenant with a Relet Term of ten (10) years, then only twenty percent (20%) of the Costs of Reletting shall be included when determining Landlord's damages; and

(v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by Applicable Law.

The term "rent" as used in this Section 19.2 shall be deemed to be and to mean all sums of every nature required to be paid by Tenant pursuant to the terms of this Lease, whether to Landlord or to others. As used in Section 19.2.1(i) and (ii), above, the "worth at the time of award" shall be computed by allowing interest at the rate set forth in Article 25 of this Lease, but in no case greater than the maximum amount of such interest permitted by law. As used in Section 19.2.1(iii) above, the "worth at the time of award" shall be 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%).

19.2.2 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 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.

19.2.3 Landlord shall at all times have the rights and remedies (which shall be cumulative with each other and cumulative and in addition to those rights and remedies available under Sections 19.2.1 and 19.2.2, above, or any law or other provision of this Lease), without prior demand or notice except as required by Applicable Law, to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

19.3 **Subleases of Tenant.** Whether or not Landlord elects to terminate this Lease on account of any default by Tenant, as set forth in this Article 19, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions or arrangements, Tenant shall, as of the date of notice by Landlord of such election, have no further right to or interest in the rent or other consideration receivable thereunder.

19.4 **Efforts to Relet.** No re-entry or repossession, repairs, maintenance, changes, alterations and additions, reletting, appointment of a receiver to protect Landlord's interests hereunder, or any other action or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or to accept a surrender of the

Premises, nor shall same operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, unless express written notice of such intention is sent by Landlord to Tenant. Tenant hereby irrevocably waives any right otherwise available under any law to redeem or reinstate this Lease.

#### 19.5 **Landlord Default.**

19.5.1 **General.** Notwithstanding anything to the contrary set forth in this Lease, Landlord shall not be in default in the performance of any obligation required to be performed by Landlord pursuant to this Lease unless Landlord fails to perform such obligation within thirty (30) days after the receipt of notice from Tenant specifying in detail Landlord's failure to perform; provided, however, if the nature of Landlord's obligation is such that more than thirty (30) days are required for its performance, then Landlord shall not be in default under this Lease if it shall commence such performance within such thirty (30) day period and thereafter diligently pursue the same to completion. Upon any such default by Landlord under this Lease, Tenant may, except as otherwise specifically provided in this Lease to the contrary, exercise any of its rights provided at law or in equity.

19.5.2 **Abatement of Rent.** In the event that Tenant is prevented from using, and does not use, the Premises or any portion thereof, as a result of (i) any repair, maintenance or alteration performed by Landlord, or which Landlord failed to perform, after the Lease Commencement Date and required by this Lease, which substantially interferes with Tenant's use of the Premises, or (ii) any failure of Landlord to provide services, utilities or access to the Premises as required by this Lease (either such set of circumstances as set forth in items (i) or (ii), above, to be known as an "**Abatement Event**"), then Tenant shall give Landlord notice of such Abatement Event (which notice, for the purpose of determining the effective date of delivery, will be deemed given when delivered to the Project's property management office during regular business hours), and if such Abatement Event continues for five (5) consecutive business days after Landlord's receipt of any such notice (the "**Eligibility Period**"), then the Base Rent, Tenant's Share of Direct Expenses, and Tenant's obligation to pay for parking (to the extent not utilized by Tenant) shall be abated or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use for the normal conduct of Tenant's business, the Premises or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises; provided, however, in the event that Tenant is prevented from using, and does not use, a portion of the Premises for a period of time in excess of the Eligibility Period and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein, and if Tenant does not conduct its business from such remaining portion, then for such time after expiration of the Eligibility Period during which Tenant is so prevented from effectively conducting its business therein, the Base Rent and Tenant's Share of Direct Expenses for the entire Premises and Tenant's obligation to pay for parking shall be abated for such time as Tenant continues to be so prevented from using, and does not use, the Premises. If, however, Tenant reoccupies any portion of the Premises during such period, the 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. To the extent an Abatement Event is caused by an event covered

by Articles 11 or 13 of this Lease, then Tenant's right to abate rent shall be governed by the terms of such Article 11 or 13, as applicable, and the Eligibility Period shall not be applicable thereto. Such right to abate Base Rent and Tenant's Share of Direct Expenses shall be Tenant's sole and exclusive remedy for rent abatement at law or in equity for an Abatement Event. Except as provided in this Section 19.5.2, nothing contained herein shall be interpreted to mean that Tenant is excused from paying Rent due hereunder.

19.6 **Tenant's Right to Make Repairs.** During any period in which Tenant is then leasing one hundred percent (100%) of the office space in the Building, if an "Emergency Situation" (as defined herein) or "Adverse Condition" (as defined herein) involving the Premises exists, and Landlord is obligated under the terms of this Lease to cure or remediate such Emergency Condition or Adverse Condition, then Landlord shall promptly commence and diligently perform all repairs required by Landlord under this Lease or take such other actions, if any, required of Landlord under this Lease to cure or remediate such Emergency Situation or Adverse Condition. Notwithstanding anything to the contrary contained herein, if (i) any Emergency Situation occurs or (ii) there is an actual breach by Landlord of one of its obligations under this Lease ("**Landlord Breach**"), and such Emergency Situation or Landlord Breach will have a material and adverse impact on Tenant's ability to conduct its business in the Premises, or any material portion thereof (an "**Adverse Condition**"), including, for example, any failure to provide (or cause to be provided) electricity, HVAC, water or elevator access to the Premises, then Tenant shall give Landlord notice of the same. Thereafter, Landlord shall have (i) two (2) business days to commence a cure with respect to such Emergency Situation or (ii) twenty (20) business days to commence a cure of such Adverse Condition, and, in each case, shall diligently prosecute such cure to completion (collectively "**Emergency Repairs**"). For purposes hereof, the term "**Emergency Situation**" shall mean a situation which poses an imminent threat: (x) to the physical well-being of persons at the Building or (y) of material damage to Tenant's personal property in the Premises. If Landlord fails to commence to perform such Emergency Repairs within the applicable timeframe (i.e., two (2) business days with respect to an Emergency Situation or twenty (20) business days with respect to Adverse Conditions) after Landlord receives notice of the applicable Emergency Condition or Adverse Condition, or, to the extent Landlord commences to cure with such time period but fails to thereafter diligently pursue such Emergency Repairs to completion, then Tenant, upon providing Landlord, as to an Emergency Situation, with such prior written notice, as is reasonable under the circumstances or as to an Adverse Condition, with twenty (20) business days prior notice (which notice shall clearly indicate that Tenant intends to take steps necessary to remedy the event giving rise to the Emergency Situation or Adverse Condition in question), may perform such Emergency Repairs or other actions at Landlord's expense; provided, however, that in no event shall Tenant undertake any actions which will or are reasonably likely to materially and adversely affect (A) the Retail Space, (B) the Building Structure, (C) any Building Systems, or (D) the exterior appearance of the Building. If Tenant exercises its right to perform Emergency Repairs or other actions on Landlord's behalf, as provided above, then Landlord shall reimburse the actual out-of-pocket reasonable cost thereof within thirty (30) days following Tenant's delivery of: (i) a written notice describing in reasonable detail the action taken by the Tenant, and (ii) reasonably satisfactory evidence of the cost of such remedy. Landlord shall, within thirty (30) days following Tenant's written request for reimbursement of the costs of the Emergency Repairs notify Tenant of whether Landlord reasonably and in good faith disputes that (1) Tenant did not perform the Emergency Repairs in the manner permitted by this Lease, (2) that the amount



Tenant requests be reimbursed from Landlord for performance of the Emergency Repairs is incorrect or excessive, or (3) that Landlord was not obligated under the terms of this Lease to make all or a portion of the Emergency Repairs (“**Landlord’s Set-Off Notice**”). If Landlord delivers a Landlord’s Set-Off Notice to Tenant, then Tenant shall not be entitled to such deduction from Rent (provided, if Landlord contends the amount spent by Tenant in making such repairs is excessive and does not otherwise object to Tenant’s actions pursuant to this Section 19.6, then Landlord shall pay the amount it contends would not have been excessive); provided that Tenant may proceed to claim a default by Landlord under this Lease for any amount not paid by Landlord. Any final award in favor of Tenant for any such default, which is not subject to appeal, from a court or arbitrator in favor of Tenant, which is not paid by Landlord within the time period directed by such award (together with interest at the Interest Rate from the date Landlord was required to pay such amount until such offset occurs), may be offset by Tenant from Rent next due and payable under this Lease; provided, however, Tenant may not deduct the amount of the award against more than fifty percent (50%) of Base Rent next due and owing (until such time as the entire amount of such judgment is deducted) to the extent following a foreclosure or a deed-in-lieu of foreclosure. In any case, in the event any Emergency Repairs are not accomplished by Landlord within a two (2) business day period with respect to an Emergency Condition or twenty (20) business day period with respect to Adverse Conditions despite Landlord’s diligent efforts, Landlord, within three (3) business days following Tenant’s written request therefore, shall provide to Tenant a schedule determined in good faith setting forth the basic steps Landlord proposes to be taken to effect the Emergency Repairs or other actions in a commercially reasonable time frame given the specifics of the Emergency Repairs required and the times when such work is proposed to be done and thereafter Landlord shall proceed to complete such Emergency Repairs within the time schedule so provided. If Tenant undertakes any action pursuant to this paragraph, Tenant shall (a) proceed in accordance with all Applicable Laws; (b) retain to effect such actions only such reputable contractors and suppliers as are duly licensed in the City of San Francisco and are listed on the most recent list furnished to Tenant of Landlord’s approved contractors for the Building and are insured in accordance with the provisions of Article 10 of this Lease; (c) effect such repairs or perform such other actions in a good and workmanlike and commercially reasonable manner; (d) use new or like new materials; (e) take reasonable efforts to minimize any material interference or impact on the other tenants and occupants of the Project, and (f) otherwise comply with all applicable requirements set forth in Article 8 of this Lease. Notwithstanding anything in this Article 19 to the contrary, the foregoing self-help right (i) shall not apply in the event of any fire or casualty at the Project, it being acknowledged and agreed that Article 11 shall govern with respect to any such fire or casualty event, (ii) shall not apply in the event of any condemnation, it being acknowledged and agreed that Article 13 shall govern with respect to any such condemnation, and (iii) shall not permit Tenant to access any other tenant’s or occupant’s space at the Project.

## ARTICLE 20

### COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold

and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord. The foregoing covenant is in lieu of any other covenant express or implied.

## ARTICLE 21

### LETTER OF CREDIT

21.1 **Delivery of Letter of Credit.** Concurrently with Tenant's execution of this Lease, Tenant shall deliver to Landlord, as protection for the full and faithful performance by Tenant of all of its obligations under this Lease and for all losses and damages Landlord may suffer (or which Landlord reasonably estimates that it may suffer) as a result of any breach or default by Tenant under this Lease, an unconditional, clean, irrevocable negotiable standby letter of credit (the "L-C") in the amount set forth in Section 8 of the Summary (the "L-C Amount"), in the form attached hereto as Exhibit I, running in favor of Landlord, drawn on one of the following banks: (i) Wells Fargo Bank, N.A., (ii) Citibank, N.A., (iii) JP Morgan Chase, (iv) Bank of America, or (v) Morgan Stanley Bank, N.A., (vi) Deutsche Bank AG or (vii) Goldman Sachs Bank USA, and otherwise conforming in all respects to the requirements of this Article 21, including, without limitation, all of the requirements of Section 21.2 below, all as set forth more particularly hereinbelow. The issuer of the L-C shall be referred to herein as the "Issuing Bank". Notwithstanding the foregoing, Landlord hereby pre-approves the form of L-C attached hereto as Exhibit I-1 for issuance by Morgan Stanley & Co. In addition, Tenant may request the right to include additional banks in the foregoing list of approved Issuing Banks, which additional banks shall be subject to Landlord's approval in its sole discretion. Tenant hereby agrees that the L-C shall expressly provide that (i) presentation of the L-C for draw can be made locally, which for purposes of this Article 21 shall mean either in the City of San Francisco, California, or in the City of Los Angeles, California, or (ii) presentation of the L-C for draw can be made by facsimile, in which case the appropriate facsimile number for presentment shall be stated on the L-C. Tenant shall pay all expenses, points and/or fees incurred by Tenant in obtaining and maintaining the L-C. In the event of an assignment by Tenant of its interest in this Lease (and irrespective of whether Landlord's consent is required for such assignment), the acceptance of any replacement or substitute letter of credit by Landlord from the assignee shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld.

21.2 **In General.** The L-C shall be "callable" at sight, permit partial draws and multiple presentations and drawings, and be otherwise subject to the Uniform Customs and Practices for Documentary Credits (1993-Rev), International Chamber of Commerce Publication #500, or the International Standby Practices-ISP 98, International Chamber of Commerce Publication #590. Tenant further covenants and warrants as follows:

21.2.1 **Landlord Right to Transfer.** The L-C shall provide that Landlord, its successors and assigns, may, at any time and without notice to Tenant and without first obtaining Tenant's consent thereto, transfer (one or more times) all of its interest in and to the L-C to another party, person or entity, as a part of the assignment by Landlord of its rights and interests in and to this Lease. In the event of a transfer of Landlord's interest in the Building, Landlord shall transfer the L-C, to the transferee and thereupon Landlord shall, without any further

agreement between the parties but upon the written assumption by the transferee of Landlord's obligations hereunder with respect to the L-C, be released by Tenant from all liability therefor, and it is agreed that the provisions hereof shall apply to every transfer or assignment of the whole or any portion of said L-C to a new landlord. In connection with any such transfer of the L-C by Landlord, Tenant shall, at Tenant's sole cost and expense, execute and submit to the Issuing Bank such applications, documents and instruments as may be necessary to effectuate such transfer, and Tenant shall be responsible for paying the Issuing Bank's transfer and processing fees in connection therewith.

21.2.2 **No Assignment by Tenant.** Tenant shall neither assign nor encumber the L-C or any part thereof. Neither Landlord nor its successors or assigns will be bound by any assignment, encumbrance, attempted assignment or attempted encumbrance by Tenant in violation of this Section 21.2.2.

21.2.3 **Replenishment.** If, as a result of any drawing by Landlord on the L-C pursuant to its rights set forth in Section 21.3 below, the amount of the L-C shall be less than the L-C Amount, Tenant shall, within ten (10) days after written notice thereof from Landlord, provide Landlord with (i) an amendment to the L-C restoring such L-C to the L-C Amount or (ii) additional L-Cs in an amount equal to the deficiency, which additional L-Cs shall comply with all of the provisions of this Article 21, and if Tenant fails to comply with the foregoing, notwithstanding anything to the contrary contained in Section 19.1 above, the same shall constitute an incurable Default by Tenant under this Lease (without the need for any additional notice and/or cure period).

21.2.4 **Renewal; Replacement.** If the L-C expires earlier than the date (the "**LC Expiration Date**") that is sixty (60) days after the expiration of the Lease Term, Tenant shall deliver a new L-C or a certificate of renewal or extension to Landlord at least thirty (30) days prior to the expiration of the L-C then held by Landlord, without any action whatsoever on the part of Landlord, which new L-C shall be irrevocable upon the same terms as the expiring L-C or such other terms as may be acceptable to Landlord in its sole discretion. In furtherance of the foregoing, Landlord and Tenant agree that the L-C shall contain a so-called "evergreen provision," whereby the L-C will automatically be renewed unless at least sixty (60) days' prior written notice of non-renewal is provided by the issuer to Landlord. In the event that Landlord draws upon the L-C solely due to Tenant's failure to renew the L-C at least thirty (30) days before its expiration, such failure shall not constitute a default hereunder and Tenant shall thereafter have the right to provide a substitute L-C that satisfies the requirements of this Lease, and Landlord shall concurrently refund the proceeds of the draw.

21.2.5 **Issuing Bank's Financial Condition.** If, at any time during the Lease Term, the Issuing Bank's long term credit rating is reduced below a long term issuer credit rating from Standard and Poor's Professional Rating Service of A or a comparable rating from Moody's Professional Rating Service (either, a "**Bank Credit Threat**"), then Landlord shall have the right to require that Tenant obtain from a different issuer a substitute L-C that complies in all respects with the requirements of this Article 21, and Tenant's failure to obtain such substitute L-C within ten (10) business days following Landlord's written demand therefor (with no other notice or cure or grace period being applicable thereto, notwithstanding anything in this Lease to the contrary) shall entitle Landlord, or Landlord's then managing agent, to immediately

draw upon the then existing L- C in whole or in part, without notice to Tenant, as more specifically described in Section 21.3 below. Tenant shall be responsible for the payment of Landlord's reasonable attorneys' fees to review any replacement L-C, which replacement is required pursuant to this Section or is otherwise requested by Tenant.

Notwithstanding anything to the contrary in this Article 21 or elsewhere in this Lease, during the Construction Period, Landlord shall, upon five (5) business days following receipt of notice from Tenant, along with an invoice therefor, pay all fees and costs incurred in connection with the replacement or reissuance of the L-C as a consequence of a Bank Credit Threat, or the Issuing Bank's placement into "Receivership" (as that term is defined in Section 21.6 below), and Tenant shall have no obligation to pay any such fees or costs; provided, however, that to the extent that Landlord has paid any such fees or costs or otherwise incurred any expense as a consequence of the replacement or reissuance of the L-C during the Construction Period, then at any time after the Construction Period, Landlord may submit a statement to Tenant of the amount of any such fees, costs or expenses incurred by Landlord during the Construction Period, and Tenant shall be obligated to pay such amount as Additional Rent hereunder within ten (10) days after Tenant's receipt of such statement from Landlord; and further, provided, however, in no event shall Landlord's payment of any of the foregoing fees or costs include the obligation to supply any collateral in connection with the replacement or reissuance of the L-C.

**21.3 Application of Letter of Credit.** Tenant hereby acknowledges and agrees that Landlord is entering into this Lease in material reliance upon the ability of Landlord to draw upon the L-C as protection for the full and faithful performance by Tenant of all of its obligations under this Lease and for all losses and damages Landlord may suffer (or which Landlord reasonably estimates that it may suffer) as a result of any breach or default by Tenant under this Lease. Landlord, or its then managing agent, shall have the right to draw down an amount up to the face amount of the L-C if any of the following shall have occurred or be applicable: (A) such amount is past due to Landlord under the terms and conditions of this Lease, or (B) Tenant has filed a voluntary petition under the U. S. Bankruptcy Code or any state bankruptcy code (collectively, "**Bankruptcy Code**"), or (C) an involuntary petition has been filed against Tenant under the Bankruptcy Code that is not dismissed within thirty (30) days, or (D) the Issuing Bank has notified Landlord that the L-C will not be renewed or extended through the LC Expiration Date and Tenant has not provided a replacement L-C that satisfies the requirements of this Article 21 within thirty (30) days prior to the expiration thereof, or (E) a Bank Credit Threat or Receivership (as such term is defined in Section 21.6.1 below) has occurred and Tenant has failed to comply with the requirements of either Section 21.2.5 above or 21.6 below, as applicable. If Tenant shall breach any provision of this Lease or otherwise be in default hereunder in each case beyond applicable notice and cure periods or if any of the foregoing events identified in Sections 21.3(B) through (E) shall have occurred, Landlord may, but without obligation to do so, and without notice to Tenant, draw upon the L-C, in part or in whole, and the proceeds may be applied by Landlord (i) to cure any breach or default of Tenant and/or to compensate Landlord for any and all damages of any kind or nature sustained or which Landlord reasonably estimates that it will sustain resulting from Tenant's breach or default, (ii) against any Rent payable by Tenant under this Lease that is not paid when due and/or (iii) to pay for all losses and damages to which Landlord is entitled pursuant to California Civil Code Section 1951.2. If Landlord draws on the L-C pursuant to subpart (A) above, Landlord shall only draw on the L-C to the extent required to cure the default. The use,

application or retention of the L-C, or any portion thereof, by Landlord shall not prevent Landlord from exercising any other right or remedy provided by this Lease or by any Applicable Law, it being intended that Landlord shall not first be required to proceed against the L-C, and shall not operate as a limitation on any recovery to which Landlord may otherwise be entitled. Tenant agrees not to interfere in any way with payment to Landlord of the proceeds of the L-C, either prior to or following a "draw" by Landlord of any portion of the L-C, regardless of whether any dispute exists between Tenant and Landlord as to Landlord's right to draw upon the L-C. No condition or term of this Lease shall be deemed to render the L-C conditional to justify the issuer of the L-C in failing to honor a drawing upon such L-C in a timely manner. Tenant agrees and acknowledges that (i) the L-C constitutes a separate and independent contract between Landlord and the Issuing Bank, (ii) Tenant is not a third party beneficiary of such contract, (iii) Tenant has no property interest whatsoever in the L-C or the proceeds thereof, and (iv) in the event Tenant becomes a debtor under any chapter of the Bankruptcy Code, neither Tenant, any trustee, nor Tenant's bankruptcy estate shall have any right to restrict or limit Landlord's claim and/or rights to the L-C and/or the proceeds thereof by application of Section 502(b)(6) of the U. S. Bankruptcy Code or otherwise.

21.4 **Letter of Credit not a Security Deposit.** Landlord and Tenant acknowledge and agree that in no event or circumstance shall the L-C, the "Security Deposit" (as that term is defined in Section 21.6 below), if applicable, or any renewal thereof or any proceeds thereof be (i) deemed to be or treated as a "security deposit" within the meaning of California Civil Code Section 1950.7, (ii) subject to the terms of such Section 1950.7, or (iii) intended to serve as a "security deposit" within the meaning of such Section 1950.7. The parties hereto (A) recite that the L-C and the Security Deposit (if applicable) are not intended to serve as a security deposit and such Section 1950.7 and any and all other laws, rules and regulations applicable to security deposits in the commercial context ("**Security Deposit Laws**") shall have no applicability or relevancy thereto and (B) waive any and all rights, duties and obligations either party may now or, in the future, will have relating to or arising from the Security Deposit Laws.

21.5 **Proceeds of Draw.** In the event Landlord draws down on the L-C pursuant to Section 21.3(D) or (E) above, the proceeds of the L-C may be held by Landlord and applied by Landlord against any Rent payable by Tenant under this Lease that is not paid when due (subject to applicable notice and cure periods) and/or to pay for all losses and damages that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach or default by Tenant under this Lease. Any unused proceeds shall constitute the property of Landlord and need not be segregated from Landlord's other assets. Tenant hereby (i) agrees that (A) Tenant has no property interest whatsoever in the proceeds from any such draw, and (B) such proceeds shall not be deemed to be or treated as a "security deposit" under the Security Deposit Laws, and (ii) waives all rights, duties and obligations either party may now or, in the future, will have relating to or arising from the Security Deposit Laws. Landlord agrees that the amount of any proceeds of the L-C received by Landlord, and not (a) applied against any Rent payable by Tenant under this Lease that was not paid when due or (b) used to pay for any losses and/or damages suffered by Landlord (or reasonably estimated by Landlord that it will suffer) as a result of any breach or default by Tenant under this Lease (the "**Unused L-C Proceeds**"), shall be paid by Landlord to Tenant (x) upon receipt by Landlord of a replacement L-C in the full L-C Amount, which replacement L-C shall comply in all respects with the requirements of this Article 21, and (y) immediately after the LC Expiration Date; provided, however, that if

prior to the LC Expiration Date a voluntary petition is filed by Tenant, or an involuntary petition is filed against Tenant by any of Tenant's creditors, under the Bankruptcy Code, then Landlord shall not be obligated to make such payment in the amount of the Unused L-C Proceeds until either all preference issues relating to payments under this Lease have been resolved in such bankruptcy or reorganization case or such bankruptcy or reorganization case has been dismissed.

21.6 **Issuing Bank Placed Into Receivership.** In the event the Issuing Bank is placed into receivership or conservatorship (any such event, a "Receivership") by the Federal Deposit Insurance Corporation or any successor or similar entity (the "FDIC"), then, effective as of the date such Receivership occurs, the L-C shall be deemed to not meet the requirements of this Article 21, and, within ten (10) business days following Landlord's notice to Tenant of such Receivership, Tenant shall replace the L-C with a substitute L-C from a different issuer reasonably acceptable to Landlord and that complies in all respects with the requirements of this Article 21. In the event that Landlord draws upon the L-C due to solely Tenant's failure to provide a substitute L-C due to a Bank Credit Threat or Receivership, such failure shall not constitute a default hereunder and Tenant shall thereafter have the right to provide a substitute L-C that satisfies the requirements of this Lease, in which case, Landlord shall concurrently refund the proceeds of the draw or the Security Deposit, as applicable. If Landlord improperly draws on the L-C, Tenant may offset against Rent the amounts improperly drawn. If, during the Construction Period, Landlord draws upon the then existing L-C pursuant to a Bank Credit Threat or as of the result of the Issuing Bank's placement into Receivership, then Landlord shall deposit the proceeds from the draw into an account, in Landlord's name, with either Wells Fargo Bank, JP Morgan Chase Bank or Union Bank (as determined by Landlord in its sole discretion) (each a "Security Deposit Bank"), which proceeds shall be held by Landlord as a security deposit (the "Security Deposit") until receipt of a replacement L-C. In connection with the foregoing, (i) Tenant shall not be entitled to any interest on the Security Deposit, (ii) Landlord shall request that the Security Deposit Bank provide Tenant with a courtesy copy of any bank statements pertaining to the Security Deposit account, and (iii) Landlord's use of the Security Deposit shall be subject to the terms and conditions of the Lease pertaining to Landlord's right to use the proceeds of the L-C.

21.7 **Reduction of L-C Amount.** The L-C Amount shall not be reduced during that period (the "Fixed Period"), commencing on the Lease Commencement Date and expiring on the date of the expiration of the Rent Abatement Period. After the expiration of the Fixed Period, the Letter of Credit Amount shall be reduced on a "Reduction Date" (as defined below) to the extent that Tenant tenders to Landlord (a) evidence reasonably satisfactory to Landlord demonstrating the Tenant satisfies the "L-C Reduction Conditions," as that term is defined below, and (b) a certificate of amendment to the existing L-C, conforming in all respects to the requirements of this Article 21, in the amount of the applicable L-C Amount as of such Reduction Date.

21.7.1 **Letter of Credit Reductions.** The L-C Amount shall be reduced on an annual basis pursuant to the following: On the First (1<sup>st</sup>) day of the first (1<sup>st</sup>) calendar month following the month in which the Fixed Period expires and the L-C Reduction Conditions are satisfied (the "Burn Down Date"), and on each anniversary of the Burn Down Date (each, a

“Reduction Date”), provided Tenant satisfies the L-C Reduction Conditions, the L-C Amount shall be reduced by the “L-C Burn Down Amount,” as that term is defined below.

21.7.2 **L-C Burn Down Amount.** As used herein, the “L-C Burn Down Amount” shall mean an amount equal to (x) the then present L-C Amount less an amount equal to one (1) month of Base Rent payable at the end of the initial Lease Term, divided by (y) the number of full years left during the initial Lease Term as of the Burn Down Date (which shall be determined by dividing the number of calendar months remaining in the initial Lease Term by 12, and rounding up to the next whole number). An example calculation of the Letter of Credit Burn Down Amount is attached hereto as **Exhibit I-1**.

21.7.3 **Letter of Credit Reduction Conditions.** If Tenant is allowed to reduce the L-C Amount pursuant to the terms of this Section 21.7, then Landlord shall reasonably cooperate with Tenant in order to effectuate such reduction. For purposes of this Section 21.7, the “L-C Reduction Conditions” shall mean that Tenant is not then in Default under this Lease, and either of the following conditions is satisfied, as demonstrated, in the case of item (i) below, by Tenant’s most recent year-end annual financial reports prepared and certified by an independent certified public accountant and delivered to Landlord within one hundred fifty (150) days following the end of the financial year in question: (i) Tenant has (A) a positive “net operating cashflow” (defined below) of at least Seventy-Five Million and 00/100 Dollars (\$75,000,000.00) and (B) a Tangible Net Worth of at least One Hundred Million and 00/100 Dollars or (ii) an initial public offering of Tenant’s stock on a national public exchange with an “equity market capitalization” of greater than Eight Billion and 00/100 Dollars (\$8,000,000,000.00). For purposes of this Section 21.7.3, “net operating cashflow” shall mean cash flow from operating activities as stated in Tenant’s audited Financials, as determined by generally accepted accounting principles, less dividends. In the event Tenant fails to deliver to Landlord evidence reasonably satisfactory to Landlord demonstrating the Tenant satisfies the L-C Reduction Conditions prior to the applicable Reduction Date, or if Tenant fails to deliver a certificate of amendment to the existing L-C as required by this Section 21.7, then the L-C Amount shall not be reduced upon such applicable Reduction Date, but the terms of this Section 21.7 shall remain effective and the L-C Amount shall thereafter be reduced, to the amount applicable to such Reduction Date (which reductions would be retroactive, and cumulative), on the date Tenant delivers to Landlord evidence reasonably satisfactory to Landlord demonstrating that Tenant has, once again, satisfied the L-C Reduction Conditions (provided that no such reductions shall be permitted in the event this Lease is terminated early as a result of a Tenant Default) for a period of at least eight (8) calendar quarters. After Tenant has met the Letter of Credit Reduction Conditions set forth in item (A), above, but not item (B), above, upon request, Landlord shall have the right to inspect, at Tenant’s offices in San Francisco, California, Tenant’s current quarterly financial reports, provided that any reports made available to Landlord shall be certified as true and correct by Tenant’s chief financial officer, and at a minimum shall include an income statement, balance sheet and cash flow, and applicable notes thereto.

ARTICLE 22

USE OF ROOF DECK

22.1 **In General.** Tenant shall have the right to use, on an exclusive basis, but subject to “Landlord Use Rights” (as defined hereinbelow), the roof deck of the Building (the “**Roof Deck**”), which Roof Deck shall, for purposes of this Lease, be deemed part of the Common Areas. Tenant’s use of the Roof Deck shall be subject to such reasonable rules and regulations as may be prescribed by Landlord from time to time. Tenant shall not make any improvements or alterations to the Roof Deck, nor shall Tenant be permitted to install or place on the Roof Deck any furniture, fixtures, plants, graphics, signs or insignias or other items of any kind whatsoever, without Landlord’s prior consent, which consent may be withheld in Landlord’s sole discretion. Landlord shall have the right to temporarily close the Roof Deck or limit access thereto from time to time (i) in connection with Landlord’s maintenance or repair of the Roof Deck or Building and (ii) no more than four (4) full days within any twelve (12) month period (but at any time of the day), for other reasonable purposes, including, without limitation, for events hosted by or on behalf of Landlord at any time (collectively “**Landlord Use Rights**”); provided, however, that Landlord shall provide reasonable advance notice to Tenant of the anticipated period of closure or limited use of the Roof Deck, and in the case of clause (ii) above, Landlord shall schedule any such use of the Roof Deck in consultation with Tenant so as to avoid conflicts with any particular pre-planned use of the Roof Deck by Tenant for an event that does not occur routinely. Subject to the terms of this Article 22, Tenant shall allow Landlord and Landlord’s permitted users of the Roof Deck access to Tenant’s restrooms located in its Premises during any Landlord Use Rights.

22.2 **Other Terms.** Landlord and Tenant acknowledge and agree that (i) Tenant shall be responsible for supervising and controlling access to the Roof Deck by Tenant’s employees, officers, directors, shareholders, agents, representatives, contractors and invitees (the “**Roof Deck Users**”) and Landlord shall be responsible for supervising and controlling access to the Roof Deck by Landlord’s Roof Deck Users; and (ii) Landlord is not responsible for supervising and controlling access to the Roof Deck, except in connection with Landlord’s exercise of Landlord’s Use Rights. Except to the extent arising as a consequence of the negligence or willful misconduct of Landlord: (a) Tenant assumes the risk for any loss, claim, damage or liability arising out of the use or misuse of the Roof Deck by Tenant’s Roof Deck Users, and Tenant releases and discharges Landlord from and against any such loss, claim, damage or liability; (b) Tenant further agrees to indemnify, defend and hold Landlord and the Landlord Parties, harmless from and against any and all losses and claims relating to or arising out of the use or misuse of the Roof Deck by Tenant or Tenant’s Roof Deck Users. Except to the extent arising as a consequence of the negligence or willful misconduct of Tenant: (a) Landlord assumes the risk for any loss, claim, damage or liability arising out of the use or misuse of the Roof Deck by Landlord’s Roof Deck Users, and Landlord releases and discharges Tenant from and against any such loss, claim, damage or liability; (b) Landlord further agrees to indemnify, defend and hold Tenant and the Tenant Parties, harmless from and against any and all losses and claims relating to or arising out of the use or misuse of the Roof Deck by Landlord or Landlord’s Roof Deck Users. Neither party shall have any liability or responsibility to monitor the use, or manner of use, by the Roof Deck Users of the other party.



**ARTICLE 23**

**SIGNS; ROOF RIGHTS**

23.1 **Full Floors.** Subject to Landlord's prior written approval, in its reasonable discretion, and provided all signs are in keeping with the quality, design and style of the Building and Project, (a) to the extent that the Premises includes any full floor(s) of the Building, Tenant, at its sole cost and expense, may install identification signage anywhere on such floor(s), including in the elevator lobby of such floor(s), provided that such signs must not be visible from the exterior of the Building, and (b) to the extent that the Premises includes any partial floor(s) of the Building, Tenant, at its sole cost and expense, may install Building standard identification signage in the elevator lobby and at the entrance to the Premises on such floor(s).

23.2 **Reserved.**

23.3 **Lobby Signage.** Original Tenant and any Permitted Transferee Assignee, at Tenant's sole cost and expense, provided that Tenant satisfies the applicable "Minimum Signage Threshold" (as defined below), shall have the non-exclusive right to install, repair and maintain its name and/or logo in the ground floor lobby of the Building, provided that such right shall be exclusive to Tenant (except for Landlord's Building signage and directional signage in the ground floor lobby) so long as Tenant continues to lease the entirety of the office portion of the Building. Any such installation, repair and/or maintenance shall be subject to compliance with Applicable Laws and Landlord's prior approval of any such signs, which approval shall not be unreasonably withheld, conditioned or delayed.

23.4 **Prohibited Signage and Other Items.** Any signs, notices, logos, pictures, names or advertisements which are installed which are visible from the exterior or the Premises and that have not been separately approved by Landlord may be removed without notice by Landlord at the sole expense of Tenant. Except as described in Section 23.5 below, Tenant may not install any signs on the exterior or roof of the Project or the Common Areas. Any signs, window coverings, or blinds (even if the same are located behind the Landlord-approved window coverings for the Building), or other items visible from the exterior of the Premises or Building, shall be subject to the prior approval of Landlord, in its sole discretion.

23.5 **Exterior Signage.** Throughout the Lease Term, as the same may be extended, provided that Tenant satisfies the applicable Minimum Signage Threshold, Original Tenant and any Permitted Transferee Assignee, at Tenant's sole cost and expense, shall have the exclusive right (except to the extent provided below) to install, repair and maintain (i) its name and logo on any monument sign installed by Landlord (in Landlord's sole discretion) and associated with the Building (provided that Tenant hereby acknowledges and agrees that no monument sign exists as of the date of this Lease, and Landlord has no obligation to install any monument sign for the Building), and (ii) two (2) signs on the exterior of the Building at the upper-most portion of the façade of the Building, which exterior signs may be Tenant's name and/or logo. Landlord shall work with Tenant to obtain City approval of such monument and Building top signs, provided that Landlord shall have no obligation to obtain such Building top signs for Tenant. Any such installation, repair and/or maintenance (including the exact location thereof)

shall be subject to compliance with Applicable Laws and Landlord's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed. The term "**Minimum Signage Threshold**" shall mean that the Original Tenant and/or its Permitted Transferee Assignee shall, in the aggregate, have not subleased more than twenty-five percent (25%) of the rentable square footage of the Premises pursuant to a sublease or subleases then in effect. Notwithstanding anything to the contrary set forth herein, Landlord shall be entitled to grant any ground-floor retail tenants the rights to install their standard building sign package, including, eyebrow signage, on the front entry façade and the sides of their premises.

23.6 **Name Change.** If Tenant changes its name at any time, Tenant shall have the right, at Tenant's cost, to make such changes to its signage as necessary to reflect the changed name, and may modify or change existing signs to do so. Any such changes or alterations to existing signage at the Project shall be subject to compliance with Applicable Laws and in connection with any exterior and lobby signage, Landlord's prior approval as to the shape, size and location of any such changes or alterations, which approval shall not be unreasonably withheld, conditioned or delayed. To the extent Tenant desires to change the name and/or logo set forth on new or existing signs, such name and/or logo shall not have a name which relates to an entity which is of a character or reputation, or is associated with a political faction or orientation, which is inconsistent with the quality of the Project, or which would otherwise reasonably offend a landlord of the Comparable Buildings.

### 23.7 **Roof Rights.**

23.7.1 **Right to Install Equipment.** Throughout the Lease Term, as the same may be extended, subject to Landlord's reasonable approval and the terms of this Section 23.7, Tenant shall have the non-exclusive right to install, repair, maintain (including access thereto) and replace on the roof of the Building, two (2) satellite dishes, television or communications antennae or facilities, related receiving or transmitting equipment, related cable connections and any and all other related or similar equipment (collectively, the "**Communications Equipment**"), for use in connection with Tenant's business within the Premises, in a location reasonably designated by Landlord and subject to the execution by Landlord and Tenant of a separate license agreement outlining the terms and conditions of Tenant's use of such rooftop space; provided, however, any installation shall be performed pursuant to this Section 23.7, and it shall be deemed reasonable for Landlord to withhold its approval to the extent any such installation would interfere with the Landlord's or any other tenant's use, operation, repair and/or maintenance of then-existing equipment and systems installed on the roof or use of the Roof Deck. The exact location, physical appearance and all specifications of the Communications Equipment (including, without limitation, mounting and structural support specifications) shall be subject to Landlord's reasonable approval, and Landlord may require Tenant to install screening around such Communications Equipment, at Tenant's sole cost and expense, as reasonably designated by Landlord. Without having to pay any additional rental or license fees therefor, but subject to Landlord's reasonable rules and regulations, Tenant may also use the Building's risers, conduits and towers for purposes of installing cabling from the Communications Equipment to the Premises in the interior of the Building. Tenant may not license, assign or sublet the right to use any of such Communications Equipment or podium roof space, other than to Transferees permitted under Article 14, without Landlord's prior written consent, which consent may be withheld in Landlord's sole and absolute discretion.

Notwithstanding any provision set forth in the Lease, Tenant shall be responsible, at Tenant's sole cost and expense, for (i) obtaining, as applicable, and maintaining all permits or other governmental approvals required in connection with the Communications Equipment, (ii) repairing and maintaining and causing the Communications Equipment to comply with all Applicable Laws, and (iii) the removal of the Communications Equipment and all associated wiring promptly following the expiration or earlier termination of this Lease (and the repair of all affected areas to the condition existing prior to the installation thereof). In no event shall Tenant permit the Communications Equipment to interfere with the Building Systems or any other communications equipment at the Building.

23.7.2 **Right of Use.** Landlord may grant to other tenants of the Building and to other third parties the right to use the roof of the Building for the installation of Communications Equipment, provided that such installations do not materially interfere with any then existing Communications Equipment of Tenant.

23.7.3 **Installation, Maintenance, Operation and Removal of Communications Equipment.** Landlord shall have the right to cause its telecommunications rooftop management vendor (the "TRMV") to install, repair, maintain and replace the Communications Equipment at Tenant's sole cost and expense; provided the TRMV will charge commercially competitive rates for its services. Tenant shall have access to the Communications Equipment at all times, subject to any reasonable restrictions of Landlord. Any installation and maintenance of Communications Equipment shall be completed in accordance with all Applicable Laws. Tenant shall be permitted from time to time to alter its Communications Equipment in connection with technological upgrades or changes in Tenant's technological or communications requirements, subject to the terms of this Article 23. Tenant shall pay for any and all costs and expenses in connection with the installation, maintenance, and removal of the Communications Equipment, and all costs and expenses associated with repairing damage to the roof caused by Tenant, its employees or agents, including, but not limited to, any and all costs related to ensuring that any roof warranties for the Building are not terminated or negated in any way by reason of any such installations or by repair and maintenance of such facilities. Notwithstanding anything to the contrary contained in this Article 23, in the event of an emergency, Landlord shall have the right, in its sole and absolute discretion, to (or cause TRMV to) repair, maintain, or replace the Communications Equipment, as Landlord deems necessary or appropriate, without prior notice to Tenant so long as TRMV charges a market competitive price for such repair, maintenance or replacement.

## ARTICLE 24

### COMPLIANCE WITH LAW

24.1 **By Tenant.** Tenant shall not do anything or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or other governmental rule, regulation or requirement now in force or which may hereafter be enacted or promulgated (collectively, "**Applicable Laws**"). At its sole cost and expense, Tenant shall promptly comply with all Applicable Laws which relate to (i) Tenant's use of the Premises, (ii) any Alterations made by Tenant to the Premises, and any Improvements in the Premises, or (iii) the Base Building, but as to the Base Building, only to the extent such obligations are

triggered by Alterations made by Tenant to the Premises to the extent such Alterations are not normal and customary business office improvements in Comparable Buildings, or triggered by the Improvements to the extent such Improvements are not normal and customary business office improvements, or triggered by Tenant's use of the Premises for non-general office use. Tenant shall not, however, be responsible for the cost of complying with Applicable Laws to the extent that any such compliance is required as a result of the Base Building failing to comply with Applicable Laws in effect as of the Delivery Date. Should any standard or regulation now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant agrees, at its sole cost and expense, to comply promptly with such standards or regulations to the extent they apply to Tenant's use or occupancy of the Premises. Tenant shall be responsible, at its sole cost and expense, to make all alterations to the Premises as are required to comply with the governmental rules, regulations, requirements or standards described in this Article 24 with which Tenant is responsible for compliance. The judgment of any court of competent jurisdiction or the admission of Tenant in any judicial action, regardless of whether Landlord is a party thereto, that Tenant has violated any of said governmental measures, shall be conclusive of that fact as between Landlord and Tenant. Tenant shall promptly pay all fines, penalties and damages that may arise out of or be imposed because of its failure to comply with the provisions of this Article 24. For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist (CASP).

24.2 **By Landlord.** Notwithstanding anything to the contrary in this Lease, to the extent required in order for Tenant to obtain a certificate of occupancy, or its legal equivalent, to legally occupy the Premises for normal and customary office use, assuming normal and customary office occupancy density, or to the extent required in order for Tenant to pull a construction permit or to otherwise comply with the requirements of the applicable permitting authority, Landlord (rather than Tenant) shall comply with all Applicable Laws relating to the Base Building and Common Areas, except to the extent such compliance is triggered by (a) Tenant's particular use of the Premises for other than normal and customary business office use or (b) Tenant's construction of Alterations or Improvements in the Premises that are not normal and customary office improvements for Comparable Buildings in which case compliance with such Applicable Laws shall be the responsibility of Tenant under this Lease. Landlord shall be permitted to include in Operating Expenses any costs or expenses incurred by Landlord under this Article 24 to the extent not prohibited by the terms of Article 4 above.

## **ARTICLE 25**

### **LATE CHARGES**

If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within five (5) business days after said amount is due, then Tenant shall pay to Landlord a late charge equal to three percent (3%) of the overdue amount plus any attorneys' fees incurred by Landlord by reason of Tenant's failure to pay Rent and/or other charges when due hereunder; notwithstanding the foregoing to the contrary, Tenant shall be entitled to notice of non-payment and a five (5) business day grace period prior to the imposition

of such late charge on the first (1st) occasion in any Lease Year in which any installment of Rent is not timely paid by Tenant. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. In addition to the late charge described above, any Rent or other amounts owing hereunder which are not paid within ten (10) days after the date they are due shall bear interest from the date when due until paid at a rate (the "Interest Rate") per annum equal to the lesser of (i) the annual "Bank Prime Loan" rate cited in the Federal Reserve Statistical Release Publication H.15(519), published weekly (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published) plus four (4) percentage points, and (ii) the highest rate permitted by Applicable LawS.

## ARTICLE 26

### LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT

26.1 **Landlord's Cure.** All covenants and agreements to be kept or performed by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Rent, except to the extent, if any, otherwise expressly provided herein. If Tenant shall fail to perform any obligation under this Lease, and such failure shall continue in excess of the time allowed under Section 19.1.2, above, unless a specific time period is otherwise stated in this Lease, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder.

26.2 **Tenant's Reimbursement.** Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord, upon delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures reasonably made and obligations incurred by Landlord in connection with the remedying by Landlord of Tenant's Defaults pursuant to the provisions of Section 26.1; (ii) sums equal to all losses, costs, liabilities, damages and expenses referred to in Article 10 of this Lease; and (iii) sums equal to all expenditures made and obligations incurred by Landlord in collecting or attempting to collect any past-due Rent, including, without limitation, all legal fees and other amounts so expended. Tenant's obligations under this Section 26.2 shall survive the expiration or sooner termination of the Lease Term.

## ARTICLE 27

### ENTRY BY LANDLORD

Landlord reserves the right at all reasonable times and upon reasonable notice to Tenant (except in the case of an emergency) to enter the Premises to (i) inspect them; (ii) show the Premises to prospective purchasers, mortgagees or (during the final twelve (12) months of the Lease Term) tenants, or to current or prospective mortgagees, ground or underlying lessors or insurers; (iii) post notices of non-responsibility; or (iv) make reasonably necessary alterations, improvements or repairs to the Premises or the Building Systems. Notwithstanding anything to the contrary contained in this Article 27, Landlord may enter the Premises at any time to (A)

perform services required of Landlord, including janitorial service; (B) take possession due to any Default of this Lease in the manner provided herein; and (C) perform any covenants of Tenant which Tenant fails to perform following applicable notice and cure periods. Landlord shall use commercially reasonable efforts to minimize interference with the conduct of Tenant's business in connection with such entries into the Premises. To the extent reasonably practical given the nature of the work, Landlord will provide Tenant with at least five (5) days prior notice of any of the actions set forth in this Article 27, to be taken by Landlord if such action will substantially interfere with Tenant's ability to (i) conduct business in the Premises, (ii) gain access to and from the Premises, or (iii) use or have access to and egress from the on-site parking area. Tenant shall additionally have the right to require that Landlord be accompanied by a representative of Tenant during any such entry so long as Tenant makes a representative available at commercially reasonable times. Landlord shall use good faith efforts to ensure that the performance of any such work of repairs or alterations shall not materially interfere with Tenant's use of the Premises (or any portion thereof) for Tenant's business purposes (Landlord's efforts in such regard will include, where reasonably possible, limiting the performance of any such work which might be disruptive to weekends or the evening and the cleaning of any work area prior to the commencement of the next business day). Landlord may make any such entries without the abatement of Rent (except as specifically set forth in Section 19.5.2 of this Lease) and may take such reasonable steps as required to accomplish the stated purposes. Tenant hereby waives any claims for damages or for any injuries or inconvenience to or interference with Tenant's business, lost profits, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the above purposes, Landlord shall at all times have a key with which to unlock all the doors in the Premises, excluding Tenant's vaults, safes and special security areas designated in advance by Tenant. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors in and to the Premises. Notwithstanding anything to the contrary set forth in this Article 27, Tenant may designate in writing certain reasonable areas of the Premises as "**Secured Areas**" should Tenant require such areas for the purpose of securing certain valuable property or confidential information. In connection with the foregoing, Landlord shall not enter such Secured Areas except in the event of an emergency. Landlord need not clean any area designated by Tenant as a Secured Area and shall only maintain or repair such secured areas to the extent (i) such repair or maintenance is required in order to maintain and repair the Base Building; (ii) as required by Applicable Law, or (iii) in response to specific requests by Tenant and in accordance with a schedule reasonably designated by Tenant, subject to Landlord's reasonable approval. Any entry into the Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an actual or constructive eviction of Tenant from any portion of the Premises. No provision of this Lease shall be construed as obligating Landlord to perform any repairs, alterations or decorations except as otherwise expressly agreed to be performed by Landlord herein.

## ARTICLE 28

### TENANT PARKING

Subject to the terms of this Article 28, Tenant shall be obligated to rent from Landlord, commencing on the Lease Commencement Date, the amount of parking passes set forth in Section 9 of the Summary, on a monthly basis throughout the Lease Term, which parking passes

shall pertain to the Project parking facility. Tenant shall pay to Landlord for automobile parking passes on a monthly basis the monthly parking rate charged by Landlord, which monthly rate shall be consistent with the monthly parking rate then being charged by landlords of "Comparable Buildings" as that is defined in **Exhibit G**, attached hereto. In addition, Tenant shall be responsible for the full amount of any taxes imposed by any governmental authority in connection with the renting of such parking passes by Tenant or the use of the parking facility by Tenant. If Landlord elects to increase the capacity of the Project parking facility by implementing valet parking, at Landlord's sole discretion, Tenant shall have the right to rent additional parking passes made available as a result of such valet ("**Additional Valet Parking Passes**"). No more than once in a twelve (12) calendar month period, Tenant may increase, or decrease in increments of five (5), the number of Additional Valet Parking Passes rented by Tenant, upon forty-five (45) days prior written notice to Landlord; provided that notwithstanding any contrary provision of this Lease, in no event shall Tenant rent (nor shall Landlord provide) less than the amount of parking passes allocated to Tenant as set forth in Section 9 of the Summary during the Lease Term. Tenant's continued right to use the parking passes is conditioned upon Tenant abiding by all rules and regulations which are prescribed from time to time for the orderly operation and use of the Project parking facility, including any sticker or other identification system established by Landlord, and Tenant's cooperation in seeing that Tenant's employees and visitors also comply with such rules and regulations. Landlord specifically reserves the right to change the size, configuration, design, layout and all other aspects of the Project parking facility at any time and Tenant acknowledges and agrees that Landlord may, without incurring any liability to Tenant and without any abatement of Rent under this Lease, from time to time, temporarily close-off or restrict access to the Project parking facility for purposes of permitting or facilitating any such construction, alteration or improvements; provided, however, that Landlord will use reasonable efforts to provide Tenant with reasonable advance notice of any such anticipated temporary close-off or restriction in access to the parking facility. Landlord may delegate its responsibilities hereunder to a parking operator in which case such parking operator shall have all the rights of control attributed hereby to the Landlord. The parking passes rented by Tenant pursuant to this Article 28 are provided to Tenant solely for use by Tenant's own personnel and such passes may not be transferred, assigned, subleased or otherwise alienated by Tenant, except in connection with a Transfer of the Premises pursuant to Article 14 of this Lease, without Landlord's prior approval. Tenant may validate visitor parking by such method or methods as the Landlord may establish, at the validation rate from time to time generally applicable to visitor parking. In addition, if Landlord expands the parking area, Tenant shall have the right to its proportionate share of such additional spaces. Tenant acknowledges that the retail tenants at the Project shall not be entitled to park, or allow their visitors and invitees to park, their vehicles in the Project parking facilities prior to 5:00 P.M. on weekdays (that are not holidays); provided, however such retail tenants, at their sole cost and expense, may elect to implement a valet parking system in the Project parking facilities after 5:00 P.M. on weekdays and at anytime on weekends and holidays. Landlord shall have the right to grant up to one (1) parking pass for use by the tenant of the Retail Space in the Project parking facility.

**ARTICLE 29**

**MISCELLANEOUS PROVISIONS**

29.1 **Terms; Captions.** The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections.

29.2 **Binding Effect.** Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 14 of this Lease.

29.3 **No Air Rights.** No rights to any view or to light or air over any property, whether belonging to Landlord or any other person, are granted to Tenant by this Lease. If at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Project, the same shall be without liability to Landlord and without any reduction or diminution of Tenant's obligations under this Lease.

29.4 **Modification of Lease.** Should any current or prospective mortgagee or ground lessor for the Building or Project require a modification of this Lease, which modification will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then and in such event, Tenant agrees that this Lease may be so modified and agrees to execute (or make good faith comments to) whatever documents are reasonably required therefor and to deliver the same to Landlord within thirty (30) days following a request therefor. At the request of Landlord or any mortgagee or ground lessor, Tenant agrees to execute (or make good faith comments to) a short form of Lease and deliver the same to Landlord within thirty (30) days following the request therefor.

29.5 **Transfer of Landlord's Interest.** Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Project or Building and in this Lease, and Tenant agrees that in the event of any such transfer, Landlord shall automatically be released from all liability under this Lease arising from and after the date of such transfer and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder after the date of transfer and such transferee shall be deemed to have fully assumed and be liable for all obligations of this Lease to be performed by Landlord, including the return of any Security Deposit, and Tenant shall attorn to such transferee. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.



29.6 **Prohibition Against Recording.** Except as provided in Section 29.4 of this Lease, neither this Lease, nor any memorandum, affidavit or other writing with respect thereto, shall be recorded by Tenant or by anyone acting through, under or on behalf of Tenant.

29.7 **Landlord's Title.** Landlord's title is and always shall be paramount to the title of Tenant. Nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord.

29.8 **Relationship of Parties.** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturer or any association between Landlord and Tenant.

29.9 **Application of Payments.** Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect.

29.10 **Time of Essence.** Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

29.11 **Partial Invalidity.** If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.12 **No Warranty.** In executing and delivering this Lease, Tenant has not relied on any representations, including, but not limited to, any representation as to the amount of any item comprising Additional Rent or the amount of the Additional Rent in the aggregate or that Landlord is furnishing the same services to other tenants, at all, on the same level or on the same basis, or any warranty or any statement of Landlord which is not set forth herein or in one or more of the exhibits attached hereto.

29.13 **Landlord Exculpation.** The liability of Landlord or the Landlord Parties to Tenant for any default by Landlord under this Lease or arising in connection herewith or with Landlord's operation, management, leasing, repair, renovation, alteration or any other matter relating to the Project or the Premises shall be limited solely and exclusively to an amount which is equal to the net interest of Landlord in the Building, including any condemnation, rental, sales or insurance proceeds received by Landlord in connection with the Building. Neither Landlord, nor any of the Landlord Parties shall have any personal liability therefor, and Tenant hereby expressly waives and releases such personal liability on behalf of itself and all persons claiming by, through or under Tenant. The limitations of liability contained in this Section 29.13 shall inure to the benefit of Landlord's and the Landlord Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of Landlord (if Landlord is a partnership), or trustee or beneficiary (if

Landlord or any partner of Landlord is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any contrary provision herein, neither Landlord nor the Landlord Parties shall be liable under any circumstances for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring; similarly, except with respect to Tenant's violations of the provisions of this Lease regarding Hazardous Substances and Tenant's holding over in the Premises following the expiration or sooner termination of this Lease, Tenant shall not be liable under any circumstances for injury or damage to, or interference with, Landlord's business, including, but not limited to, loss of profits or other revenues (not including, however, loss of rents), loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

29.14 **Entire Agreement.** It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

29.15 **Right to Lease.** Landlord reserves the absolute right to effect such other tenancies in the Project as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building or Project. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall, during the Lease Term, occupy any space in the Building or Project.

29.16 **Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire 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 Articles 5 and 24 of 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. The provisions of this Section 29.16 shall not, however, delay (i) the trigger date for Tenant's right to abatements in Rent as set forth in Section 19.5.2 above, or (ii) the date upon which Tenant may exercise its right to terminate this Lease following casualty described in Section 11.2 above except as expressly set forth in Section 11.2. In the event that either party is delayed from performing any obligation hereunder as a result of Force Majeure, such party shall promptly give notice to the other party of the delay in question, specifying in such notice the nature of the delay and, without any such estimate being deemed a representation or warranty, such party's good faith estimate of the length of the delay in question.

29.17 **Waiver of Redemption by Tenant.** Tenant hereby waives, for Tenant and for all those claiming under Tenant, any and all rights now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Tenant's right of occupancy of the Premises after any termination of this Lease.

29.18 **Notices.** All notices, demands, statements or communications (collectively, "Notices") given or required to be given by either party to the other hereunder shall be in writing, shall be (A) delivered by a nationally recognized overnight courier, or (B) delivered personally. Any such Notice shall be delivered (i) to Tenant at the appropriate address set forth in Section 10 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord; or (ii) to Landlord at the addresses set forth in Section 11 of the Summary, or to such other firm or to such other place as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given on the date of receipted delivery, of refusal to accept delivery, or when delivery is first attempted but cannot be made due to a change of address for which no Notice was given. If Tenant is notified of the identity and address of Landlord's mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor written notice of any default by Landlord under the terms of this Lease by registered or certified mail. The party delivering Notice shall use commercially reasonable efforts to provide a courtesy copy of each such Notice to the receiving party via electronic mail.

29.19 **Joint and Several.** If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

29.20 **Authority.** If Tenant is a corporation, trust or partnership, each individual executing this Lease on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so. In such event, Tenant shall, upon request from Landlord prior to or after execution of this Lease, deliver to Landlord satisfactory evidence of such authority and, if a corporation, upon demand by Landlord, also deliver to Landlord satisfactory evidence of (i) good standing in Tenant's state of incorporation and (ii) qualification to do business in California.

29.21 **Attorneys' Fees.** In the event that either Landlord or Tenant should bring suit for the possession of the Premises, for the recovery of any sum due under this Lease, or because of the breach of any provision of this Lease or for any other relief against the other, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

29.22 **Governing Law; WAIVER OF TRIAL BY JURY.** This Lease, including the terms of Article 21 (which shall include any dispute between Landlord and Tenant relating to the L-C), shall be construed and enforced in accordance with the laws of the State of California. IN ANY ACTION OR PROCEEDING ARISING HEREFROM, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT

WITHIN THE STATE OF CALIFORNIA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY CALIFORNIA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. IN THE EVENT LANDLORD COMMENCES ANY SUMMARY PROCEEDINGS OR ACTION FOR NONPAYMENT OF BASE RENT OR ADDITIONAL RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF ANY NATURE OR DESCRIPTION (UNLESS SUCH COUNTERCLAIM SHALL BE MANDATORY) IN ANY SUCH PROCEEDING OR ACTION, BUT SHALL BE RELEGATED TO AN INDEPENDENT ACTION AT LAW.

29.23 **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.

29.24 **Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only the real estate brokers or agents specified in Section 12 of the Summary (the "**Brokers**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party. The Brokers shall be compensated by Landlord pursuant to the provisions of a separate agreement.

29.25 **Independent Covenants.** This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary; and, except as otherwise expressly provided for herein, Tenant agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

29.26 **Project or Building Name.** Landlord shall have the right at any time to change the name of the Project or Building. Tenant shall not use the name of the Project or Building or use pictures or illustrations of the Project or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

29.27 **Counterparts.** This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single lease.

29.28 **Confidentiality.** Tenant acknowledges that the content of this Lease and any related documents are confidential information. Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal, and space planning consultants, or its directors, officers, employees, attorneys, accountants, prospective lenders, prospective purchasers, brokers, underwriters, and current and potential partners or investors, or to the extent that disclosure is mandated by Applicable Laws, the Securities Exchange Commission, the rules of any public exchange upon which Tenant's shares are from time to time traded, or in connection with a stock or debt offering. Additionally, Tenant shall have the right to deliver a copy of this Lease to any proposed subtenant or assignee (with, in the case of a subtenant, economic terms redacted), provided such subtenant or assignee agrees to keep the contents hereof confidential. Landlord acknowledges that the content of this Lease and any related documents (including financial statements provided by Tenant pursuant to Articles 17 and 21 above) are confidential information. Landlord shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Landlord's financial, legal and space planning consultants, or its directors, officers, employees, attorneys, accountants, prospective lenders, prospective purchasers, brokers, and current and potential partners or investors, or to the extent that disclosure is mandated by Applicable Laws, or the Securities Exchange Commission. Moreover, Landlord has advised Tenant that Landlord is obligated to regularly provide financial information concerning the Landlord and/or its affiliates (including Kilroy Realty Corporation, a public company whose shares of stock are listed on the New York Stock Exchange) to the shareholders of its affiliates, to the Federal Securities and Exchange Commission and other regulatory agencies, and to auditors and underwriters, which information may include summaries of financial information concerning leases, rents, costs and results of operations of its real estate business, including any rents or results of operations affected by this Lease. Notwithstanding the foregoing, the parties acknowledge that Landlord may use the name of Tenant without Tenant's consent (i) on the Building directory, and (ii) to the extent that Tenant is only referenced by name as a customer or tenant of Landlord, in investor presentations and earnings calls or earnings related releases, and in connection with the marketing efforts of Landlord or any real estate broker or agent on Landlord's behalf with respect to the proposed leasing, financing, sale or other conveyance of the Building, or any portion thereof. This provision shall survive the expiration or earlier termination of this Lease for one (1) year.

29.29 **Transportation Management.** Tenant shall fully comply with all present or future programs intended to manage parking, transportation or traffic in and around the Building, and in connection therewith, Tenant shall take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities.

29.30 **Building Renovations.** It is specifically understood and agreed that Landlord has made no representation or warranty to Tenant and has no obligation and has made no promises to alter, remodel, improve, renovate, repair or decorate the Premises, Building, or any part thereof and that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant except as specifically set forth herein or in the Work Letter. However, Tenant hereby acknowledges that following Landlord's completion of

construction of the Base Building, Landlord may during the Lease Term renovate, improve, alter, or modify (collectively, the “**Renovations**”) the Project and/or the Building, including without limitation, the parking structure, Common Areas, Building Systems and/or Building Structure, which Renovations may include, without limitation, (i) modifying the Common Areas and tenant spaces to comply with Applicable Laws, including regulations relating to the physically disabled, seismic conditions, and Building safety and security, and (ii) installing new floor covering, lighting, and wall coverings in the Building Common Areas, and in connection with any Renovations, Landlord may, among other things, erect scaffolding or other necessary structures in the Building, limit or eliminate access to portions of the Project, including portions of the Common Areas, or perform work in the Building, which work may create noise, dust or leave debris in the Building. Landlord shall use commercially reasonable efforts to undertake and complete any Renovations in a manner which does not materially, adversely affect Tenant’s use of or access to the Premises. Notwithstanding the foregoing, Tenant hereby agrees that such Renovations and Landlord’s actions in connection with such Renovations shall in no way constitute a constructive eviction of Tenant nor, subject to the provisions of Section 19.5.2 above, entitle Tenant to any abatement of Rent. Landlord shall have no responsibility or for any reason be liable to Tenant for any direct or indirect injury to or interference with Tenant’s business arising from the Renovations, nor shall Tenant be entitled to any compensation or damages from Landlord for loss of the use of the whole or any part of the Premises or of Tenant’s personal property or improvements resulting from the Renovations or Landlord’s actions in connection with such Renovations, or for any inconvenience or annoyance occasioned by such Renovations or Landlord’s actions, provided that the foregoing shall not limit Landlord’s liability, if any, pursuant to Applicable Law for personal injury and property damage to the extent caused by the gross negligence or willful misconduct of Landlord, its agents, employees or contractors.

29.31 **No Violation.** Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any claims, demands, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys’ fees and costs, arising from Tenant’s breach of this warranty and representation.

29.32 **Communications and Computer Lines.** Tenant may install, maintain, replace, remove or use any communications or computer wires and cables (collectively, the “**Lines**”) at the Project in or serving the Premises, provided that (i) Tenant shall obtain Landlord’s prior written consent to the installation of any such Lines (such consent not to be unreasonably withheld), use an experienced and qualified contractor approved in writing by Landlord (such approval not to be unreasonably withheld), and comply with all of the other provisions of Articles 7 and 8 of this Lease, (ii) an acceptable amount of space for additional Lines shall be maintained for future occupants of the Project, as determined in Landlord’s reasonable opinion, (iii) the Lines (including riser cables) shall be appropriately insulated to prevent excessive electromagnetic fields or radiation, and shall be surrounded by a protective conduit reasonably acceptable to Landlord, (iv) any Lines servicing the Premises shall comply with all Applicable Laws, (v) as a condition to permitting the installation of new Lines, Landlord may require that Tenant remove existing Lines located in or serving the Premises that will no longer be used by Tenant and repair any damage in connection with such removal, and (vi) Tenant shall pay all

costs in connection therewith. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are at any time in violation of any Applicable Laws or represent a dangerous or potentially dangerous condition. Upon the expiration of the Lease Term, or immediately following any earlier termination of this Lease, Tenant shall, at Tenant's sole cost and expense, remove all Lines installed by Tenant, and repair any damage caused by such removal.

### 29.33 **Office and Communications Services.**

29.33.1 **The Provider.** Tenant shall be permitted to contract with an office and communications services concessionaire (the "**Provider**") selected by Tenant and subject to Landlord's reasonable approval (which may include, without limitation, cable or satellite television service).

29.33.2 **Other Terms.** 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) 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 (iii) 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 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.

29.34 **Water Sensors.** Tenant shall, at Tenant's sole cost and expense, be responsible for promptly installing web-enabled wireless water leak sensor devices designed to alert the Tenant on a twenty-four (24) hour seven (7) day per week basis if a water leak is occurring in the Premises (which water sensor device(s) located in the Premises shall be referred to herein as "**Water Sensors**"). The Water Sensors shall be installed in any areas in the Premises where water is utilized (such as sinks, pipes, faucets, water heaters, coffee machines, ice machines, water dispensers and water fountains), and in locations that may be reasonably designated from time to time by Landlord (the "**Sensor Areas**"). In connection with any Alterations affecting or relating to any Sensor Areas, Landlord may require Water Sensors to be installed or updated in Landlord's reasonable discretion. With respect to the installation of any such Water Sensors, Tenant shall use an experienced and qualified contractor reasonably approved by Landlord, and comply with all of the other provisions of Article 8 of this Lease. Tenant shall, at Tenant's sole cost and expense, pursuant to Article 7 of this Lease keep any Water Sensors located in the Premises in good working order, repair and condition at all times during the Lease Term and comply with all of the other provisions of Article 7 of this Lease. Notwithstanding any provision to the contrary contained herein, Landlord has neither an obligation to monitor, repair or otherwise maintain the Water Sensors, nor an obligation to respond to any alerts it may receive from the Water Sensors or which may be generated from the Water Sensors. Upon the expiration of the Lease Term, or immediately following any earlier termination of this Lease,

Tenant shall leave the Water Sensors in place together with all necessary user information such that the same may be used by a future occupant of the Premises (e.g., the Water Sensors shall be unblocked and ready for use by a third-party).

29.35 **Utility Billing Information.** In the event that Landlord permits Tenant to contract directly for the provision of electricity, gas and/or water services to the Premises with the third-party provider thereof, Tenant shall provide Landlord with a copy of each invoice received from the applicable utility provider promptly following Tenant's receipt thereof. Tenant acknowledges that pursuant to California Public Resources Code Section 25402.10 and the regulations adopted pursuant thereto (collectively the "**Energy Disclosure Requirements**"), Landlord may be required to disclose information concerning Tenant's energy usage at the Building to certain third parties, including, without limitation, prospective purchasers, lenders and tenants of the Building (the "**Tenant Energy Use Disclosure**"). Tenant hereby consents to all such Tenant Energy Use Disclosures, and Landlord shall use commercially reasonable efforts to notify Tenant of any Tenant Energy Use Disclosures made by Landlord. Further, Tenant hereby releases Landlord from any and all losses, costs, damages, expenses and liabilities relating to, arising out of and/or resulting from any Tenant Energy Use Disclosure. The terms of this Section 29.35 shall survive the expiration or earlier termination of this Lease.

29.36 **Green Cleaning/Recycling Program.** Tenant shall cooperate if and to the extent Landlord implements a green cleaning program and/or recycling program for the Project, and hereby agrees that the reasonable costs associated with any such green cleaning and/or recycling program shall be included in Operating Expenses.

29.37 **LEED Certification.** Landlord may, in Landlord's sole and absolute discretion, elect to apply to obtain or maintain a LEED certification for the Project (or portion thereof), or other applicable certification in connection with Landlord's sustainability practices for the Project (as such sustainability practices are to be determined by Landlord, in its sole and absolute discretion, from time to time). In the event that Landlord elects to pursue such an aforementioned certification, Tenant shall, at Tenant's sole cost and expense, promptly cooperate with the Landlord's efforts in connection therewith and provide Landlord with any documentation it may need in order to obtain or maintain the aforementioned certification (which cooperation may include, but shall not be limited to, Tenant complying with certain standards pertaining to the purchase of materials used in connection with any Alterations or improvements undertaken by the Tenant in the Project, the sharing of documentation pertaining to any Alterations or improvements undertaken by Tenant in the Project with Landlord, and the sharing of Tenant's billing information pertaining to trash removal and recycling related to Tenant's operations in the Project).

29.38 **Approvals.** Whenever this Lease requires an approval, consent, determination, selection or judgment by either Landlord or Tenant, unless another standard is expressly set forth, such approval, consent, determination, selection or judgment and any conditions imposed thereby shall be reasonable and shall not be unreasonably withheld or delayed.

[Signature Page to Follow]



IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

**LANDLORD:**

KILROY REALTY FINANCE PARTNERSHIP, L.P.,  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation,  
Its: General Partner

By: /s/ Tyler N. Rose  
Name: Tyler N. Rose  
Title: Executive Vice President and Chief Financial  
Officer

By: /s/ Mike L. Sanford  
Name: Mike L. Sanford  
Title: Senior Vice President Northern California

[signatures continue on next page]

**TENANT:**

DROPBOX, INC.,  
a Delaware corporation

By: /s/ Drew Houston  
Name: Drew Houston  
Title: President and CEO

By: /s/ Arash Ferdowsi  
Name: Arash Ferdowsi  
Title: CTO and Assistant Secretary

[signatures continue on next page]

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**EXHIBIT A**

**OUTLINE OF PREMISES**

**[diagrams]**

**EXHIBIT B**

**333 BRANNAN STREET**

**WORK LETTER**

This Work Letter shall set forth the terms and conditions relating to the construction of the Premises. This Work Letter is essentially organized chronologically and addresses the issues of the construction of the Premises, in sequence, as such issues will arise during the actual construction of the Premises. All references in this Work Letter to Articles or Sections of "this Lease" shall mean the relevant portions of Articles 1 through 29 of the Office Lease to which this Work Letter is attached as **Exhibit B**, and all references in this Work Letter to Sections of "this Work Letter" shall mean the relevant portions of Sections 1 through 5 of this Work Letter. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Lease.

**SECTION 1**

**LANDLORD'S INITIAL CONSTRUCTION OF THE BASE BUILDING**

1.1 **Construction of Base Building.** Landlord shall construct, at its sole cost and expense, and without deduction from the Improvement Allowance, the base, shell, and core of the Building and the other portions of the Project including the Building parking facilities and Common Areas (collectively, the "**Base, Shell and Core**" and/or "**Base Building**"), which shall be in compliance with Applicable Laws and those certain San Francisco Planning Commission Motions No. 18952 (Case No. 2012.0906B) and 18953 (Case No. 2012.0906X) (including the Conditions of Approval thereof, the "**Planning Approvals**") (to the extent necessary for Tenant to submit for permits for construction of the Improvements or to obtain and retain a "CofO" (as defined in Section 1.2 below) for the Premises for general office use). Notwithstanding the foregoing, Landlord's obligation to comply with the terms and conditions of the Planning Approvals shall not be a condition to satisfaction of the "Final Condition" (as defined in Section 1.2 below, except to the extent required for the issuance of a CofO for the Premises), provided that any costs to comply with the Planning Approvals shall be Landlord's responsibility, and shall not be a Direct Expense or deducted from the "Improvement Allowance" (as that term is defined in Section 2.1 below). The Base Building shall be constructed in accordance with the design and development plans and specifications attached hereto as **Schedule 1** (the "**Base Building Plans**"); and the final construction drawings for the Base Building (the "**Base Building Construction Drawings and Specifications**") shall in all respects conform to and be consistent, except as provided in this Work Letter, with such Base Building Plans. The parties acknowledge, however, that certain Improvements (to be constructed by Tenant) are shown for informational purposes on the Base Building Plans (designated thereon as work to be performed "BY TENANT"), but such items are not components of the Base Building. Upon completion of the Base Building Construction Drawings and Specifications, Landlord shall deliver to Tenant complete copies thereof (four (4) hard copies and one (1) electronic copy), together with a certification from Landlord addressed to Tenant certifying that the Base Building Construction Drawings and Specifications conform to and are consistent with the Base Building Plans, except as allowed by the terms of this Work

EXHIBIT B

-1-

Letter. In the event that an updated set of the Base Building Construction Drawings and Specifications are prepared for Landlord, Landlord shall provide Tenant with complete copies of the most up-to-date set. Landlord shall be responsible for obtaining all building permits and other governmental approvals required to construct the Base Building in accordance with the Base Building Construction Drawings and Specifications. As used in this Work Letter (and the Schedules attached hereto), the term “Base Building” shall have the meaning set forth in this Section 1.1, and not the meaning set forth in Section 8.2 of this Lease. Additionally, to the extent not set forth in the version of the Base Building Plans referenced in Schedule 1, Landlord shall make the necessary modifications to provide that the Base Building, as constructed by Landlord, shall comply with the Base Building Definition set forth in Schedule 2 (the “**Base Building Definition**”). In the event of a conflict between Schedule 1 and Schedule 2, Schedule 2 shall prevail. Landlord hereby reserves the right to modify the Base Building Plans and the Base Building Construction Drawings and Specifications, provided that such modifications: (A) are required to comply with Applicable Laws, or (B) will not (i) materially and adversely affect Tenant’s permitted use of the Premises and the Project or materially increase the cost of construction of the Improvements, unless Landlord pays such increased costs, or (ii) result in the use of materials, systems or components which are not of a reasonably equivalent or better quality than the materials, systems and components set forth in the Base Building Plans, or in the Lease (provided, however, that such changes shall be limited such that Landlord may not change the type of HVAC system (i.e., from V/A/V- based HVAC system to a V/R/V-based system), but may only make changes to such HVAC system that are reasonable equivalents or upgrades thereto). Landlord’s general contractor shall, on commercially reasonable terms, warrant to Landlord that the Base, Shell and Core is free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Landlord’s general contractor shall be responsible, on commercially reasonable terms, for the replacement or repair, without additional charge, of all work done or furnished in accordance with its contract that shall become defective within one (1) year after the completion of the work performed by such contractor. The correction of such work shall include, on commercially reasonable terms, without additional charge, all additional expenses and damages incurred in connection with such removal or replacement of all or any part of the Base, Shell and Core that may be damaged or disturbed thereby. All such warranties or guarantees as to materials or workmanship of or with respect to the Base, Shell and Core shall be contained in the contract or subcontract, on commercially reasonable terms.

1.2 **Delivery Condition.** The “**Delivery Condition**” shall occur at such time as Landlord delivers the Premises to Tenant for commencement of construction of the Improvements, and in compliance with the conditions set forth in Schedule 3, attached hereto. The “**Delivery Date**” shall occur on the date of Landlord’s delivery of the Premises to Tenant in the Delivery Condition, which date shall be no earlier than the date that Landlord certifies to Tenant that, to the extent required to satisfy the Delivery Condition, the Base Building has been partially completed in accordance with the Base Building Construction Drawings and Specifications. Landlord shall provide Tenant with at least ten (10) business days prior notice of the date the Premises shall be delivered to Tenant in the Delivery Condition. The parties acknowledge and agree that the Delivery Condition does not reflect all work necessary to cause the Building to comply with the Base Building Construction Drawings and Specifications or to be in substantially completed Base, Shell and Core condition as set forth in the Base Building Construction Drawings and Specifications. As such, Landlord shall continue to be obligated to

EXHIBIT B

perform additional construction after the completion of the Delivery Condition to cause the Premises to be in "Final Condition" (as defined below). From and after the date Landlord delivers the Premises to Tenant in the Delivery Condition, Landlord shall perform its work in the Premises in a manner so as not to unreasonably delay Tenant in the completion of the Improvements. The "**Final Condition**" of the Building shall mean that (A) the Base, Shell and Core of the Building has been substantially completed in accordance with the Base Building Construction Drawings and Specifications and Applicable Laws to the extent necessary for Landlord to obtain a certificate of occupancy or temporary certificate of occupancy, or legal equivalent (each, a "**CofO**"), for the Base, Shell and Core, and (B) the Common Areas have been substantially completed in accordance with the Base Building Construction Drawings and Specifications and Applicable Laws to the extent necessary for Landlord to obtain a CofO, excluding the completion of "punch-list" items (the "**Base Building Punch List Items**"). The Final Condition of the Premises shall be deemed to occur on the date such Final Condition would have occurred but for delays caused by Tenant's physical alteration of the items of the Base, Shell and Core on any floor of the Premises or Tenant's failure to complete or construct any portion of the Improvements (including temporary or permanent life-safety work or fire sprinkler work) such altered item or item that Tenant fails to construct shall each be a ("**CofO Item**"), which altered or unconstructed CofO Item interferes with Landlord's ability to receive a CofO for the Base, Shell and Core; provided that to the extent Landlord reasonably determines that the altered or unconstructed CofO Item will delay the issuance of the CofO for the Base, Shell and Core, Landlord may, upon prior notice to Tenant, modify such altered CofO Item or construct the unconstructed CofO Item, and deduct the cost thereof (as reasonably determined by Landlord) from the Improvement Allowance, in a manner necessary for Landlord to receive the CofO for the Base, Shell and Core. For purposes of clarification, Base Building Punch List Items shall not include any items that would (I) materially interfere with the operation of Tenant's business from the Premises or (II) prevent Tenant from obtaining a CofO for the Premises. Without limiting the foregoing, the Final Condition shall not be deemed to have occurred unless (i) Tenant has access to and from the Building, the Premises and the Project parking facilities, (ii) Tenant has use of the Building parking facilities, (iii) all Building Systems serving the Premises are complete and Landlord is providing services to the Premises in accordance with the requirements of the Lease, and (iv) Tenant may conduct its business from the Premises without material interference. Furthermore, Landlord shall promptly and diligently proceed to fully complete all Base Building Punch List Items in a manner calculated to minimize interference with the operation of Tenant's business at the Premises. Landlord shall use commercially reasonable efforts to complete Base Building Punch list items for the Common Areas, within thirty (30) days after the date of Final Condition. Upon receipt, Landlord shall provide Tenant with a copy of the final Certificate for Payment issued by Landlord's architect (as defined in the A102 of Landlord's construction contract).

1.3 **Constructing the Bridge Structures.** Landlord, at Landlord's sole cost and expense, shall design, engineer, obtain all required permits for and construct the Bridge Structures. Notwithstanding the foregoing, or any provision to the contrary set forth in this Lease, Landlord and Tenant hereby acknowledge and agree that Landlord shall have no obligation to construct the Bridge Structures (but may otherwise elect, in its sole discretion, to construct the Bridge Structures) unless and until the following conditions are satisfied (i) Tenant and the Adjacent Owner have fully executed and delivered the Adjacent Building Lease, (ii) Landlord has obtained a CofO for the Base, Shell and Core, (iii) the Adjacent Owner has

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obtained a CofO for the base, shell and core of the Adjacent Building, (iv) Tenant has substantially completed the Improvements in the Premises, except for the immediate area around the Bridge Structures, (v) Tenant has substantially completed the improvements to be constructed by Tenant under the Adjacent Building Lease, and (vi) Landlord has received all necessary permits and approvals for the construction and use of the Bridge Structures from applicable governing authorities as required under Applicable Laws (and Landlord will make reasonable good faith efforts to obtain such permits and approvals). Landlord shall have no liability whatsoever to Tenant relating to or arising from Landlord's inability or failure to cause all or any portion of the Bridge Structures to be constructed if such failure results from (A) the Adjacent Owner preventing or refusing to cooperate with Landlord to construct the Bridge Structures or (B) Landlord's failure to obtain the necessary permits and approvals described in item (vi) above. Furthermore, Landlord shall be immediately released from any obligation to construct the Bridge Structures as set forth herein in the event of a termination of this Lease or the Adjacent Building Lease (whether due to Tenant's exercise of a termination right or otherwise). The parties acknowledge and agree that the completion of the construction of the Bridge Structures shall not be necessary to cause the satisfaction of the Final Condition.

#### 1.4 **Tenant's Rights On Construction Failure.**

1.4.1 **Failure to Commence Construction.** In the event Landlord has failed to (A) secure the issuance of the site permit to commence the construction of the Building and (B) commence demolition of the existing improvements of the future site of the Building (the "**Milestone**") on or before August 1, 2014 (the "**Milestone Outside Date**") (which date shall be extended by virtue of "Force Majeure Delay" (as defined below), and any delays caused by Tenant), then Tenant shall have the right to terminate this Lease by written notice to Landlord ("**Milestone Failure Termination Notice**") effective upon the date occurring five (5) business days following receipt by Landlord of the Milestone Failure Termination Notice (the "**Milestone Termination Effective Date**"), in which event Landlord shall return any prepaid rent and the L-C forthwith to Tenant. Should the Milestone be satisfied prior to Tenant's exercise of the foregoing termination right, however, such termination right shall, in such event, expire and be of no further force or effect upon completion of such Milestone. If Tenant delivers a Milestone Failure Termination Notice to Landlord, then Landlord shall have the right to suspend the occurrence of the Milestone Termination Effective Date for a period ending thirty (30) days after the Milestone Termination Effective Date by delivering written notice to Tenant, prior to the Milestone Termination Effective Date, that, in Landlord's reasonable, good faith judgment, the Milestone will be satisfied within thirty (30) days after the Milestone Termination Effective Date. If the Milestone is satisfied within such thirty (30) day suspension period, then the Milestone Failure Termination Notice shall be of no force or effect, but if the Milestone is not satisfied within such thirty (30) day suspension period, then this Lease shall terminate upon the expiration of such thirty (30) day suspension period. Upon any termination as set forth in this **Section 1.4.1**, Landlord, KRLP, and Tenant shall be relieved from any and all liability to each other resulting under this Lease. Tenant's rights to terminate this Lease, as set forth in this **Section 1.4.1**, shall be Tenant's sole and exclusive remedy at law or in equity for the failure of the Milestone to have not been satisfied by the Milestone Outside Date.

1.4.2 **Delivery Condition Failure Rent Abatement.** If Landlord has not caused the Delivery Condition to be satisfied on or before July 1, 2015 ("**First Rent Abatement**")

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**Delivery Condition Date**”), subject to extension by virtue of Force Majeure Delay, and any delays caused by Tenant, then Tenant shall be entitled to a day-for-day abatement of Base Rent attributable to the Premises for each day following the First Rent Abatement Delivery Condition Date until the earlier to occur of: (i) the date upon which the Delivery Condition has been satisfied, and (ii) the date occurring one month after the First Rent Abatement Delivery Condition Date (the “**Second Rent Abatement Delivery Condition Date**”). If the Delivery Condition has not been satisfied on or before the Second Rent Abatement Delivery Condition Date, subject to extension by virtue of Force Majeure Delay, and any delays caused by Tenant, Tenant shall be entitled to an abatement of Base Rent equal to twice the per diem Base Rent attributable to the Premises for each day following the Second Rent Abatement Delivery Condition Date until the date upon which the Delivery Condition has been satisfied (the Base Rent abatements described herein with regard to the Premises are referred to herein, collectively, as the “**Late Delivery Date Abatements**”). Tenant shall immediately apply any accrued Late Delivery Date Abatements against payments of Rent as they become due.

**1.4.3 Delivery Condition Failure Termination Right.** Further, if the Delivery Condition has not been satisfied by October 1, 2015 (the “**Delivery Condition Termination Date**”), subject to extension by virtue of Force Majeure Delay, and any delays caused by Tenant, Tenant shall have the right to terminate this Lease by written notice to Landlord (“**Delivery Failure Termination Notice**”) effective upon the date occurring five (5) business days following receipt by Landlord of the Delivery Failure Termination Notice (the “**Termination Effective Date**”), in which event, Landlord shall return any prepaid rent and the L-C forthwith to Tenant. Should the Delivery Condition be satisfied prior to Tenant’s exercise of the foregoing termination right, however, such termination right shall, in such event, expire and be of no further force or effect upon such completion of the Delivery Condition (provided that Tenant shall be entitled to receive all of the Late Delivery Date Abatements). If Tenant delivers a Delivery Failure Termination Notice to Landlord, then Landlord shall have the right to suspend the occurrence of the Termination Effective Date for a period ending thirty (30) days after the Termination Effective Date by delivering written notice to Tenant, prior to the Termination Effective Date, that, in Landlord’s reasonable, good faith judgment, the Delivery Condition will be satisfied within thirty (30) days after the Termination Effective Date. If the Delivery Condition is satisfied within such thirty (30) day suspension period, then the Delivery Failure Termination Notice shall be of no force or effect, but if the Delivery Condition is not satisfied within such thirty (30) day suspension period, then this Lease shall terminate upon the expiration of such thirty (30) day suspension period. The Termination Effective Date and the Delivery Condition Termination Date shall be extended to the extent of any Force Majeure Delays, and any delays caused by Tenant. Upon any termination as set forth in this Section 1.4.3, Landlord, KRLP, and Tenant shall be released from any and all liability to each other resulting under this Lease. Tenant’s rights to terminate this Lease, as set forth in this Section 1.4.3, shall be Tenant’s sole and exclusive remedy at law or in equity for the failure of the Delivery Condition to have not been satisfied by the Delivery Condition Termination Date.

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## SECTION 2

### IMPROVEMENTS

2.1 **Improvement Allowance.** Tenant shall be entitled to an Improvement allowance (the “**Improvement Allowance**”) in the amount set forth in Section 13 of the Summary for the costs relating to the design, permitting and construction of improvements, which, except as otherwise provided in Section 2.2.1, below, are permanently affixed to the Premises (the “**Improvements**”), provided that the Improvements constructed by Tenant shall include (except to the extent such work is part of the Base Building) all temporary or permanent fire-life safety work and sprinkler system work required in order for Landlord to receive a CofO for the Base, Shell and Core and Tenant to receive a CofO for the Premises. Tenant shall construct all of the Improvements on a concurrent basis throughout the entire Premises. Except with respect to the Core and Shell Work, in no event shall Landlord be obligated to make disbursements pursuant to this Work Letter in a total amount which exceeds the Improvement Allowance and “Landlord’s Drawing Contribution” (as that term is defined below). In the event that the Improvement Allowance for any particular portion of the Premises is not fully utilized by Tenant within one (1) year following the Lease Commencement Date, then such unused amounts shall revert to Landlord, and Tenant shall have no further rights with respect thereto. Any Improvements that require the use of Building risers, raceways, shafts and/or conduits, shall be subject to Landlord’s and Landlord’s management company’s reasonable rules, regulations, and restrictions. In addition, Landlord shall contribute an amount not to exceed Nine Thousand Nine Hundred Seventy-Four and 85/100 Dollars (\$9,974.85) (“**Landlord’s Drawing Contribution**”) toward the cost of a preliminary analysis and fit plan to be prepared by the “Architect” (as that term is defined below), and no portion of the Landlord’s Drawing Contribution, if any, remaining after completion of the Improvements shall be available for use by Tenant.

#### 2.2 **Disbursement of the Improvement Allowance.**

2.2.1 **Improvement Allowance Items.** Except as otherwise set forth in this Work Letter, the Improvement Allowance shall be disbursed by Landlord only for the following items and costs and, except as otherwise specifically and expressly provided in this Work Letter or the Lease, Landlord shall not deduct any other expenses from the Improvement Allowance (collectively the “**Improvement Allowance Items**”):

2.2.1.1 Payment of the fees of the “Architect” and “Engineers” (as those terms are defined in Section 3.1 of this Work Letter) and other consultants (including any construction manager) retained by or on behalf of Tenant, in connection with space planning and design of the Improvements and the payment of plan check, permit and license fees relating to construction of the Improvements (but in no event shall disbursements of the Improvement Allowance for all of the foregoing items in this Section 2.2.1.1 exceed an aggregate amount equal to Seven and 50/100 Dollars (\$7.50) per rentable square foot of the Premises);

2.2.1.2 Subject to Section 6.5 below, the cost of construction of the Improvements, including, without limitation, all materials and labor to complete the Improvements, testing and inspection costs, freight elevator usage, hoisting and trash removal costs, and contractors’ fees and general conditions;

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2.2.1.3 Tenant's costs of performing any changes to the Base Building when such changes are required by the Construction Documents and are not Landlord's obligation pursuant to Section 1.1 above (including if such changes are due to the fact that such work is prepared on an unoccupied basis), such cost to include all direct architectural and/or engineering fees and expenses, and any City or permit costs, incurred in connection therewith (provided, however, that if any such changes are required due to Landlord's failure to perform its obligations pursuant to Section 1 above, such changes shall be performed by Landlord at Landlord's sole cost and expense);

2.2.1.4 The cost of any changes to the Construction Documents or Improvements required by all applicable building codes (the "Code");

2.2.1.5 The cost of connection of the Premises to the Building's energy management and access control systems and for chilled water hook-up fees, if applicable;

2.2.1.6 The cost of the "Coordination Fee," as that term is defined in Section 4.2.2 of this Work Letter;

2.2.1.7 Sales and use taxes and Title 24 fees, gross receipts taxes and any other taxes imposed on or pertaining to construction of the Improvements;

2.2.1.8 Payment of the reasonable out-of-pocket fees incurred by, and the reasonable out-of-pocket cost of documents and materials supplied by, Landlord and Landlord's consultants in connection with the preparation and review of the "Construction Documents," as that term is defined in Section 3.1 of this Work Letter, provided however, no such fees or costs shall apply to engineers that Tenant retains for the Improvements if such engineers are the same engineers Landlord retained for the Base Building;

2.2.1.9 All other reasonable and actual out-of-pocket costs expended by Landlord, upon prior notice to Tenant, in connection with the construction of the Improvements.

2.2.1.10 Any costs and/or expenses incurred in connection with the design, permitting and construction of the Improvements which are (i) the obligation of Tenant under this Work Letter, or (ii) expressly designated in the Lease as costs and/or expenses which may be deducted from the Improvement Allowance.

2.2.2 Disbursement of Improvement Allowance. During the design and construction of the Improvements, Landlord shall make monthly disbursements of the Improvement Allowance for Improvement Allowance Items for the benefit of Tenant and shall authorize the release of monies for the benefit of Tenant as follows:

2.2.2.1 Monthly Disbursements. From time to time, but not more frequently than one (1) time in any thirty (30) consecutive day period during the design and construction of the Improvements, Tenant shall deliver to Landlord: (i) a request for payment of the "Contractor," as that term is defined in Section 4.1 of this Work Letter, approved by Tenant, on AIA forms G702 or G703 (or comparable forms reasonably approved by Landlord), showing the schedule, by trade, of percentage of completion of the Improvements in the Premises, detailing the portion of the work completed and the portion not completed; (ii) invoices from all

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of “Tenant’s Agents,” as that term is defined in Section 4.1.2 of this Work Letter, for labor rendered and materials delivered to the Premises and proof of payment of the same by Tenant; and (iii) executed unconditional mechanic’s lien releases from all of Tenant’s Agents which shall comply with California Civil Code Section 8134 or, if applicable, Section 8138; provided, however, that with respect to fees and expenses of the Architect, or construction or project managers or other similar consultants, and/or any other pre-construction items for which the payment scheme set forth in items (i) through (iii), above, of this Work Letter, is not applicable (collectively, the “**Non-Contribution Items**”), Tenant shall only be required to deliver to Landlord an invoice of the cost for the applicable Non-Contribution Items and proof of payment by Tenant. Tenant’s request for payment shall, as between Landlord and Tenant only, be deemed Tenant’s acceptance and approval of the work furnished and/or the materials supplied as set forth in Tenant’s payment request vis-à-vis Landlord. Within thirty (30) days thereafter, Landlord shall deliver a check to Tenant in payment of the lesser of: (A) the amounts so requested by Tenant, as set forth in this Section 2.2.2.1, above, less a ten percent (10%) retention (the aggregate amount of such retentions to be known as the “**Final Retention**”), and (B) the balance of any remaining available portion of the Improvement Allowance (not including the Final Retention), provided, however, that (x) no such retention shall be applicable to the fees of the Architect, Engineers, Tenant’s project manager and consultants, and (y) with respect to payment requests in connection with the construction of the Improvements only, Landlord’s payment of such amounts shall not be deemed Landlord’s approval or acceptance of the work furnished or materials supplied as set forth in Tenant’s payment request.

2.2.2.2 Final Retention. Subject to the provisions of this Work Letter (including, without limitation, Section 4.3 below), a check for the Final Retention payable to Tenant shall be delivered by Landlord to Tenant following the completion of construction of the Improvements, provided that (i) Tenant delivers to Landlord properly executed mechanics lien releases in compliance with both California Civil Code Section 8134 and Section 8138 from Tenant’s contractor, subcontractors and material suppliers and any other party which has lien rights in connection with the construction of the Improvements, (ii) Landlord, in Landlord’s reasonable good faith judgment, has determined that no substandard work exists which materially deviates from the “Approved Working Drawings”, as that term is defined in Section 3.4, below, materially adversely affects the Building Systems, the exterior walls of the Building, or the Building Structure or exterior appearance of the Building (provided that Landlord will have thirty (30) days following Tenant’s request for the Final Retention in which to determine whether any such substandard work exists and notify Tenant of such determination, failing which Landlord shall be deemed to have determined that no such substandard work exists), and (iii) Tenant delivers to Landlord a certificate issued by Architect, in a form reasonably acceptable to Landlord, certifying that the construction of the Improvements in the Premises has been substantially completed, and (iv) Tenant delivers to Landlord two (2) hard copies and one (1) electronic copy of the “Close-Out Package” (as that term is defined in Section 4.3.3 below).

2.2.2.3 Other Terms. Landlord shall only be obligated to make disbursements from the Improvement Allowance to the extent costs are incurred by Tenant for Improvement Allowance Items. To the extent that a dispute shall arise as to whether certain amounts of the Allowance are due and/or payable to Tenant, any amounts which are not the subject of such dispute, shall be disbursed by Landlord pursuant to Section 2.4, below.

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2.3 Building Standards. Landlord has established specifications for certain Building standard components (the “**Building Standards**”) to be used in the construction of the Improvements in the Premises, which certain Building Standards are more particularly described as follows: those certain Minimum Building Standards prepared by Landlord for 333 Brannan, San Francisco, California, and delivered to Tenant, via electronic mail, on January 23, 2014. The quality of Improvements shall be equal to or of greater quality than the quality of the Building Standards, provided that certain Improvements shall comply with certain Building Standards, as set forth therein, and further provided, that in no event shall Tenant use black paint to paint the underside or top of the structural slab. Landlord may make commercially reasonable changes to the Building Standards from time to time; provided, however, that if Landlord has previously approved any Construction Drawings which were made pursuant to the provisions of the previously applicable Building Standards, Landlord’s revisions to such Building Standards shall not be deemed to require Tenant to update or revise its previously approved Construction Drawings.

2.4 Failure to Disburse Improvement Allowance. If Landlord fails to timely fulfill its obligation to fund any portion of the Improvement Allowance, Tenant shall be entitled to deliver notice (the “**Payment Notice**”) thereof to Landlord and to any mortgage or trust deed holder of the Building whose identity and address have been previously provided to Tenant. If Landlord still fails to fulfill any such obligation within twenty (20) business days after Landlord’s receipt of the Payment Notice from Tenant and if Landlord fails to deliver a notice to Tenant within such twenty (20) business day period explaining Landlord’s reasons that Landlord believes that the amounts described in Tenant’s Payment Notice are not due and payable by Landlord (“**Refusal Notice**”), Tenant shall be entitled to offset the amount so owed to Tenant by Landlord but not paid by Landlord (or if Landlord delivers a Refusal Notice but only with respect to a portion of the amount set forth in the Payment Notice and Landlord fails to pay such undisputed amount as required by the next succeeding sentence, the undisputed amount so owed to Tenant), together with interest at the Interest Rate (as defined in Article 25 of this Lease) from the date that the amount was originally due and payable until the date of offset, against Tenant’s next obligations to pay Rent. Notwithstanding the foregoing, Landlord hereby agrees that if Landlord delivers a Refusal Notice disputing a portion of the amount set forth in Tenant’s Payment Notice, Landlord shall pay to Tenant, concurrently with the delivery of the Refusal Notice, the undisputed portion of the amount set forth in the Payment Notice. However, if Tenant is in Default under Section 19.1.1 of the Lease at the time that such offset would otherwise be applicable, Tenant shall not be entitled to such offset until such Default is cured. If Landlord delivers a Refusal Notice, and if Landlord and Tenant are not able to agree on the disputed amounts to be so paid by Landlord, if any, within ten (10) days after Tenant’s receipt of a Refusal Notice, Tenant may submit such dispute to arbitration in accordance with the American Arbitration Association. If Tenant prevails in any such arbitration, Tenant shall be entitled to apply such award as a credit against Tenant’s obligations to pay Rent.

### SECTION 3

#### CONSTRUCTION DRAWINGS

3.1 Selection of Architect/Construction Documents. Tenant shall retain an architect/space planner reasonably approved by Landlord (the “**Architect**”) to prepare the

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“Construction Documents,” as that term is defined in this [Section 3.1](#). Tenant shall retain (or cause the Architect or, on a design-build basis, the Contractor to retain) engineering consultants reasonably approved by Landlord (the “**Engineers**”), which approval shall be granted or withheld within five (5) business days following Tenant’s written request (if Landlord fails to notify Tenant of Landlord’s approval or disapproval of any such Engineers within such five (5) business day period, Tenant shall deliver Landlord an additional notice requesting approval and if Landlord thereafter fails to respond within three (3) business days of receipt of such additional notice, then Landlord will be deemed to have approved such Engineers), to prepare all plans and engineering working drawings relating to the structural, mechanical, electrical, plumbing, HVAC, lifesafety, and sprinkler work in the Premises, which work is not part of the Base Building, and Tenant agrees that it shall be required to hire (i) Nishkian Menninger for all structural work, and(ii) The Fire Consultants, Inc. for all fire-life-safety work, or any other replacement engineers, designated by Landlord, for such structural or fire-life-safety work, provided that such Engineers charge commercially competitive rates for the work in question. The plans and drawings to be prepared by Architect and the Engineers hereunder shall be known collectively as the “**Construction Documents**.” Tenant shall deliver one (1) hard copy and one (1) electronic copy of the Construction Documents to Landlord. Tenant shall be required to include in its contracts with the Architect and the Engineers a provision which requires ownership of all Construction Documents to be transferred to Tenant upon the Substantial Completion of the Improvements and Tenant hereby grants to Landlord a non-exclusive right to use such Construction Documents, including, without limitation, a right to make copies thereof. All Construction Documents shall be delivered in a CAD drawing format. Tenant and Architect shall verify the dimensions and conditions as shown on the relevant portions of the Base Building Construction Drawings Specifications, and Tenant and Architect shall be solely responsible for the same, and Landlord shall have no responsibility in connection therewith. Landlord’s review of the Construction Documents as set forth in this [Section 3](#), shall be for its sole purpose and shall not imply Landlord’s review of the same, or obligate Landlord to review the same, for quality, design, Code compliance or other like matters. Accordingly, notwithstanding that any Construction Documents are reviewed by Landlord or its space planner, architect, engineers and consultants, and notwithstanding any advice or assistance which may be rendered to Tenant by Landlord or Landlord’s space planner, architect, engineers, and consultants, Landlord shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the Construction Documents, and Tenant’s waiver and indemnity set forth in this Lease shall specifically apply to the Construction Documents.

3.2 [Final Space Plan](#). Tenant shall supply Landlord with four (4) hard copies and one (1) electronic copy of its final space plan for the Premises. The final space plan (the “**Final Space Plan**”) shall include a layout and designation of all offices, rooms and other partitioning, their intended use, and the equipment anticipated to be contained therein. Landlord may request clarification or more specific drawings for special use items not included in the Final Space Plan. Landlord shall advise Tenant within five (5) business days after Landlord’s receipt of the Final Space Plan if the same is approved, or, if the Final Space Plan is not reasonably satisfactory or is incomplete in any respect, disapproved, in which event Landlord shall include in its notice of disapproval a reasonably detailed explanation as to which items are not satisfactory or complete and the reason(s) therefor. Landlord shall not unreasonably withhold its consent to the Final Space Plan, provided that Tenant shall design such improvements so as to not (i) have a material

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adverse effect on the Building Structure or Base Building Systems, or (ii) fail to comply with Code. If Tenant is so advised that the Final Space Plan is not satisfactory or complete, Tenant shall promptly cause the Final Space Plan to be revised to correct any deficiencies or other matters Landlord may reasonably require and deliver such revised Final Space Plan to Landlord. If Landlord disapproves the Final Space Plan, Tenant may resubmit the proposed Final Space Plan to Landlord at any time, and Landlord shall approve or disapprove of the resubmitted Final Space Plan, based upon the criteria set forth in this Section 3.2, within five (5) business days after Landlord receives such resubmitted Final Space Plan. Such procedure shall be repeated until the Final Space Plan is approved; provided, however, that if Landlord fails to notify Tenant of Landlord's approval or disapproval of any iteration of the Final Space Plan within the five (5) business day review period for approval or disapproval thereof, Tenant shall deliver Landlord an additional notice requesting approval and if Landlord thereafter fails to respond within three (3) business days of receipt of such additional notice, Landlord will be deemed to have approved such iteration of the Final Space Plan.

3.3 Final Working Drawings. After the Final Space Plan has been approved by Landlord, Tenant shall supply the Engineers with a complete listing of standard and non-standard equipment and specifications, including, without limitation, B.T.U. calculations, electrical requirements and special electrical receptacle requirements for the Premises, to enable the Engineers and the Architect to complete the "Final Working Drawings" (as that term is defined below) in the manner as set forth below. Upon the approval of the Final Space Plan by Landlord and Tenant, Tenant shall cause the Architect and the Engineers to complete the architectural and engineering drawings for the Premises, and Architect shall compile a fully coordinated set of architectural, structural, mechanical, electrical and plumbing working drawings in a form which is complete to allow subcontractors to bid on the work, to the extent applicable, and to obtain all applicable permits (collectively, the "**Final Working Drawings**") and shall submit the same to Landlord for Landlord's approval, which approval shall not be unreasonably withheld. Tenant shall supply Landlord with four (4) hard copies and one (1) electronic copy of such Final Working Drawings. Landlord shall advise Tenant within ten (10) business days after Landlord's receipt of the Final Working Drawings for the Premises if the same are approved, or, if the Final Working Drawings are not reasonably satisfactory or are incomplete in any respect, disapproved, in which event Landlord shall include in its notice of disapproval a reasonably detailed explanation as to which items are not satisfactory or complete and the reason(s) therefor. If Tenant is so advised that the Final Working Drawings are not satisfactory or complete, Tenant shall promptly revise the Final Working Drawings in accordance with such review and any disapproval of Landlord in connection therewith, and Landlord shall approve or disapprove the resubmitted Final Working Drawings, based upon the criteria set forth in this Section 3.3, within five (5) business days after Landlord receives such resubmitted Final Working Drawings. Such procedure shall be repeated until the Final Working Drawings are approved; provided, however, that if Landlord fails to notify Tenant of Landlord's approval or disapproval of any iteration of the Final Working Drawings within the initial ten (10) business day review period or any subsequent five (5) business day review period for approval or disapproval thereof, Tenant shall deliver Landlord an additional notice requesting approval and if Landlord thereafter fails to respond within five (5) business days of receipt of such additional notice, Landlord will be deemed to have approved such iteration of the Final Working Drawings.

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3.4 Approved Working Drawings. The Final Working Drawings shall be approved by Landlord (the “**Approved Working Drawings**”) prior to the submission of the same to the appropriate municipal authorities for all applicable building permits (the “**Permits**”) and commencement of construction of the Improvements by Tenant; provided, however, at Tenant’s election and at Tenant’s risk with respect to any subsequent changes that may be required by Landlord in accordance with this Work Letter, Tenant may submit the Final Working Drawings to the appropriate municipal authorities for Permits concurrently with Landlord’s review thereof. After approval by Landlord of the Final Working Drawings, Tenant shall submit such Approved Working Drawings for the Permits. Tenant hereby agrees that neither Landlord nor Landlord’s consultants shall be responsible for obtaining any building permit(s) for the Improvements or required permission for lawful occupancy for the Premises and that obtaining the same shall be Tenant’s responsibility; provided, however, that Landlord, at its cost, shall provide to Tenant such path-of-travel documentation regarding the Building and the Project, as available, as may be required in order for Tenant to apply for and/or obtain any building permit(s) for the Improvements or required permission for lawful occupancy for the Premises (the parties acknowledging that Landlord shall have no obligation to prepare such path-of-travel documentation to comply with the foregoing), and shall cooperate with Tenant in executing permit applications and performing other ministerial acts reasonably necessary to enable Tenant to obtain any such permit(s) or occupancy permission. No material changes, modifications or alterations in the Approved Working Drawings may be made without the prior written consent of Landlord, which consent may not be unreasonably withheld, conditioned or delayed. Landlord shall provide any approvals and take any actions required under this Work Letter within the time periods specified herein, or, if no time period is specified, then within five (5) business days.

3.5 Change Orders. In the event Tenant desires to materially change the Approved Working Drawings, Tenant shall deliver notice (the “**Drawing Change Notice**”) of the same to Landlord, setting forth in detail the changes (the “**Tenant Change**”) Tenant desires to make to the Approved Working Drawings. Landlord shall, within five (5) business days of receipt of a Drawing Change Notice, either (i) approve the Tenant Change, or (ii) disapprove the Tenant Change and deliver a notice to Tenant specifying in reasonably sufficient detail the reasons for Landlord’s disapproval. Any additional costs which arise in connection with such Tenant Change shall be paid by Tenant pursuant to this Work Letter; provided, however, that to the extent the Improvement Allowance has not been fully disbursed, such payment shall be made out of the Improvement Allowance subject to the terms of this Work Letter.

## SECTION 4

### CONSTRUCTION OF THE IMPROVEMENTS

#### 4.1 Tenant’s Selection of Contractors.

4.1.1 The Contractor. Tenant shall retain a licensed general contractor, approved in advance by Landlord (“**Contractor**”), to construct the Improvements. Landlord’s approval of the Contractor shall not be unreasonably withheld. Landlord hereby approves Swinerton Builders, if selected by Tenant, as Contractor. If, however, Tenant elects to select a general contractor other than Swinerton Builders, Landlord shall notify Tenant of Landlord’s approval or disapproval of such Contractor within five (5) business days following notice to

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Landlord of Tenant's selection; if Landlord fails to timely notify Tenant of Landlord's approval or disapproval, Tenant shall deliver Landlord an additional notice requesting approval and if Landlord thereafter fails to respond within three (3) business days of receipt of such additional notice, Landlord will be deemed to have approved such Contractor.

4.1.2 Tenant's Agents. All subcontractors, laborers, materialmen, and suppliers used by Tenant in connection with the Improvements, together with the Contractor, shall be known collectively as "**Tenant's Agents**". The subcontractors used by Tenant, but not any materialmen, and suppliers, must be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed. Landlord will notify Tenant within five (5) business days following Tenant's notice to Landlord of the identity of any such subcontractors, if Landlord approves or disapproves such subcontractors; if Landlord fails to timely notify Tenant of Landlord's approval or disapproval of such subcontractors, Tenant shall deliver Landlord an additional notice requesting approval and if Landlord thereafter fails to respond within three (3) business days of receipt of such additional notice, Landlord will be deemed to have approved such subcontractors.

#### 4.2 Construction of Improvements by Tenant's Agents.

4.2.1 Construction Contract; Cost Budget. Prior to Tenant's execution of the construction contract and general conditions with Contractor (the "**Contract**"), Tenant shall submit the Contract (including Contractor's proposal and all exhibits and back-up documentation associated with such Contract) to Landlord for its approval, which approval shall not be unreasonably withheld or delayed. Prior to the commencement of the construction of the Improvements, Tenant shall provide Landlord with a detailed breakdown, by trade, of the anticipated costs to be incurred or which have been incurred, as set forth more particularly in Sections 2.2.1.1 through 2.2.1.10, above, in connection with the design and construction of the Improvements to be performed by or at the direction of Tenant or the Contractor (the "**Anticipated Costs**"). Prior to the commencement of construction of the Improvements, Tenant shall identify the amount equal to the difference between the amount of the Anticipated Costs and the amount of the Improvement Allowance (less any portion thereof already disbursed by Landlord, or in the process of being disbursed by Landlord, on or before the commencement of construction of the Improvements). In the event that the Anticipated Costs are greater than the amount of the Improvement Allowance (the "**Anticipated Over-Allowance Amount**"), then Tenant shall pay a percentage of each amount requested by the Contractor or otherwise to be disbursed under this Work Letter, which percentage (the "**Percentage**") shall be equal to the Anticipated Over-Allowance Amount divided by the amount of the Anticipated Costs (after deducting from the Anticipated Costs any amounts expended in connection with the preparation of the Construction Drawings, and the cost of all other Improvement Allowance Items incurred prior to the commencement of construction of the Improvements), and such payments by Tenant (the "**Over-Allowance Payments**") shall be a condition to Landlord's obligation to pay any amounts from the Improvement Allowance (the "**Improvement Allowance Payments**"). After Tenant's initial determination of the Anticipated Costs, Tenant shall advise Landlord from time to time as such Anticipated Costs are further refined or determined or the costs relating to the design and construction of the Improvements otherwise change and the Anticipated Over-Allowance Amount, and the Over-Allowance Payments shall be adjusted such that the Improvement Allowance Payments by Landlord and the Over-Allowance Payments by Tenant

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shall accurately reflect the then-current amount of Anticipated Costs. Notwithstanding the foregoing content of this Section 4.2.1, Landlord may elect, at its sole option, from time to time, to adjust the Percentage in order to increase the amount(s) of the Improvement Allowance Payments (and thereby reduce the amount(s) of the Over-Allowance Payments paid in connection therewith), provided, that Landlord shall not be required to make any payments in excess of the Improvement Allowance, and any such adjustment in the Percentage shall be reconciled in later disbursements of the Improvement Allowance Payments and the Over-Allowance Payments. In connection with any Over-Allowance Payments made by Tenant pursuant to this Section 4.2.1, Tenant shall provide Landlord with the documents described in Sections 2.2.2.1 (i), (ii), and (iii) of this Work Letter, above, for Landlord's approval, prior to Tenant paying such costs. Notwithstanding anything set forth in this Work Letter to the contrary, but subject to the last sentence of Section 3.4 above, construction of the Improvements shall not commence until (a) Landlord has approved the Contract, and (b) Tenant has procured and delivered to Landlord a copy of all Permits for the applicable Improvements.

#### 4.2.2 Tenant's Agents.

4.2.2.1 Landlord's General Conditions for Tenant's Agents and Improvement Work. Tenant's and Tenant's Agent's construction of the Improvements shall comply with the following: (i) the Improvements shall be constructed in material accordance with the Approved Working Drawings, subject to minor field adjustments and approved Tenant Changes; (ii) Landlord's reasonable rules and regulations for the construction of improvements in the Building, including as pertains to the use of freight, loading dock and service elevators and the storage of construction materials, (iii) Landlord shall reasonably cooperate (and shall cause its respective contractors, subcontractors and agents to cooperate) with Tenant on a commercially reasonable basis in order that the work being performed by Tenant may be completed without material interference by the other party. In connection with the foregoing, Tenant's Agents shall submit schedules of all work relating to the Improvements to Landlord. Tenant shall pay a logistical coordination fee (the "**Coordination Fee**") to Landlord in an amount equal to One Hundred Thirty-Six Thousand Five Hundred Forty and 50/100 Dollars (\$136,540.50), which Coordination Fee shall be for services relating to the coordination of the construction of the Improvements, such Coordination Fee to be disbursed as part of each disbursement of the Improvement Allowance on a proportionate basis (i.e., based on the proportion the Coordination Fee bears to the total Improvement Allowance).

4.2.2.2 Indemnity. Tenant's indemnity of Landlord and Landlord's indemnity of Tenant, as set forth in this Lease shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to any act or omission of Tenant or Tenant's Agents, or anyone directly or indirectly employed by any of them, or in connection with Tenant's or Landlord's, as the case may be, non-payment of any amount arising out of the Improvements and/or Tenant's or Landlord's, as the case may be, disapproval of all or any portion of any request for payment. The foregoing indemnity shall not apply to claims caused by the negligence or willful misconduct of the other party, its member partners, shareholders, officers, directors, agents, employees, and/or contractors, or other party's violation of this Lease.

4.2.2.3 Requirements of Tenant's Agents. Contractor (on behalf of itself and Tenant's Agents) shall guarantee to Tenant and for the benefit of Landlord that the

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Improvements shall be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Contractor shall be responsible for the replacement or repair, without additional charge, of all work done or furnished in accordance with the Contract that shall become defective within one (1) year after the completion of the Improvements. The correction of such work shall include, without additional charge, all additional expenses and damages incurred in connection with such removal or replacement of all or any part of the Improvements, and/or the Building and/or common areas that may be damaged or disturbed thereby. Such warranty shall be contained in the Contract and shall be written such that it shall inure to the benefit of both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. To the extent reasonably necessary, Tenant covenants to give to Landlord any assignment or other assurances which may be necessary to effect such right of direct enforcement.

#### 4.2.2.4 Insurance Requirements.

4.2.2.4.1 General Coverages. All of Tenant's Agents shall carry worker's compensation insurance covering all of their respective employees, and shall also carry public liability insurance, including property damage, all with limits, in form and with companies as are required to be carried by Tenant as set forth in this Lease (provided that the limits of liability to be carried by Tenant's Agents and Contractor shall be in amounts reasonably required by Landlord, which shall be reasonably commensurate with the levels of coverage required by owners of Comparable Buildings).

4.2.2.4.2 Special Coverages. During construction of the Improvements, Tenant shall carry "Builder's All Risk" insurance in an amount reasonably approved by Landlord (but in no event greater than 100% of the completed insurable value of the Improvements) covering the construction of the Improvements (at Tenant's option, Tenant shall cause Contractor to carry such Builder's All Risk insurance), and such other insurance as Landlord may reasonably require, it being understood and agreed that the Improvements shall be insured by Tenant pursuant to this Lease immediately upon completion thereof. Such insurance shall be in amounts and shall include such customary extended coverage endorsements as may be reasonably required by Landlord and are reasonably commensurate with the levels and types of coverage required by owners of Comparable Buildings, and shall be in form and with companies as are required to be carried by Tenant as set forth in this Lease; provided, however, such insurance shall also include a loss payee endorsement in favor of Landlord.

4.2.2.4.3 General Terms. Certificates for all insurance carried pursuant to this Section 4.2.2.4 shall be delivered to Landlord before the commencement of construction of the Improvements and before the Contractor's equipment is moved onto the site. Tenant shall immediately notify Landlord in the event any policy of insurance carried by Tenant is cancelled or the coverage materially changed. Tenant's Contractor and subcontractors shall maintain all of the foregoing insurance coverage in force until the Improvements are fully completed and accepted by Landlord, except for any Products and Completed Operation Coverage insurance required by Landlord, which is to be maintained for ten (10) years following completion of the work and acceptance by Landlord and Tenant, where applicable. All policies carried under this Section 4.2.2.4 (other than Workers' Compensation coverage) shall insure Landlord and Tenant, as their interests may appear. All insurance, except Workers'

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Compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder, as evidenced by an endorsement or policy excerpt. Such insurance shall provide that it is primary insurance with respect to the Improvements and that any other insurance maintained by owner is excess and noncontributing with the insurance required hereunder. The requirements for the foregoing insurance shall not derogate from the provisions for indemnification of Landlord by Tenant and Tenant by Landlord under the Lease or of this Work Letter and each party's rights with respect to the waiver of subrogation.

4.2.3 Governmental Compliance. The Improvements shall comply in all respects with the following: (i) the Code and other state, federal, city or quasi-governmental laws, codes, ordinances and regulations, as each may apply according to the rulings of the controlling public official, agent or other person; (ii) applicable standards of the American Insurance Association (formerly, the National Board of Fire Underwriters) and the National Electrical Code; and (iii) building material manufacturer's specifications.

4.2.4 Inspection by Landlord. Landlord shall have the right to inspect the Improvements at all reasonable times, provided however, that Landlord shall not unreasonably interfere with the construction of the Improvements and Landlord's failure to inspect the Improvements shall in no event constitute a waiver of any of Landlord's rights hereunder nor shall Landlord's inspection of the Improvements constitute Landlord's approval of the same. Should Landlord reasonably disapprove any portion of the Improvements, Landlord shall, as soon as reasonably possible, notify Tenant in writing of such disapproval and shall specify the items disapproved and the reasons therefor. Any defects or deviations in, and/or disapproval by Landlord of, the Improvements shall be rectified by Tenant at no expense to Landlord, provided however, that in the event Landlord reasonably determines that a defect or deviation exists or disapproves of any matter in connection with any portion of the Improvements and such defect, deviation or matter would adversely affect the Building Systems, the Building Structure or the exterior appearance of the Building or any other tenant's use of such other tenant's leased premises, and Tenant fails to commence and thereafter diligently carry out the correction of such item within five (5) business days of written notice from Landlord, then Landlord may take such action as Landlord reasonably deems necessary, at Tenant's expense and without incurring any liability on Landlord's part, to correct any such defect, deviation and/or matter, including, without limitation, causing the cessation of performance of the construction of the Improvements until such time as the defect, deviation and/or matter is corrected to Landlord's reasonable satisfaction. Landlord shall perform any such correction in a diligent and timely manner so as to minimize any delay in the construction of the Improvements.

4.2.5 Meetings. Tenant shall hold regular meetings (not less than weekly following commencement of construction of the Improvements) with the Architect and the Contractor regarding the progress of the preparation of Construction Documents and the construction of the Improvements, which meetings shall be held on-site or at another mutually agreeable location in the City of San Francisco, and Landlord and/or its agents shall receive prior notice of, and shall have the right to attend, all such meetings. In addition, minutes shall be taken at all such meetings, a copy of which minutes shall be promptly delivered to Landlord. During the construction of the Improvements, one such meeting each month shall include the review of Contractor's current request for payment.

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4.3 Notice of Completion; Record Set of As-Built Drawings; Close-Out Package.

4.3.1 Notice of Completion. Within fifteen (15) days after completion of construction of the Improvements, Tenant shall cause a Notice of Completion to be recorded in the office of the Recorder of the county in which the Building is located in accordance with Section 8182 of the Civil Code of the State of California or any successor statute, and shall furnish a copy thereof to Landlord upon such recordation. In the event Tenant fails to so record the Notice of Completion as required pursuant to this Section 4.3, then such failure shall not, in and of itself, constitute a default hereunder but Tenant shall (a) indemnify, defend, protect and hold harmless Landlord and the Landlord Parties from any and all loss, cost, damage, expense and liability (including, without limitation, court costs and reasonable attorneys' fees) in connection with such failure by Tenant to so record the Notice of Completion as required hereunder, and (b) not be entitled to receive the Final Retention pursuant to this Work Letter until such time as the lien period for Tenant's Agents has expired. If Tenant fails to do so, Landlord may execute and file the same on behalf of Tenant as Tenant's agent for such purpose, at Tenant's sole cost and expense.

4.3.2 Record Set of As-Built Drawings. At the conclusion of construction, Tenant shall cause the Architect and Contractor (A) to update the Approved Working Drawings as necessary to reflect all changes made to the Approved Working Drawings during the course of construction, and (B) to certify to the best of their knowledge that the "record-set" of as-built drawings (the "**Record Set**") is true and correct and Tenant shall deliver (or cause to be delivered) to Landlord four (4) hard copies and two (2) electronic copies (in .pdf and CAD format) of such Record Set within ninety (90) days following issuance of a CofO for the Premises.

4.3.3 Close-Out Package. At the conclusion of construction, Tenant shall deliver to Landlord two (2) hard copies and one (1) electronic copy of all closed Permits, all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Premises, and any other items reasonably requested by Landlord, including, if available, a CofO for the Premises (collectively, along with the recorded Notice of Completion described in Section 4.3.1 above and the Record Set described in Section 4.3.2 above, the "**Close-Out Package**").

**SECTION 5**

**DELAYS OF LEASE COMMENCEMENT DATE**

5.1 Lease Commencement Date Delays. The Lease Commencement Date shall occur as provided in Section 3.1 of this Lease, provided that the Lease Commencement Date shall be extended by the number of days of delay of the Substantial Completion of the Improvements in the Premises to the extent caused by a "Lease Commencement Date Delay," as that term is defined, below, but only to the extent such Lease Commencement Date Delay causes the Substantial Completion of the Improvements to occur after the Final Condition has occurred. As used herein, the term "**Lease Commencement Date Delay**" shall mean only a "Force Majeure Delay" or a "Landlord Caused Delay," as those terms are defined below in this Section 5.1 of this Work Letter. As used herein, the term "**Force Majeure Delay**" shall mean only an actual

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delay resulting from strikes, fire, wind, damage or destruction to the Building, explosion, casualty, flood, hurricane, tornado, the elements, acts of God or the public enemy, sabotage, war, terrorist acts, invasion, insurrection, rebellion, civil unrest, riots, or earthquakes. As used in this Work Letter, “**Landlord Caused Delay**” shall mean actual delays to the extent resulting from the following acts or omissions of Landlord or Landlord’s agents, employees or contractors (provided that Landlord Caused Delay shall not include Landlord’s actions in connection with the construction of the Bridge Structures): (i) the failure of Landlord to timely approve or disapprove any Construction Drawings; (ii) interference (when judged in accordance with industry custom and practice) by Landlord, its agents or Landlord Parties (except as otherwise allowed under this Work Letter) with the Substantial Completion of the Improvements and which objectively preclude or delay the construction of improvements in the Building by any person, which interference relates to access by Tenant, or Tenant’s Agents to the Building; or (iii) delays due to the acts or failures to act of Landlord or Landlord Parties with respect to payment of the Improvement Allowance (except as otherwise allowed under this Work Letter) but Tenant shall have a right to suspend its design and construction of its Improvements if Landlord fails to reimburse Tenant all or any part of the Improvement Allowance when due.

5.2 Determination of Lease Commencement Date Delay. If Tenant contends that a Lease Commencement Date Delay has occurred, Tenant shall notify Landlord in writing of the event which constitutes such Lease Commencement Date Delay. Such notice may be via electronic mail to Landlord’s construction representative described below, provided that if Tenant notifies Landlord’s construction representative via electronic mail, then Tenant must also deliver Notice to Landlord’s other notice addresses required under the Lease within one (1) business day after delivery of such electronic mail. Tenant will additionally use reasonable efforts to mitigate the effects of any Landlord Delay through the re-sequencing or re-scheduling of work, if feasible, but this sentence will not be deemed to require Tenant to incur overtime or after-hours costs unless Landlord agrees in writing to bear such costs. If such actions, inaction or circumstance described in the Notice set forth in (i) above of this Section 5.2 of this Work Letter (the “**Delay Notice**”) are not cured by Landlord within one (1) business day of Landlord’s receipt of the Delay Notice and if such action, inaction or circumstance otherwise qualify as a Lease Commencement Date Delay, then a Lease Commencement Date Delay shall be deemed to have occurred commencing as of the date of Landlord’s receipt of the Delay Notice and ending as of the date such delay ends.

5.3 Definition of Substantial Completion of the Improvements. For purposes of this Section 5, “**Substantial Completion of the Improvements**” shall mean completion of construction of the Improvements in the Premises pursuant to the Approved Working Drawings, with the exception of any punch list items.

## SECTION 6

### MISCELLANEOUS

6.1 Tenant’s Representatives. Tenant has designated Chris Coleman (#####, #####) and Molly Strong (#####, #####) as its sole representatives with respect to the matters set forth in this Work Letter, who each shall have full authority and responsibility to act on behalf of the Tenant as required in this Work Letter.

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6.2 Landlord's Representatives. Landlord has designated Todd Arris and Chris Heimburger (##### and #####) as its sole representatives with respect to the matters set forth in this Work Letter, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Work Letter.

6.3 Time of the Essence in This Work Letter. Unless otherwise indicated, all references herein to a "number of days" shall mean and refer to calendar days. If any item requiring approval is timely disapproved by Landlord, the procedure for preparation of the document and approval thereof shall be repeated until the document is approved by Landlord.

6.4 Tenant's Agents. All subcontractors, laborers, materialmen, and suppliers retained directly by Tenant shall all be union labor in compliance with the then existing master labor agreements.

6.5 No Miscellaneous Charges. Prior to the Lease Commencement Date, during the construction of the Improvements, and subject to compliance with Landlord's reasonable and customary construction rules and regulations applicable to the Building (as the same are in effect on the date of this Lease), and if and to the extent reasonably available, Tenant may use the following items, free of charge, during such times as are reasonably necessary to Tenant's construction schedule, furniture and equipment delivery and relocation activities, on a nonexclusive basis, and in a manner and to the extent reasonably necessary to perform the Improvements: hoists, freight elevators, loading docks, utilities, and toilets; provided, however, Tenant acknowledges that there may be an after-hours charge to reimburse Landlord for its actual costs with respect to the use of the Building's hoist, freight elevator and/or loading docks during hours other than normal construction hours, but only to the extent that such use requires Landlord to engage elevator operations or security personnel. Notwithstanding the foregoing, if Tenant or Contractor or other agents require any of the foregoing in connection with any use reasonably unrelated to Tenant's construction and/or installation of the Improvements, Tenant shall pay the applicable cost of such service. In no event shall Tenant store construction materials or other property at or in the elevators or loading docks of the Building.

6.6 Tenant's Lease Default. Notwithstanding any provision to the contrary contained in this Lease, if a Default as described in this Lease or this Work Letter has occurred at any time on or before the substantial completion of the Improvements, then (i) in addition to all other rights and remedies granted to Landlord pursuant to the Lease, Landlord shall have the right to withhold payment of all or any portion of the Improvement Allowance and/or Landlord may cause Contractor to cease the construction of the Improvements (in which case, Tenant shall be responsible for any delay in the substantial completion of the Improvements caused by such work stoppage), and (ii) all other obligations of Landlord under the terms of this Work Letter shall be forgiven until such time as such default is cured pursuant to the terms of this Lease (in which case, Tenant shall be responsible for any delay in the substantial completion of the Improvements caused by such inaction by Landlord). Notwithstanding the foregoing, if a default by Tenant is cured, forgiven or waived, Landlord's suspended obligations shall be fully reinstated and resumed, effective immediately.

EXHIBIT B

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**SCHEDULE 1**

**BASE BUILDING PLANS**

All drawings listed below were prepared by William McDonough and Partners Architecture and Community Design, Project: 333 Brannan Street, Project No. 21216, and dated December 20, 2013.

**[list of drawings]**

EXHIBIT B

-1-

**SCHEDULE 2**

**BASE BUILDING DEFINITION**

The Base Building shall include the following.

**1) Site and Shell:**

All landscape, site work, lighting, paving, striping, Code related signage, and utilities (sewer, water, gas).

Common Area site landscape irrigation and site electrical. Work includes all vaults, backflow and monitoring devices.

**2) Garage:**

All work related to the construction of the parking structure.

All finishes, Code-related signage, access and egress stairs, elevators, doors, all lighting in compliance with Code, which shall include elevator lobby finishes at garage levels.

Fire water riser and fully monitored fire sprinkler system.

**3) Shell:**

The shell shall be water tight.

Exterior doors as required by Code.

Fire riser and complete shell system.

Steel framework shall be designed to accommodate shaft and elevator openings. Includes penthouse structure.

Insulation at underside or above the roof deck will be provided. Fireproofing and fire safing insulation as required by Code.

**4) Electrical:**

All primary and secondary electrical service from the street to a location in the Building and parking structure, and house meter section.

Office floors will be serviced by a 2,500 amp busway riser.

All wiring of common area devices including meter, feeders, transformer, and distribution, such as: lighting, site amenities and landscape irrigation.



**5) Core:**

All work related to construction of core bathrooms, stairs shafts, HVAC shafts, electrical and phone rooms, janitor closets, and elevators and shafts.

a) Core bathrooms shall include multiple stalls with one (1) handicap stall per floor to meet Code requirements for occupancy load. All plumbing fixtures including water closets, urinals, lavatory sinks and faucets. Code-required Toilet accessories including soap dispensers, toilet paper dispensers, toilet seat dispensers, trash receptacles, paper towel dispensers, napkin dispensers, and handicap grab bars are included. Toilet partitions to be included. All associated lighting, fire sprinklers, power receptacles, ventilation, venting, sewer piping, water piping and floor drains are included.

b) Stair shafts will be constructed with metal stud framing and drywall assembly with fire rating in compliance to construction type. All interior walls and ceilings facing the egress stairs will be taped, finished, and painted. Gypsum board ceiling will be constructed at the top level. Stair rails and stringers will be painted. All associated lighting and fire sprinklers are included.

c) Electrical and telephone rooms will receive sealed concrete floors with a plywood backboard on walls. Electrical scope will include power distribution via a bus-way riser. Conduit sleeves will be provided for phone service distribution.

d) HVAC and elevators are served from switchboard distribution board. Main switchboard to be per Code and PG&E requirements. Dedicated switchboard for Building fire pump system.

e) HVAC shall be built-up roof VAV system. DDC controls for base building system (rooftop heating and cooling) with availability for the addition of DDC controls should the future tenant require. Completed HVAC medium pressure vertical duct work in shafts. The loop on each floor shall be stubbed just outside the building core. Mechanical equipment room/roof penthouse completed, including fans and equipment along with the hot water piping loop distributed to a point at each floor. The loop on each floor shall be stubbed just outside of the building core.

f) Domestic cold water main branch piping to each floor restroom per Landlord's construction documents.

g) Fire alarm system: Building is fully sprinklered and ready to be monitored as required by Code. Life safety system distribution (smoke detectors, annunciators, strobes, etc) as required by Code for core restrooms and common ground floor areas.

h) Building telephone MPOE shall be separate from Main Electrical Room. Stacked IDF closets shall be included per Code.

i) Elevators (3 passenger, 1 freight, sized to meet Code) shall be gearless traction elevators to meet Code requirements. Cabs to be finished. Elevator lobbies on office floors are not finished.

j) All core walls will be constructed with metal stud framing and drywall assembly with fire rating in compliance to construction type. Wall facing tenant space will be fire taped. Perimeter wall and column cover furring, studs, insulation, drywall and finishes are not provided.

SCHEDULE 2

**SCHEDULE 3**

**DELIVERY CONDITION**

The Premises shall be in "Delivery Condition" following the substantial completion of the following portions of the Base, Shell and Core on each floor.

1. Structural concrete with spray applied fireproofing (where such spray is required)
2. Unfinished interior core and shaft construction (excluding all restrooms)
3. Temporary, non-occupancy fire sprinkler risers and distribution
4. Tenant sleeves at electrical/data closets
5. Plumbing rough-in (no loops outside of core)
6. Building stairs
7. Floors in broom-swept condition (except for curtainwall units that will be left on floor until the hoists are removed and the hoist bays completed)
8. Temporary or permanent power to support construction activities related to the Improvements
9. Freight elevator or hoist
10. Electrical rooms and distribution panel
11. Connection points for MEP
12. Watertight building envelope (except portions related to exterior hoist access)

SCHEDULE 3

**EXHIBIT C**

**333 BRANNAN STREET**

**NOTICE OF LEASE TERM DATES**

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: Office Lease dated \_\_\_\_\_, 201\_\_ between \_\_\_\_\_, a \_\_\_\_\_ (“Landlord”), and \_\_\_\_\_, a \_\_\_\_\_ (“Tenant”) concerning Suite \_\_\_\_\_ on floor(s) \_\_\_\_\_ of the office building located at \_\_\_\_\_.

Gentlemen:

In accordance with the Office Lease (the “Lease”), we wish to advise you and/or confirm as follows:

1. The Lease Commencement Date occurred on \_\_\_\_\_, and the Lease Expiration Date shall be \_\_\_\_\_, unless extended as provided for in the Lease.
2. Rent commenced to accrue on the Lease Commencement Date, subject to the Base Rent abatement set forth in Section 3.2 of the Lease.
3. The Base year is \_\_\_\_\_.
4. If the Lease Commencement Date is other than the first day of the month, the first billing will contain a pro rata adjustment. Each billing thereafter, with the exception of the final billing, shall be for the full amount of the monthly installment as provided for in the Lease.
5. Your rent checks should be made payable to \_\_\_\_\_ at \_\_\_\_\_.
6. Tenant’s Share of Direct Expenses with respect to the Premises is 100%, subject to Retail Space Cost Pool.
7. Capitalized terms used herein that are defined in the Lease shall have the same meaning when used herein.

If the provisions of this letter correctly set forth our understanding, please so acknowledge by signing at the place provided below on the enclosed copy of this letter and returning the same to Landlord.

EXHIBIT C

“Landlord”

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Agreed to and Accepted  
as of \_\_\_\_\_, 201\_\_.

“Tenant”

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT C

**EXHIBIT D**

**333 BRANNAN STREET**

**RULES AND REGULATIONS**

Tenant shall faithfully observe and comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the nonperformance of any of such Rules and Regulations by or otherwise with respect to the acts or omissions of any other tenants or occupants of the Project. In the event of any conflict between the Rules and Regulations and the other provisions of this Lease, the latter shall control.

1. Tenant shall not alter any lock or install any new or additional locks or bolts on any doors or windows of the Premises without obtaining Landlord's prior written consent. Tenant shall bear the cost of any lock changes or repairs required by Tenant. Two keys will be furnished by Landlord for the Premises, and any additional keys required by Tenant must be obtained from Landlord at a reasonable cost to be established by Landlord. Upon the termination of this Lease, Tenant shall restore to Landlord all keys of stores, offices, and toilet rooms, either furnished to, or otherwise procured by, Tenant and in the event of the loss of keys so furnished, Tenant shall pay to Landlord the cost of replacing same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such changes.

2. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises.

3. Landlord reserves the right to close and keep locked all entrance and exit doors of the Building during such hours as are customary for the Comparable Buildings. Tenant, its employees and agents must be sure that the doors to the Building are securely closed and locked when leaving the Premises if it is after the Building Hours. Tenant shall be responsible for its employees, agents or any other persons entering or leaving the Building at any time after Building Hours. Landlord and his agents 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 invasion, mob, riot, public excitement, or other commotion, Landlord reserves the right to prevent access to the Building or the Project during the continuance thereof by any means it deems appropriate for the safety and protection of life and property.

4. No furniture, freight or equipment of any kind shall be brought into the Building without prior notice to Landlord. All moving activity into or out of the Building shall be scheduled with Landlord and done in such manner as Landlord reasonably designates. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Building and also the times and manner of moving the same in and out of the Building. Safes and other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property in any case. Any damage to any part of the Building, its contents, occupants or visitors by moving or maintaining any such safe or other property shall be the sole responsibility and expense of Tenant.

EXHIBIT D

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5. No furniture, large packages, supplies, or equipment will be received in the Building or carried up or down in the elevators, except between such hours and in such specific elevator as shall be reasonably designated by Landlord.

6. The requirements of Tenant will be attended to only upon application at the management office for the Project or at such office location designated by Landlord. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.

7. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant on any part of the Premises (to the extent the same can be seen from outside the Premises) or the Building without the prior written consent of the Landlord. Tenant shall not disturb, solicit, peddle, or canvass any occupant of the Project and shall cooperate with Landlord and its agents of Landlord to prevent same.

8. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose servants, employees, agents, visitors or licensees shall have caused same.

9. Tenant shall not overload the floor of the Premises.

10. Except for vending machines intended for the sole use of Tenant's employees and invitees, no vending machine shall be installed, maintained or operated upon the Premises without the written consent of Landlord.

11. Tenant shall not use or keep in or on the Premises, the Building, or the Project any kerosene, gasoline, explosive material, corrosive material, material capable of emitting toxic fumes, or other inflammable or combustible fluid chemical, substitute or material. Tenant shall provide material safety data sheets for any Hazardous Material used or kept on the Premises.

12. Tenant shall not without the prior written consent of Landlord use any method of heating or air conditioning other than that supplied by Landlord.

13. Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises, or permit or allow the Premises to be occupied or used in a manner that would unreasonably disturb other occupants of the Project by reason of noise, odors, or vibrations, or unreasonably interfere with other tenants or those having business therein, as a consequence of the use of any musical instrument, radio, or phonograph. Tenant shall not throw anything out of doors, windows or skylights or down passageways.

14. Tenant shall not bring into or keep within the Project, the Building or the Premises any animals (except service animals), birds, or aquariums.

15. The Premises shall not be used for lodging. No cooking shall be done or permitted on the Premises other than in areas properly equipped therefor, except that Underwriters' laboratory-approved equipment and microwave ovens may be used in the

EXHIBIT D

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Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages for employees and visitors, provided that such use is in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.

16. The Premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the use of the Premises provided for in the Summary. Tenant shall not occupy or permit any portion of the Premises to be occupied as an office for a messenger-type operation or dispatch office, public stenographer or typist, or for the manufacture or sale of liquor, narcotics, or tobacco in any form, or as a medical office, or as a barber or manicure shop, or as an employment bureau without the express prior written consent of Landlord.

17. Landlord reserves the right to exclude or expel from the Project any person who, in the reasonable judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations.

18. Tenant, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks, lobbies, courts, halls, stairways, elevators, vestibules or any Common Areas for the purpose of smoking tobacco products or for any other purpose, nor in any way obstruct such areas, and shall use them only as a means of ingress and egress for the Premises.

19. Tenant shall participate in recycling programs undertaken by Landlord. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in San Francisco, California without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes at such times as Landlord shall designate. If the Premises is or becomes infested with vermin as a result of the use or any misuse or neglect of the Premises by Tenant, its agents, servants, employees, contractors, visitors or licensees, Tenant shall forthwith, at Tenant's expense, cause the Premises to be exterminated from time to time to the satisfaction of Landlord and shall employ such licensed exterminators as shall be approved in writing in advance by Landlord.

20. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

21. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord, and 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's Building standard window coverings. Neither the interior nor exterior of any windows shall be coated or otherwise sunscreened without the prior written consent of Landlord. Tenant shall keep its window coverings closed during any period of the day when the sun is shining directly on the windows of the Premises. Prior to leaving the Premises for the day, Tenant shall draw or lower window coverings and extinguish all lights.

EXHIBIT D



22. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills.

23. Tenant must comply with requests by the Landlord concerning the informing of their employees of items of importance to the Landlord.

24. Tenant must comply with all applicable "NO-SMOKING" or similar ordinances, rules, laws and regulations.

25. Tenant hereby acknowledges that Landlord shall have no obligation to provide guard service or other security measures for the benefit of the Premises, the Building or the Project. Tenant hereby assumes all responsibility for the protection of Tenant and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the Premises closed, whether or not Landlord, at its option, elects to provide security protection for the Project or any portion thereof. Tenant further assumes the risk that any safety and security devices, services and programs which Landlord elects, in its sole discretion, to provide may not be effective, or may malfunction or be circumvented by an unauthorized third party, and Tenant shall, in addition to its other insurance obligations under this Lease, obtain its own insurance coverage to the extent Tenant desires protection against losses related to such occurrences. Tenant shall cooperate in any reasonable safety or security program developed by Landlord or required by law.

26. All large electrical or mechanical office equipment shall be placed by Tenant in the Premises in settings approved by Landlord to absorb or prevent any excessive vibration or noise.

27. Tenant shall not use in any space or in the public halls of the Building, any hand trucks except those equipped with rubber tires and rubber side guards.

28. No auction, liquidation, fire sale, going-out-of-business or bankruptcy sale shall be conducted in the Premises without the prior written consent of Landlord.

29. No tenant shall use or permit the use of any portion of the Premises for living quarters, sleeping apartments or lodging rooms.

30. Tenant shall install and maintain, at Tenant's sole cost and expense, an adequate, visibly marked and properly operational fire extinguisher next to any duplicating or photocopying machines or similar heat producing equipment, which may or may not contain combustible material, in the Premises.

Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's reasonable judgment may from time to time be necessary for the proper management, safety, care and cleanliness of the Premises, Building, the Common Areas and the Project, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein. Landlord will enforce the foregoing Rules and Regulations in a non-discriminatory manner and to the extent Landlord declines to enforce any of the foregoing Rules and Regulations with respect to any other tenant in the Building, Landlord will not be entitled to enforce such Rules or Regulations with respect to Tenant.

#### EXHIBIT D

**EXHIBIT E**

**FORM OF TENANT'S ESTOPPEL CERTIFICATE**

The undersigned ("Tenant"), as the tenant under that certain Office Lease (the "Lease") made and entered into as of \_\_\_\_\_, 201 by and between \_\_\_\_\_ ("Landlord"), and Tenant, for Premises on the \_\_\_\_\_ floor(s) of the office building located at \_\_\_\_\_, certifies as follows:

1. Attached hereto as Exhibit A is a true and correct copy of the Lease and all amendments and modifications thereto. The documents contained in Exhibit A represent the entire agreement between the parties as to the Premises.

2. Tenant currently occupies the Premises described in the Lease, the Lease Term commenced on \_\_\_\_\_, and the Lease Term expires on \_\_\_\_\_, and Tenant has no option to terminate or option to cancel the Lease or to purchase all or any part of the Premises, the Building and/or the Project.

3. Base Rent became payable on the Lease Commencement Date, subject to the Base Rent abatement set forth in Section 3.2 of the Lease.

4. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Exhibit A.

5. Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows: \_\_\_\_\_

6. All monthly installments of Base Rent, all Additional Rent and monthly installments of estimated Additional Rent have been paid through \_\_\_\_\_. The current monthly installment of Base Rent is \$\_\_\_\_\_.

7. As of the date hereof, to Tenant's knowledge, all conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder [except as follows: \_\_\_\_\_]. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder [except as follows: \_\_\_\_\_].

8. Except with respect to the pre-payment of first (1st) month's Base Rent pursuant to the Lease, no rental has been paid more than thirty (30) days in advance and no security has been deposited with Landlord except as provided in the Lease.

9. As of the date hereof, to Tenant's knowledge, there are no existing defenses, offsets or claims, or any basis for a claim, that Tenant has against Landlord [except as follows: \_\_\_\_\_].

10. If Tenant is a corporation or partnership, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and

EXHIBIT E

existing entity qualified to do business in California and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

11. There are no actions pending against Tenant under the bankruptcy or similar laws of the United States or any state.

12. Other than to the extent permitted under the Lease, Tenant has not used or stored any Hazardous Substances in the Premises.

13. To Tenant's knowledge, all improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by Tenant and all reimbursements and allowances due to Tenant under the Lease in connection with any improvement work have been paid in full [except as follows: \_\_\_\_\_].

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord or to a prospective mortgagee or prospective purchaser, and acknowledges that said prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in making the loan or acquiring the property of which the Premises is a part and that receipt by it of this certificate is a condition of making such loan or acquiring such property.

Executed at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

"Tenant"

\_\_\_\_\_

a \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT E

**EXHIBIT F**

**INTENTIONALLY OMITTED**

EXHIBIT F

EXHIBIT G

MARKET RENT ANALYSIS

When determining Market Rent, the following rules and instructions shall be followed.

1. **RELEVANT FACTORS.** The “**Market Rent**,” as used in this Lease, shall be derived from an analysis (as such derivation and analysis are set forth in this **Exhibit G**) of the “Net Equivalent Lease Rates,” of the “Comparable Transactions”. The “**Market Rent**,” as used in this Lease, shall be equal to the annual rent per rentable square foot as would be applicable on the commencement of the applicable Option Term at which tenants, are, pursuant to transactions consummated within the twelve (12) month period immediately preceding the first day of the Option Term (provided that timing adjustments shall be made to reflect any perceived changes which will occur in the Market Rent following the date of any particular Comparable Transaction up to the date of the commencement of the Option Term) leasing non-sublease, non-encumbered, non-equity space comparable in location and quality to the Premises and consisting of at least one hundred thousand (100,000) rentable square feet, for a comparable term, in an arm’s-length transaction, which comparable space is located in the “Comparable Buildings,” as that term is defined in Section 4, below (transactions satisfying the foregoing criteria shall be known as the “**Comparable Transactions**”). The terms of the Comparable Transactions shall be calculated as a Net Equivalent Lease Rate pursuant to the terms of this **Exhibit G** and shall take into consideration only the following terms and concessions (the “**Concessions**”): (i) the rental rate and escalations for the Comparable Transactions taking into account the amenities included in such Comparable Transactions, such as usage rights with respect to unique amenities, common areas, parking rights, and signage rights, compared with the amenities included under this Lease, such as usage rights with respect to the Roof Deck, parking rights, the Common Areas, and signage rights, (ii) the amount of parking rent per parking permit paid in the Comparable Transactions, (iii) operating expense and tax escalation protection granted in such Comparable Transactions such as a base year or expense stop; (iv) improvements or allowances provided or to be provided for such comparable space, as compared to the value of the existing improvements in the Premises, such value of existing improvements in the Premises to be based upon the age, quality and layout of the improvements and the extent to which the same could be utilized by general office users, (v) rental/parking abatement concessions, if any, being granted such tenants in connection with such comparable space, and (vi) all other monetary allowances and concessions being granted such tenants in connection with such Comparable Transactions; provided, however, that no consideration shall be given to (1) the fact that Landlord is or is not required to pay a real estate brokerage commission in connection with the applicable term or the fact that the Comparable Transactions do or do not involve the payment of real estate brokerage commissions, and (2) any period of rental abatement, if any, granted to tenants in Comparable Transactions in connection with the design, permitting and construction of improvements in such comparable space; provided, however, to the extent any of the tenants in the Comparable Transactions complete (or are reasonably anticipated to complete) the construction of improvements in such comparable space early, and are allowed to occupy their premises for purpose of conducting business without the payment of rent (similar to Tenant’s beneficial occupancy right in Section 2.5.2 of this Lease), then such occupancy period shall be considered in connection with the determination of Option Rent. The Market Rent shall include adjustment of the stated size of the Premises, based upon the standards of measurement utilized in the

EXHIBIT G

Comparable Transactions. In addition, because the rentable square footage of the Premises shall have determined pursuant to Section 1.2 of the Lease, no consideration shall be given to the measurement standard used to determine the rentable square footage of the Comparable Transactions, as compared to the measurement standard used by Landlord and Tenant to determine the rentable square footage of the Premises, and in no event shall the size of the Premises change in connection with the determination of Market Rent.

**2. INTENTIONALLY OMITTED.**

3. **CONCESSIONS.** If, in determining the Market Rent for an Option Term, Tenant is entitled to Concessions, Tenant shall not be granted such Concessions in-kind, but instead the rental rate component of the Market Rent shall be adjusted (pursuant to the methodology provided in Section 5), to reflect the fact that Tenant shall not be receiving such Concessions; provided, however, Landlord may, at Landlord's sole option, elect to grant any "free rent", "rent abatement", or "improvement allowances" Concessions to Tenant in-kind (i.e., as free rent, rent abatement, or improvement allowances), in which case the rental rate component of the Market Rent shall not be adjusted with respect to such free rent, rent abatement, and/or improvement allowance Concessions (but shall still be adjusted for any other Concessions Tenant is entitled to but not granted).

4. **COMPARABLE BUILDINGS.** For purposes of this Lease, the term "**Comparable Buildings**" shall mean the Building and those certain other comparable multi-tenant office buildings of similar size, age, appearance, and quality of construction to the Building and located in the area bounded by Fourth Street on the West side, Howard Street on the North side, King Street on the South side, and Embarcadero Boulevard on the East side (the "**Market Area**"). Buildings located on the streets forming the Market Area, shall be deemed inside the Market Area regardless of whether such buildings are located on the side of the street that the remainder of the Market Area is located, or on the side of the street opposite from the Market Area.

5. **METHODOLOGY FOR REVIEWING AND COMPARING THE COMPARABLE TRANSACTIONS.** In order to analyze the Comparable Transactions based on the factors to be considered in calculating Market Rent, and given that the Comparable Transactions may vary in terms of length of term, rental rate, concessions, etc., the following steps shall be taken into consideration to "adjust" the objective data from each of the Comparable Transactions. By taking this approach, a "Net Equivalent Lease Rate" for each of the Comparable Transactions shall be determined using the following steps to adjust the Comparable Transactions, which will allow for an "apples to apples" comparison of the Comparable Transactions.

5.1 The contractual rent payments for each of the Comparable Transactions should be arrayed monthly or annually over the lease term. All Comparable Transactions should be adjusted to simulate a net rent structure, wherein the tenant is responsible for the payment of all property operating expenses and taxes. This results in the estimate of Net Equivalent Rent received by each landlord for each Comparable Transaction being expressed as a periodic net rent payment.

EXHIBIT G

5.2 Any free rent or similar inducements received over time should be deducted in the time period in which they occur, resulting in the net cash flow arrayed over the lease term.

5.3 The resultant net cash flow to be received by the landlord in a Comparable Transaction should be then discounted (using an annual interest rate equal to 8.0%) to the commencement date of the lease term for such Comparable Transaction (but not including any build-out period if included in the lease term), resulting in a net present value estimate.

5.4 From the net present value, up front inducements (improvements allowances and other concessions) should be deducted. These items should be deducted directly, on a "dollar for dollar" basis, without discounting since they are typically incurred at lease commencement, while rent (which is discounted) is a future receipt.

5.5 The net present value should then amortized back over the lease term as a level monthly or annual net rent payment using the same annual discount rate of 8.0% used in the present value analysis. This calculation will result in a hypothetical level or even payment over the option period, termed the "Net Equivalent Lease Rate" (or constant equivalent in general financial terms).

**6. USE OF NET EQUIVALENT LEASE RATES FOR COMPARABLE TRANSACTIONS.** The Net Equivalent Lease Rates for the Comparable Transactions shall then be used to reconcile, in a manner usual and customary for a real estate appraisal process, to a conclusion of Market Rent which shall be stated as a Net Equivalent Lease Rate applicable the Option Term.

EXHIBIT G

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**EXHIBIT H**

**INTENTIONALLY OMITTED**

EXHIBIT I



**EXHIBIT I**

**FORM OF LETTER OF CREDIT**

**(Letterhead of a money center bank  
acceptable to the Landlord)**

FAX NO. [(\_\_\_\_) \_\_\_\_-\_\_\_\_]  
SWIFT: [Insert No., if any]

[Insert Bank Name And Address]

DATE OF ISSUE: \_\_\_\_\_

BENEFICIARY:

Kilroy Realty Finance Partnership, L.P.  
c/o Kilroy Realty Corporation  
12200 West Olympic Boulevard, Suite 200  
Los Angeles, California 90064  
Attention: Legal Department

APPLICANT:  
[Insert Applicant Name And Address]

Fax: (310) 481-6530

LETTER OF CREDIT NO. \_\_\_\_\_

EXPIRATION DATE:  
\_\_\_\_\_ AT OUR COUNTERS

AMOUNT AVAILABLE:  
USD[Insert Dollar Amount]  
(U.S. DOLLARS [Insert Dollar Amount])

LADIES AND GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ IN YOUR FAVOR FOR THE ACCOUNT OF [Insert Tenant's Name], A [Insert Entity Type], UP TO THE AGGREGATE AMOUNT OF USD[Insert Dollar Amount] ([Insert Dollar Amount] U.S. DOLLARS) EFFECTIVE IMMEDIATELY AND EXPIRING ON \_\_(Expiration Date)\_\_ AVAILABLE BY PAYMENT UPON PRESENTATION OF YOUR DRAFT AT SIGHT DRAWN ON [Insert Bank Name] WHEN ACCOMPANIED BY THE FOLLOWING DOCUMENT(S):

**1. THE ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT AND AMENDMENT(S), IF ANY.**

EXHIBIT I

**2. BENEFICIARY’S SIGNED STATEMENT PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE OF [Insert Landlord’s Name], A [Insert Entity Type] (“LANDLORD”) STATING THE FOLLOWING:**

“THE UNDERSIGNED HEREBY CERTIFIES THAT THE LANDLORD, EITHER (A) UNDER THE LEASE (DEFINED BELOW), OR (B) AS A RESULT OF THE TERMINATION OF SUCH LEASE, HAS THE RIGHT TO DRAW DOWN THE AMOUNT OF USD \_\_\_\_\_ IN ACCORDANCE WITH THE TERMS OF THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS THE SAME MAY HAVE BEEN AMENDED (COLLECTIVELY, THE “LEASE”), OR SUCH AMOUNT CONSTITUTES DAMAGES OWING BY THE TENANT TO BENEFICIARY RESULTING FROM THE BREACH OF SUCH LEASE BY THE TENANT THEREUNDER, OR THE TERMINATION OF SUCH LEASE, AND SUCH AMOUNT REMAINS UNPAID AT THE TIME OF THIS DRAWING.”

OR

“THE UNDERSIGNED HEREBY CERTIFIES THAT WE HAVE RECEIVED A WRITTEN NOTICE OF [Insert Bank Name]’S ELECTION NOT TO EXTEND ITS STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ AND HAVE NOT RECEIVED A REPLACEMENT LETTER OF CREDIT WITHIN AT LEAST SIXTY (60) DAYS PRIOR TO THE PRESENT EXPIRATION DATE.”

OR

“THE UNDERSIGNED HEREBY CERTIFIES THAT BENEFICIARY IS ENTITLED TO DRAW DOWN THE FULL AMOUNT OF LETTER OF CREDIT NO. \_\_\_\_\_ AS THE RESULT OF THE FILING OF A VOLUNTARY PETITION UNDER THE U.S. BANKRUPTCY CODE OR A STATE BANKRUPTCY CODE BY THE TENANT UNDER THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS THE SAME MAY HAVE BEEN AMENDED (COLLECTIVELY, THE “LEASE”), WHICH FILING HAS NOT BEEN DISMISSED AT THE TIME OF THIS DRAWING.”

OR

“THE UNDERSIGNED HEREBY CERTIFIES THAT BENEFICIARY IS ENTITLED TO DRAW DOWN THE FULL AMOUNT OF LETTER OF CREDIT NO. \_\_\_\_\_ AS THE RESULT OF AN INVOLUNTARY PETITION HAVING BEEN FILED UNDER THE U.S. BANKRUPTCY CODE OR A STATE BANKRUPTCY CODE AGAINST THE TENANT UNDER THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS THE SAME MAY HAVE BEEN AMENDED (COLLECTIVELY, THE “LEASE”), WHICH FILING HAS NOT BEEN DISMISSED AT THE TIME OF THIS DRAWING.”

OR

“THE UNDERSIGNED HEREBY CERTIFIES THAT BENEFICIARY IS ENTITLED TO DRAW DOWN THE FULL AMOUNT OF LETTER OF CREDIT NO. \_\_\_\_\_ AS THE RESULT OF THE REJECTION, OR

EXHIBIT I

DEEMED REJECTION, OF THAT CERTAIN OFFICE LEASE DATED [Insert Lease Date], AS THE SAME MAY HAVE BEEN AMENDED, UNDER SECTION 365 OF THE U.S. BANKRUPTCY CODE.”

SPECIAL CONDITIONS:

PARTIAL DRAWINGS AND MULTIPLE PRESENTATIONS MAY BE MADE UNDER THIS STANDBY LETTER OF CREDIT, PROVIDED, HOWEVER, THAT EACH SUCH DEMAND THAT IS PAID BY US SHALL REDUCE THE AMOUNT AVAILABLE UNDER THIS STANDBY LETTER OF CREDIT.

ALL INFORMATION REQUIRED WHETHER INDICATED BY BLANKS, BRACKETS OR OTHERWISE, MUST BE COMPLETED AT THE TIME OF DRAWING. [Please Provide The Required Forms For Review, And Attach As Schedules To The Letter Of Credit.]

ALL SIGNATURES MUST BE MANUALLY EXECUTED IN ORIGINALS.

ALL BANKING CHARGES ARE FOR THE APPLICANT’S ACCOUNT.

IT IS A CONDITION OF THIS STANDBY LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR A PERIOD OF ONE YEAR FROM THE PRESENT OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO THE EXPIRATION DATE WE SEND YOU NOTICE BY NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT FOR ANY SUCH ADDITIONAL PERIOD. SAID NOTICE WILL BE SENT TO THE ADDRESS INDICATED ABOVE, UNLESS A CHANGE OF ADDRESS IS OTHERWISE NOTIFIED BY YOU TO US IN WRITING BY RECEIPTED MAIL OR COURIER. ANY NOTICE TO US WILL BE DEEMED EFFECTIVE ONLY UPON ACTUAL RECEIPT BY US AT OUR DESIGNATED OFFICE. IN NO EVENT, AND WITHOUT FURTHER NOTICE FROM OURSELVES, SHALL THE EXPIRATION DATE BE EXTENDED BEYOND A FINAL EXPIRATION DATE OF \_\_\_(120 days from the Lease Expiration Date)\_\_\_.

THIS LETTER OF CREDIT MAY BE TRANSFERRED SUCCESSIVELY IN WHOLE OR IN PART ONLY UP TO THE THEN AVAILABLE AMOUNT IN FAVOR OF A NOMINATED TRANSFEREE (“TRANSFEREE”), ASSUMING SUCH TRANSFER TO SUCH TRANSFEREE IS IN COMPLIANCE WITH ALL APPLICABLE U.S. LAWS AND REGULATIONS. AT THE TIME OF TRANSFER, THE ORIGINAL LETTER OF CREDIT AND ORIGINAL AMENDMENT(S) IF ANY, MUST BE SURRENDERED TO US TOGETHER WITH OUR TRANSFER FORM (AVAILABLE UPON REQUEST) AND PAYMENT OF OUR CUSTOMARY TRANSFER FEES, WHICH FEES SHALL BE PAYABLE BY APPLICANT (PROVIDED THAT BENEFICIARY MAY, BUT SHALL NOT BE OBLIGATED TO, PAY SUCH FEES TO US ON BEHALF OF APPLICANT, AND SEEK REIMBURSEMENT THEREOF FROM APPLICANT). IN CASE OF ANY TRANSFER UNDER THIS LETTER OF CREDIT, THE DRAFT AND ANY REQUIRED STATEMENT MUST BE EXECUTED BY THE TRANSFEREE AND WHERE THE BENEFICIARY’S NAME APPEARS WITHIN THIS STANDBY LETTER OF CREDIT, THE TRANSFEREE’S NAME IS AUTOMATICALLY SUBSTITUTED THEREFOR.

EXHIBIT I

ALL DRAFTS REQUIRED UNDER THIS STANDBY LETTER OF CREDIT MUST BE MARKED: "DRAWN UNDER [Insert Bank Name] STANDBY LETTER OF CREDIT NO. \_\_\_\_\_."

WE HEREBY AGREE WITH YOU THAT IF DRAFTS ARE PRESENTED TO [Insert Bank Name] UNDER THIS LETTER OF CREDIT AT OR PRIOR TO [Insert Time – (e.g., 11:00 AM)], ON A BUSINESS DAY, AND PROVIDED THAT SUCH DRAFTS PRESENTED CONFORM TO THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, PAYMENT SHALL BE INITIATED BY US IN IMMEDIATELY AVAILABLE FUNDS BY OUR CLOSE OF BUSINESS ON THE SUCCEEDING BUSINESS DAY. IF DRAFTS ARE PRESENTED TO [Insert Bank Name] UNDER THIS LETTER OF CREDIT AFTER [Insert Time – (e.g., 11:00 AM)], ON A BUSINESS DAY, AND PROVIDED THAT SUCH DRAFTS CONFORM WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, PAYMENT SHALL BE INITIATED BY US IN IMMEDIATELY AVAILABLE FUNDS BY OUR CLOSE OF BUSINESS ON THE SECOND SUCCEEDING BUSINESS DAY. AS USED IN THIS LETTER OF CREDIT, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF CALIFORNIA ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF THE EXPIRATION DATE FOR THIS LETTER OF CREDIT SHALL EVER FALL ON A DAY WHICH IS NOT A BUSINESS DAY THEN SUCH EXPIRATION DATE SHALL AUTOMATICALLY BE EXTENDED TO THE DATE WHICH IS THE NEXT BUSINESS DAY.

PRESENTATION OF A DRAWING UNDER THIS LETTER OF CREDIT MAY BE MADE ON OR PRIOR TO THE THEN CURRENT EXPIRATION DATE HEREOF BY HAND DELIVERY, COURIER SERVICE, OVERNIGHT MAIL, OR FACSIMILE. PRESENTATION BY FACSIMILE TRANSMISSION SHALL BE BY TRANSMISSION OF THE ABOVE REQUIRED SIGHT DRAFT DRAWN ON US TOGETHER WITH THIS LETTER OF CREDIT TO OUR FACSIMILE NUMBER, [Insert Fax Number – (\_\_\_\_) \_\_\_\_-\_\_\_\_], ATTENTION: [Insert Appropriate Recipient], WITH TELEPHONIC CONFIRMATION OF OUR RECEIPT OF SUCH FACSIMILE TRANSMISSION AT OUR TELEPHONE NUMBER [Insert Telephone Number – (\_\_\_\_) \_\_\_\_-\_\_\_\_] OR TO SUCH OTHER FACSIMILE OR TELEPHONE NUMBERS, AS TO WHICH YOU HAVE RECEIVED WRITTEN NOTICE FROM US AS BEING THE APPLICABLE SUCH NUMBER. WE AGREE TO NOTIFY YOU IN WRITING, BY NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE, OF ANY CHANGE IN SUCH DIRECTION. ANY FACSIMILE PRESENTATION PURSUANT TO THIS PARAGRAPH SHALL ALSO STATE THEREON THAT THE ORIGINAL OF SUCH SIGHT DRAFT AND LETTER OF CREDIT ARE BEING REMITTED, FOR DELIVERY ON THE NEXT BUSINESS DAY, TO [Insert Bank Name] AT THE APPLICABLE ADDRESS FOR PRESENTMENT PURSUANT TO THE PARAGRAPH FOLLOWING THIS ONE.

WE HEREBY ENGAGE WITH YOU THAT ALL DOCUMENT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS STANDBY LETTER OF CREDIT WILL

EXHIBIT I

BE DULY HONORED IF DRAWN AND PRESENTED FOR PAYMENT AT OUR OFFICE LOCATED AT [Insert Bank Name], [Insert Bank Address],  
ATTN: [Insert Appropriate Recipient], ON OR BEFORE THE EXPIRATION DATE OF THIS CREDIT,     (Expiration Date)    .

IN THE EVENT THAT THE ORIGINAL OF THIS STANDBY LETTER OF CREDIT IS LOST, STOLEN, MUTILATED, OR OTHERWISE DESTROYED, WE HEREBY AGREE TO ISSUE A DUPLICATE ORIGINAL HEREOF UPON RECEIPT OF A WRITTEN REQUEST FROM YOU AND A CERTIFICATION BY YOU (PURPORTEDLY SIGNED BY YOUR AUTHORIZED REPRESENTATIVE) OF THE LOSS, THEFT, MUTILATION, OR OTHER DESTRUCTION OF THE ORIGINAL HEREOF.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED HEREIN, THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE "INTERNATIONAL STANDBY PRACTICES" (ISP 98) INTERNATIONAL CHAMBER OF COMMERCE (PUBLICATION NO. 590).

**Very truly yours,**

**(Name of Issuing Bank)**

**By:** \_\_\_\_\_

EXHIBIT I

**EXHIBIT I-1**

**MORGAN STANLEY FORM OF LETTER OF CREDIT**

**Irrevocable Stand-by Letter of Credit**

**[Issue Date]**

**ISSUING BANK**

Morgan Stanley Senior Funding, Inc.  
c/o Morgan Stanley Bank, N.A.  
1300 Thames Street  
Thames Street Wharf  
4th Floor  
Baltimore, MD 21231  
Attention: Letter of Credit Department  
Telephone: #####  
Fax: #####

**BENEFICIARY**

Kilroy Realty Finance Partnership, L.P.  
c/o Kilroy Realty Corporation  
12200 W. Olympic Blvd. Ste 200  
Los Angeles, CA 90064  
Attention: Legal Department  
Telephone: #####  
Fax: #####

Date of Expiration: \_\_\_\_\_, 20\_\_\_\_, as such date may be extended pursuant to the terms hereof. The Final Expiration Date of this Letter of Credit shall be October 17, 2017.

REF: IRREVOCABLE STANDBY LETTER OF CREDIT NO. (REF. NO. [\_\_\_\_\_])

This Irrevocable Standby Letter of Credit (the "Letter of Credit") is hereby issued in favor of Kilroy Realty Finance Partnership, L.P. with business address of 12200 W. Olympic Blvd. Ste 200 Los Angeles, CA 90064 (hereinafter called "you" or the "Beneficiary") for the account of Dropbox, Inc. with a business address of 185 Berry Street, Ste. 400, San Francisco, CA 95107 (hereinafter called the "Applicant"), for an amount not to exceed in the aggregated USD THIRTEEN MILLION SIX HUNDRED FIFTY-FOUR THOUSAND FIFTY AND NO/100 DOLLARS (\$13,654,050.00) (the "Stated Amount"). This Letter of Credit is effective immediately and will expire on \_\_\_\_\_, 20\_\_\_\_, as such date may be extended pursuant to the terms hereof (the "Expiration Date"). The Final Expiration Date of this Letter of Credit shall be October 17, 2017.

We hereby engage with you that demands for payment made by presentation of the following documents(s):

(a) Demand for payment of an amount available under this Letter of Credit in the form of Attachment A completed and signed by Beneficiary and  
(b) this Letter of Credit (including any amendments), which, in the event of a partial drawing, will be returned to you following our notation thereon of the amount of such partial drawing;

We hereby agree with you that drafts presented under and in compliance with the terms of this Letter of Credit will be duly honored if received by us on a Business Day at or before 3:00 p.m., New York City time, on or before the Expiration Date specified above, at the address specified above, by physical, overnight delivery, or facsimile (followed by delivery of the original Letter of Credit by physical or overnight delivery). If a demand for payment is made by you hereunder at or prior to 12:00 noon, New York City time, on a Business Day, and provided that such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be made to you of the amount demanded, on the third (3<sup>rd</sup>) Business Day following the date of receipt of such demand for payment; and if a demand is made by you hereunder after 12:00 noon, New York City time, on a Business Day, and provided that such terms and conditions hereof, payment shall be made to you of the amount demanded, on the fourth (4<sup>th</sup>) Business Day following the date of receipt of such demand for payment. As used herein, the term "Business Day" means a day on which we are open in the State of Maryland to conduct our letter of credit business and on which banks are not authorized or required by law or executive order to close in the state of New York. Notwithstanding any provision to the contrary in ISP 98 (as hereinafter defined), if the Date of Expiration is not a Business Day then such date shall be automatically extended to the next succeeding date that is a Business Day.

Payment under this Letter of Credit shall be made in immediately available funds by wire transfer to such account as may be designated by Beneficiary in the applicable drawing request and accompanying payment instructions. By paying to you or your account an amount demanded we make no representation as to the correctness of the amount demanded or the purpose therefore.

Partial payments shall be permitted, with the amount of this Standby Letter of Credit being reduced, without amendment, by the amount(s) drawn. The maximum amount available under this Letter of Credit shall be reduced automatically to the extent of Issuer's honor of any partial demand for payment.

The Expiration Date of this Letter of Credit will be automatically extended without amendment for a period of one year from the Expiration Date, or any future Expiration Date, unless at least 60 days prior to the then current Expiration Date we send notice to Beneficiary by overnight courier at Beneficiary's address shown above, unless a change of address is otherwise notified by you to us in writing by receipted mail or courier, that we elect not to extend the Expiration Date

of this Letter of Credit for any such additional period. Upon such notice to you, you may draw at any time prior to the then current Expiration Date up to the full amount then available. The Final Expiration Date of this Letter of Credit shall be October 17, 2017.

Upon the earlier to occur of (a) payment to you or to your account of the entire Stated Amount pursuant to your demand and (b) the expiration of this Letter of Credit, we shall be fully discharged of our obligations to you.

We may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

All banking charges are for the applicant's account.

Beneficiary's rights to demand payment under this Letter of Credit may be transferred by Beneficiary by presentation of this Letter of Credit (including any amendments) to us at the place, in the medium, and within the time permitted for presentation of documents to us demanding payment, together with a demand in the form of Attachment B completed and signed by Beneficiary if presented. Following our request, the proposed transferee shall provide documentary and other evidence of the transferee's identity as it may be reasonably necessary to enable us to verify the transferee's identity or to comply with any Applicable Laws, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318. The transferee shall thereafter become the Beneficiary and the sole permitted signer of any demands for payment under this Letter of Credit, and its name and address and bank account for payment by wire transfer of funds shall be substituted for that of the transferor. All proposed transfers are subject to compliance with U.S. Treasury and U.S. Department of Commerce regulations and compliance with other applicable governmental laws, rules and regulations, including, without limitation, any that prohibit or limit us from conducting business with the proposed transferee.

This Letter of Credit sets forth in full terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Letter of Credit is referred to or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference and document or instrument.

All inquiries regarding this Letter of Credit and all correspondence and requests for drawings under this Letter of Credit should be directed to the Letter of Credit Department at the phone number or address referenced above, as applicable.

In the event that the original of this Letter of Credit is lost, stolen, mutilated, or destroyed, we will issue a replacement of this Letter of Credit on the same terms as this Letter of Credit. Morgan Stanley Bank, N.A. ("Issuing Bank") will require a lost affidavit to be completed, executed and notarized by both Beneficiary and Applicant in order to replace a lost, stolen, mutilated or destroyed original Letter of Credit and any or all amendments.

To the extent not inconsistent with the express terms hereof, this Letter of Credit is subject to the International Standby Practices, International Chamber of Commerce Publication No. 590 (the "ISP 98"). This Letter of Credit shall be governed by the law of the State of New York and shall, as to matters not governed by ISP 98, be governed by and construed in accordance with the



law of such State without regard to any conflicts of law provisions. In the event of any conflict between the laws of the State of New York and the provisions of ISP 98, the provisions of ISP 98 shall control.

Yours faithfully,

MORGAN STANLEY BANK, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ISSUING BANK**

Morgan Stanley Senior Funding, Inc.  
c/o Morgan Stanley Bank, N.A.  
1300 Thames Street  
Thames Street Wharf 4th Floor  
Baltimore, MD 21231  
Telephone: #####  
Fax: #####

Attention: Letter of Credit Department

Re: Morgan Stanley Bank, N.A. Irrevocable Standby Letter of Credit No. (Ref. No. [\_\_\_\_]) ("Letter of Credit")

The undersigned Beneficiary demands payment of U.S. \_\_\_\_\_ AND NO/100 U.S. DOLLARS (\$ \_\_\_\_\_ .00) under the Letter of Credit.

Beneficiary represents, warrants, certifies and promises that:

(a) Beneficiary is entitled either (A) in accordance with the terms and conditions of that certain Lease (as amended, the "Agreement") or (B) as a result of the termination of the Agreement, to draw the amount requested hereunder, in accordance with the terms of such Agreement or such amount constitutes damages owing to Beneficiary resulting from the breach of such Agreement, or the termination of such Agreement, and such amount remains unpaid at the time of this drawing; or

(b) Beneficiary has received notice from Issuing Bank of its election not to extend the Expiration Date of this Letter of Credit for an additional one year period; or

(c) Beneficiary is entitled to draw down the full amount of the Letter of Credit as the result of the filing of a voluntary petition under the U.S. bankruptcy code or a state bankruptcy code by the tenant under that certain Lease (as amended, the "Agreement"), which filing has not been dismissed at the time of this drawing;

(d) Beneficiary is entitled to draw down the full amount of the Letter of Credit as the result of an involuntary petition having been filed under the U.S. bankruptcy code or a state bankruptcy code against the tenant under that certain Lease, as amended, which filing has not been dismissed at the time of this drawing; or

(e) Beneficiary is entitled to draw down the full amount of the Letter of Credit as the result of the rejection, or deemed rejection, of that certain \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, as amended, under section 365 of the U.S. bankruptcy code.

EXHIBIT I-1

Payment should be made to the account and pursuant to the wire transfer instructions attached hereto.

This demand is made as of the date hereof.

Yours faithfully,

Kilroy Realty Finance Partnership, L.P.  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Attachments: Beneficiary's Wiring Instructions*

EXHIBIT I-1  
-2-

**ISSUING BANK**

Morgan Stanley Bank, N.A.  
1300 Thames Street  
Thames Street Wharf  
4th Floor  
Baltimore, MD 21231  
Telephone: #####  
Fax: #####

Attention: Letter of Credit Department

Re: Morgan Stanley Bank, N.A. Irrevocable Standby Letter Of Credit No. (Ref. No. [\_\_\_\_\_] ) (“Letter of Credit”)

The undersigned Beneficiary demands transfer of the rights to demand further payment under the Letter of Credit to the following person at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and with the following bank account for payment by wire transfer of funds to that person (showing name and address of that person’s bank and name and number of that person’s account):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Beneficiary states that the name of the above-identified transferee is the full and correct legal name of such person.

Beneficiary states that the above-identified person is the transferee, from and after the effective date shown below, of all of Beneficiary’s rights that are supported by the Letter of Credit and Beneficiary’s related obligations under that certain Lease, between Applicant and Beneficiary.

EXHIBIT I-1

Beneficiary further states that there is no outstanding demand or request for payment or other transfer under the Letter of Credit. Beneficiary agrees to make no such demand while this demand for transfer is outstanding, provided, however, that you agree to notify the undersigned Beneficiary in writing on or before the proposed effective date of the transfer of the completion, whereupon transferee shall again have the right to demand payments under the Letter of Credit in accordance with the terms thereof.

Enclosed is the Letter of Credit (including all amendments). Please effectuate the demanded transfer as of the following effective date: \_\_\_\_\_ (which effective date is not less than ten Business Days after the date of this demand for transfer). Please do so by marking and delivering the Letter of Credit or by delivering a replacement to the above-identified person as the transferee beneficiary and by notifying the undersigned thereof.

Beneficiary agrees to pay (or cause applicant to pay), promptly following demand, Issuer's customary transfer fee not to exceed USD SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (U.S. \$750.00).

This demand and statement are made as of the date hereof.

Yours faithfully,

Kilroy Realty Finance Partnership, L.P.  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT I-1

**EXHIBIT I-2**

**EXAMPLE OF L-C BURNDOWN**

		<u>Reduction Date</u>	<u>L- C Burn Down Amount</u>	<u>Remaining L-C Amount</u>
Initial L-C Amount	\$13,654,050.00			
Last months Base Rent	\$1,449,030.55	7/1/2019	\$1,525,627.43	\$12,128,422.57
		7/1/2020	\$1,525,627.43	\$10,602,795.14
Assumed Burn Down Date	7/1/2019	7/1/2021	\$1,525,627.43	\$9,077,167.71
Assumed number of months remaining	92	7/1/2022	\$1,525,627.43	\$7,551,540.28
Months Remaining divided by 12	7.667	7/1/2023	\$1,525,627.43	\$6,025,912.84
Rounded up to nearest whole number	8	7/1/2024	\$1,525,627.43	\$4,500,285.41
		7/1/2025	\$1,525,627.43	\$2,974,657.98
<b>Sample Burndown Amount*</b>	\$1,525,627.43	7/1/2026	\$1,525,627.43	\$1,449,030.55

Sample Burndown Amount Calculation  $\frac{*(\$13,654,050 - \$1,449,031.55)}{8} =$  \$1,525,627.43

EXHIBIT I-1

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**INDEX**

**[list of defined terms and pages]**

(iii)

**FIRST AMENDMENT TO OFFICE LEASE**

This FIRST AMENDMENT TO OFFICE LEASE ("**First Amendment**") is made and entered into as of the 5th day of June, 2015, by and between KILROY REALTY FINANCE PARTNERSHIP, L.P., a Delaware limited partnership ("**Landlord**"), and DROPBOX, INC., a Delaware corporation ("**Tenant**").

**R E C I T A L S :**

A. Landlord and Tenant entered into that certain Office Lease dated January 31, 2014 (the "**Lease**") whereby Landlord leases to Tenant and Tenant leases from Landlord 182,054 rentable square feet of space, consisting of the all of the office space in the that certain building (the "**Building**") located at 333 Brannan Street, San Francisco, California.

B. The parties desire to amend the Lease on the terms and conditions set forth in this First Amendment.

**A G R E E M E N T :**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Terms.** All capitalized terms when used herein shall have the same respective meanings as are given such terms in the Lease unless expressly provided otherwise in this First Amendment.

2. **Building Bridges.** Pursuant to the terms of Section 1.1.4 of the Lease and Section 1.3 of the Work Letter, Landlord agreed to use commercially reasonable efforts to install no more than eight (8) "Building Bridges" (as that term is defined in the Lease) connecting floors two (2) through five (5) of the Premises to the corresponding floors of the "Adjacent Building" (as that term is defined in the Lease). Notwithstanding any provision to the contrary contained in the Lease, Landlord hereby agrees to install eleven (11) of such Building Bridges connecting the applicable floors of the Premises to the corresponding floors in the Adjacent Building, and Tenant hereby agrees that the cost to construct such additional three (3) Building Bridges shall be deducted from the Improvement Allowance as an "Approved Tenant Minor Change" (as that term is defined in Section 3.2 below) pursuant to the terms of Section 3 below.

3. **Tenant Changes to Base, Shell and Core.**

3.1 Notwithstanding any provision to the contrary contained in the Lease, Tenant shall have the right to request additional changes to the "Base Building Plans" (as that



term defined in the Lease) in writing, subject to Landlord's reasonable approval, and provided that, (i) such modifications do not materially adversely affect the quality of the "Base, Shell and Core" (as that term defined in the Lease), (ii) such modifications are consistent with the base building components of "Comparable Buildings" (as that term defined in the Lease), (iii) such changes do not materially adversely affect the LEED certification for the Base, Shell and Core, (iv) such changes comply with Applicable Laws, (v) such changes do not have a material adverse effect on the Building Structure or the Building Systems and do not affect the exterior appearance of the Building (except for the additional Building Bridges to be constructed pursuant to Section 2 above), and (vi) such changes will not materially affect the critical path of construction of the Base, Shell and Core, the parties acknowledging that any change that would delay the critical path of construction is material ("**Tenant Minor Changes**").

3.2 Landlord and Tenant hereby acknowledge that Tenant has requested and Landlord has approved the following Tenant Minor Changes prior to the date of this First Amendment: (a) the construction of three (3) additional Building Bridges, as further set forth in Section 2 above, (b) certain engineering modifications to the Base, Shell and Core, and (iii) certain security modifications to the Base, Shell and Core (collectively, the "**Approved Tenant Minor Changes**"), as such Approved Tenant Minor Changes are more particularly described on Exhibit A attached to this First Amendment. The aggregate "Cost Estimate" (as that term is defined below) for the Approved Tenant Minor Changes is Five Hundred Seventeen Thousand Eight Hundred and 00/100 Dollars (\$517,800.00), which Cost Estimate with respect to the Approved Tenant Minor Changes is based upon Building Bridge pricing as established in the original Lease, and a bid for such other Approved Tenant Minor Changes from Swinerton Builders. Landlord shall construct the Approved Tenant Minor Changes, and the cost thereof shall be deducted from the Improvement Allowance.

3.3 In connection with any additional Tenant Minor Changes, Tenant must deliver notice requesting any such Tenant Minor Changes to Landlord on or before October 1, 2015. Landlord shall approve or disapprove any proposed future Tenant Minor Change within ten (10) business days after receipt thereof; provided, however, that if Landlord fails to notify Tenant of Landlord's approval or disapproval of any requested Tenant Minor Change within the ten (10) business day review period for approval or disapproval thereof, Tenant shall deliver Landlord an additional notice requesting approval and if Landlord thereafter fails to respond within five (5) business days of receipt of such additional notice, Landlord will be deemed to have approved the proposed Tenant Minor Change. If Landlord disapproves of any proposed Tenant Minor Change, then Landlord shall state in reasonable detail its reasons for disapproving the proposed Tenant Minor Change. Following any request by Tenant for any Tenant Minor Changes, Landlord shall promptly deliver to Tenant written notice of the Cost Estimate of the costs that will be incurred to implement the proposed Tenant Minor Change (a "**Landlord's Change Notice**"). After receipt of Landlord's Change Notice, if Tenant advises Landlord to proceed with the proposed Tenant Minor Change, then the proposed Tenant Minor Change shall be incorporated into the Base Building Plans and the Base, Shell and Core and the cost of each approved Tenant Minor Change shall be deducted from the Improvement Allowance; provided, however, that Landlord shall deliver to Tenant an accounting of such costs promptly following the completion of any such approved Tenant Minor Change if such costs exceed the Cost Estimate therefor, which accounting shall be satisfactory to Tenant in Tenant's reasonable judgment. A "**Cost Estimate**" with respect to any change shall be Landlord's reasonable

estimate of the following: (1) direct construction costs thereof, (2) related general contractor's general conditions, overhead and general contractor's other indirect costs thereof (with respect to which Landlord shall provide Tenant with adequate supporting documentation for Tenant's confirmation), (3) the general contractors fee, which shall be the same fee being paid by Landlord to the Landlord GC for the construction of the Base, Shell and Core, and (4) design, permitting, testing, inspecting, engineering and other indirect costs to be at Landlord's actual costs incurred (i.e., there will be no Landlord markup).

4. **Address of Tenant for Notices.** Section 10 of the Summary attached to the Lease is hereby amended to provide that any Notices to Tenant shall be delivered to the following addresses:

Dropbox, Inc.  
185 Berry Street  
4th Floor  
San Francisco, California 94107  
Attention: Christopher Hom and Sarah Kelley

With at all times, a copy to:

Dropbox, Inc.  
185 Berry Street  
4th Floor  
San Francisco, California 94107  
Attention: General Counsel

Shartsis Friese LLP  
One Maritime Plaza, 18th Floor  
San Francisco, California 94111  
Attention: Jonathan M. Kennedy

5. **Broker.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this First Amendment, and that they know of no other real estate broker or agent who is entitled to a commission in connection with this First Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, occurring by, through, or under the indemnifying party. The terms of this Section 5 shall survive the expiration or earlier termination of the term of the Lease, as hereby amended.

6. **California Accessibility Disclosure.** For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges that the Common Areas and the Premises have not undergone inspection by a Certified Access Specialist (CASp).

7. **No Further Modification.** Except as specifically set forth in this First Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, this First Amendment has been executed as of the day and year first above written.

**LANDLORD:**

KILROY REALTY FINANCE PARTNERSHIP, L.P.,  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation,

Its: General Partner

By: /s/ Jeffrey C. Hawken

Name: Jeffrey C. Hawken

Title: President

By: /s/ Mike L. Sanford

Name: Mike L. Sanford

Title: Executive Vice President Northern California

**TENANT:**

DROPBOX, INC.,  
a Delaware corporation

By: /s/ Vanessa Wittman

Name: Vanessa Wittman

Title: CFO

By: /s/ Drew Houston

Name: Drew Houston

Title: CEO

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**EXHIBIT A**

**APPROVED TENANT MINOR CHANGES**

1. Three additional Building Bridges at floors, placed as needed on floors 2-5.
2. Engineering modifications to plans to allow for access control and security modifications.
3. Security modifications to convert access control and CCTV system to Avigilon type system.

**SECOND AMENDMENT TO OFFICE LEASE**

This SECOND AMENDMENT TO OFFICE LEASE (“**Second Amendment**”) is made and entered into as of the 3rd day of May, 2016, by and between KILROY REALTY FINANCE PARTNERSHIP, L.P., a Delaware limited partnership (“**Landlord**”), and DROPBOX, INC., a Delaware corporation (“**Tenant**”).

**R E C I T A L S :**

A. Landlord and Tenant are parties to that certain Office Lease dated January 31, 2014 (the “**Office Lease**”) and that certain First Amendment to Office Lease dated June 5, 2015 (the “**First Amendment**”) (the Office Lease, as amended by the First Amendment, is referred to herein as the “**Lease**”), whereby Landlord currently leases to Tenant and Tenant leases from Landlord all of the rentable office space (the “**Office Premises**”) in that certain office building located and addressed at 333 Brannan Street, San Francisco, California, and more particularly defined in the Lease as the “**Building**.” The Office Premises consists of 182,054 rentable square feet of space. The Building includes a subterranean parking garage area (the “**Garage**”) that is currently part of the Common Areas and is not currently included in the Premises.

B. Tenant desires to expand the Premises currently leased under the Lease to include the Garage. Landlord and Tenant desire to enter into this Second Amendment to provide for the inclusion of the Garage in the Premises covered by the Lease, and to make other modifications to the Lease, all as herein provided.

**A G R E E M E N T :**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All initially capitalized defined terms used herein shall have the same meanings as are given such terms in the Lease unless expressly defined in this Second Amendment.

2. **Expansion of the Premises; Storage Space Reserved to Landlord**.

2.1 As of April 1, 2016 (the “**Expansion Effective Date**”), Tenant shall lease from Landlord and Landlord shall lease to Tenant the Garage. The Garage is generally outlined in the diagram attached as **Exhibit G-1** hereto. Consequently, as of the Expansion Effective Date, (a) the “**Premises**” as defined in the Lease shall include both the Office Premises and the Garage, and (b) the Office Premises and the Garage shall be referred to collectively in the Lease as amended hereby (the “**Amended Lease**”) as the “**Premises**” (except as otherwise provided in this Second Amendment).

2.2 Subject to the terms of this Second Amendment, Landlord shall not be obligated to provide or pay for any improvement work or services related to the improvement, maintenance, repair or operation of the Garage from and after the Expansion Effective Date, all of which shall be Tenant’s responsibility as provided (and subject to any express limitations) in

this Second Amendment. Tenant shall accept the Garage and continue to accept the Office Premises in their presently existing “as-is” condition, subject only to any express obligations of Landlord under this Second Amendment to the contrary.

2.3 Notwithstanding anything to the contrary in this Second Amendment, Landlord reserves the right, throughout the Garage Term defined below, to access and use the portion of the Garage shown on **Exhibit G-2** hereto as “storage area” for the purpose of storing non-hazardous materials and for no other purpose. Such access and use by Landlord shall be at Landlord’s sole risk and without offset or charge by Tenant, and maintenance of the storage area in good condition and repair shall be the sole responsibility of Landlord.

3. **Garage Term.** The term of Tenant’s leasing of the Garage, and Tenant’s obligation to pay Rent with respect to the Garage as provided in this Second Amendment, shall commence on the Expansion Effective Date and expire, unless sooner terminated in accordance with the terms of the Amended Lease, on the Lease Expiration Date (which is August 31, 2027) (the “**Garage Term**”). Tenant has no right to extend the Garage Term as to the Garage and the terms of **Section 2.2** of the Office Lease are not applicable to Tenant’s lease of the Garage.

4. **Base Rent.**

4.1 **Base Rent for the Office Premises.** Tenant shall continue to pay Base Rent for the Office Premises at the rates provided in the Lease.

4.2 **Base Rent for the Garage.** Commencing on the Expansion Effective Date and continuing throughout the Garage Term, in addition to the Base Rent due on the Office Premises as required by the Lease, Tenant shall pay to Landlord installments of Base Rent for the Garage as follows:

<u>Period During Garage Term</u>	<u>Monthly Installment of Base Rent Covering the Garage</u>
Expansion Effective Date-8/31/16	\$13,000.00
9/1/16-8/31/17	\$13,390.00
9/1/17-8/31/18	\$13,791.70
9/1/18-8/31/19	\$14,205.45
9/1/19-8/31/20	\$14,631.61
9/1/20-8/31/21	\$15,070.56
9/1/21-8/31/22	\$15,522.68
9/1/22-8/31/23	\$15,988.36
9/1/23-8/31/24	\$16,468.01
9/1/24-8/31/25	\$16,962.05
9/1/25-8/31/26	\$17,470.91
9/1/26-8/31/27	\$17,995.04

All such Base Rent shall be payable by Tenant in accordance with the terms of the Lease; provided, however, for avoidance of doubt, the abatement provisions contained in Section 3.2 of the Office Lease do not apply to the Garage Base Rent. Commencing on the Expansion Effective Date, Tenant shall no longer have to pay for, nor shall Landlord be obligated to provide, parking passes pursuant to Article 28 of the Office Lease.

5. **Direct Expenses.** Prior to the Expansion Effective Date, Tenant shall continue to pay Direct Expenses in connection with the Office Premises in accordance with the terms of the Lease. In consideration of the fact that Tenant will be assuming responsibility for the operation of and taxes applicable to the Garage, effective as of the Expansion Effective Date, Tenant shall assume responsibility for 100% of the Direct Expenses applicable to the Garage, and there shall be no Base Year concept applicable to the Direct Expenses applicable to the Garage (or, stated other ways, (a) Tenant's Share of Direct Expenses applicable to the Garage in the Base Year shall equal zero, and (b) the Lease shall become what is commonly known as "triple net" as to Direct Expenses applicable to the Garage). In connection therewith, Landlord's Estimate Statement and Statement of Direct Expenses payable by Tenant under the Amended Lease, as described in Sections 4.4.1 and 4.4.2 of the Office Lease, will contain a reasonably detailed breakdown of Direct Expenses (or estimated Direct Expenses, as applicable) attributable to the Garage, as differentiated from Direct Expenses attributable to the Office Premises.

6. **Permitted Use.** Tenant and its employees, visitors, contractors, invitees and/or subtenants (subtenants being subject to the last paragraph of Section 8 below and the other terms of the Lease governing assignments and sublettings) may use the Garage only for parking purposes; provided, however that if Tenant seeks to provide parking to any user other than Tenant and its permitted subtenants and their respective employees, visitors, contractors and/invitees or to use the Garage for other than ordinary parking purposes (herein a "**Third Party Use**"), such Third Party Use must comply with all Applicable Laws and shall not be materially more intensive (as far as wear and tear on the Garage facility) than the use of the Garage for ordinary vehicular parking purposes. By way of example (but not limitation), a more "intensive" use of the Garage might be the parking of fork lifts or the storing of heavy materials or equipment. Tenant shall be entitled to all revenue generated from any Third Party Use and such use will not be subject to the subleasing or assignment provisions, or any Transfer Premium sharing provisions, of Article 14 of the Office Lease.

7. **Maintenance.** Tenant shall maintain and operate the Garage in good condition and repair and consistent with the standards to which Landlord has maintained and operated the Garage prior to the Expansion Effective Date (and otherwise in compliance with and subject to the terms of Article 7 of the Office Lease as if the Garage was originally part of the Premises covered by the Office Lease); provided, however, that as concerns the Building Structure and Building Systems portions of the Garage, Landlord shall be responsible therefor in accordance with the terms of said Article 7, and the costs incurred by Landlord in connection therewith may be charged as Operating Expenses applicable to the Garage (that is, on a "net" basis and not subject to a Base Year) to the extent permitted under Section 4.2.4 of the Office Lease.

8. **Operation of the Garage.** During the period commencing as of the Expansion Effective Date and expiring as of June 30, 2016, Landlord or an Operator (defined below) selected by Landlord, will operate the Garage on behalf of Tenant. During such period, Tenant will reimburse Landlord (as additional rent) for the cost charged by Landlord's Operator to operate the Garage within thirty (30) days following delivery of an invoice therefor

(accompanied by reasonably detailed back-up documentation) by Landlord to Tenant. Tenant shall operate the Garage to a standard at least consistent with the manner in which the Garage is being operated on the Expansion Effective Date. Without limiting the foregoing, while the Garage is operated as a commercial parking garage, Tenant shall, at Tenant's sole cost, contract with a contractor reasonably satisfactory to Landlord to operate the Garage (Impark, ABM Parking, SP+, Tower Valet, Ace Parking, and Citypark, and any successors thereto by operation of law, being garage operators which are currently satisfactory to Landlord, but Tenant may suggest alternative union operators for Landlord's consideration) (the "**Operator**"). Tenant shall cause such Operator to maintain such amounts of garagekeeper's liability insurance or comparable coverage, as may be customary for such Operator's operations of parking garages similar to the Garage in the City and County of San Francisco. Tenant shall cause Operator's garagekeeper's liability insurance to name Landlord and Tenant as additional insureds under such coverage. Any agreement entered into between Tenant and such Operator shall provide that the Operator shall provide written evidence of the coverage required hereunder promptly after written request by Landlord or Tenant. Additionally the parties agree that, during the Garage Term, changes in the insurance industry may require alternative insurance with respect to the type of insurance provided, the insured risk, amount of deductibles, etc. Accordingly, Tenant shall purchase (or shall cause the Operator to purchase), if required by such circumstances and at Tenant's (or the Operator's) sole cost and expense, substitute or additional insurance of a type generally available and prudently purchased by operators of similar parking facilities and exposed to similar risks, taking into account a prudent cost/benefit analysis of the purchase of such insurance. Such alternative insurance must provide at least the same degree of protection and coverage as that originally required under this Section (the "**Current Coverage**") unless and to the extent that any coverage which is a component of the Current Coverage is no longer commercially available or typically maintained by similar garage operators. Landlord will not be required to provide security, janitorial or cleaning services for the Garage. Tenant may in its discretion, discontinue parking operations in all or a portion of the Garage so long as any portion of the Garage operated as a commercial parking facility shall comply with the foregoing, and any use of the portion of the Garage not operated as a commercial parking facility is reasonably ancillary to the Permitted Use specified in the Lease (and not in violation of Section 5.2 of the Office Lease), and such ancillary use otherwise complies with the Lease. Without limiting the terms of Section 7 above or this Section 8, because the Premises originally leased by Tenant under the Lease was "office space" and the Lease therefore did not contemplate Tenant operating, maintaining and repairing a garage facility, and in order to avoid doubt, from and after the Expansion Effective Date, Tenant shall, at its sole cost, with respect to the Garage, do or cause the following to be done (or Tenant may request that Landlord handle some of these activities on Tenant's behalf to the extent Landlord has been handling them in the past, in which case the costs incurred by Landlord in doing so will be billed to Tenant as Operating Expenses applicable to the Garage):

8.1 Clean and maintain all surfaces of the Garage and keep such surfaces level and evenly covered with the type of surfacing material originally installed thereon, or such substitute thereof as shall be reasonably equal thereto in quality, appearance and durability;

8.2 Remove all papers, debris, filth and refuse from the Garage and wash or thoroughly sweep paved areas on a periodic basis;

8.3 Remove trash from trash receptacles and clean trash receptacles on a



periodic basis;

8.4 Clean, maintain, repair and replace entrance, exit and directional signs, traffic control signage, markers and lights into and within the Garage on a periodic basis;

8.5 Clean lighting fixtures and relamp and reballast as necessary;

8.6 Maintain, repair and replace striping and curbing;

8.7 Repaint and refinish all painted and finished surfaces as necessary and keep all surfaces free of graffiti;

8.8 Clean, maintain and repair all stairs, stairwells and stairwell doors within the Garage;

8.9 Subject to Landlord's obligations with respect to the Building Systems as specified in Section 7 above, maintain, repair and replace, if needed, all mechanical, electrical and utility facilities and systems that are (a) a part of or serve the Garage as of the Expansion Effective Date, (b) installed, or required as a result of anything installed, by Tenant or an Operator after the Expansion Effective Date, and/or (c) required because of Tenant's (or any Operator's) particular use of the Garage or the Office Premises, including, without limitation, sprinkler and fire control systems, parking revenue control equipment, parking access control equipment, security systems and equipment, mechanical venting systems, lighting and emergency lighting systems, and traffic barriers;

8.10 If Tenant desires to operate a valet parking program at its sole cost, then such program shall be on terms and with a company reasonably satisfactory to Landlord (Landlord hereby pre-approving the companies identified in the introductory paragraph of this Section 8 above);

8.11 Obtain (or require the Operator to obtain) all operating permits and file (or require the Operator to file) all operating reports as required by Applicable Law and pay (or require the Operator to pay) all taxes on revenues generated from operations at the Garage;

8.12 Handle customer complaints and damage claims (including damage to personal property, theft, and injuries to third parties), purchase supplies, arrange and supervise the handling of receipts, and conduct any and all other services customarily performed by operators of similar parking garages in San Francisco; and

8.13 Employ or contract with such personnel (such as the Operator) as may be necessary to operate the Garage (which personnel shall at all times conduct themselves in a courteous manner and be neat, clean, and properly uniformed), and oversee or cause the Operator to oversee the performance of such personnel. All such personnel shall be the employees or contractors of Tenant or Tenant's Operator and shall have no authority to act as the agent of Landlord.

Additionally, Tenant shall have no right to sublease any portion of the Garage separately from a sublease of the Office Premises permitted under the terms of the Lease. Further, at Landlord's option and upon Tenant assigning the Amended Lease or subleasing all of the Office

Premises (other than to a Permitted Transferee as Tenant may be permitted to do without Landlord's consent under the Lease), Landlord shall have the right to terminate this Second Amendment upon written notice to Tenant, in which event this Second Amendment shall terminate, the Garage shall no longer be part of the Premises, and neither party shall have any further rights or obligations under this Second Amendment (except for those which are intended to survive such termination) and the Lease will consist of the Office Lease and the First Amendment as if this Second Amendment had never been entered into.

9. **Inspection by CASp.** For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Garage has not undergone inspection by a Certified Access Specialist (CASp).

10. **Tax Status.** Tenant recognizes and acknowledges that Landlord and/or certain beneficial owners of Landlord may from time to time qualify as real estate investment trusts pursuant to the Internal Revenue Code and that avoiding (a) the loss of such status, (b) the receipt of any income derived under any provision of this Second Amendment that does not constitute "rents from real property" (in the case of real estate investment trusts), and (c) the imposition of income, penalty or similar taxes (each an "**Adverse Event**") is of material concern to Landlord and such beneficial owners. In the event that this Second Amendment or any document contemplated hereby could, in the opinion of counsel to Landlord, result in or cause an Adverse Event, Tenant agrees to reasonably cooperate with Landlord in negotiating an amendment or modification thereof and shall at the request of Landlord execute and deliver such documents reasonably required to effect such amendment or modification. Any amendment or modification pursuant to this Section 10 shall be structured so that the economic results to Landlord and Tenant shall be substantially similar to those set forth in this Second Amendment without regard to such amendment or modification. Tenant expressly covenants and agrees not to enter into any sublease or assignment which provides for rental or other payment for such use, occupancy, or utilization based in whole or in part on the net income or profits derived by any person from the property leased, used, occupied, or utilized (other than an amount based on a fixed percentage or percentages of receipts or sales) if any portion of such rental or other payment is payable to Landlord, and that any such purported sublease or assignment that violates the foregoing shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use, occupancy, or utilization of any part of the Garage. This Section 10 will not in any event be deemed to prohibit the collection of parking revenue in connection with a Third Party Use permitted under this Second Amendment.

11. **No Brokers.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Second Amendment, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Second Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation claimed against the beneficiary of the indemnity alleged to arise from or on account of the indemnifying party's dealings with any real estate broker or agent. The terms of this Section 11 shall survive the expiration or earlier termination of the Amended Lease.

12. **Miscellaneous.** This Second Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or

written representations or agreements. Under no circumstances shall Tenant be entitled to any Rent abatement, improvement allowance, leasehold improvements, or other work to the Garage, or any similar economic incentives that may have been provided Tenant in connection with entering into the Lease, unless specifically set forth in this Second Amendment. Submission of this Second Amendment by Landlord is not an offer to enter into this Second Amendment. Landlord and Tenant shall not be bound by this Second Amendment until Landlord and Tenant have mutually executed and delivered this Second Amendment.

13. **No Further Modification; Conflict**. Except as set forth in this Second Amendment, all of the terms and provisions of the Lease are hereby ratified and confirmed and shall apply with respect to the Garage as part of the Premises under the Lease and shall remain unmodified and in full force and effect. In the event of any conflict between the terms and conditions of the Lease and the terms and conditions of this Second Amendment, the terms and conditions of this Second Amendment shall prevail.

14. **Exhibits**. The following Exhibits are attached hereto and incorporated herein:

**Exhibit G-1** Outline of Garage Premises

**Exhibit G-2** Depiction of Storage Space

*[NO FURTHER TEXT ON THIS PAGE;*

*SIGNATURES ON NEXT PAGE]*

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first above written.

**“LANDLORD”**

KILROY REALTY FINANCE PARTNERSHIP, L.P.,  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation,  
General Partner

By: /s/ Jeffrey C. Hawken  
Name: Jeffrey C. Hawken  
Its: President

By: /s/ Richard Buziak  
Name: Richard Buziak  
Its: Senior Vice President Asset Management

**“TENANT”**

DROPBOX, INC.,  
a Delaware corporation

By: /s/ Dennis Woodside  
Name: Dennis Woodside  
Its: COO

By: /s/ Vanessa Wittman  
Name: Vanessa Wittman  
Its: CFO

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**Exhibit G-1**

**Outline of Garage Premises**

**[diagram]**

Exhibit G-1

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**Exhibit G-2**

**Depiction of Storage Space**

**[diagram]**

Exhibit G-2

**THIRD AMENDMENT TO OFFICE LEASE**

This THIRD AMENDMENT TO OFFICE LEASE (“**Third Amendment**”) is made and entered into as of October 6, 2017, by and between KILROY REALTY FINANCE PARTNERSHIP, L.P., a Delaware limited partnership (“**Landlord**”), and DROPBOX, INC., a Delaware corporation (“**Tenant**”).

**R E C I T A L S :**

A. Landlord and Tenant entered into that certain Office Lease dated January 31, 2014 (the “**Office Lease**”), as amended by that certain Notice of Lease Term Dates dated August 24, 2015 (the “**Notice of Lease Term Dates**”), that certain First Amendment to Office Lease dated June 5, 2015 (the “**First Amendment**”), and that certain Second Amendment to Office Lease dated May 3, 2016 (the “**Second Amendment**”), whereby Landlord leases to Tenant and Tenant leases from Landlord all of the rentable office space (the “**Premises**”) in that certain building located at 333 Brannan Street, San Francisco, California (the “**Building**”). The Office Lease, the Notice of Lease Term Dates, the First Amendment, and the Second Amendment shall collectively be referred to herein as the “**Lease**”.

B. Landlord and Tenant desire to make modifications to the Lease, and in connection therewith, Landlord and Tenant desire to amend the Lease as hereinafter provided.

**A G R E E M E N T :**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms when used herein, and not otherwise defined, shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this Third Amendment.
2. **Transfer Premium**. Notwithstanding any provision to the contrary set forth in the Lease, as of the date hereof, Tenant shall only be obligated to pay Landlord forty percent (40%) of any Transfer Premium (as defined in Section 14.3 of the Office Lease) received by Tenant from any Transferee (as defined in Section 14.1 of the Office Lease), other than a Permitted Transferee.
3. **No Brokers**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Third Amendment, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Third Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from and against any and all

333 Brannan Street  
Third Amendment  
[Dropbox, Inc.]

claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent in connection herewith occurring by, through or under the indemnifying party. The terms of this Section 3 shall survive the expiration or earlier termination of the term of the Lease, as hereby amended.

4. **California Accessibility Disclosure.** For purposes of Section 1938 of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist ("CASp"). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject 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 subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or 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." In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (a) any CASp inspection requested by Landlord or Tenant shall be conducted, at the requesting party's sole cost and expense, by a CASp approved by Landlord, subject to the non-requesting party's reasonable rules and requirements; and (b) the cost of making any improvements or repairs within the Premises, the Building or the Project to correct violations of construction-related accessibility standards shall be allocated as provided in Article 24 of the Office Lease.

5. **Prohibited Persons; Foreign Corrupt Practices Act and Anti-Money Laundering.** Neither (i) Tenant nor any of its officers, directors or managers, or (ii) to Tenant's knowledge, any of Tenant's affiliates, nor any of their respective members, partners, other equity holders (excluding any holders of any publicly traded stock or other equity interests of Tenant, if any), officers, directors or managers is, nor during the Lease Term will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under (a) the Patriot Act (as defined below), (b) any other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("**OFAC**") (including any "blocked" person or entity listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and any modifications thereto or thereof or any other person or entity named on OFAC's Specially Designated Blocked Persons List) or (c) any other U.S. statute, Executive Order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action (collectively, "**Prohibited Persons**"). Tenant is not entering into this Third Amendment, directly or indirectly, in violation of any laws relating to drug trafficking, money laundering or predicate crimes to money laundering. As used herein, "**Patriot Act**" shall mean the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and all other statutes, orders, rules and regulations of the U.S. government and its various executive departments, agencies and offices interpreting and implementing the Patriot Act.

333 Brannan Street  
Third Amendment  
[Dropbox, Inc.]



6. **Signatures.** The parties hereto consent and agree that this Third Amendment may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's handwritten signature. The parties further consent and agree that (1) to the extent a party signs this Third Amendment using electronic signature technology, by clicking "SIGN", such party is signing this Third Amendment electronically, and (2) the electronic signatures appearing on this Third Amendment shall be treated, for purposes of validity, enforceability and admissibility, the same as handwritten signatures.

7. **No Further Modification.** Except as set forth in this Third Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect. In the event of any conflict between the terms and conditions of the Lease and the terms and conditions of this Third Amendment, the terms and conditions of this Third Amendment shall prevail.

[signatures appear on following page]

333 Brannan Street  
Third Amendment  
[Dropbox, Inc.]

IN WITNESS WHEREOF, this Third Amendment has been executed as of the day and year first above written.

**“LANDLORD”:**

KILROY REALTY FINANCE PARTNERSHIP, L.P.,  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation

Its: General Partner

By: /s/ Robert Paratte

Name: Robert Paratte

Its: Executive Vice President

By: /s/ Richard Buziak

Name: Richard Buziak

Its: Senior Vice President Asset Management

**“TENANT”:**

DROPBOX, INC.,  
a Delaware corporation

By: \_\_\_\_\_

Name:

Its:

By: \_\_\_\_\_

Name:

Its:

333 Brannan Street  
Third Amendment  
[Dropbox, Inc.]

**“LANDLORD”:**

KILROY REALTY FINANCE PARTNERSHIP, L.P.,  
a Delaware limited partnership

By: Kilroy Realty Finance, Inc.,  
a Delaware corporation

Its: General Partner

By: \_\_\_\_\_  
Name:  
Its:

By: \_\_\_\_\_  
Name:  
Its:

**“TENANT”:**

DROPBOX, INC.,  
a Delaware corporation

By: /s/ Drew Houston  
Name: Drew Houston  
Its: Chief Executive Officer

By: /s/ Bart Volkmer  
Name: Bart Volkmer  
Its: General Counsel

333 Brannan Street  
Third Amendment  
[Dropbox, Inc.]

SECOND AMENDMENT AND RESTATEMENT AGREEMENT dated as of April 3, 2017 (this "Amendment"), relating to the Revolving Credit and Guaranty Agreement dated as of March 20, 2014 (as amended and restated by the Amendment and Restatement Agreement dated as of May 9, 2014, the "Existing Credit Agreement"), among DROPBOX, INC., as Borrower (the "Borrower"), the Guarantors party thereto, the Lenders (the "Existing Lenders") and Issuing Banks party thereto, and JPMORGAN CHASE BANK, N.A., as Swing Line Lender and the Administrative Agent and Collateral Agent for the Existing Lenders (in such capacity, the "Administrative Agent").

#### RECITALS

A. The Existing Lenders have agreed to extend credit to the Borrower under the Existing Credit Agreement on the terms and subject to the conditions set forth therein.

B. The Borrower has requested that the Existing Credit Agreement be amended and restated to provide for, among other things, (a) an increase in the aggregate amount of the Commitments (as defined in the Existing Credit Agreement) by \$100,000,000 (the "Commitment Increase") to an aggregate total amount of \$600,000,000, (b) an extension of the Maturity Date (as defined in the Existing Credit Agreement) to the date that is five years following the Second Amendment Effective Date (as defined below) and (c) certain other modifications to be made to the Existing Credit Agreement.

C. In order to effect the foregoing, the Borrower and the other parties hereto desire to amend and restate, as of the Second Amendment Effective Date, the Existing Credit Agreement and to enter into certain other agreements herein, in each case subject to the terms and conditions set forth herein.

#### AGREEMENTS

In consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Capitalized terms used herein and not otherwise defined herein have the meanings assigned to them in the Existing Credit Agreement or the Restated Credit Agreement (as defined below), as the context may require. The interpretive provisions specified in Section 1.3 of the Existing Credit Agreement also apply to this Amendment, *mutatis mutandis*.

SECTION 2. Amendment and Restatement of the Existing Credit Agreement; Schedules to Security Agreement. Effective as of the Second Amendment Effective Date:

(a) The Existing Credit Agreement (excluding all exhibits thereto, each of which shall remain as in effect immediately prior to the Second Amendment Effective Date) is amended and restated in its entirety in the form of the Amended and Restated Credit Agreement set forth on Exhibit A hereto (the Existing Credit Agreement, as so amended and restated, being referred to as the "Restated Credit Agreement").

(b) Each Schedule to the Existing Credit Agreement is hereby amended and restated in the form of the corresponding Schedule attached to the form of Restated Credit Agreement attached hereto.

(c) Each Schedule to the Pledge and Security Agreement dated as of March 20, 2014 (as supplemented or otherwise modified from time to time prior to the date hereof, the "Security Agreement"), by and among the Grantors referred to therein and the Collateral Agent, is hereby amended and restated in the form of the corresponding Schedule set forth on Exhibit B hereto.

SECTION 3. Consenting Lenders; Commitments and Revolving Loans. (a) Each Existing Lender holding Commitments and/or Revolving Loans outstanding immediately prior to the Second Amendment Effective Date that executes and delivers a signature page to this Amendment (each, a "Consenting Lender") on or prior to the Second Amendment Effective Date, will have agreed to the terms of this Amendment upon the effectiveness of this Amendment on the Second Amendment Effective Date. Each Existing Lender that does not execute and deliver a signature page to this Amendment on or prior to the Second Amendment Effective Date (each, a "Non-Consenting Lender") will be deemed not to have agreed to this Amendment and will be subject to the mandatory assignment provisions of Section 2.18(b) of the Existing Credit Agreement upon the effectiveness of this Amendment on the Second Amendment Effective Date (it being understood that the interests, rights and obligations of the Non-Consenting Lenders will be assumed by (a) certain Consenting Lenders (each Consenting Lender providing a portion of the Commitment Increase is referred to herein as an "Increasing Lender") and (b) certain financial institutions that are not Existing Lenders but are party hereto (each, an "Assuming Lender"), in each case, in accordance with the terms hereof).

(b) On the Second Amendment Effective Date, each Assuming Lender shall become, and each Consenting Lender shall continue to be, a "Lender" under the Restated Credit Agreement and each Assuming Lender shall have, and each Consenting Lender shall continue to have, all the rights and obligations of a "Lender" holding a Commitment or a Revolving Loan under the Restated Credit Agreement.

(c) On the Second Amendment Effective Date, (i) each Consenting Lender and Assuming Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to the Commitment Increase and the application of such amounts to make payments to such other Lenders, the Revolving Loans to be held ratably by all Lenders as of the Second Amendment Effective Date in accordance with their respective Applicable Percentages (as determined on the Second Amendment Effective Date based on the Commitments set forth in Schedule 2.1 to the Restated Credit Agreement), (ii) the Borrower shall be deemed to have prepaid and reborrowed all outstanding Revolving Loans made to it as of the Second Amendment Effective Date (with each such borrowing to consist of Revolving Loans, with related Interest Periods, if applicable, specified in a notice delivered by the Borrower in accordance with Section 2.5 of the Restated Credit Agreement) and (iii) the

Borrower shall pay to the Existing Lenders (other than any Consenting Lender, each of whom hereby consents, on behalf of itself and its Affiliates, to waive the payment of any amounts pursuant to Section 2.15 of the Existing Credit Agreement as a result of the transactions contemplated hereby) the amounts, if any, payable under Section 2.15 of the Existing Credit Agreement as a result of such prepayment. In addition, each Consenting Lender and Assuming Lender acknowledges and agrees that on the Second Amendment Effective Date and without any further action on the part of the any Issuing Bank or any Lender, all outstanding participations in Letters of Credit issued under the Existing Credit Agreement shall be canceled and each Issuing Bank shall have granted to each Lender (after giving effect to this Amendment), and each such Lender shall have acquired from each Issuing Bank, a participation in each Letter of Credit issued by such Issuing Bank and outstanding on the Second Amendment Effective Date equal to such Lender's Applicable Percentage (as determined on the Second Amendment Effective Date based on the Commitments set forth in Schedule 2.1 to the Restated Credit Agreement) of the aggregate amount available to be drawn under such Letters of Credit. Such participations shall be governed by the terms of Section 2.4 of the Restated Credit Agreement. For the avoidance of doubt, any Existing Lender that is not listed on Schedule 2.1 to the Restated Credit Agreement shall have no further obligations under the Existing Credit Agreement or the Restated Credit Agreement.

(d) It is acknowledged that the Commitment Increase effected hereby shall not reduce the amount by which the Borrower may further increase the Commitments in accordance with the terms and conditions of Section 2.19 of the Restated Credit Agreement.

SECTION 4. Representations and Warranties. To induce the other parties hereto to enter into this Amendment, each Loan Party represents and warrants to each other party hereto that, as of the Second Amendment Effective Date:

(a) This Amendment has been duly authorized, executed and delivered by it and this Amendment and the Restated Credit Agreement constitute its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) The representations and warranties set forth in Article III of the Restated Credit Agreement are, after giving effect to this Amendment, true and correct in all material respects (other than to the extent qualified by materiality or "Material Adverse Effect", in which case, such representations and warranties are true and correct in all respects) on and as of the Second Amendment Effective Date with the same effect as though made on and as of the Second Amendment Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties were true and correct in all material respects as of such earlier date).

(c) After giving effect to this Amendment and the transactions contemplated hereby, no Default or Event of Default has occurred and is continuing.

SECTION 5. Effectiveness. (a) This Amendment shall become effective as of the first date (the “Second Amendment Effective Date”) on which each of the following conditions shall have been satisfied:

(i) The Administrative Agent shall have received duly executed counterparts hereof that, when taken together, bear the signatures of each Loan Party, each Assuming Lender, each Increasing Lender, Lenders constituting the Required Lenders, each Issuing Bank, the Swing Line Lender, the Administrative Agent and the Collateral Agent.

(ii) The representations and warranties set forth in Section 4 hereof shall be true and correct on and as of the Second Amendment Effective Date, and the Administrative Agent shall have received a certificate of the President, a Vice President or a Financial Officer of the Borrower, dated the Second Amendment Effective Date, to such effect.

(iii) The Administrative Agent shall have received a Note executed by the Borrower in favor of each Lender requesting a Note in advance of the Second Amendment Effective Date.

(iv) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent, the Collateral Agent, the Issuing Banks and the Lenders and dated the Second Amendment Effective Date) of Fenwick & West LLP, counsel for the Borrower in form and substance reasonably satisfactory to the Administrative Agent.

(v) The Administrative Agent shall have received (a) certified copies of the resolutions of the board of directors of the Borrower and each other Loan Party approving this Amendment and the transactions contemplated hereby and the execution, delivery and performance of this Amendment, and all documents evidencing other necessary corporate (or other applicable organizational) action and governmental approvals, if any, with respect to this Amendment and the transactions contemplated hereby and (b) all other documents reasonably requested by the Administrative Agent relating to the organization, existence and good standing of each Loan Party and authorization of this Amendment and the transactions contemplated hereby.

(vi) The Administrative Agent shall have received a certificate of the Secretary or an Assistant Secretary of each Loan Party certifying the names and true signatures of the officers of such Loan Party authorized to sign this Amendment and any other documents to be delivered hereunder on the Second Amendment Effective Date.

(vii) The Lenders, the Joint Bookrunners and the Administrative Agent shall have received all fees required to be paid by the Borrower on or before the Second Amendment Effective Date, and all expenses required to be reimbursed by the Borrower pursuant to the Commitment Letter (as defined in the Restated Credit Agreement) for which invoices have been presented at least three business days prior to the Second Amendment Effective Date, on or before the Second Amendment Effective Date.

(viii) In order to evidence a continuing valid, perfected first priority security interest in the Collateral in favor of the Collateral Agent, for the benefit of the Secured Parties, each Loan Party shall have delivered to the Collateral Agent:

(A) evidence satisfactory to the Collateral Agent of the compliance by each Loan Party of its obligations under the Security Agreement and the other Collateral Documents (including its obligations to execute and deliver UCC financing statements, Intellectual Property Security Agreements and originals of securities);

(B) a completed Perfection Certificate dated the Second Amendment Effective Date and executed by a Responsible Officer of each Loan Party, together with all attachments contemplated thereby, including the results of a search of the Uniform Commercial Code (or equivalent) filings made with respect to the Loan Parties in the jurisdictions contemplated by the Perfection Certificate and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the Liens indicated by such financing statements (or similar documents) are permitted under Section 6.2 of the Restated Credit Agreement or have been, or substantially contemporaneously with the occurrence of the Second Amendment Effective Date will be, released; and

(C) evidence that each Loan Party shall have taken or caused to be taken any other action, executed and delivered or caused to be executed and delivered any other agreement, document and instrument and made or caused to be made any other filing and recording (other than as set forth herein) reasonably required by the Collateral Agent.

(ix) The Lenders shall have received from the Borrower (i) the financial statements described in Section 3.4(a) of the Restated Credit Agreement and (ii) the Projections (as defined in the Restated Credit Agreement).

(x) On the Second Amendment Effective Date, the Administrative Agent shall have received a Solvency Certificate in form, scope and substance reasonably satisfactory to the Administrative Agent, and demonstrating that the Borrower is, individually and together with its Restricted Subsidiaries, are and will be Solvent.

(xi) Since December 31, 2015, no event, development or circumstance exists or has occurred that has had or would reasonably be expected to have a material adverse effect on the business, property, financial condition or results of operations of the Borrower and its Restricted Subsidiaries, taken as a whole.

(xii) The Administrative Agent shall have received, to the extent reasonably requested by any of the Lenders at least five Business Days prior to the Second Amendment Effective Date, all documentation and other information required by bank regulatory authorities under applicable “know-your-customer” and anti-money laundering rules and regulations, including the USA Patriot Act.



(b) The Administrative Agent shall notify the Borrower and the Lenders of the Second Amendment Effective Date, and such notice shall be conclusive and binding. Without limiting the generality of the provisions of Article IX of the Restated Credit Agreement, for purposes of determining compliance with the conditions specified in this Section 5, each Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Second Amendment Effective Date specifying its objection thereto.

SECTION 6. Effect of Amendment. (a) Except as expressly set forth herein or in the Restated Credit Agreement, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of, the Lenders, the Swing Line Lender, the Issuing Banks or the Agents under the Existing Credit Agreement or any other Loan Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement or any other Loan Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to establish a precedent for purposes of interpreting the provisions of the Existing Credit Agreement or the Restated Credit Agreement or entitle any Loan Party to a consent to, or a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Existing Credit Agreement, the Restated Credit Agreement or any other Loan Document in similar or different circumstances. The parties hereto acknowledge and agree that this Amendment and all other Loan Documents executed and delivered in connection herewith do not constitute a novation or termination of the Obligations under the Existing Credit Agreement and the other Loan Documents as in effect prior to the Second Amendment Effective Date. This Amendment shall apply to and be effective only with respect to the provisions of the Existing Credit Agreement and the other Loan Documents specifically referred to herein.

(b) On and after the Second Amendment Effective Date, each reference in the Existing Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the Existing Credit Agreement in any other Loan Document shall be deemed a reference to the Restated Credit Agreement. This Amendment shall constitute a “Loan Document” for all purposes of the Restated Credit Agreement and the other Loan Documents.

SECTION 7. Reaffirmation. Each of the Loan Parties hereby acknowledges that it expects to receive substantial direct and indirect benefits as a result of this Amendment and the transactions contemplated hereby. Each of the Loan Parties hereby further (a) acknowledges that the Obligations shall include the due and punctual payment of all the monetary obligations of each Loan Party under or pursuant to the Restated Credit Agreement (including all such obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) confirms its guarantees, pledges and grants of security interests, as applicable, under each of the Loan

Documents to which it is party and (c) agrees that, notwithstanding the effectiveness of this Amendment and the transactions contemplated hereby, such guarantees, pledges and grants of security interests shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties (and shall be determined after giving effect to this Amendment).

SECTION 8. **Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the State of New York. The provisions of Section 10.10 of the Existing Credit Agreement shall apply to this Amendment to the same extent as if fully set forth herein.

SECTION 9. **Costs and Expenses.** The Borrower agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Amendment and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent.

SECTION 10. **Counterparts.** This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Delivery of any executed counterpart of a signature page of this Amendment by facsimile transmission or other electronic imaging means shall be effective as delivery of an originally executed counterpart thereof.

SECTION 11. **Headings.** The headings of this Amendment are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

*[Remainder of page intentionally blank.]*

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their duly authorized representatives, all as of the date and year first above written.

DROPBOX, INC.,

by /s/ Andrew Houston

Name: Andrew Houston

Title: Chief Executive Officer and President

DROPBOX HOLDING, LLC,

by /s/ Andrew Houston

Name: Andrew Houston

Title: Chief Executive Officer, President  
and Secretary

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]

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JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent, Collateral Agent,  
and as Issuing Bank, Swing Line Lender and  
Lender

by /s/ John G. Kowalczuk

\_\_\_\_\_  
Name: John G. Kowalczuk

Title: Executive Director

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]

---

GOLDMAN SACHS LENDING PARTNERS  
LLC, as a Lender and an Issuing Bank

by /s/ Rebecca Kratz

Name: Rebecca Kratz

Title: Authorized Signatory

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]

BANK OF AMERICA, N.A., as a Lender and an Issuing Bank,

by /s/ Mukesh Singh

Name: Mukesh Singh

Title: Director

DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH, as a Lender,

by \_\_\_\_\_

Name:

Title:

by \_\_\_\_\_

Name:

Title:

DEUTSCHE BANK AG NEW YORK BRANCH, as an Issuing Bank,

by \_\_\_\_\_

Name:

Title:

by \_\_\_\_\_

Name:

Title:

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]

DEUTSCHE BANK AG CAYMAN ISLANDS BRANCH, as  
a Lender,

by /s/ Anca Trifan  
Name: Anca Trifan  
Title: Managing Director

by /s/ Dusan Lazarov  
Name: Dusan Lazarov  
Title: Director

DEUTSCHE BANK AG NEW YORK BRANCH,  
as an Issuing Bank,

by /s/ Anca Trifan  
Name: Anca Trifan  
Title: Managing Director

by /s/ Dusan Lazarov  
Name: Dusan Lazarov  
Title: Director

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]

---

Name of Lender: Royal Bank of Canada

By /s/ Kamran Khan

Name: Kamran Khan

Title: Authorized Signatory

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]



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Name of Lender: Macquarie Capital Funding LLC

By /s/ Ayesha Farooqi

Name: Ayesha Farooqi

Title: Authorized Signatory

For any Lender requiring a second signature line:

Name of Lender: Macquarie Capital Funding LLC

By /s/ Lisa Grushkin

Name: Lisa Grushkin

Title: Authorized Signatory

[SIGNATURE PAGE TO SECOND AMENDMENT AND RESTATEMENT AGREEMENT]

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**Exhibit A**

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REVOLVING CREDIT AND GUARANTY AGREEMENT

dated as of March 20, 2014

as amended and restated as of April 3, 2017

among

DROPBOX, INC.,

The Guarantors Party Hereto,

The Lenders and Issuing Banks Party Hereto

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent and Collateral Agent

---

JPMORGAN CHASE BANK, N.A.,  
as Sole Lead Arranger and Joint Bookrunner

GOLDMAN SACHS LENDING PARTNERS LLC,  
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,  
DEUTSCHE BANK SECURITIES INC.,  
RBC CAPITAL MARKETS<sup>1</sup>,  
and  
MACQUARIE CAPITAL (USA) INC.  
as Joint Bookrunners

GOLDMAN SACHS LENDING PARTNERS LLC,  
as Syndication Agent

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,  
DEUTSCHE BANK SECURITIES INC.,  
and  
ROYAL BANK OF CANADA  
as Co-Documentation Agents

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<sup>1</sup> RBC Capital Markets is a brand name for the capital markets businesses of Royal Bank of Canada and its affiliates.

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REVOLVING CREDIT AND GUARANTY AGREEMENT dated as of March 20, 2014, as amended and restated as of May 9, 2014, and as further amended and restated as of April 3, 2017, among DROPBOX, INC., as Borrower, the GUARANTORS party hereto, the LENDERS and ISSUING BANKS party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent, Collateral Agent and Swing Line Lender.

The Borrower (such term and each other capitalized term used and not otherwise defined herein having the meaning assigned to it in Article I), requested that the Lenders make Loans to the Borrower on a revolving credit basis and the Issuing Banks issue Letters of Credit at the request and for the account of the Borrower on and after the Effective Date and at any time and from time to time prior to the Commitment Termination Date.

The proceeds of borrowings and Letters of Credit hereunder are to be used for the purposes described in Section 5.9. On the Effective Date, the Lenders agreed to establish the credit facility referred to in the preceding paragraph upon the terms and subject to the conditions set forth herein.

On the Restatement Effective Date, the Original Credit Agreement was amended and restated in the form of this Agreement. Accordingly, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“ABR”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“Acquisition” means any transaction or series of related transactions resulting in the acquisition by the Borrower or any of its Restricted Subsidiaries, whether by purchase, merger or otherwise, of all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person.

“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” means JPMCB, in its capacity as administrative agent for the Lenders hereunder, or any successor administrative agent.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.



“Affiliate” means, 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.

“Agent” means each of the Administrative Agent, the Collateral Agent, the Syndication Agent and each of the Co-Documentation Agents.

“Agreement” means this Revolving Credit and Guaranty Agreement, as the same may hereafter be modified, supplemented, extended, amended, restated or amended and restated from time to time.

“Agreement Currency” has the meaning set forth in Section 10.19(b).

“Alternate Base Rate” means, for any day, a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day *plus* ½ of 1% and (c) the Adjusted LIBO Rate for an Interest Period of 1 month commencing on such day (or if such day is not a Business Day, the immediately preceding Business Day) *plus* 1.00%. For purposes of clause (c) above, the Adjusted LIBO Rate on any day shall be based on the Screen Rate at approximately 11:00 a.m., London time, on such day for deposits in dollars with a maturity of one month. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. Notwithstanding the foregoing, the Alternate Base Rate shall at no time be less than 0.00% per annum.

“Alternative Currency” means Euro, Sterling and any other currency (other than dollars) that (i) is freely available, freely transferable and freely convertible into dollars and (ii) unless otherwise consented to by each Lender, in which dealings in deposits are carried on in the London interbank market; provided that at the time of the issuance, amendment, increase or extension of any Letter of Credit denominated in a currency other than dollars, Euro or Sterling, such other currency is reasonably acceptable to the Administrative Agent and the applicable Issuing Bank in respect of such Letter of Credit.

“Amendment and Restatement Agreement” means the Second Amendment and Restatement Agreement dated as of April 3, 2017 among the Borrower, the Guarantor party thereto, the Lenders and Issuing Banks party thereto and JPMCB, as Administrative Agent and Collateral Agent.

“Anti-Corruption Laws” means all laws, rules and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery, corruption or money laundering.

“Applicable Creditor” has the meaning set forth in Section 10.19(b).

“Applicable Percentage” means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment; provided that if any Defaulting Lender exists at such time, the Applicable Percentage shall be calculated disregarding such Defaulting Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

“Applicable Rate” means, for any day, (a) with respect to any Eurodollar Loan, 1.50% per annum, and (b) with respect to any ABR Loan, 0.50% per annum.

“Application” means an application, in a form as the applicable Issuing Bank may specify as the form for use by its customers from time to time, executed and delivered by the Borrower to the Administrative Agent and the applicable Issuing Bank, requesting such Issuing Bank to issue a Letter of Credit.

“Approved Fund” has the meaning set forth in Section 10.4.

“Arranger” means JPMCB, in its capacity as sole lead arranger and any successor thereto.

“Asset Sale” means a sale, lease (as lessor or sublessor), sale and leaseback, license (as licensor or sublicensor), exchange, transfer or other disposition to, any Person, in one transaction or a series of transactions, of all or any part of the Borrower’s or any of its Restricted Subsidiaries’ businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, including the Equity Interests of any of the Borrower’s Subsidiaries, other than:

(a) inventory (or other assets, including intangible assets) sold, leased or licensed out in the ordinary course of business,

(b) obsolete, surplus or worn-out property,

(c) sales or other dispositions of Cash Equivalents for the fair market value thereof,

(d) dispositions of property (including the sale of any Equity Interest owned by such Person) from (i) any Restricted Subsidiary that is not a Guarantor to any other Restricted Subsidiary that is not a Guarantor or to any Loan Party or (ii) any Loan Party to any other Loan Party,

(e) dispositions of property in connection with casualty or condemnation events,

(f) dispositions of past due accounts receivable in connection with the collection, write down or compromise thereof in the ordinary course of business,

(g) dispositions of property to the extent that (x) such property is exchanged for credit against the purchase price of similar replacement property or (y) the proceeds of such disposition are promptly applied to the purchase price of such replacement property,

(h) dispositions permitted by clause (a) of Section 6.3,

(i) Permitted IP Transfers,

(j) dispositions of assets acquired in connection with (or owned by a Person that is acquired in connection with) an Acquisition for the fair market value thereof (as determined in good faith by the Borrower),

(k) any other sale, lease, sale and leaseback, license, exchange, transfer or other disposition of assets or properties (other than Material IP) for fair market value (as determined in good faith by the Borrower); provided that (i) no Default or Event of Default exists at the time of or would result from such disposition and (ii) the sum of (A) the aggregate consideration received or to be received in respect of such disposition plus (B) the aggregate consideration received or to be received in respect of all other dispositions effected in reliance on this clause

(k) prior to or concurrently with such disposition shall not exceed 30% of Consolidated Total Assets at the time of such disposition, and

(l) any other sale, lease, sale and leaseback, license, exchange, transfer or other disposition of assets or properties by a Foreign Subsidiary to a Loan Party or another Foreign Subsidiary, subject to compliance, in the case of any such disposition of Intellectual Property, with the requirements set forth in clauses (c), (d) and (e) of the definition of Permitted IP Transfer.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 10.4), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Assuming Lender” has the meaning set forth in Section 2.19(d).

“Auto-Extension Letter of Credit” has the meaning set forth in Section 2.4(a).

“Availability Period” means the period from and including the Effective Date to but excluding the Commitment Termination Date.

“Available Revolving Commitments” mean, as of any date, the aggregate amount of Commitments then in effect minus the aggregate amount of Revolving Exposure then outstanding.

“Bail-In Action” means 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” means, 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” means Chapter 11 of Title 11 of the United States Code, as amended from time to time and any successor statute and all rules and regulations promulgated thereunder.

“Beneficiary” means each Agent, Issuing Bank, Lender and Lender Counterparty.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Board of Directors” means the board of directors or comparable governing body of the Borrower, or any committee thereof duly authorized to act on its behalf.

“BofA” means Bank of America, N.A.

“Borrower” means Dropbox, Inc., a Delaware corporation.

“Borrowing” means (a) Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect or (b) a Swing Line Loan.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.5.

“Business Credit Card Obligations” means obligations incurred by the Borrower or its Restricted Subsidiaries in the ordinary course of business under a commercial credit card or purchasing card program.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“Capital Lease Obligations” of any Person means 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 the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that, any obligations relating to a lease that was accounted for by such Person as an operating lease as of the Effective Date and any similar lease entered into after the Effective Date by such Person that would not have been accounted for as a capital lease under GAAP as in effect on the Effective Date shall be accounted for as obligations relating to an operating lease and not as Capital Lease Obligations. For purposes of Section 6.2, a Capital Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“Cash Equivalents” means

(1) United States dollars, or money in other currencies received in the ordinary course of business,

(2) U.S. Government Obligations or certificates representing an ownership interest in U.S. Government Obligations with maturities not exceeding one year from the date of acquisition,

(3) (i) demand deposits, (ii) time deposits and certificates of deposit with maturities of one year or less from the date of acquisition, (iii) bankers' acceptances with maturities not exceeding one year from the date of acquisition, and (iv) overnight bank deposits, in each case with any bank or trust company organized or licensed under the laws of the United States or any State thereof having capital, surplus and undivided profits in excess of \$500 million whose short-term debt is rated "A-2" or higher by S&P or "P-2" or higher by Moody's,

(4) repurchase obligations with a term of not more than seven days for underlying securities of the type described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above,

(5) commercial paper rated at least P-1 by Moody's or A-1 by S&P and maturing within one year after the date of acquisition,

(6) securities with maturities of one year or less from the date of acquisition which (or the issuer of which) are rated at least A or A-1 by S&P or A2 or P-1 by Moody's, and

(7) money market funds at least 90% of the assets of which consist of investments of the type described in clauses (1) through (6) above.

"Cash Management Services" means (a) treasury management services (including controlled disbursements, zero balance arrangements, cash sweeps, automated clearinghouse transactions, return items, overdrafts, temporary advances, interest and fees and interstate depository network services) provided to the Borrower or any of its Restricted Subsidiaries and (b) commercial credit card and purchasing card services provided to the Borrower or any of its Restricted Subsidiaries.

"Cash Management Services Agreement" means any agreement with respect to the provision of Cash Management Services to the Borrower or any of its Restricted Subsidiaries.

"CFC" means (a) each Subsidiary that is a "controlled foreign corporation" for purposes of the Code and (b) each subsidiary of any such controlled foreign corporation.

"CFC Holdco" means each Subsidiary, including a U.S. Subsidiary, substantially all the assets of which consist of Equity Interests in one or more CFCs or Subsidiaries described in this definition.

"Change in Control" means (a) prior to an IPO, (i) the failure by the Permitted Holders to own, beneficially and of record, Equity Interests in the Borrower representing at least 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Borrower or (ii) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act and the rules of the Securities and Exchange Commission thereunder), other than the Permitted Holders,

of Equity Interests in the Borrower (or in any Person of which the Borrower is a direct or indirect wholly-owned Subsidiary) representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Borrower (or such Person); or (b) after an IPO, the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act and the rules of the Securities and Exchange Commission thereunder), other than the Permitted Holders, of Equity Interests in the Public Company (or in any Person of which the Public Company is a direct or indirect wholly-owned Subsidiary) representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Public Company (or such Person).

“Change in Law” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) 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 be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Code” means the U.S. Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

“Co-Documentation Agents” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date hereof), Deutsche Bank Securities Inc. and Royal Bank of Canada.

“Collateral” means, collectively, all of the property (including Equity Interests) in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

“Collateral Agent” means JPMCB, in its capacity as collateral agent for the Lenders hereunder, or any successor collateral agent.

“Collateral Documents” means the Security Agreement, the Intellectual Property Security Agreements and all other instruments, documents and agreements delivered by or on behalf of any Loan Party pursuant to this Agreement or any of the other Loan Documents in order to grant to, or perfect in favor of, the Collateral Agent, for the benefit of the Lenders, a Lien on any Collateral of that Loan Party as security for the Obligations.

“Commitment” means, with respect to each Lender, the commitment of such Lender to make Revolving Loans hereunder and to acquire participations in Letters of Credit and Swing Line Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s Loans hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.8, (b) increased from time to time pursuant to Section 2.19 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 2.20 or Section 10.4. The initial amount of each Lender’s Commitment as of the Restatement Effective Date is set forth on Schedule 2.1. The initial aggregate amount of the Lenders’ Commitments as of the Restatement Effective Date is \$600,000,000.

“Commitment Date” has the meaning set forth in Section 2.19(b).

“Commitment Increase” has the meaning set forth in Section 2.19(a).

“Commitment Letter” means the Commitment Letter dated March 27, 2017, among the Borrower, the Lenders party thereto, the Arranger and the other financial institutions named as Joint Bookrunners on the cover page hereof.

“Commitment Termination Date” means the earliest to occur of (a) the Maturity Date, (b) the date the Commitments are permanently reduced to zero pursuant to Section 2.8, and (c) the date of the termination of the Commitments pursuant to Article VIII.

“Committed Amount” has the meaning set forth in Section 2.11(b).

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Competitors” has the meaning set forth in the definition of “Disqualified Lender”.

“Consenting Lender” has the meaning set forth in Section 2.20(a).

“Consolidated Adjusted EBITDA” means, for any period, Consolidated Net Income for such period *plus*, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income for such period, the sum of (a) provision for taxes based on income, profits or capital, including federal, foreign and state income, franchise, and similar taxes based on income, profits or capital paid or accrued (including in respect of repatriated funds), (b) interest expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including the Loans), expenses associated with any loss from the early extinguishment of Indebtedness and expenses associated with the equity component of, and any mark-to-market losses with respect to convertible notes, (c) depreciation and amortization expense, (d) amortization of intangibles (including, but not limited to, goodwill) and organization costs, (e) costs and expenses in connection with any pending or threatened litigation, administrative proceeding or investigation, including any settlement costs in connection therewith, (f) expected cost savings, operating expense reductions and cost saving synergies related to Acquisitions after the Effective Date that are reasonably identifiable and factually supportable and are projected by the Borrower in good faith to result from actions that

will be taken (in the good faith determination of the Borrower and evidenced by a certificate of the chief financial officer of the Borrower) within 12 months after such Acquisition is consummated; provided that such cost savings, operating expense reductions and cost savings synergies shall not exceed 7.5% of Consolidated Adjusted EBITDA (before giving effect to such adjustment) for any Measurement Period, (g) transaction costs and expenses incurred or paid in connection with Acquisitions, (h) any net loss incurred in such period from foreign currency exchanges, conversions, translations and/or contracts, (i) any restructuring charges or other non-recurring or extraordinary charges or losses, in each case determined in accordance with GAAP to the extent GAAP is applicable to such determination, (j) non-cash stock option, restricted stock units and other equity-based compensation expenses, (k) payroll tax expense related to stock option and other equity-based compensation expenses, (l) any other non-cash charges, non-cash expenses or non-cash losses of the Borrower or any Restricted Subsidiaries for such period (including remeasurements of warrant liabilities and excluding any such charge, expense or loss incurred in the ordinary course of business that constitutes an accrual of, or a reserve for, cash charges for any future period), (m) costs, expenses, settlements and charges related to, arising out of or made in connection with legal proceedings, investigations and regulatory matters; provided that the amount that may be added back pursuant to this clause (m) shall not exceed 7.5% of Consolidated Adjusted EBITDA (before giving effect to such adjustment) for any Measurement Period, (n) adjustments relating to purchase price allocation accounting, and (o) fees and expenses directly related to the Transactions, the incurrence of any Indebtedness permitted hereunder, the offering of any Equity Interests by the Borrower, an IPO, any acquisition, investment or disposition transactions and any transfer or license of any Intellectual Property or intellectual property rights by the Borrower or any of its Subsidiaries to any Subsidiary of the Borrower, in each case whether or not completed; provided, however, that (i) increases in deferred revenue for such period shall be added back to Consolidated Net Income in calculating Consolidated Adjusted EBITDA for such period, (ii) decreases in deferred revenue for such period shall be subtracted from Consolidated Net Income in calculating Consolidated Adjusted EBITDA for such period, and (iii) cash payments made in such period or in any future period in respect of such non-cash charges, expenses or losses (excluding any such charge, expense or loss incurred in the ordinary course of business that constitutes an accrual of, or a reserve for, cash charges for any future period) shall be subtracted from Consolidated Net Income in calculating Consolidated Adjusted EBITDA in the period when such payments are made, and minus, to the extent included in the statement of such Consolidated Net Income for such period (and without duplication), the sum of (a) interest income, (b) any extraordinary income or gains determined in accordance with GAAP, (c) any income or gain from the early extinguishment of Indebtedness, (d) any net income or gain incurred in such period from foreign currency exchanges, conversions, translations and/or contracts and (e) any other non-cash income (excluding any items that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period that are described in the parenthetical to clause (l) above or any such item that is non-cash during such period but the subject of a cash payment in a prior or future period), including for the avoidance of doubt, mark-to market gains in respect of convertible notes, all as determined on a consolidated basis.

“Consolidated Current Assets” means, as at any date of determination, the total assets of the Borrower and its Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and cash equivalents.



“Consolidated Current Liabilities” means, as at any date of determination, the total liabilities of the Borrower and its Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt.

“Consolidated Leverage Ratio” means, at any date, the ratio of (a) the excess of (i) Consolidated Total Debt on such date over (ii) an amount equal to the Unrestricted cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries on such date (but not including the net cash proceeds of any Indebtedness that is incurred on such date) to (b) Consolidated Adjusted EBITDA for the four fiscal quarter period ending on or most recently prior to such date.

“Consolidated Net Income” means, for any period, the net income or loss of the Borrower and its consolidated Restricted Subsidiaries for such period, determined on a consolidated basis in conformity with GAAP; provided that there shall be excluded (a) the income of any Person that is not a consolidated Restricted Subsidiary except to the extent of the amount of cash dividends or similar cash distributions actually paid by such Person to the Borrower or, subject to clauses (b) and (c) below, any consolidated Restricted Subsidiary during such period, (b) the income of, and any amounts referred to in clause (a) above paid to, any consolidated Restricted Subsidiary of the Borrower to the extent that, on the date of determination, the declaration or payment of cash dividends or similar cash distributions by such Restricted Subsidiary is not permitted without any prior approval of any Governmental Authority that has not been obtained or is not permitted by the operation of the terms of the organizational documents of such Restricted Subsidiary, any agreement or other instrument binding upon such Restricted Subsidiary or any law applicable to such Restricted Subsidiary, unless such restrictions with respect to the payment of cash dividends and other similar cash distributions have been legally and effectively waived, and (c) the income or loss of, and any amounts referred to in clause (a) above paid to, any consolidated Restricted Subsidiary that is not wholly owned by the Borrower to the extent such income or loss or such amounts are attributable to the noncontrolling interest in such consolidated Restricted Subsidiary.

“Consolidated Total Assets” means, at any date of determination, the total amount of assets of the Borrower and its Restricted Subsidiaries, as set forth on the most recent financial statements delivered pursuant to Sections 5.1(a) and (b) (or, prior to the first such delivery, the financial statements for the fiscal year ended December 31, 2016 delivered pursuant to Section 3.4(a)).

“Consolidated Total Debt” of the Borrower and its Restricted Subsidiaries, on any date, means all Indebtedness of the Borrower and its Restricted Subsidiaries on such date, as would be required to appear as a liability on a consolidated balance sheet of the Borrower and its Restricted Subsidiaries, prepared as of such date in accordance with GAAP.

“Control” means 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.

“Counterpart Agreement” means a Counterpart Agreement substantially in the form of Exhibit H delivered by a Loan Party pursuant to Section 5.10.

“Credit Extension” has the meaning set forth in Section 4.2.

“DBNY” means Deutsche Bank AG New York Branch.

“Debtor Relief Laws” means 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.

“Declining Lender” has the meaning set forth in Section 2.20(a).

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means, subject to Section 2.21(c), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder, (ii) fund any portion of its participations in Letters of Credit or Swing Line Loans or (iii) pay to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s good faith determination that one or more conditions precedent to such funding or payment (each of which conditions precedent, together with any applicable Default, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Borrower, any Issuing Bank, Swing Line Lender or the Administrative Agent 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 good faith 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 Business Days after written request by the Administrative Agent, any Issuing Bank or the Borrower, to confirm in writing to the Administrative Agent, the Issuing Banks and the Borrower that it will comply with its prospective funding obligations and participations in then outstanding Letters of Credit and Swing Line Loans 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, the Issuing Banks 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 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 2.21(c)) upon delivery of written notice of such determination to the Borrower, each Issuing Bank, the Swing Line Lender and each Lender.

“Direct Borrower Obligations” shall mean any Obligations of the Borrower in its capacity as the Borrower under this Agreement, or as a counterparty or direct obligor with respect to any Secured Swap Agreement or any Secured Cash Management Services Agreement.

“Disbursement Date” has the meaning set forth in Section 2.4(d).

“Disclosed Matters” means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.6.

“Disqualified Equity Interest” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests and the payment in cash in lieu of the issuance of fractional shares of such Equity Interests), in whole or in part, or (iii) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 181 days after the Maturity Date then in effect; provided that Equity Interests will not constitute Disqualified Equity Interests solely because of provisions giving holders thereof the right to require repurchase or redemption upon an “asset sale” or “change of control” occurring prior to the date that is 181 days after the latest Maturity Date then in effect if the payment upon such redemption or repurchase is contractually subordinated in right of payment to the Obligations.

“Disqualified Institutions” has the meaning set forth in the definition of “Disqualified Lender”.

“Disqualified Lender” means, collectively, (a) any Person that is a competitor or potential competitor of the Borrower and its Subsidiaries or any investor in any such competitor or potential competitor, in each case as determined in good faith by the Borrower and to the extent identified by the Borrower to the Administrative Agent and the Lenders (including after the Restatement Effective Date which may be delivered in a form of a list provided to the Administrative Agent) by name in writing from time to time (“Competitors”), (b) those banks, financial institutions and other Persons separately identified by name by Borrower to the Administrative Agent in writing on or before the Restatement Effective Date, (c) any Person

(other than (x) any Affiliates of Lenders as of the Restatement Effective Date or (y) any Affiliate of a Lender approved by the Borrower and the Administrative Agent (such approval, in each case, not to be unreasonably withheld, delayed or conditioned)) with a long term unsecured credit rating of less than BBB- by S&P or Fitch Ratings Ltd. (or any successor thereto) or less than Baa3 by Moody's, (d) any Person (including an Affiliate or Approved Fund of a Lender) whose primary activity is the trading or acquisition of distressed debt; provided that, for purposes of Section 10.12, senior employees of Lenders or their Affiliates who are required, in accordance with industry regulations or the Lenders' internal policies and procedures to act in a supervisory capacity and the Lenders' internal legal, compliance, risk management, credit or investment committee members shall not constitute Disqualified Lenders as a result of this clause (d) (those banks, financial institutions and other Persons under clauses (b) through (d) are collectively referred to as the "Disqualified Institutions") and (e) any Subsidiary of a Competitor or a Disqualified Institution, other than bona fide debt funds that would not be a Competitor or a Disqualified Institution but for this clause (e), that are (x) identified in writing by the Borrower to the Administrative Agent and the Lenders (including after the Restatement Effective Date which may be delivered in a form of a list provided to the Administrative Agent) by name in writing from time to time or (y) clearly identifiable as affiliates solely on the basis of the similarity of its name (provided that neither the Administrative Agent nor any Lender shall have any obligation to carry out due diligence in order to identify such affiliates); provided that the foregoing clauses (c) and (d) shall be inapplicable during any time that an Event of Default has occurred and is continuing. The identification of any Competitor or Disqualified Institution after the Restatement Effective Date shall become effective three Business Days after delivery to the Administrative Agent and the Lenders (including by delivering a list provided to the Administrative Agent), and shall not apply retroactively to disqualify the assignment, participation or other transfer of an interest in Commitments or Loans that was effective prior to the effective date of such supplement (but such Person shall not be able to increase its Commitments or participations hereunder); provided that, for the avoidance of doubt, such Person shall thereafter be considered a Disqualified Lender. The Disqualified Lenders shall be identified to the Lenders by the Administrative Agent (which may be in the form of notice posted to the Platform).

"dollars" or "\$" refers to lawful money of the United States of America.

"Dollar Equivalent" means, on any date of determination, (a) with respect to any amount in dollars, such amount, and (b) with respect to any amount in any currency other than dollars, the equivalent in dollars of such amount, determined by the Administrative Agent using the Exchange Rate with respect to such currency in effect for such amount on such date. The Dollar Equivalent at any time of the amount of any Letter of Credit or Letter of Credit disbursement denominated in any currency other than dollars shall be the amount most recently determined as provided in Section 1.5(b).

"Domestic Restricted Subsidiary" means any Domestic Subsidiary that is a Restricted Subsidiary.

"Domestic Subsidiary" means any Subsidiary other than (a) a CFC, (b) a CFC Holdco or (c) a subsidiary of a CFC Holdco.

“DQ List” has the meaning set forth in Section 10.4(e).

“Effective Date” means March 20, 2014.

“Eligible Assignee” has the meaning set forth in Section 2.19(c).

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of investigation, reclamation or remediation, fines, penalties or indemnities), directly or indirectly resulting from or based upon (a) compliance or noncompliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the presence, release or threatened release of, or exposure to, any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest; provided that Equity Interests shall not include any debt securities that are convertible into or exchangeable for any combination of Equity Interests and/or cash.

“ERISA” means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

“ERISA Affiliate” means any person that for purposes of Title I or Title IV of ERISA or Section 412 of the Code would be deemed at any relevant time to be a single employer or otherwise aggregated with the Borrower or a Subsidiary under Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

“ERISA Event” means any one or more of the following: (a) any reportable event, as defined in Section 4043 of ERISA, with respect to a Plan; (b) the termination of any Plan under Section 4041 of ERISA; (c) the institution of proceedings by the PBGC under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan; (d) the failure to make a required contribution to any Plan that would result in the imposition of a lien or other encumbrance or the provision of security under Section 430 of the Code or Section 303 or 4068 of ERISA, or the arising of such a lien or encumbrance; (e) any Borrower, Subsidiary or any ERISA Affiliate requests a minimum funding waiver or fails to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA; (f) a determination that any Plan is, or is reasonably expected to be, considered an at-risk plan within the meaning of Section 430 of the Code or Section 303 of ERISA; (g) engaging in a non-exempt prohibited transaction within the meaning of Section 4975 of the Code or Section 406

of ERISA with respect to a Plan; (h) the complete or partial withdrawal of any Borrower, Subsidiary or any ERISA Affiliate from a Multiemployer Plan; or (i) a determination that any Multiemployer Plan is in endangered or critical status under Section 432 of the Code or Section 305 of ERISA or is, or is expected to be, “insolvent” within the meaning of Section 4245 of ERISA).

“Euro” or “€” means the lawful currency of the member states of the European Union that have adopted a single currency in accordance with applicable law or treaty.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“Event of Default” has the meaning set forth in Article VIII.

“Exchange Rate” means, on any day, for purposes of determining the Dollar Equivalent of any currency other than dollars, the rate at which such other currency may be exchanged into dollars, as set forth at approximately 11:00 a.m., New York City time on such day on the applicable Reuters World Currency Page (or, solely in the case of determining the Dollar Equivalent of any drawing honored under a Letter of Credit denominated in an Alternative Currency, as set forth on such page at such other time (if any) on the relevant Disbursement Date (not later, in any event, than 5:00 p.m., London time) notified to the Administrative Agent by the relevant Issuing Bank on such Disbursement Date as being the time it hedged its Alternative Currency exposure in respect of such drawing). In the event that such rate does not appear on the applicable Reuters World Currency Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent, the applicable Issuing Bank and the Borrower, or, in the absence of such an agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about such time as the Administrative Agent shall elect (or as notified to it by the relevant Issuing Bank as provided above) after determining that such rates shall be the basis for determining the Exchange Rate, on such date for the purchase of dollars for delivery two Business Days later; provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“Excluded Leases” means the agreements listed on Schedule 1.1 hereto.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, the Guaranty by such Guarantor of, or the grant by such Guarantor of a security interest 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 and the regulations thereunder at the time the Guaranty of such Guarantor, or the grant of such security interest, becomes effective with respect to such Swap Obligation. If 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 Guaranty or security interest is or becomes illegal.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) Taxes imposed on (or measured by) its net income or gross profit, franchise Taxes, and branch profits Taxes, in each case (i) imposed by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.18(b)), any United States withholding Tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.16(a), (c) or (d), (c) any U.S. withholding Taxes imposed under FATCA and (d) any Taxes attributable to such recipient’s failure to comply with Section 2.16(e).

“Existing Credit Agreement” means the Revolving Credit and Guaranty Agreement dated as of October 24, 2012, as heretofore amended and in effect, among the Borrower, the guarantors party thereto, the lenders party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent and collateral agent.

“Existing Maturity Date” has the meaning set forth in Section 2.20(a).

“Extension Effective Date” has the meaning set forth in Section 2.20(a).

“FATCA” means Sections 1471 through 1474 of the Code, as of the Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code or any published intergovernmental agreement entered into in connection with the implementation of such Sections of the Code and any fiscal or regulatory legislation, rules or official practices adopted pursuant to any such intergovernmental agreement.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

“First Tier Parent” means, with respect to any Foreign Subsidiary that is not a direct wholly owned subsidiary of the Loan Parties, each Foreign Subsidiary (a) that owns, directly or indirectly, Equity Interests in such Foreign Subsidiary and (b) any of the Equity Interests in which are directly owned by one or more of the Loan Parties.

“Foreign Chain Entity” means, with respect to any Foreign Subsidiary that is not a direct wholly owned subsidiary of the Loan Parties, each First Tier Parent of such Foreign Subsidiary and each subsidiary of such First Tier Parent that holds, directly or indirectly, any Equity Interests in such Foreign Subsidiary.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” means any Subsidiary other than a Domestic Subsidiary.

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Acts” means any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority.

“Governmental Authority” means the government of the United States of America, any other nation or 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).

“Grantor” has the meaning set forth in the Security Agreement.

“GSLP” means Goldman Sachs Lending Partners LLC.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business, or customary indemnification obligations entered into in connection with any Acquisition or disposition of assets or of other entities (other than to the extent that the primary obligations that are the subject of such indemnification obligation would be considered Indebtedness hereunder).



“Guaranteed Obligation” has the meaning set forth in Section 7.1.

“Guarantor” means each Person that shall have become a party hereto as a “Guarantor” and shall have provided a Guaranty of the Obligations by executing and delivering to the Administrative Agent a signature page hereto or a Counterpart Agreement; provided that for purposes of Article VII, the term “Guarantors” shall also include the Borrower (except with respect to the Direct Borrower Obligations).

“Guaranty” means the guaranty of each Guarantor set forth in Article VII.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Impacted Interest Period” means, at any time, with respect to an Interest Period for a Borrowing, that the Screen Rate is not available at such time for such Interest Period.

“Increase Date” has the meaning set forth in Section 2.19(a).

“Increasing Lender” has the meaning set forth in Section 2.19(b).

“Indebtedness” of any Person at any date means, 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 (i) accounts payable and accrued expenses (as defined under GAAP) incurred in the ordinary course of such Person’s business, (ii) purchase price adjustments, earnouts, holdbacks and other similar deferred consideration payable in connection with Acquisitions, and (iii) for the avoidance of doubt, financing, construction or other similar liabilities arising pursuant to of EITF 97-10 (ASC 840) or any successor accounting pronouncement and not reflecting any obligation to any other Person), (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 of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of bankers’ acceptances, letters of credit, surety bonds or similar arrangements, (g) all Guarantees of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above and (h) all obligations of the kind referred to in clauses (a) through (g) 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 or acquired by such Person, whether or not such Person has assumed or become liable for the payment of such obligation. 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. Notwithstanding the foregoing, the obligations of the Borrower pursuant to the Excluded Leases shall not constitute Indebtedness for purposes of this Agreement.

"Indemnified Taxes" means 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.

"Indemnitee" has the meaning set forth in Section 10.3(b).

"Information Documents" means at any time any memorandum, lender's presentation or other written information, in each case as then supplemented or amended and including any documents attached thereto or incorporated by reference therein, prepared by the Borrower and given to any Lender in connection with the Transactions.

"Intellectual Property" has the meaning set forth in the Security Agreement.

"Intellectual Property Security Agreements" has the meaning set forth in the Security Agreement.

"Interest Election Request" means a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.7.

"Interest Payment Date" means (a) with respect to any ABR Loan (other than a Swing Line Loan), the last day of each March, June, September and December, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and (c) with respect to any Swing Line Loan, the day such Loan is required to be repaid.

"Interest Period" means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months (or, with the consent of each Lender, twelve months or less than one month) thereafter, as the Borrower may elect; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interpolated Rate” means, at any time for any Interest Period, the rate per annum (rounded to the same number of decimal places as the Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Screen Rate for the longest period for which that Screen Rate is available that is shorter than the Impacted Interest Period and (b) the applicable Screen Rate for the shortest period for which that Screen Rate is available that exceeds the Impacted Interest Period, in each case, at such time.

“Investment” means any loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business), extension of credit (by way of Guarantee or otherwise) or capital contributions by the Borrower or any of its Restricted Subsidiaries to any other Person (other than any Loan Party); provided that Investment shall not include any Acquisitions.

“IPO” means a bona fide underwritten sale to the public of Qualified Equity Interests of the Public Company pursuant to a registration statement (other than on Form S-8 or any other form relating to securities issuable under any benefit plan of the Borrower or any of its Subsidiaries, as the case may be) that is declared effective by the Securities and Exchange Commission.

“IRS” means the U.S. Internal Revenue Service.

“ISP 98” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be acceptable to the applicable Issuing Bank and in effect at the time of issuance of such Letter of Credit).

“Issuance Notice” means an Issuance Notice substantially in the form of Exhibit B-2.

“Issuing Bank” means (a) each of JPMCB, GSLP, DBNY and BofA and (b) each Lender that shall have become an Issuing Bank hereunder as provided in Section 2.4(i) (other than any Person that shall have ceased to be an Issuing Bank as provided in Section 2.4(h)), each in its capacity as an issuer of Letters of Credit hereunder and together with its permitted successors and assigns in such capacity. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.4 with respect to such Letters of Credit).

“Issuing Bank Sublimit” means, at any time, (a) with respect to JPMCB in its capacity as Issuing Bank, \$50,000,000, (b) with respect to GSLP in its capacity as Issuing Bank, \$50,000,000, (c) with respect to DBNY in its capacity as Issuing Bank, \$40,000,000, (d) with respect to BofA in its capacity as Issuing Bank, \$40,000,000 and (e) with respect to any Lender that shall have become an Issuing Bank hereunder as provided in Section 2.4(i), such amount as set forth in the agreement referred to in Section 2.4(i) evidencing the appointment of such Lender (or its designated Affiliate) as an Issuing Bank.

“Joint Bookrunner” means JPMCB, GSLP, Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date hereof), Deutsche Bank Securities Inc., RBC Capital Markets and Macquarie Capital (USA) Inc., in their capacity as joint bookrunners, and any successor thereto.

“Joint Venture” means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form; provided that, in no event shall any corporate subsidiary of any Person be considered to be a Joint Venture to which such Person is a party.

“JPMCB” means JPMorgan Chase Bank, N.A.

“Judgment Currency” has the meaning set forth in Section 10.19(b).

“Lender Counterparty” means each Lender, each Agent and each of their respective Affiliates that is counterparty to a Swap Agreement or provider of Cash Management Services pursuant to a Cash Management Services Agreement, as applicable, including any Person who is an Agent or a Lender (and any Affiliate thereof) at the time of entry into such Swap Agreement or Cash Management Services Agreement, as applicable, but subsequently ceases to be an Agent or a Lender (or an Affiliate thereof), as the case may be.

“Lenders” means the Persons listed on Schedule 2.1 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or pursuant to Section 2.19, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swing Line Lender.

“Letter of Credit” means a standby letter of credit issued or to be issued by an Issuing Bank pursuant to this Agreement in a form and substance approved by such Issuing Bank.

“Letter of Credit Sublimit” means the lesser of (a) \$150,000,000 and (b) the aggregate unused amount of the Commitments then in effect.

“Letter of Credit Usage” means, as at any date of determination, the sum of (a) the sum of the Dollar Equivalents (based on the applicable Exchange Rates) of the aggregate maximum amounts which are, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (b) the sum of the Dollar Equivalents (based on the applicable Exchange Rates) of the aggregate amounts of all drawings under Letters of Credit honored by the Issuing Banks and not theretofore reimbursed by or on behalf of the Borrower. The Letter of Credit Usage of any Lender at any time shall be its Applicable Percentage of the total Letter of Credit Usage at such time, adjusted to give effect to any reallocation under Section 2.21 of the Letter of Credit Usage of Defaulting Lenders in effect at such time.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the applicable Screen Rate as of 11:00 a.m., New York City time, on the Quotation Day of such Interest Period; provided that with respect to an Impacted Interest Period, the LIBO Rate shall be the Interpolated Rate as of 11:00 a.m., New York City time, on the Quotation Day; and provided further that if the LIBO Rate shall be less than zero, such rate shall be deemed to be zero for all purposes of this Agreement.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Limited Information” means (a) information regarding the terms of, and the Borrower’s compliance with, this Agreement and the other Loan Documents, (b) information concerning the financial position, results of operations and cash flows of the Borrower and its Subsidiaries, including the Information Documents and the financial statements provided by the Borrower pursuant to Sections 3.4(a), 5.1(a) and (b) and any information concerning contingent liabilities, commitments and other exposures that would be material to determinations concerning the creditworthiness of the Borrower and its Restricted Subsidiaries, (c) any notice, certificate or other document delivered by the Borrower pursuant to the terms of this Agreement or any other Loan Document, (d) information regarding the Consolidated Leverage Ratio or the corporate debt rating (if any) of the Borrower and (e) information regarding the credit support for the credit facility established hereunder, including the Collateral and Guarantors (it being understood that the term “Limited Information” does not include product designs, software and technology, inventions, trade secrets, know-how or other proprietary information of a like nature).

“Liquidity” means, at any time, the sum of (a) Unrestricted cash and Cash Equivalents held by the Borrower and its Restricted Subsidiaries plus (b) so long as the conditions to borrowing set forth in clauses (b) and (c) of Section 4.2 are satisfied at such time, the Available Revolving Commitments.

“Loan Documents” means this Agreement (including any amendment hereto or waiver hereunder), the Amendment and Restatement Agreement, the Notes (if any), any Counterpart Agreement, the Collateral Documents and any agreements, documents or certificates executed by the Borrower in favor of any Issuing Bank relating to Letters of Credit and any other agreement entered into in connection herewith by the Borrower or any Loan Party with or in favor of the Administrative Agent, the Collateral Agent or the Lenders and designated by the terms thereof as a “Loan Document”.

“Loan Parties” means the Borrower and the other Guarantors.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Margin Stock” has the meaning assigned to such term in Regulation U of the Board as in effect from time to time.

“Material Adverse Effect” means a material adverse effect on (a) the business, property, financial condition or results of operations of the Borrower and its Restricted Subsidiaries taken as a whole or (b) the rights and remedies of the Lenders, the Issuing Banks or the Administrative Agent under this Agreement or of any Agent, any Issuing Bank, any Lender or any other Secured Party under the Loan Documents.

“Material Domestic Subsidiary” means, at any time of determination, (a) each Domestic Subsidiary that is a Material IP Subsidiary and (b) each Domestic Restricted Subsidiary (i) whose consolidated total assets as of the last day of the most recent fiscal quarter in respect of which financial statements have been delivered pursuant to Section 5.1(a) or (b) or Section 3.4(a) were equal to or greater than 5% of the consolidated total assets of the Borrower and its Restricted Subsidiaries at such date or (ii) whose consolidated gross revenues for the most recent period of four fiscal quarters in respect of which financial statements have been delivered pursuant to Section 5.1(a) or (b) or Section 3.4(a) were equal to or greater than 5% of the consolidated gross revenues of the Borrower and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP, provided that if, as of the most recent date or period referred to in clause (b)(i) or (ii) above, the combined consolidated total assets or the combined consolidated gross revenues of all Domestic Restricted Subsidiaries that would not constitute Material Domestic Subsidiaries in accordance with this clause (b) or clause (a) above shall have exceeded 20% of the consolidated total assets of the Borrower and its Restricted Subsidiaries at such date or 20% of consolidated gross revenues of the Borrower and its Restricted Subsidiaries for such period, then one or more of such Domestic Restricted Subsidiaries that would not otherwise be Material Domestic Subsidiaries shall for all purposes of this Agreement be and automatically become Material Domestic Subsidiaries in descending order based on the amounts of their consolidated total assets or consolidated gross revenues, as the case may be, until such excess shall have been eliminated.

“Material Indebtedness” means Indebtedness (other than any Indebtedness under the Loan Documents), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Restricted Subsidiaries in a principal amount exceeding \$25,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower or any Restricted Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Restricted Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Material IP” means any Intellectual Property that is material to the conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole.

“Material IP Subsidiary” means each Subsidiary that owns, directly or indirectly through one or more of its subsidiaries, any Material IP.

“Material Real Estate Asset” means any domestic fee owned Real Estate Asset having a fair market value in excess of \$5,000,000.

“Maturity Date” means (a) April 4, 2022 or (b) with respect to the Commitments of Consenting Lenders, as such date may be extended pursuant to Section 2.20.

“Maturity Date Extension Request” means a request by the Borrower, in the form of Exhibit G hereto or such other form as shall be approved by the Administrative Agent, for the extension of the Maturity Date pursuant to Section 2.20.

“Measurement Period” means, at any date of determination, the most recently completed four consecutive fiscal quarters of the Borrower ended on or prior to such date.

“Moody’s” means Moody’s Investors Service, Inc., and any successor to its rating agency business.

“Multiemployer Plan” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA, which is contributed to by (or to which there is or could be an obligation to contribute of) the Borrower or a Subsidiary or an ERISA Affiliate, and each such plan for the five- year period immediately following the latest date on which the Borrower, or a Subsidiary or an ERISA Affiliate contributed to or had an obligation to contribute to such plan.

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.2 and (b) has been approved by the Required Lenders.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-U.S. Plan” means any plan, fund (including any superannuation fund) or other similar program established, contributed to (regardless of whether through direct contributions or through employee withholding) or maintained outside the United States by the Borrower or one or more Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside the United States, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

“Note” means a Revolving Loan Note or a Swing Line Note.

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” shall mean the rate for a federal funds transaction quoted at 11:00 a.m., New York City time, on such day received by the Administrative Agent from a federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” means all amounts owing by any Loan Party to any Agent, any Issuing Bank, any Lender or any Lender Counterparty pursuant to the terms of this Agreement, any Secured Swap Agreement (including payments for early termination of any Secured Swap Agreements), any Secured Cash Management Services Agreement (but in the case of Business Credit Card Obligations, not to exceed \$10,000,000 in the aggregate at any time outstanding) or any other Loan Document (including reimbursement of amounts drawn under Letters of Credit and all interest which accrues after the commencement of any bankruptcy or insolvency proceeding, whether or not allowed or allowable).

“Obligee Guarantor” has the meaning set forth in Section 7.6.

“OFAC” means the United States Treasury Department Office of Foreign Assets Control.

“Original Credit Agreement” means this Agreement, as in effect immediately prior to the Restatement Effective Date.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Taxes (other than connections arising solely 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 this Agreement or any other Loan Document, or sold or assigned an interest in this Agreement or any other Loan Document).

“Other Taxes” means any and all present or future stamp, court or documentary Taxes or any other excise, property, intangible, recording, filing or similar Taxes which arise from any payment made, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and the other Loan Documents; excluding, however, such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than such Taxes imposed with respect to an assignment that occurs as a result of the Borrower’s request pursuant to Section 2.18(b)).

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Participant” has the meaning set forth in Section 10.4.

“Participant Register” has the meaning assigned to such term in Section 10.4(c)(iii).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.



“Pension Plan” means any “employee pension benefit plan” within the meaning of Section 3(2) of ERISA, other than a Multiemployer Plan, that is subject to Title IV of ERISA, Section 412 of the Code or Section 302 of ERISA and is maintained or contributed to (or obligated to be contributed) in whole or in part by the Borrower, any Subsidiary or any ERISA Affiliate or with respect to which any of the Borrower, any Subsidiary or any ERISA Affiliate has actual or contingent liability or had any such liability for the five-year period immediately following the latest date on which the Borrower, a Subsidiary or an ERISA Affiliate maintained, contributed to or had an obligation to contribute to such plan.

“Perfection Certificate” means a certificate in form reasonably satisfactory to Collateral Agent that provides information with respect to the Collateral of each Loan Party.

“Permitted Encumbrances” means:

(a) Liens imposed by law for taxes, assessments or governmental charges or levies that are not yet due or are being contested in compliance with Section 5.4;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, landlord’s, supplier’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in compliance with Section 5.4;

(c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations or employment laws or to secure other public, statutory or regulatory obligations;

(d) pledges and deposits to secure the performance of bids, trade and commercial contracts (other than for the payment of Indebtedness), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case incurred in the ordinary course of business;

(e) judgment liens and deposits to secure obligations under appeal bonds or letters of credit in respect of judgments that do not constitute an Event of Default under clause (k) of Article VIII;

(f) Uniform Commercial Code financing statements filed (or similar filings under applicable law) solely as a precautionary measure in connection with operating leases; and

(g) easements, zoning restrictions, rights-of-way, encroachments and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary.

“Permitted Holders” means (a) any Person listed on Schedule 1.2, (b) any Affiliate of any such Person, (c) any trust or partnership created solely for the benefit of any natural person listed on Schedule 1.2 and/or members of the family of any natural person listed on Schedule 1.2 and (d) any Person where the voting of shares of capital stock of the Borrower is Controlled by any of the foregoing.

“Permitted IP Transfer” means the sale, transfer or other disposition of Intellectual Property by a Loan Party or a Domestic Restricted Subsidiary to a Foreign Subsidiary that is wholly owned by the Borrower, either directly or indirectly through one or more of the Borrower’s wholly owned subsidiaries; provided that (a) no Default or Event of Default exists at the time of or would result from such disposition, (b) the Borrower’s Consolidated Leverage Ratio does not exceed 3.50 to 1.00 (to be calculated after giving pro forma effect to such disposition, as of the last day of the most recently ended four fiscal quarter period for which financial statements have been or are required to be delivered pursuant to Section 5.1(a) or (b)), (c) such disposition is for fair market value and on an arm’s length basis (as determined in good faith by a resolution of the Board of Directors, excluding any directors that have a conflict of interest related to the proposed transaction), (d) if such Foreign Subsidiary is a direct wholly owned subsidiary of any Loan Party, such Loan Party shall have pledged 65% of the voting Equity Interests and 100% of the non-voting Equity Interests of such Foreign Subsidiary as Collateral securing the Obligations, (e) if such Foreign Subsidiary is not a direct wholly owned subsidiary of any Loan Party, (i) the Loan Parties shall have pledged 65% of the voting Equity Interests and 100% of the non-voting Equity Interests of each First Tier Parent of such Foreign Subsidiary as Collateral securing the Obligations and (ii) no Foreign Chain Entity will engage in any business, have any Indebtedness or other liabilities or own any significant assets other than Equity Interests in one or more Foreign Chain Entities or in such Foreign Subsidiary and (f) the Borrower shall have complied with, or substantially concurrently with the consummation of such Permitted IP Transfer shall comply with, all requirements of Section 5.10 relating to any Subsidiary that, directly or indirectly, owns any Equity Interests in such Foreign Subsidiary, without giving effect to any grace periods set forth therein for the taking of the actions required thereby.

“Person” means any natural person, corporation, limited liability company, trust, Joint Venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any “employee benefit plan” as defined in Section 3(3) of ERISA (other than a Multiemployer Plan).

“Platform” has the meaning set forth in Section 10.1.

“Pledged Collateral” has the meaning set forth in the Security Agreement.

“Prime Rate” means the rate of interest per annum publicly announced from time to time by JPMCB as its prime rate in effect at its principal office in New York City. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Pro Rata Share” means, with respect to any Lender, the percentage obtained by dividing (a) the Revolving Exposure of that Lender by (b) the aggregate Revolving Exposure of all Lenders.

“Projections” means the projections of the Borrower and its Restricted Subsidiaries for the period of fiscal year 2017 through and including fiscal year 2019.

“Public Company” shall mean, after the IPO, the Person that shall have issued Equity Interests pursuant to such IPO (such person being either the Borrower or any direct parent company of the Borrower).

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding \$10,000,000 at the time the relevant Guaranty or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other Loan Party as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder at such time and can cause another Person to qualify as an “eligible contract participant” at such time (including as a result of the agreements in Section 7.11(b) or any other Guarantee or other support agreement or any other keepwell agreement under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act in respect of the obligations of such Guarantor by another Loan Party, in each case that constitutes an “eligible contract participant”).

“Qualified Equity Interests” means Equity Interests other than Disqualified Equity Interests.

“Quotation Day” means, in respect of the determination of the LIBO Rate for any Interest Period, the day that is two Business Days prior to the first day of such Interest Period; unless market practice differs for loans priced by reference to rates quoted in the London interbank market, in which case the Quotation Day shall be determined by the Administrative Agent in accordance with market practice in the London interbank market (and if quotations would normally be given by leading banks in the London interbank market on more than one day, the Quotation Day shall be the last of those days).

“Real Estate Asset” means, at any time of determination, any interest (fee, leasehold or otherwise) then owned by any Loan Party in any real property.

“Recipient” means the Administrative Agent, any Lender and any Issuing Bank, or any combination thereof (as the context requires).

“Register” has the meaning set forth in Section 10.4.

“Reimbursement Date” has the meaning set forth in Section 2.4(d).

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Required Lenders” means, at any time, Lenders having more than 50% of the aggregate Revolving Exposure and unused Commitments at such time. The Revolving Exposure and Commitment of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Responsible Officer” means any of the President and Chief Executive Officer, Senior Vice President and Chief Financial Officer of the applicable Loan Party, or any person designated by any such Loan Party in writing to the Administrative Agent from time to time, acting singly.

“Restatement Effective Date” means April 3, 2017.

“Restricted” means, when referring to cash or Cash Equivalents of the Borrower and its Restricted Subsidiaries, that such cash or Cash Equivalents (a) appear (or would be required to appear) as “restricted” on the consolidated balance sheet of the Borrower, (b) are subject to any Lien in favor of any Person or (c) are not otherwise generally available for use by such Person or any Restricted Subsidiary of such Person so long as such Restricted Subsidiary is not prohibited by applicable law, contractual obligation or otherwise from transferring such cash or Cash Equivalents to the Borrower.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund, similar deposit or withholding of shares for tax purposes, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any Subsidiary. For the avoidance of doubt, the conversion of, or payment for (including, without limitation, payments of principal and payments upon redemption or repurchase), or paying any interest with respect to, any debt securities that are convertible into or exchangeable for any combination of Equity Interests and/or cash shall not constitute a Restricted Payment.

“Restricted Subsidiary” means any Subsidiary other than an Unrestricted Subsidiary.

“Revolving Exposure” means, with respect to any Lender as of any date of determination, the sum of (a) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (b) the Letter of Credit Usage of that Lender and (c) the Swing Line Exposure of that Lender.

“Revolving Loan” means a Loan made by a Lender to the Borrower pursuant to Section 2.1 and/or Section 2.19.

“Revolving Loan Note” means a promissory note in the form of Exhibit D-1, as it may be amended, restated, supplemented or otherwise modified from time to time.

“S&P” means S&P Global Ratings, a business unit of Standard & Poor’s Financial Services LLC, and any successor to its rating agency business.

“Sanctioned Country” means, at any time, a country, region or territory which is the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person organized or resident in a Sanctioned Country or (c) any Person owned 50% or more or otherwise controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority.

“Screen Rate” means, in respect of the LIBO Rate for any Interest Period, a rate per annum equal to the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period as displayed on the Reuters screen page that displays such rate (currently page LIBOR01 or LIBOR02) (or, in the event such rate does not appear on a page of the Reuters screen, on the appropriate page of such other information service that publishes such rate as shall be selected by the Administrative Agent from time to time in its reasonable discretion). If no Screen Rate shall be available for a particular Interest Period but Screen Rates shall be available for maturities both longer and shorter than such Interest Period, then the Screen Rate for such Interest Period shall be the Interpolated Rate. Notwithstanding the foregoing, if the Screen Rate, determined as provided above in this definition, would be less than zero, the Screen Rate shall for all purposes of this Agreement be zero.

“Secured Cash Management Services” means Cash Management Services provided to any Loan Party by any Lender Counterparty pursuant to a Secured Cash Management Services Agreement.

“Secured Cash Management Services Agreement” means any agreement with respect to the provision of Secured Cash Management Services to any Loan Party by any Lender Counterparty.

“Secured Obligations” has the meaning set forth in the Security Agreement.

“Secured Parties” has the meaning set forth in the Security Agreement.

“Secured Swap Agreement” means a Swap Agreement among one or more Loan Parties and a Lender Counterparty.

“Security Agreement” means the Pledge and Security Agreement to be executed by each Loan Party substantially in the form of Exhibit E, as it may be amended, restated, supplemented or otherwise modified from time to time.

“Solvency Certificate” means a Solvency Certificate of a Financial Officer of the Borrower substantially in the form of Exhibit I.

“Solvent” means, with respect to the Borrower and its Restricted Subsidiaries on a particular date, that on such date (a) the fair value of the present assets of the Borrower and its Restricted Subsidiaries, taken as a whole, is greater than the total amount of liabilities, including contingent liabilities, of the Borrower and its Restricted Subsidiaries, taken as a whole, (b) the present fair saleable value of the assets of the Borrower and its Restricted Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liability of the Borrower and its Restricted Subsidiaries, taken as a whole, on their debts as they become absolute and matured, (c) the Borrower and its Restricted Subsidiaries, taken as a whole, do not intend to, and do not believe that they will, incur debts or liabilities (including current obligations and contingent liabilities) beyond their ability to pay such debts and liabilities as they mature in the ordinary course of business and (d) the Borrower and its Restricted Subsidiaries, taken as a whole, are not engaged in business or a transaction, and are not about to engage in business or a transaction, in relation to which their property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Sterling” or “£” means the lawful currency of the United Kingdom.

“Subsidiary” means any subsidiary of the Borrower.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent and which is required by GAAP to be consolidated in the consolidated financial statements of the parent.

“Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar 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 no 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 or the Subsidiaries shall be a Swap Agreement.

“Swap Obligation” means, with respect to any Guarantor, any obligation 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.

“Swing Line Exposure” means, at any time, the aggregate principal amount of all Swing Line Loans outstanding at such time. The Swing Line Exposure of any Lender at any time shall be its Applicable Percentage of the total Swing Line Exposure at such time, adjusted to give effect to any reallocation under Section 2.21 of the Swing Line Exposure of Defaulting Lenders.

“Swing Line Lender” means JPMCB, in its capacity as Swing Line Lender hereunder, together with its permitted successors and assigns in such capacity.

“Swing Line Loan” means a Loan made by Swing Line Lender to the Borrower pursuant to Section 2.3.

“Swing Line Note” means a promissory note in the form of Exhibit D-2, as it may be amended, restated, supplemented or otherwise modified from time to time.

“Swing Line Sublimit” means the lesser of (i) \$15,000,000, and (ii) the aggregate unused amount of Commitments then in effect.

“Syndication Agent” means GSLP.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholding) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Trade Date” has the meaning set forth in Section 10.4(e).

“Total Market Cap” means, as at any date of determination, the value of the Borrower’s common shares on the principal national securities exchange on which the Borrower’s common shares are registered and listed for trading at the close of trading on the preceding Business Day multiplied by the aggregate number of common shares outstanding as of the close of trading on such day.

“Total Utilization of Commitments” means, as at any date of determination, the sum of (a) the aggregate principal amount of all outstanding Revolving Loans, (b) the aggregate principal amount of all outstanding Swing Line Loans, and (c) the aggregate Letter of Credit Usage.

“Transactions” means the execution, delivery and performance by the Loan Parties of each Loan Document (including the Amendment and Restatement Agreement on the Restatement Effective Date) to which it is a party, the borrowing of Loans and the use of the proceeds thereof, the issuance of Letters of Credit and the use thereof, and the granting of Liens in the Collateral under the Collateral Documents.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate; provided that with respect to Swing Line Loans, such rate shall be determined by reference to the Alternate Base Rate only.

“U.S. Government Obligations” means obligations issued or directly and fully guaranteed or insured by the United States of America or by any agent or instrumentality thereof, provided that the full faith and credit of the United States of America is pledged in support thereof.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“U.S. Subsidiary” means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

“Unfunded Pension Liability” means the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

“Unrestricted” means, when referring to cash or Cash Equivalents, that such cash or Cash Equivalents are not Restricted.

“Unrestricted Subsidiary” means any Subsidiary that at the time of determination has previously been designated, and continues to be, an Unrestricted Subsidiary in accordance with Section 5.12.

“USA Patriot Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended from time to time.

“wholly owned”, when used in reference to a subsidiary of any Person, means that all the Equity Interests in such subsidiary (other than directors’ qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable law) are owned, beneficially and of record, by such Person, another wholly owned subsidiary of such Person or any combination thereof.

“Withholding Agent” means the Borrower and the Administrative Agent.

“Write-Down and Conversion Powers” means, 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.



## Section 1.2 Classification of Loans and Borrowings.

For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a “Eurodollar Loan” or an “ABR Loan”). Borrowings also may be classified and referred to by Type (e.g., a “Eurodollar Borrowing” or an “ABR Borrowing”).

## Section 1.3 Terms Generally.

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, amendments and restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) 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, (e) 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, securities, accounts and contract rights and (f) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time. Each reference herein to the “date of this Agreement” or the “date hereof” shall be deemed to refer to the Effective Date.

## Section 1.4 Accounting Terms; GAAP.

Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision has been amended in accordance herewith. Notwithstanding the foregoing, all financial statements

delivered hereunder shall be prepared, and all financial covenants contained herein shall be calculated, without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (ASC 825) (or any similar accounting principle) permitting or requiring a Person to value its financial liabilities or Indebtedness at the fair value thereof.

Section 1.5 Letter of Credit Amounts. (a) Unless otherwise specified herein, the amount of any Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that by its terms provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

(b) The Administrative Agent shall determine the Dollar Equivalent of any Letter of Credit denominated in an Alternative Currency as of the date such Letter of Credit is issued, amended to increase its face amount or extended, on the first Business Day of each calendar month on which such Letter of Credit is outstanding and as of such other dates as the Administrative Agent shall in its discretion determine, in each case using the Exchange Rate in effect on the date of determination, and each such amount shall be the Dollar Equivalent of such Letter of Credit until the next calculation thereof pursuant to this Section. The Administrative Agent shall determine the Dollar Equivalent of any drawing honored under a Letter of Credit denominated in an Alternative Currency as of the Disbursement Date applicable thereto. The Administrative Agent shall notify the Borrower, the Lenders and the applicable Issuing Bank of each determination of the Dollar Equivalent of each Letter of Credit and Letter of Credit disbursement.

## ARTICLE II

### THE CREDITS

Section 2.1 Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (a) the aggregate outstanding principal amount of such Lender's Revolving Exposure exceeding such Lender's Commitment or (b) the Total Utilization of Commitments exceeding the total Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans. Each Lender's Commitment shall expire on the Commitment Termination Date and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Exposure shall be paid in full no later than such date.

Section 2.2 Revolving Loans and Borrowings. (a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders in accordance with their respective Applicable Percentages. The failure of any Lender to make any Revolving Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Revolving Loans as required.

(b) Subject to Section 2.13, each Borrowing of Revolving Loans shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000; provided that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments; provided, further, that an ABR Borrowing may be in an aggregate amount that is required to finance the reimbursement of a Letter of Credit drawing as contemplated by Section 2.4(d). Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of ten Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.3 Swing Line Loans. (a) During the Availability Period, subject to the terms and conditions hereof, Swing Line Lender agrees to make Swing Line Loans to the Borrower in the aggregate amount up to but not exceeding the Swing Line Sublimit; provided that after giving effect to the making of any Swing Line Loan, in no event shall (i) the Total Utilization of Commitments exceed the Commitments then in effect or (ii) unless otherwise agreed to in writing by the Swing Line Lender, the aggregate amount of Swing Line Loans, Revolving Loans and Letters of Credit issued by the Swing Line Lender exceed the Swing Line Lender's Commitments hereunder. Amounts borrowed pursuant to this Section 2.3 may be repaid and reborrowed during the Availability Period. The Swing Line Lender's Commitment shall expire on the Commitment Termination Date and all Swing Line Loans and all other amounts owed hereunder with respect to the Swing Line Loans and the Commitments shall be paid in full no later than such date.

(b) Swing Line Loans shall be made in an aggregate minimum amount of \$500,000 and integral multiples of \$100,000 in excess of that amount; provided that a Swing Line Loan may be in an aggregate amount that is required to finance the reimbursement of a Letter of Credit drawing as contemplated by Section 2.4(d).

(c) The Swing Line Lender may by written notice given to the Administrative Agent not later than 10:00 a.m., New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Swing Line Loans outstanding. Such notice shall specify the aggregate amount of the Swing Line Loans in which the Lenders will be required to participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swing Line Loan or Loans. Each Lender hereby

absolutely and unconditionally agrees to pay, upon receipt of notice as provided above, to the Administrative Agent, for the account of the Swing Line Lender, such Lender's Applicable Percentage of such Swing Line Loan or Loans. Each Lender acknowledges and agrees that, in making any Swing Line Loan, the Swing Line Lender shall be entitled to rely, and shall not incur any liability for relying, upon the representation and warranty of the Borrower deemed made pursuant to Section 4.2, unless, at least one Business Day prior to the time such Swing Line Loan was made, the Required Lenders or the Borrower shall have notified the Swing Line Lender (with a copy to the Administrative Agent) in writing that, as a result of one or more events or circumstances described in such notice, one or more of the conditions precedent set forth in Section 4.2(b) or (c) would not be satisfied if such Swing Line Loan were then made (it being understood and agreed that, in the event the Swing Line Lender shall have received any such notice, it shall have no obligation to make any Swing Line Loan until and unless it shall be satisfied that the events and circumstances described in such notice shall have been cured or otherwise shall have ceased to exist). Each Lender further acknowledges and agrees that its obligation to acquire participations in Swing Line Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or any reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.6 with respect to Loans made by such Lender (and Section 2.6 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the Swing Line Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Borrower of any participations in any Swing Line Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swing Line Loan shall be made to the Administrative Agent and not to the Swing Line Lender. Any amounts received by the Swing Line Lender from the Borrower (or other Person on behalf of the Borrower) in respect of a Swing Line Loan after receipt by the Swing Line Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swing Line Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swing Line Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Swing Line Loan pursuant to this paragraph shall not constitute a Loan and shall not relieve the Borrower of its obligation to repay such Swing Line Loan.

(d) The Swing Line Lender may resign as Swing Line Lender upon 30 days prior written notice to the Administrative Agent, the Lenders and the Borrower. The Swing Line Lender may be replaced at any time by written agreement among the Borrower, the Administrative Agent and the successor Swing Line Lender. The Administrative Agent shall notify the Lenders of any such replacement of the Swing Line Lender. At the time any such replacement or resignation shall become effective, (i) the Borrower shall prepay any outstanding Swing Line Loans made by the resigning or removed Swing Line Lender, (ii) upon such prepayment, the resigning or removed Swing Line Lender shall surrender any Swing Line Note held by it to the Borrower for cancellation, and (iii) the Borrower shall issue, if so requested by

the successor Swing Line Loan Lender, a new Swing Line Note to the successor Swing Line Lender, in the principal amount of the Swing Line Sublimit then in effect and with other appropriate insertions. From and after the effective date of any such replacement or resignation, (x) any successor Swing Line Lender shall have all the rights and obligations of a Swing Line Lender under this Agreement with respect to Swing Line Loans made thereafter and (y) references herein to the term "Swing Line Lender" shall be deemed to refer to such successor or to any previous Swing Line Lender, or to such successor and all previous Swing Line Lenders, as the context shall require.

Section 2.4 Issuance of Letters of Credit and Purchase of Participations Therein. (a) During the Availability Period, subject to the terms and conditions hereof, each Issuing Bank agrees to issue Letters of Credit (or amend, extend or increase any outstanding Letter of Credit) at the request and for the account of the Borrower (including for the purpose of supporting obligations of its Subsidiaries); provided that (i) each Letter of Credit shall be denominated in dollars or any Alternative Currency; (ii) the stated amount of each Letter of Credit shall not be less than the Dollar Equivalent of \$250,000 or such lesser amount as is acceptable to the applicable Issuing Bank; (iii) after giving effect to such issuance, amendment, extension or increase, in no event shall the Total Utilization of Commitments exceed the Commitments then in effect; (iv) after giving effect to such issuance, amendment, extension or increase, in no event shall the aggregate Letter of Credit Usage exceed the Letter of Credit Sublimit then in effect, (v) after giving effect to such issuance, amendment, extension or increase, in no event shall the Letter of Credit Usage attributable to Letters of Credit issued by any Issuing Bank exceed the Issuing Bank Sublimit of such Issuing Bank, unless otherwise agreed to in writing by such Issuing Bank, (vi) after giving effect to such issuance, amendment, extension or increase, in no event shall the aggregate amount of Revolving Loans (and Swing Line Loans, in the case of the Swing Line Lender) and Letters of Credit issued by such Issuing Bank exceed such Issuing Bank's Commitments hereunder, unless otherwise agreed to in writing by such Issuing Bank, and (vii) in no event shall any Letter of Credit have an expiration date later than the earlier of (1) five days prior to the Maturity Date and (2) the date which is one year from the date of issuance of such Letter of Credit. If the Borrower so requests in the Application for any Letter of Credit, the applicable Issuing Bank may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each such Letter of Credit, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such Issuing Bank to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, the Borrower shall not be required to make a specific request to such Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the Issuing Bank to permit the extension of such Letter of Credit at any time to an expiration date not later than the date five days prior to the Maturity Date; provided, however, that the applicable Issuing Bank shall not permit any such extension if (A) such Issuing Bank has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof, or (B) it has received notice from the Required Lenders or the Borrower in accordance with Section 2.4(e) that one or more of the conditions in Section 4.2(b) or (c) would not be satisfied if such Letter of Credit were so extended. If any Lender is a Defaulting Lender, an Issuing Bank shall not be

required to issue, amend, extend or increase any Letter of Credit unless such Issuing Bank has entered into arrangements satisfactory to it and the Borrower to eliminate such Issuing Bank's risk with respect to the participation in Letters of Credit of such Defaulting Lender, including by cash collateralizing such Defaulting Lender's Pro Rata Share of the Letter of Credit Usage at such time on terms satisfactory to such Issuing Bank. Each request by the Borrower for the issuance, amendment, extension or increase of any Letter of Credit shall be deemed to be a representation and warranty that the conditions set forth in clauses (iii), (iv) and (v) above have been met. Notwithstanding the foregoing, BofA will not be required to issue Letters of Credit denominated in Alternative Currencies.

(b) Whenever the Borrower desires the issuance, amendment, extension or increase of a Letter of Credit, it shall deliver to the Administrative Agent and the applicable Issuing Bank (i) in the case of a request for the issuance of a Letter of Credit, an Issuance Notice and Application no later than 1:00 p.m. (New York City time) at least five Business Days in advance of the proposed date of issuance and (ii) in the case of a request for the amendment, extension or increase of a Letter of Credit, a notice and/or letter of credit application, in such form as specified by the applicable Issuing Bank, identifying the Letter of Credit to be amended, extended or increased and specifying the requested date of amendment, extension or increase (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (a) of this Section), the amount and currency (which shall be dollars or an Alternative Currency) of such Letter of Credit and such other information as shall be necessary to enable the applicable Issuing Bank to amend, extend or increase such Letter of Credit, no later than 1:00 p.m. (New York City time) at least five Business Days in advance of the proposed date of such amendment, extension or increase (or such shorter period as the applicable Issuing Bank may agree to in its sole discretion). Each notice or letter of credit application delivered pursuant to this Section 2.4(b) shall be accompanied by documentary and other evidence of the proposed beneficiary's identity as may reasonably be requested by the applicable Issuing Bank to enable such Issuing Bank to verify the beneficiary's identity or to comply with any applicable laws or regulations, including the USA Patriot Act. Upon satisfaction or waiver of the conditions set forth in Section 4.2, the applicable Issuing Bank shall issue or amend, extend or increase the requested Letter of Credit only in accordance with such Issuing Bank's standard operating procedures as in effect from time to time. Notwithstanding any other provision of this Agreement or any other Loan Document to the contrary, no Issuing Bank shall be required to issue, amend, extend or increase any Letter of Credit if such Letter of Credit would violate one or more provisions of any applicable law, rule or regulation or such Issuing Bank's standard policies and procedures regarding the issuance of letters of credit as in effect from time to time (to the extent not in conflict with the requirements of this Section 2.4 or as otherwise accepted by the Borrower). Notwithstanding anything contained in any Application furnished to any Issuing Bank in connection with the issuance of any Letter of Credit or any notice or letter of credit application furnished to any Issuing Bank in connection with the amendment, extension or increase of any Letter of Credit, (i) all provisions of any such Application or notice or letter of credit application purporting to grant Liens in favor of such Issuing Bank to secure obligations in respect of such Letter of Credit shall be disregarded, it being agreed that such obligations shall be secured solely to the extent provided in this Agreement and in the Collateral Documents, and (ii) in the event of any conflict between the terms and conditions of such Application or notice or letter of credit application, on the one hand, and the terms and conditions of this Agreement,

on the other hand, the terms and conditions of this Agreement shall control. Upon the issuance of any Letter of Credit or amendment, extension or increase thereof, the applicable Issuing Bank shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify each Lender of the Dollar Equivalent thereof and the currency in which such Letter of Credit is denominated, which notice from the Administrative Agent shall be accompanied by a copy of such Letter of Credit or amendment, extension or increase thereof and the Dollar Equivalent of such Lender's respective participation in such Letter of Credit pursuant to Section 2.4(e).

(c) In determining whether to honor any drawing under any Letter of Credit by the beneficiary(ies) thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents, if such documents are not in strict compliance with the terms of such Letter of Credit. As between the Borrower and an Issuing Bank, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued by such Issuing Bank, by the respective beneficiaries of such Letters of Credit; provided that such assumption of risk by the Borrower shall not affect any rights that the Borrower may have against any such beneficiary. In furtherance and not in limitation of the foregoing, an Issuing Bank shall not be responsible or have any liability for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by any beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; (viii) any other action or inaction taken or suffered by such Issuing Bank under or in connection with any such Letter of Credit, if required under, or expressly authorized under the circumstances by, any applicable domestic or foreign law or letter of credit practice or (ix) any consequences arising from causes beyond the control of such Issuing Bank, including any Governmental Acts; none of the above shall affect or impair, or prevent the vesting of, any of such Issuing Bank's rights or powers hereunder or place such Issuing Bank under any liability to the Borrower. Without limiting the foregoing and in furtherance thereof, any action taken or omitted by any Issuing Bank under or in connection with any Letter of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in "good faith" (as such term is defined in Article 5 of the New York Uniform Commercial Code), shall not give rise to any liability on the part of such Issuing Bank to the Borrower. Notwithstanding anything to the contrary contained in this Section 2.4(c), the applicable Issuing Bank shall not be excused from liability to the Borrower to the extent of any direct damages (as

opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of any Issuing Bank (as determined by a final, non-appealable judgment of a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination.

(d) In the event any Issuing Bank has honored a drawing under a Letter of Credit on any date (a "Disbursement Date"), it shall promptly notify the Borrower and the Administrative Agent of the amount of such drawing in the currency in which such Letter of Credit is denominated and of the applicable Disbursement Date. In the case of any such drawing in an Alternative Currency, the Borrower's obligation to reimburse the amount of such drawing will, on the applicable Disbursement Date, automatically be converted into an obligation to reimburse the Dollar Equivalent (determined as of such Disbursement Date) of the amount of such Alternative Currency drawing. The Borrower shall reimburse such Issuing Bank on or before the Business Day immediately following the date on which such drawing is honored (the "Reimbursement Date") in an amount in same day funds equal to the dollar amount or Dollar Equivalent, as applicable, of such honored drawing, together in each case with accrued and unpaid interest as provided in Section 2.12; provided that, if the dollar amount or Dollar Equivalent, as applicable, of such honored drawing is \$500,000 or more, the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.3 or 2.5 that such payment be financed with a Swing Line Loan or an ABR Borrowing and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Swing Line Loan or ABR Borrowing. If the Borrower fails to reimburse any honored drawing under any Letter of Credit on or before the Reimbursement Date, the Administrative Agent shall notify each Lender of such failure, the payment then due from the Borrower in respect of such honored drawing, and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent, in dollars, its Applicable Percentage of the amount then due from the Borrower, in the same manner as provided in Section 2.6 with respect to Loans made by such Lender (and Section 2.6 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders pursuant to this paragraph), and the Administrative Agent shall promptly remit to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for an honored drawing under a Letter of Credit (other than the funding of a Swing Line Loan or an ABR Borrowing as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such drawing. If any Lender fails to make available to the Administrative Agent for the account of the relevant Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.4(d) by the time specified herein, such Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period



from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate per annum equal to the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(e) Immediately upon the issuance, extension or increase of each Letter of Credit, without any further action by any Person, the applicable Issuing Bank shall be deemed to have sold to each Lender and each Lender shall have been deemed to have purchased from such Issuing Bank a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Applicable Percentage of the maximum amount which is or at any time may become available to be drawn thereunder. In consideration and in furtherance of the foregoing, each Lender hereby irrevocably, absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Lender's Applicable Percentage of each drawing (or, in the case of a Letter of Credit denominated in an Alternative Currency, of the Dollar Equivalent of each drawing) honored by such Issuing Bank under such Letter of Credit and not reimbursed by the Borrower on or prior to the applicable Reimbursement Date, or of any reimbursement payment required to be refunded to the Borrower or otherwise returned for any reason. Each Lender acknowledges and agrees that its obligation to fund participations pursuant to this paragraph in respect of Letters of Credit is irrevocable, absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, extension or increase of any Letter of Credit, the occurrence and continuance of a Default, any reduction or termination of the Commitments or any *force majeure* or other event that under any rule of law or uniform practices to which any Letter of Credit is subject (including Rules 3.13 and 3.14 of ISP 98) permits a drawing to be made under such Letter of Credit after the expiration thereof or after the expiration or termination of the Commitments or any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including those set forth in the following paragraph (f), and that each such payment shall be made without any defense, offset, abatement, withholding or reduction whatsoever and in the currency of such honored drawing. Each Lender further acknowledges and agrees that, in issuing, amending, extending or increasing any Letter of Credit, the applicable Issuing Bank shall be entitled to rely, and shall not incur any liability for relying, upon the representations and warranties of the Borrower deemed made pursuant to Sections 2.4 and 4.2, unless, at least one Business Day prior to the time such Letter of Credit is issued, amended, extended or increased (or, in the case of an automatic extension permitted pursuant to paragraph (a) of this Section, at least one Business Day prior to the time by which the election not to extend must be made by the applicable Issuing Bank), the Required Lenders or the Borrower shall have notified the applicable Issuing Bank (with a copy to the Administrative Agent) in writing that, as a result of one or more events or circumstances described in such notice, one or more of the conditions precedent set forth in Section 2.4(a)(iii), 2.4(a)(iv), 2.4(a)(v), 4.2(b) or 4.2(c) would not be satisfied if such Letter of Credit were then issued, amended, extended or increased (it being understood and agreed that, in the event any Issuing Bank shall have received any such notice, no Issuing Bank shall have any obligation to issue, amend, extend or increase any Letter of Credit until and unless it shall be satisfied that the events and circumstances described in such notice shall have been cured or otherwise shall have ceased to exist).

(f) The obligation of the Borrower to reimburse each Issuing Bank for drawings honored under the Letters of Credit issued by it shall be absolute, unconditional and irrevocable and shall be paid strictly in accordance with the terms hereof under all circumstances including any of the following circumstances: (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, set off, defense or other right which the Borrower may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), any Issuing Bank, Lender or any other Person, whether in connection herewith, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between the Borrower or one of its Restricted Subsidiaries and the beneficiary(ies) for which any Letter of Credit was procured); (iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by such Issuing Bank under any Letter of Credit against presentation of a draft or other document which does not substantially comply with the terms of such Letter of Credit; (v) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of the Borrower or any of its Restricted Subsidiaries or any other Person; (vi) any breach hereof by any party hereto or any other Loan Document by any party thereto; (vii) any *force majeure* or other event that under any rule of law or uniform practices to which any Letter of Credit is subject (including Rules 3.13 and 3.14 of ISP 98) permits a drawing to be made under such Letter of Credit after the expiration thereof or after the expiration or termination of the Commitments; (viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; or (ix) the fact that an Event of Default or a Default shall have occurred and be continuing.

(g) Without duplication of any obligation of the Borrower under Section 10.3, in addition to amounts payable as provided herein, the Borrower hereby agrees to protect, indemnify, pay and save and hold harmless each Issuing Bank from and against any and all claims, demands, liabilities, damages and losses, and all reasonable and documented costs, charges and out-of-pocket expenses (including reasonable fees, out-of-pocket expenses and disbursements of one primary counsel (with exceptions for conflicts of interest) and one local counsel in each relevant jurisdiction), which such Issuing Bank may incur or be subject to as a consequence, direct or indirect, of (i) the issuance, amendment, extension or increase of any Letter of Credit by such Issuing Bank, any demand for payment thereunder, any payment or other action taken or omitted to be taken in connection with such Letter of Credit or this Agreement, or any transaction(s) supported by such Letter of Credit, other than as a result of (1) the gross negligence or willful misconduct of such Issuing Bank as determined by a final, non-appealable judgment of a court of competent jurisdiction or (2) the wrongful dishonor by such Issuing Bank of a presentation under any Letter of Credit which strictly complies with the terms and conditions of such Letter of Credit, or (ii) the failure of such Issuing Bank to honor a drawing under any such Letter of Credit as a result of any Governmental Act. The Borrower will pay all amounts owing under this Section promptly after written demand therefor.

(h) An Issuing Bank may resign as an Issuing Bank by providing at least 30 days prior written notice to the Administrative Agent, the Lenders and the Borrower. An Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank (provided that no consent will be required if the replaced Issuing Bank has no Letters of Credit or reimbursement obligations with respect

thereto outstanding) and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such resignation or replacement of such Issuing Bank. From and after the effective date of any such replacement or resignation, (i) any successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. At the time any such resignation or replacement shall become effective, (A) the Borrower shall pay all unpaid fees accrued for the account of the resigning or replaced Issuing Bank pursuant to Sections 2.11(c) and (d) and (B) the resigning or replaced Issuing Bank shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such resignation or replacement. After the replacement or resignation of an Issuing Bank hereunder, the resigning or replaced Issuing Bank shall not be required to issue, amend, extend or increase any Letters of Credit.

(i) 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), designate as additional Issuing Banks one or more Lenders that agree to serve in such capacity as provided below. The acceptance by a Lender of an appointment as an Issuing Bank hereunder shall be evidenced by a written agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent, executed by the Borrower, the Administrative Agent and such designated Lender and, from and after the effective date of such agreement, (i) such Lender shall have all the rights and obligations of an Issuing Bank under this Agreement and (ii) references herein to the term "Issuing Bank" shall be deemed to include such Lender in its capacity as an issuer of Letters of Credit hereunder.

(j) If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders and the Issuing Banks, an amount in cash equal to 103% of Letter of Credit Usage attributable to all outstanding Letter of Credits as of such date (provided that, if the Letter of Credit Usage increases at any time following such deposit, the Borrower shall, at the request of the Administrative Agent, deposit additional amounts in cash in dollars so that such deposit account holds at least 103% of the amount of Letter of Credit Usage at any time) plus any accrued and unpaid interest thereon, in each case in dollars; provided that the obligation to deposit such cash collateral shall become effective immediately, and such cash collateral shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Article VIII (h) or (i). Such cash collateral shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such cash collateral, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such cash collateral shall not bear interest. Interest or profits, if any, on such investments shall accumulate

in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the Issuing Banks for any disbursements under Letters of Credit for which they have not been reimbursed and, to the extent not so applied, shall be held as cash collateral for the satisfaction of the reimbursement obligations of the Borrower for the Letter of Credit Usage at such time, and after such cash collateralization and/or payment in full of all Letter of Credit Usage, may be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide amounts of cash collateral hereunder as a result of the occurrence of an Event of Default, such amounts (to the extent not applied as aforesaid) shall be returned to the Borrower (or as otherwise ordered by a court of competent jurisdiction) within five Business Days after all Events of Default have been cured or waived.

(k) Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued, the rules of the ISP 98 (including those relating to payment of fees of correspondent banks in the case of Letters of Credit denominated in Alternative Currencies) shall apply to each Letter of Credit. Notwithstanding the foregoing, no Issuing Bank shall be responsible to the Borrower for, and each Issuing Bank's rights and remedies against the Borrower shall not be impaired by, any action or inaction of such Issuing Bank required under, or expressly authorized under the circumstances by, any applicable law, order, or practice that is required to be applied to any Letter of Credit or this Agreement, including the law or any order of a jurisdiction where such Issuing Bank or the beneficiary of any Letter of Credit is located, the practice stated in the ISP 98, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade, Inc. (BAFT), or the Institute of International Banking Law & Practice, whether or not any such law or practice is applicable to any Letter of Credit.

#### Section 2.5 Requests for Borrowings.

To request a Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone or in writing (a) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed Borrowing, (b) in the case of an ABR Borrowing, not later than 12:00 noon, New York City time, one Business Day prior to the date of the proposed Borrowing or (c) in the case of a Borrowing of a Swing Line Loan, not later than 12:00 noon, New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy (or other facsimile transmission) to the Administrative Agent of a written Borrowing Request in substantially the form of Exhibit B-1 attached hereto and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.2 and Section 2.3:

- (i) the aggregate amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

(iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term “Interest Period”; and

(v) the location and number of the account or accounts to which funds are to be disbursed, which shall comply with the requirements of Section 2.6, or, in the case of any Loan requested to finance the reimbursement of drawing under a Letter of Credit as provided in Section 2.4(d), the identity of the Issuing Bank that has honored such drawing.

If no election as to the Type of Borrowing is specified with respect to Revolving Loans, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month’s duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender’s Loan to be made as part of the requested Borrowing.

Section 2.6 Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Swing Line Loans shall be made by the Swing Line Lender to the Borrower by means of a wire transfer to the account specified in such Borrowing Request or to the applicable Issuing Bank, as the case may be, by 3:00 p.m., New York City time, on the requested date of such Swing Line Loan. Except as otherwise specified in the immediately preceding sentence, the Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account or accounts designated by the Borrower in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender’s Applicable Percentage of such Borrowing, the Administrative Agent may assume that such Lender has made such Applicable Percentage available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its Applicable Percentage of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender’s Loan included in such Borrowing.

Section 2.7 Interest Elections. (a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request or as otherwise provided in Section 2.5; provided that Swing Line Loans shall be made and maintained as ABR Borrowings only. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing in accordance with their respective Applicable Percentages, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swing Line Loans, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.5 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic request shall be irrevocable and shall be confirmed promptly by hand delivery or teletype (or other facsimile transmission) to the Administrative Agent of a written request (an "Interest Election Request") in substantially the form of Exhibit C attached hereto and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.2:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be continued as a Eurodollar Borrowing with an Interest Period of one month's duration. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing, (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.8 Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Commitment Termination Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10, the Total Utilization of Commitments would exceed the total Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination or reduction of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or another transaction, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be applied to the Lenders in accordance with their respective Applicable Percentages.

Section 2.9 Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date and (ii) to the Swing Line Lender the then unpaid principal amount of each Swing Line Loan on the earlier of the Maturity Date and the first date after such Swing Line Loan is made that is the 15th or last day of a calendar month and is at least two Business Days after such Swing Line Loan is made; provided that on each date that a Borrowing consisting of Revolving Loans is made, the Borrower shall repay all Swing Line Loans that were outstanding on the date such Borrowing was requested.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a Note. In such event, the Borrower shall prepare, execute and deliver to such Lender a Note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns). Thereafter, the Loans evidenced by such Note and interest thereon shall at all times (including after assignment pursuant to Section 10.4) be represented by one or more Notes in such form payable to the payee named therein (or, if such Note is a registered note, to such payee and its registered assigns).

Section 2.10 Prepayment of Loans. (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, without premium or penalty (subject to the requirements of Section 2.15), subject to prior notice in accordance with this Section. The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Swing Line Loan, the Swing Line Lender) by telephone (confirmed by telecopy (or other facsimile transmission) or hand delivery of written notice) or in writing of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Borrowing, not later than 12:00 noon, New York City time, one Business Day before the date of prepayment and (iii) in the case of prepayment of a Swing Line Loan, not later than 12:00 noon, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of reduction or termination of the Commitments as contemplated by Section 2.8, then such notice of prepayment may be revoked if such notice of reduction or termination is revoked in accordance with Section 2.8. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.2.



(b) The Borrower shall from time to time prepay *first*, the Swing Line Loans, and *second*, the Revolving Loans to the extent necessary so that the Total Utilization of Commitments shall not at any time exceed the Commitments then in effect.

(c) Each prepayment of a Borrowing shall be applied ratably to the Loans of the Lenders in accordance with their respective Applicable Percentages. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12 and any costs incurred as contemplated by Section 2.15.

Section 2.11 Fees. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender (other than any Defaulting Lender) a commitment fee, which shall accrue at a rate of 0.20% per annum on the daily amount of the unused Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which such Commitment terminates. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the Effective Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, a Commitment of a Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and Letter of Credit Usage of such Lender (and the Swing Line Exposure of such Lender shall be disregarded for such purpose).

(b) [reserved].

(c) The Borrower agrees to pay to the Administrative Agent for the account of each Lender (other than any Defaulting Lender) letter of credit fees equal to (A) the Applicable Rate for Revolving Loans that are Eurodollar Loans, multiplied by (B) the average aggregate daily maximum Dollar Equivalent available to be drawn under all such Letters of Credit (determined as of the close of business on any date of determination) (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any Letter of Credit Usage. Such letter of credit fees shall be paid on a quarterly basis in arrears and shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of any Letter of Credit, on the Commitment Termination Date and thereafter on demand.

(d) The Borrower agrees to pay directly to each Issuing Bank, for its own account, the following fees:

(i) a fronting fee equal to 0.125% per annum, multiplied by the average aggregate daily maximum Dollar Equivalent available to be drawn under all Letters of Credit issued by such Issuing Bank (determined as of the close of business on any date of determination) (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination) from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any Letter of Credit Usage attributable to Letters of Credit issued by such Issuing Bank; and

(ii) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with such Issuing Bank's standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be.

Such fronting fee shall be paid on a quarterly basis in arrears and shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Commitment Termination Date and thereafter on demand. Such documentary and processing charges are due and payable on demand.

(e) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(f) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the parties specified herein. Fees paid shall not be refundable under any circumstances.

Section 2.12 Interest. (a) The Loans comprising each ABR Borrowing (including each Swing Line Loan) shall bear interest at the Alternate Base Rate *plus* the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Rate.

(c) Notwithstanding the foregoing, at all times when an Event of Default listed in paragraph (a), (b), (h) or (i) of Article VIII has occurred hereunder and is continuing, all overdue amounts outstanding hereunder shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% *plus* the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other overdue amount, 2% *plus* the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) The Borrower agrees to pay to each Issuing Bank, with respect to drawings honored under any Letter of Credit issued by such Issuing Bank, interest on the Dollar Equivalent paid by such Issuing Bank in respect of each such honored drawing from the date such drawing is honored to but excluding the date such amount is reimbursed by or on behalf of the Borrower at a rate equal to (i) for the period from the applicable Disbursement Date to but excluding the applicable Reimbursement Date, the rate of interest otherwise payable hereunder with respect to Revolving Loans that are ABR Loans, and (ii) thereafter, a rate which is 2% per annum in excess of the rate of interest otherwise payable hereunder with respect to Revolving Loans that are ABR Loans.

(g) Interest payable pursuant to Section 2.12(f) shall be computed on the basis of a 365/366 day year for the actual number of days elapsed in the period during which it accrues, and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full. In the event any Issuing Bank shall have been reimbursed by Lenders for all or any portion of any honored drawing, such Issuing Bank shall distribute to the Administrative Agent, for the account of each Lender which has paid all amounts payable by it under Section 2.4(d) with respect to such honored drawing, such Lender's Applicable Percentage of any interest received by such Issuing Bank in respect of that portion of such honored drawing so reimbursed by such Lender for the period from the date on which such Issuing Bank was so reimbursed by such Lender to but excluding the date on which such portion of such honored drawing is reimbursed by the Borrower.

#### Section 2.13 Alternate Rate of Interest.

If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or teletype (or other facsimile transmission) as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and such Borrowing shall be continued as an ABR Borrowing, and (y) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.14 Increased Costs. (a) If any Change in Law shall:

(i) 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 by or participated in, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or Issuing Bank; or

(ii) impose on any Lender or Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) impose on any Recipient any Taxes (other than Indemnified Taxes or Tax described in clauses (b) through (d) of the definition of Excluded Taxes), on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or other Recipient of making, converting to, continuing or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or issue any Letter of Credit) or to reduce the amount of any sum received or receivable by such Lender or other Recipient hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital or liquidity of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments hereunder, the Loans made by such Lender or participations in Letters of Credit held by such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time upon request of such Lender or Issuing Bank the Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Bank or its respective holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or Issuing Bank the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive (or has retroactive effect), then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.15 Break Funding Payments. In the event of (a) the payment or prepayment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.10(b) and is revoked in accordance therewith), or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.18, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.16 Taxes. (a) Any and all payments by or on account of any obligation of the Borrower hereunder shall be made free and clear of and without deduction or withholding for any Taxes, except as required by law. 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 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 or Other Tax, then the sum payable by the Borrower shall be increased as necessary so that after making such deduction or withholding (including such deductions and withholdings applicable to additional sums payable under this Section) the Administrative Agent or Lender (as the case may be) receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) In addition, the Borrower shall (i) pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or (ii) at the option of the Administrative Agent, shall timely reimburse the Administrative Agent for any payment of such Other Taxes.

(c) The Borrower shall indemnify the Administrative Agent and each Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent or such Lender, as the case may be, on or with respect to any payment by or on account of any obligation of the Borrower hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other 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. Borrower shall not be required to pay any amount under this Section 2.16(c) with respect to Other Taxes paid or reimbursed by the Borrower pursuant to Section 2.16(b).

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall 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.

(e) (i) Any Lender that is entitled to an exemption from, or reduction of, withholding Tax with respect to payments made under this Agreement or any other 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 Section 2.16(e)(ii), 2.16(e)(iii), 2.16(e)(v) or 2.16(e)(vi)) shall not be required if 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) 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 originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax.

(iii) 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:

(A) 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 this Agreement or any other Loan Document, executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, 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 this Agreement or any other Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, 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;

(B) executed originals of IRS Form W-8ECI;

(C) 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 to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “Portfolio Interest Certificate”) and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(D) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a Portfolio Interest Certificate in compliance with Section 2.16(e)(iii)(C), 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 partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a Portfolio Interest Certificate in compliance with Section 2.16(e)(iii)(C) on behalf of each such partner.

(iv) 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 originals 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 withholding or deduction required to be made.

(v) If a payment made to a Lender under this Agreement or any other 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 other documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Administrative Agent and the Borrower 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 Section 2.16(e)(v), "FATCA" shall include any amendments made to FATCA after the Effective Date.

(vi) 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.

(f) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand thereof, for (i) any Indemnified Taxes or Other 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 or Other 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 10.4(c) 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 this Agreement or any other 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 this Agreement or any other Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any amount due to the Administrative Agent under this paragraph.



(g) If any Lender or the Administrative Agent 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 2.16 (including by the payment of additional amounts pursuant to this Section 2.16), 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 2.16 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); provided, however, that (w) any Lender or the Administrative Agent may determine, in its sole discretion exercised in good faith consistent with the policies of such Lender or the Administrative Agent, whether to seek a refund for any Taxes; (x) any Taxes that are imposed on a Lender or the Administrative Agent as a result of a disallowance or reduction of any Tax refund with respect to which such Lender or the Administrative Agent has made a payment to the indemnifying party pursuant to this Section shall be treated as an Indemnified Tax for which the indemnifying party is obligated to indemnify such Lender or the Administrative Agent pursuant to this Section without any exclusions or defenses; (y) nothing in this Section shall require the Lender or the Administrative Agent to disclose any confidential information to a Loan Party or any other Lender (including its tax returns); and (z) neither any Lender nor the Administrative Agent shall be required to pay any amounts pursuant to this Section for so long as a Default or Event of Default exists.

(h) For purposes of this Section 2.16, the term “Lender” includes any Issuing Bank and the term “applicable law” includes FATCA.

(i) For purposes of determining withholding Taxes imposed under FATCA, the Borrower and the Administrative Agent shall treat (and the Lenders hereby authorize the Administrative Agent to treat) the Loan as not qualifying as a “grandfathered obligation” within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(j) Each party’s obligations under this Section 2.16 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under this Agreement and the other Loan Documents.

Section 2.17 Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees, or of amounts payable under Section 2.14, Section 2.15 or Section 2.16, or otherwise) prior to 12:00 noon, New York City time, on the date when due, in immediately available funds, without set off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to such account as may be specified by the Administrative Agent and except that payments pursuant to Section 2.14, Section 2.15, Section 2.16 and Section 10.3 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment or performance hereunder shall be due on a day that is not a Business Day, the date for payment or performance shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed drawings under Letters of Credit, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed drawings under Letters of Credit then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed drawings under Letters of Credit then due to such parties.

(c) If any Lender shall, by exercising any right of set off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in Swing Line Loans or drawings under Letters of Credit resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in Swing Line Loans or drawings under Letters of Credit and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in Swing Line Loans or drawings under Letters of Credit of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in Swing Line Loans or drawings under Letters of Credit; provided 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 paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (for the avoidance of doubt, as in effect from time to time) (including the application of funds arising from the existence of a Defaulting Lender) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in Swing Line Loans or drawings under Letters of Credit to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents 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 the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) 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 Issuing Banks 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 Issuing Banks the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or Issuing Banks severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank 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 NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.3, Section 2.4(d), Section 2.6(b) or paragraph (d) of this Section, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.18 Mitigation Obligations; Replacement of Lenders. (a) If any Lender (which term shall include any Issuing Bank for purposes of this Section 2.18(a)) requests compensation under Section 2.14, or if the Borrower is required to pay any Indemnified Taxes, Other Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or Section 2.16, 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. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender (which term shall include any Issuing Bank for purposes of this Section 2.18(b)) requests compensation under Section 2.14, (ii) the Borrower is required to pay any Indemnified Taxes, Other Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, (iii) any Lender is a Defaulting Lender or a Non-Consenting Lender or (iv) any Lender is a Declining Lender under Section 2.20, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 10.4), all its interests, rights and obligations under this Agreement and the other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments, (iv) such assignment does not conflict with applicable law and (v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, (x) the applicable assignee shall have consented to, or shall consent to, the applicable amendment, waiver or consent and (y) the Borrower exercises its rights pursuant to this clause (b) with respect to all Non-Consenting Lenders relating to the applicable amendment, waiver or consent. A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver or consent by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation have ceased to apply.

(c) Each party hereto agrees that an assignment and delegation required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto.

Section 2.19 Increase in the Aggregate Commitments. (a) The Borrower may, from time to time, by notice to the Administrative Agent, request that the aggregate amount of the Commitments be increased by a minimum amount equal to \$10,000,000 or an integral multiple of \$5,000,000 in excess thereof (each a “Commitment Increase”), to be effective as of a date (the “Increase Date”) as specified in the related notice to the Administrative Agent; provided, however, that no Default or Event of Default shall have occurred and be continuing as of the date of such request or as of the applicable Increase Date, or shall occur as a result thereof and, provided, further, that at no time shall the total aggregate Commitment Increase hereunder exceed \$150,000,000.

(b) The Administrative Agent shall promptly notify the Lenders of a request by the Borrower for a Commitment Increase, which notice shall include (i) the proposed amount of such requested Commitment Increase, (ii) the proposed Increase Date and (iii) the date by which Lenders wishing to participate in the Commitment Increase must commit to an increase in the amount of their respective Commitments (the “Commitment Date”). Each Lender that is willing to participate in such requested Commitment Increase (each an “Increasing Lender”) shall give written notice to the Administrative Agent on or prior to the Commitment Date of the amount by which it is willing to increase its Commitment. If the Lenders notify the Administrative Agent that they are willing to increase the amount of their respective Commitments by an aggregate amount that exceeds the amount of the requested Commitment Increase, the requested Commitment Increase shall be allocated among the Lenders willing to participate therein in such amounts as are agreed between the Borrower and the Administrative Agent. The increase of the Commitment of any Increasing Lender shall be subject to the prior written consent of each Issuing Bank (such consent not to be unreasonably withheld or delayed). The failure of any Lender to respond shall be deemed to be a refusal of such Lender to increase its Commitment.

(c) Promptly following each Commitment Date, the Administrative Agent shall notify the Borrower as to the amount, if any, by which the Lenders are willing to participate in the requested Commitment Increase. If the aggregate amount by which the Lenders are willing to participate in any requested Commitment Increase on any such Commitment Date is less than the requested Commitment Increase, then the Borrower may extend offers to one or more Persons (but not to the Borrower or an Affiliate thereof or any natural person) reasonably acceptable to the Administrative Agent, each Issuing Bank and the Swing Line Lender (each, an “Eligible Assignee”) to participate in any portion of the requested Commitment Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the Commitment of each such Eligible Assignee shall be in an amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof.

(d) On each Increase Date, each Eligible Assignee that accepts an offer to participate in a requested Commitment Increase in accordance with Section 2.19(c) (each such Eligible Assignee, an “Assuming Lender”) shall become a Lender party to this Agreement as of such Increase Date and the Commitment of each Increasing Lender for such requested Commitment Increase shall be so increased by such amount (or by the amount allocated to such Lender pursuant to the second last sentence of Section 2.19(b)) as of such Increase Date; provided, however, that the Administrative Agent shall have received on or before such Increase Date the following, each dated such date:

(i) (A) a certificate of the Borrower signed by an authorized officer of the Borrower (1) certifying and attaching the resolutions adopted by the board of directors or other applicable governing body of the Borrower approving the Commitment Increase and the corresponding modifications to this Agreement, and (2) certifying that, before and after giving effect to such increase, (x) the representations and warranties contained in Article III and the other Loan Documents are true and correct in all material respects (other than to the extent qualified by materiality or “Material Adverse Effect”, in which case, such representations and warranties shall be true and correct in all respects) on and as of the Increase Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in such manner as of such earlier date, and except that for purposes of this Section, the representations and warranties contained in Section 3.4(a) shall be deemed to refer, following the first delivery thereof, to the most recent statements furnished pursuant to Section 5.1, and (y) no Default or Event of Default exists and, if requested by the Administrative Agent, (B) an opinion of counsel for the Borrower (which may be in-house counsel) in form and substance reasonably satisfactory to the Administrative Agent in respect of matters relating to the Commitment Increase;

(ii) a joinder agreement from each Assuming Lender, if any, in form and substance reasonably satisfactory to such Assuming Lender, the Borrower and the Administrative Agent, duly executed by such Assuming Lender, the Administrative Agent and the Borrower; and

(iii) confirmation from each Increasing Lender of the increase in the amount of its Commitment in a writing satisfactory to the Borrower and the Administrative Agent.

(e) On each Increase Date, upon fulfillment of the conditions set forth in Section 2.19(d), in the event any Loans are then outstanding, (i) each relevant Increasing Lender and Assuming Lender shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to the applicable Commitment Increase and the application of such amounts to make payments to such other Lenders, the Loans to be held ratably by all Lenders as of such date in accordance with their respective Applicable Percentages (after giving effect to the Commitment Increase), (ii) the Borrower shall be deemed to have prepaid and reborrowed all outstanding Loans made to it as

of such Increase Date (with each such borrowing to consist of Loans, with related Interest Periods if applicable, specified in a notice delivered by the Borrower in accordance with the requirements of Section 2.2) and (iii) the Borrower shall pay to the Lenders the amounts, if any, payable under Section 2.15 as a result of such prepayment.

(f) This Section shall supersede any provisions in Section 2.17 or Section 10.2 to the contrary.

Section 2.20 Extension of Maturity Date. (a) The Borrower may, by delivery of a Maturity Date Extension Request to the Administrative Agent (which shall promptly deliver a copy thereof to each of the Lenders and the Issuing Banks) not less than 30 days prior to the then existing maturity date for Commitments hereunder (the "Existing Maturity Date"), request that the Lenders and the Issuing Banks extend the Existing Maturity Date in accordance with this Section; provided that the Borrower may not make more than two Maturity Date Extension Requests during the term of this Agreement. Each Maturity Date Extension Request shall (i) specify the date to which the Maturity Date is sought to be extended; provided that such date is no more than one calendar year from the then scheduled Maturity Date, (ii) specify the changes, if any, to the Applicable Rate to be applied in determining the interest payable on Loans of, and fees payable hereunder to, Consenting Lenders (as defined below) in respect of that portion of their Commitments (and related Loans) extended to such new Maturity Date and the time as of which such changes will become effective (which may be prior to the Existing Maturity Date), and (iii) specify any other amendments or modifications to this Agreement to be effected in connection with such Maturity Date Extension Request, provided that no such changes or modifications requiring approvals pursuant to Section 10.2(b) shall become effective prior to the then existing Maturity Date unless such other approvals have been obtained. In the event a Maturity Date Extension Request shall have been delivered by the Borrower, each Lender shall have the right to agree or not agree to the extension of the Existing Maturity Date and other matters contemplated thereby on the terms and subject to the conditions set forth therein (each Lender agreeing to the Maturity Date Extension Request being referred to herein as a "Consenting Lender" and each Lender not agreeing thereto being referred to herein as a "Declining Lender"), which right may be exercised by written notice thereof, specifying the maximum amount of its Commitment and, if such Lender (or a designated Affiliate of such Lender) is then serving as an Issuing Bank, its (or its designated Affiliate's) Issuing Bank Sublimit, with respect to which such Lender agrees to the extension of the Maturity Date, delivered to the Borrower (with a copy to the Administrative Agent) not later than a day to be agreed upon by the Borrower and the Administrative Agent following the date on which the Maturity Date Extension Request shall have been delivered by the Borrower (it being understood (x) that any Lender that shall have failed to exercise such right as set forth above shall be deemed to be a Declining Lender and (y) that, in the case of any Lender then serving (or whose designated Affiliate is then serving) as an Issuing Bank, (I) the Issuing Bank Sublimit of such Lender (or such designated Affiliate) shall not be extended in connection with an extension of such Lender's Commitments unless so specified by such Lender (or such designated Affiliate), in its capacity as Issuing Bank, in such written notice to the Borrower and (II) for purposes of Section 2.4(a), the "Maturity Date" applicable to Letters of Credit of an Issuing Bank that has not extended its Issuing Bank Sublimit will be the Maturity Date in respect of such Letter of Credit Sublimit that has not been extended). If a Lender elects to extend only a portion of its then existing Commitment, it will be deemed for purposes hereof to be a Consenting Lender in

respect of such extended portion and a Declining Lender in respect of the remaining portion of its Commitment. If Consenting Lenders shall have agreed to such Maturity Date Extension Request in respect of Commitments held by them, then, subject to paragraph (d) of this Section, on the date specified in the Maturity Date Extension Request as the effective date thereof (the "Extension Effective Date"), (i) the Existing Maturity Date of the applicable Commitments shall, as to the Consenting Lenders, be extended to such date as shall be specified therein, (ii) the terms and conditions of the Commitments of the Consenting Lenders (including interest and fees payable in respect thereof), shall be modified as set forth in the Maturity Date Extension Request, (iii) such other modifications and amendments hereto specified in the Maturity Date Extension Request shall (subject to any required approvals (including those of the Required Lenders) having been obtained, except that any such other modifications and amendments that do not take effect until the Existing Maturity Date shall not require the consent of any Lender other than the Consenting Lenders) become effective and (iv) in the case of any Consenting Lender then serving (or whose designated Affiliate is then serving) as an Issuing Bank that shall not have agreed to extend the Existing Maturity Date with respect to its Issuing Bank Sublimit, or shall have agreed to extend the Existing Maturity Date with respect to less than the entire amount of its Issuing Bank Sublimit, such Issuing Bank shall not have the obligation to issue, amend, extend or increase Letters of Credit following the Extension Effective Date, if after giving effect to any such issuance, amendment, extension or increase, the Letter of Credit Usage attributable to Letters of Credit issued by such Issuing Bank that have a stated expiration date after the date that is five days prior to the Existing Maturity Date with respect to the non-extended portion of its Issuing Bank Sublimit would exceed the extended portion (if any) of such Issuing Bank Sublimit.

(b) Notwithstanding the foregoing, the Borrower shall have the right, in accordance with the provisions of Sections 2.18 and 9.4, at any time prior to the Existing Maturity Date, to replace a Declining Lender (for the avoidance of doubt, only in respect of that portion of such Lender's Commitments subject to a Maturity Date Extension Request that it has not agreed to extend) with a Lender or other financial institution that will agree to such Maturity Date Extension Request, and any such replacement Lender shall for all purposes constitute a Consenting Lender in respect of the Commitment assigned to and assumed by it on and after the effective time of such replacement.

(c) If a Maturity Date Extension Request has become effective hereunder, on the Existing Maturity Date, the Commitment of each Declining Lender shall, to the extent not assumed, assigned or transferred as provided in paragraph (b) of this Section, terminate, and the Borrower shall repay all the Loans of each Declining Lender, to the extent such Loans shall not have been so purchased, assigned and transferred, in each case together with accrued and unpaid interest and all fees and other amounts owing to such Declining Lender hereunder (accordingly, the Commitment of any Consenting Lender shall, to the extent the amount of such Commitment exceeds the amount set forth in the notice delivered by such Lender pursuant to paragraph (a) of this Section and to the extent not assumed, assigned or transferred as provided in paragraph (b) of this Section, be permanently reduced by the amount of such excess, and, to the extent not assumed, assigned or transferred as provided in paragraph (b) of this Section, the Borrower shall prepay the proportionate part of the outstanding Loans of such Consenting Lender, in each case together with accrued and unpaid interest thereon to but excluding the Existing Maturity Date and all fees and other amounts payable in respect thereof on or prior to the Existing Maturity Date), it being understood that such repayments may be funded with the proceeds of new Borrowings made simultaneously with such repayments by the Consenting Lenders, which such Borrowings shall be made ratably by the Consenting Lenders in accordance with their extended Commitments.

(d) Notwithstanding the foregoing, no Maturity Date Extension Request shall become effective hereunder unless, on the Extension Effective Date, the conditions set forth in Section 4.2 shall be satisfied (with all references in such Section to a Borrowing being deemed to be references to such Maturity Date Extension Request) and the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Financial Officer.

(e) Notwithstanding any provision of this Agreement to the contrary, it is hereby agreed that no extension of an Existing Maturity Date in accordance with the express terms of this Section, or any amendment or modification of the terms and conditions of the Commitments and Loans of the Consenting Lenders effected pursuant thereto, shall be deemed to (i) violate the last sentence of Section 2.8(c) or Section 2.17(c) or any other provision of this Agreement requiring the ratable reduction of Commitments or the ratable sharing of payments or (ii) require the consent of all Lenders or all affected Lenders under Section 10.2(b).

(f) The Borrower, the Administrative Agent and the Consenting Lenders may enter into an amendment to this Agreement to effect such modifications as may be necessary to reflect the terms of any Maturity Date Extension Request that has become effective in accordance with the provisions of this Section.

Section 2.21 Defaulting Lenders. (a) 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) 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 the definition of Required Lenders and in Section 10.2;

(ii) if any Swing Line Exposure or Letter of Credit Usage exists at the time such Lender becomes a Defaulting Lender then:

(A) all or any part of the Swing Line Exposure and Letter of Credit Usage of such Defaulting Lender shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that (x) the sum of all Non-Defaulting Lenders' Revolving Exposures plus such Defaulting Lender's Swing Line Exposure and Letter of Credit Usage does not exceed the total of all Non-Defaulting Lenders' Commitments, (y) the sum of any Non-Defaulting Lender's Revolving Exposure plus its Pro Rata Share of such Defaulting Lender's Swing Line Exposure and Letter of Credit Usage does not exceed such Non-Defaulting Lender's Commitment and (z) the conditions set forth in Section 4.2 are satisfied at such time;



(B) if the reallocation described in clause (A) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent (x) first, prepay such Swing Line Exposure and (y) second, cash collateralize for the benefit of the applicable Issuing Banks only the Borrower's obligations corresponding to such Defaulting Lender's Letter of Credit Usage (after giving effect to any partial reallocation pursuant to clause (A) above) in accordance with the procedures set forth in Section 2.4(j) for so long as such Letter of Credit Usage is outstanding;

(C) if the Borrower cash collateralizes any portion of such Defaulting Lender's Letter of Credit Usage pursuant to clause (B) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.11(c) with respect to such Defaulting Lender's Letter of Credit Usage during the period such Defaulting Lender's Letter of Credit Usage is cash collateralized;

(D) if the Letter of Credit Usage of the Non-Defaulting Lenders is reallocated pursuant to clause (A) above, then the fees payable to the Lenders pursuant to Section 2.11(a) and Section 2.11(c) shall be adjusted in accordance with such Non-Defaulting Lenders' Applicable Percentages; and

(E) if all or any portion of such Defaulting Lender's Letter of Credit Usage is neither reallocated nor cash collateralized pursuant to clause (A) or (B) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all letter of credit fees payable under Section 2.11(c) with respect to such Defaulting Lender's Letter of Credit Usage shall be payable to the Issuing Banks (and allocated among them ratably based on the amount of such Defaulting Lender's Letter of Credit Usage attributable to Letter of Credits issued by each Issuing Bank) until and to the extent that such Letter of Credit Usage is reallocated and/or cash collateralized in accordance with the procedures set forth in Section 2.4(j);

(iii) so long as such Lender is a Defaulting Lender, the Swing Line Lender shall not be required to fund any Swing Line Loan and no Issuing Bank shall be required to issue, amend, extend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding Swing Line Exposure or Letter of Credit Usage will be 100% covered by the Commitments of the Non-Defaulting Lenders and/or cash collateral will be provided by Borrower in accordance with Section 2.21(a)(ii), and participating interests in any newly made Swing Line Loan or any newly issued, amended, extended or increased Letter of Credit shall be allocated among Non-Defaulting Lenders in a manner consistent with Section 2.21(a)(ii)(A) (and such Defaulting Lender shall not participate therein);

(iv) 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 Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.8 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 each Issuing Bank or the Swing Line Lender hereunder; *third*, to cash collateralize each Issuing Bank's Letter of Credit Usage with respect to such

Defaulting Lender in accordance with Section 2.4(j); *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 non-interest bearing deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize each Issuing Bank's future Letter of Credit Usage with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.4(j); *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Banks or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or Swing Line 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 exists, 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 (x) such payment is a payment of the principal amount of any Loans or Letters of Credit disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans or Letters of Credit were made when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of or Letters of Credit disbursements owed to all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments (without giving effect to Section 2.21(a)(ii)(A)). 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 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto; and

(v) No Defaulting Lender shall be entitled to receive any commitment fee pursuant to Section 2.11 for any period during which that 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 that Defaulting Lender).

(b) If (i) any Lender becomes a Defaulting Lender or (ii) the Swing Line Lender or any Issuing Bank has a good faith belief that any Lender will become a Defaulting Lender, the Swing Line Lender shall not be required to fund any Swing Line Loan and such Issuing Bank shall not be required to issue, amend, extend or increase any Letter of Credit, unless the Swing Line Lender or such Issuing Bank, as the case may be, shall have entered into arrangements with the Borrower or such Lender, reasonably satisfactory to the Swing Line Lender or such Issuing Bank, as the case may be, to defease any risk to it in respect of such Lender hereunder.

(c) If the Borrower, Swing Line Lender, each Issuing Bank and the Administrative Agent each 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, that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders (other than Swing Line Loans) or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held on a pro rata basis by the Lenders in accordance with their respective Applicable Percentages, 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 that 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 that Lender's having been a Defaulting Lender.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Lenders that:

Section 3.1 Organization; Powers. Each of the Borrower and its Restricted Subsidiaries is duly organized, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, has not resulted in and could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

Section 3.2 Authorization; Enforceability. The Transactions are within each Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational and, if required, equity holder action. Each Loan Party has duly executed and delivered each of the Loan Documents to which it is party, and each of such Loan Documents constitutes its legal, valid and binding obligations, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.3 Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect and (ii) those approvals, consents, registrations, filings or other actions, the failure of which to obtain or make has not had and could not reasonably be expected to have a Material Adverse Effect, (b) except as has not had and could not reasonably be expected to have a Material Adverse Effect, will not violate any applicable law or regulation or any order of any Governmental Authority, (c) will not violate any charter, by-laws or other organizational document of the Borrower or any of its Restricted Subsidiaries, (d) except as has not had and

could not reasonably be expected to have a Material Adverse Effect, will not violate or result in a default under any indenture, agreement or other instrument (other than the agreements and instruments referred to in clause (c)) binding upon the Borrower or any of its Restricted Subsidiaries or its assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Restricted Subsidiaries, and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Restricted Subsidiaries (other than the Liens created pursuant to the Collateral Documents).

Section 3.4 Financial Condition; No Material Adverse Change. (a) The Borrower has heretofore furnished to the Administrative Agent its consolidated balance sheet and statements of income, stockholders equity and cash flows as of and for the fiscal years ended December 31, 2013, December 31, 2014, December 31, 2015 and December 31, 2016, reported on by Ernst & Young LLP, independent public accountants. Other than as set forth on Schedule 3.4, such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Restricted Subsidiaries as of such dates and for such periods in accordance with GAAP.

(b) Since December 31, 2015, no event, development or circumstance exists or has occurred that has had or would reasonably be expected to have a material adverse effect on the business, property, financial condition or results of operations of the Borrower and its Restricted Subsidiaries, taken as a whole.

Section 3.5 Properties. (a) Each of the Borrower and its Restricted Subsidiaries has good title to, or valid leasehold interests in or rights to use, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens, other than (i) Permitted Encumbrances, (ii) Liens arising by operation of law, (iii) Liens permitted by Section 6.2 and (iv) minor defects in title that do not materially interfere with the ability of the Borrower and its Restricted Subsidiaries to conduct their businesses.

(b) As of the Restatement Effective Date, Schedule 3.5 contains a true, accurate and complete list of all Material Real Estate Assets.

(c) Each of the Borrower and its Restricted Subsidiaries owns, or is licensed to use, all Intellectual Property material to, used in and necessary to its business as currently conducted, and the use thereof by the Borrower and its Restricted Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, have not resulted and would not reasonably be expected to result in a Material Adverse Effect.

Section 3.6 Litigation and Environmental Matters. (a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of its Restricted Subsidiaries (i) that have resulted or would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve this Agreement, any other Loan Document or the Transactions. Neither the Borrower

nor any of its Restricted Subsidiaries is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, have resulted or would reasonably be expected to result in a Material Adverse Effect.

(b) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, have not resulted and could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, or (iii) has received notice of any claim with respect to any Environmental Liability.

(c) Since the Restatement Effective Date, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in or would reasonably be expected to result in a Material Adverse Effect.

Section 3.7 Compliance with Laws and Agreements. Each of the Borrower and its Restricted Subsidiaries is in compliance with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, have not resulted and would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

Section 3.8 Investment Company Status. None of the Borrower or any Restricted Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

Section 3.9 Taxes. Except as has not resulted and would not reasonably be expected to result in a Material Adverse Effect, (i) each of the Borrower and its Restricted Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed with respect to income, properties or operations of the Borrower and its Restricted Subsidiaries, (ii) such returns accurately reflect in all material respects all liability for Taxes of the Borrower and its Restricted Subsidiaries as a whole for the periods covered thereby and (iii) each of the Borrower and each of its Restricted Subsidiaries has paid or caused to be paid all Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings and, to the extent required by GAAP, for which the Borrower or such Restricted Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP.

Section 3.10 ERISA. (a) Each Plan is in compliance in form and operation with its terms and with ERISA and the Code (including the Code provisions compliance with which is necessary for any intended favorable tax treatment) and all other applicable laws and regulations, except where any failure to comply could not reasonably be expected to result in a Material Adverse Effect. Each Plan (and each related trust, if any) which is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS to the

effect that it meets the requirements of Sections 401(a) and 501(a) of the Code covering all applicable tax law changes or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS, and, nothing has occurred since the date of such determination that would adversely affect such determination (or, in the case of a Plan with no determination, nothing has occurred that would materially adversely affect the issuance of a favorable determination letter or otherwise materially adversely affect such qualification). No ERISA Event has occurred, or is reasonably expected to occur, other than as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) There exists no material Unfunded Pension Liability with respect to any Plan, except as could not reasonably be expected to result in a Material Adverse Effect.

(c) None of the Borrower, any Subsidiary or any ERISA Affiliate is making or accruing an obligation to make contributions, or has within any of the five calendar years immediately preceding the date this assurance is given or deemed given, made or accrued an obligation to make contributions to any Multiemployer Plan.

(d) There are no actions, suits or claims pending against or involving a Plan (other than routine claims for benefits) or, to the knowledge of the Borrower, any Subsidiary or any ERISA Affiliate, threatened, which have resulted in or could reasonably be expected either singly or in the aggregate to result in a Material Adverse Effect.

(e) The Borrower, each Subsidiary and each ERISA Affiliate have made all contributions to or under each Plan and Multiemployer Plan required by law within the applicable time limits prescribed thereby, the terms of such Plan or Multiemployer Plan, respectively, or any contract or agreement requiring contributions to a Plan or Multiemployer Plan save where any failure to comply, individually or in the aggregate, has not resulted and could not reasonably be expected to result in a Material Adverse Effect.

(f) No Plan which is subject to Section 412 of the Code or Section 302 of ERISA has applied for or received an extension of any amortization period, within the meaning of Section 412 of the Code or Section 302 or 304 of ERISA. None of the Borrower, any Subsidiary or any ERISA Affiliate have ceased operations at a facility so as to become subject to the provisions of Section 4062(e) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA or ceased making contributions to any Plan subject to Section 4064(a) of ERISA to which it made contributions. None of the Borrower, any Subsidiary or any ERISA Affiliate have incurred or reasonably expect to incur any liability to PBGC except as has not resulted in and could not reasonably be expected to result in a Material Adverse Effect, and no Lien imposed under the Code or ERISA on the assets of the Borrower, any Subsidiary or any ERISA Affiliate exists or, to the knowledge of the Borrower, is likely to arise on account of any Plan. None of the Borrower, any Subsidiary or any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

(g) Each Non-U.S. Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities,

except as has not resulted in and could not reasonably be expected to result in a Material Adverse Effect. All contributions required to be made with respect to a Non-U.S. Plan have been timely made, except as has not resulted in and could not reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor any of its Restricted Subsidiaries has incurred any material obligation in connection with the termination of, or withdrawal from, any Non-U.S. Plan. The present value of the accrued benefit liabilities (whether or not vested) under each Non- U.S. Plan, determined as of the end of the Borrower's most recently ended fiscal year on the basis of actuarial assumptions, each of which is reasonable, did not exceed the current value of the assets of such Non-U.S. Plan allocable to such benefit liabilities, except as would not reasonably be expected to result in a Material Adverse Effect.

Section 3.11 Disclosure. All written information or oral information provided in formal presentations or in any regularly scheduled meeting or regularly scheduled conference call with more than one Lender (other than any projected financial information and other than information of a general economic or industry specific nature) furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished and when taken as a whole), when furnished, does not contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not materially misleading; provided that, with respect to any projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time furnished (it being understood that such projected financial information is subject to significant uncertainties and contingencies, any of which are beyond the Borrower's control, that no assurance can be given that any particular projections will be realized and that actual results during the period or periods covered by any such projected financial information may differ significantly from the projected results and such differences may be material).

Section 3.12 Subsidiaries. Schedule 3.12 sets forth as of the Restatement Effective Date a list of all Subsidiaries (identifying all Restricted Subsidiaries and all Unrestricted Subsidiaries) and the percentage ownership (directly or indirectly) of the Borrower therein. Except as has not resulted and could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the shares of capital stock or other ownership interests of all Restricted Subsidiaries of the Borrower are fully paid and non-assessable and are owned by the Borrower (other than minority interests held by other Persons that do not violate any provision of this Agreement), directly or indirectly, free and clear of all Liens other than Liens permitted under Section 6.2.

Section 3.13 Anti-Terrorism Laws; USA Patriot Act. To the extent applicable, the Borrower and each Subsidiary is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the USA Patriot Act.

Section 3.14 Anti-Corruption Laws and Sanctions. (a) The Borrower has implemented and maintains in effect policies and procedures designed to promote compliance by the Borrower and its Subsidiaries and its and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and its and their respective directors and officers and, to the knowledge of the Borrower, its and their respective employees, and their respective affiliates and agents acting at their direction, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (i) the Borrower, any Subsidiary or any of its or their respective directors or officers, nor to the knowledge of the Borrower, any of the employees of the Borrower or its Subsidiaries, or (ii) to the knowledge of the Borrower, any of its or their respective affiliates or agents that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. The Transactions will not violate Anti-Corruption Laws or applicable Sanctions.

(b) No part of the proceeds of the Loans or any Letters of Credit will be used, directly or indirectly, for any payments to any officer or employee of a Governmental Authority, or any Person controlled by a Governmental Authority, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

Section 3.15 Margin Stock. (a) None of the Borrower or any of its Restricted Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

(b) No part of the proceeds of any Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of, or that is inconsistent with, the provisions of the Regulations of the Board, including Regulation T, U or X.

Section 3.16 Solvency. As of the Effective Date and the Restatement Effective Date, the Borrower is, individually and together with its Restricted Subsidiaries, and after giving effect to the incurrence of all Indebtedness and obligations being incurred in connection herewith (assuming for this purpose that the full amount of the Commitments is drawn on the Effective Date or the Restatement Effective Date, as the case may be) will be, Solvent.

Section 3.17 Immaterial Subsidiaries. As of the Restatement Effective Date, the Domestic Restricted Subsidiaries set forth on Schedule 3.17 are not Material Domestic Subsidiaries.

Section 3.18 Collateral Documents. The Security Agreement and each other Collateral Document is, or upon execution will be, effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a valid security interest in the Collateral described therein and proceeds thereof (to the extent a security interest can be created therein under the Uniform Commercial Code). In the case of the Pledged Collateral described in the Security Agreement, when stock or interest certificates representing such Pledged Collateral (along with properly completed stock or interest powers endorsing the Pledged Collateral) and executed by the owner of such shares or interests are delivered to the Collateral Agent, and in the case of the other Collateral described in the Security Agreement or any other Collateral Document, when financing statements and other filings specified on Schedule 3.18 in appropriate form are filed in



the offices specified on Schedule 3.18, the Collateral 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.

#### ARTICLE IV

#### CONDITIONS

Section 4.1 [Reserved].

Section 4.2 Each Credit Extension. The obligation of each Lender to make a Loan on the occasion of any Borrowing (other than a Borrowing consisting solely of a conversion of Loans of one Type to another Type or a continuation of a Eurodollar Loan following the expiration of the applicable Interest Period), the obligation of each Issuing Bank to issue any Letter of Credit, or amend or extend the expiration date, or increase the face amount of any Letter of Credit, and the effectiveness of any Commitment Increase pursuant to Section 2.19 or any extension of the Maturity Date pursuant to Section 2.20 (each of the foregoing, a “Credit Extension”), is subject to the satisfaction of the following conditions:

(a) The Administrative Agent shall have received a fully executed Borrowing Request or the Administrative Agent and the applicable Issuing Bank shall have received fully executed Issuance Notice and Application, as the case may be;

(b) The representations and warranties of the Borrower set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects (other than to the extent qualified by materiality or “Material Adverse Effect”, in which case, such representations and warranties shall be true and correct in all respects) on and as of the date of such Credit Extension, except that (i) for purposes of this Section, the representations and warranties contained in Section 3.4(a) shall be deemed to refer, following the first delivery thereof, to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 5.1 and (ii) to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in such manner as of such earlier date. Any assertion by the Administrative Agent or the Lenders that the representation contained in Section 3.4(b) is not true and correct shall require a good faith determination made by the Required Lenders acting together to such effect and the Required Lenders shall have notified the Borrower of their determination; and

(c) At the time of and immediately after giving effect to such Credit Extension, no Default or Event of Default shall have occurred and be continuing.

Each Credit Extension shall be deemed to constitute a representation and warranty by the Borrower as to the matters specified in paragraphs (b) and (c) of this Section.

## AFFIRMATIVE COVENANTS

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit have been cancelled or expired or cash collateralized on terms satisfactory to the applicable Issuing Banks, each Loan Party covenants and agrees with the Lenders that:

Section 5.1 Financial Statements; Other Information; Quarterly Conference Calls. The Borrower will furnish to the Administrative Agent (for distribution to each Lender):

(a) (i) in each fiscal year prior to an IPO, within 120 days after the end of such fiscal year of the Borrower and (ii) in each fiscal year following an IPO, within 90 days after the end of such fiscal year of the Public Company, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing (without a "going concern" or like qualification or exception (other than a qualification related to the maturity of the Commitments and the Loans at the Maturity Date) and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower (or, after an IPO, the Public Company) and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, after an IPO, the Public Company), its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower (or, after an IPO, the Public Company) and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (or, after an IPO, the Public Company) in substantially the form of Exhibit F attached hereto (i) certifying as to whether a Default has occurred and is continuing as of the date thereof and, if a Default has occurred and is continuing as of the date thereof, specifying the details thereof and any action taken or proposed to be taken with respect thereto and (ii) if and to the extent that any change in GAAP that has occurred since the date of the audited financial statements referred to in Section 3.4 had an impact on such financial statements, specifying the effect of such change on the financial statements accompanying such certificate;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Restricted Subsidiary with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or with any national securities exchange, as the case may be, in each case that is not otherwise required to be delivered to the Administrative Agent pursuant hereto; provided that such information shall be deemed to have been delivered on the date on which such information has been posted on the Borrower's website on the Internet at <http://www.dropbox.com> (or any successor page) or at <http://www.sec.gov>;

(e) promptly following any request in writing (including any electronic message) therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Restricted Subsidiary, or compliance with the terms of this Agreement or any other Loan Document, as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request;

(f) the Borrower will furnish to the Collateral Agent (i) any information regarding Collateral required pursuant to the Collateral Documents and (ii) each year, at the time of delivery of annual financial statements with respect to the preceding fiscal year pursuant to Section 5.1(a), a certificate of its Responsible Officer certifying that, to its knowledge, all Uniform Commercial Code financing statements and all supplemental intellectual property security agreements or other appropriate filings, recordings or registrations, have been filed of record in each governmental, municipal or other appropriate office in each jurisdiction identified in the documents delivered pursuant to clause to the extent necessary to effect, protect and perfect the security interests under the Collateral Documents (except as noted therein with respect to any continuation statements to be filed within such period); and

(g) if any Subsidiary has been designated as an Unrestricted Subsidiary, concurrently with each delivery of financial statements under clause (a) or (b) above, financial statements (in substantially the same form as the financial statements delivered pursuant to clauses (a) and (b) above) prepared on the basis of consolidating the accounts of the Borrower and its Restricted Subsidiaries and treating any Unrestricted Subsidiaries as if they were not consolidated with the Borrower and otherwise eliminating all accounts of Unrestricted Subsidiaries, together with an explanation of reconciliation adjustments in reasonable detail.

The Borrower will participate in a telephonic meeting with the Administrative Agent and the Lenders, such meeting to be held, if and to the extent requested by the Administrative Agent, at such time (but not more often than once in a period of three consecutive months) during normal business hours as may reasonably be agreed to by the Borrower and the Administrative Agent, during which the Borrower shall, among other things, convey to the Administrative Agent and the Lenders (a) an analysis of key business trends with respect to the Borrower as of the end of and for the then most recently ended fiscal quarter and the then elapsed portion of the applicable fiscal year and (b) in the case of the first such meeting held during any fiscal year, guidance (which shall be prepared on the basis of assumptions believed by the Borrower to be reasonable) with respect to such key business trends for such fiscal year (and, in the case of each such subsequent meeting held during such fiscal year, an update with respect to such guidance).

Information required to be delivered pursuant to Section 5.1(a) or Section 5.1(b) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such information, or provides a link thereto on the Borrower's website on the Internet at <http://www.dropbox.com> (or any successor page) or at <http://www.sec.gov>; or (ii) on which such information is posted on the Borrower's behalf on an Internet or intranet website, if any, to which the Lenders and the Administrative Agent have been granted access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that (x) to the extent the Administrative Agent or any Lender so requests, the Borrower shall deliver paper copies of such documents to the Administrative Agent or such Lender until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (y) the Borrower shall notify the Administrative Agent (by facsimile or electronic mail) of the posting of any such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to herein, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Section 5.2 Notices of Material Events.

The Borrower will furnish to the Administrative Agent (for distribution to each Lender) prompt written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any Subsidiary thereof that would reasonably be expected to result in a Material Adverse Effect; and

(c) any other development that becomes known to any officer of the Borrower or any of its Subsidiaries that results in, or would reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Responsible Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.3 Existence; Conduct of Business. The Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; provided that (i) the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.3 and (ii) none of the Borrower or any of its Restricted Subsidiaries shall be required to preserve, renew or keep in full force and effect its rights, licenses, permits, privileges or franchises where failure to do so would not reasonably be expected to result in a Material Adverse Effect.

Section 5.4 Payment of Taxes. The Borrower will, and will cause each of its Restricted Subsidiaries to, pay all Tax liabilities, including all Taxes imposed upon it or upon its income or profits or upon any properties belonging to it that, if not paid, would reasonably be expected to result in a Material Adverse Effect, before the same shall become delinquent or in default, and all lawful claims other than Tax liabilities which, if unpaid, would become a Lien upon any properties of the Borrower or any of its Restricted Subsidiaries not otherwise permitted under Section 6.2, in both cases except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings and (b) to the extent required by GAAP, the Borrower or such Restricted Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP.

Section 5.5 Maintenance of Properties; Insurance. The Borrower will, and will cause each of its Restricted Subsidiaries to, (a) keep and maintain all property used in the conduct of its business in good working order and condition, ordinary wear and tear and casualty events excepted, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect, and (b) maintain insurance with financially sound and reputable insurance companies or through self-insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

Section 5.6 Books and Records; Inspection Rights. The Borrower will, and will cause each of its Restricted Subsidiaries to, keep proper books of record and account in which entries full, true and correct in all material respects are made and are sufficient to prepare financial statements in accordance with GAAP (other than as set forth in Schedule 3.4). The Borrower will, and will cause each of its Restricted Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender (pursuant to the request made through the Administrative Agent), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (provided that the Borrower or such Restricted Subsidiary shall be afforded the opportunity to participate in any discussions with such independent accountants), all at such reasonable times and as often as reasonably requested (but no more than once annually if no Event of Default exists). Notwithstanding anything to the contrary in this Section, none of the Borrower or any of its Restricted Subsidiaries shall be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives) is prohibited by applicable law or (iii) is subject to attorney, client or similar privilege or constitutes attorney work-product.

Section 5.7 ERISA-Related Information. The Borrower shall supply to the Administrative Agent (in sufficient copies for all the Lenders, if the Administrative Agent so requests): (a) promptly and in any event within 15 days after the Borrower, any Subsidiary or any ERISA Affiliate files a Schedule B (or such other schedule as contains actuarial information) to IRS Form 5500 in respect of a Plan with Unfunded Pension Liabilities, a copy of such IRS Form 5500 (including the Schedule B); (b) promptly and in any event within 30 days after the Borrower, any Subsidiary or any ERISA Affiliate knows or has reason to know that any ERISA

Event has occurred, a certificate of a Financial Officer of the Borrower describing such ERISA Event and the action, if any, proposed to be taken with respect to such ERISA Event and a copy of any notice filed with the PBGC or the IRS pertaining to such ERISA Event and any notices received by such Borrower, Subsidiary, or ERISA Affiliate from the PBGC or any other governmental agency with respect thereto; provided that, in the case of ERISA Events under paragraph (d) of the definition thereof, the 30-day period set forth above shall be a 10-day period, and, in the case of ERISA Events under paragraph (b) of the definition thereof, in no event shall notice be given later than the occurrence of the ERISA Event; (c) promptly, and in any event within 30 days, after becoming aware that there has been (i) a material increase in Unfunded Pension Liabilities (taking into account only Pension Plans with positive Unfunded Pension Liabilities) since the date the representations hereunder are given or deemed given, or from any prior notice, as applicable; (ii) the existence of potential withdrawal liability under Section 4201 of ERISA, if the Borrower, any Subsidiary and the ERISA Affiliates were to withdraw completely from any and all Multiemployer Plans, (iii) the adoption of, or the commencement of contributions to, any Plan subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA by the Borrower, any Subsidiary or any ERISA Affiliate, or (iv) the adoption of any amendment to a Plan subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA which results in a material increase in contribution obligations of the Borrower, any Subsidiary or any ERISA Affiliate, a detailed written description thereof from a Financial Officer of the Borrower; and (d) as soon as practicable, and in any event within 10 days, if, at any time after the Restatement Effective Date, the Borrower, any Subsidiary or any ERISA Affiliate maintains, or contributes to (or incurs an obligation to contribute to), a Pension Plan or Multiemployer Plan to which the Borrower, and Subsidiary or any ERISA Affiliate did not maintain or contribute to prior to the Restatement Effective Date, a written description evidencing that each such plan or Multiemployer Plan is in compliance in form and operation with its terms and with ERISA and the Code.

Section 5.8 Compliance with Laws and Agreements. The Borrower will, and will cause each of its Restricted Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to promote compliance by the Borrower, its Subsidiaries and its and their respective directors, officers, employees and agents of the foregoing with Anti-Corruption Laws and applicable Sanctions.

Section 5.9 Use of Proceeds. The proceeds of the Loans will be used only for working capital and general corporate purposes, including for stock repurchases under stock repurchase programs approved by the Borrower and for Acquisitions. The Letters of Credit and the proceeds thereof will be used only for working capital and general corporate purposes. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X. The Borrower will not request any Credit Extension, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Credit Extension, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, business or transaction would be prohibited by Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 5.10 Additional Guarantors; Material IP Subsidiaries. (a) In the event that any Person becomes a Material Domestic Subsidiary, the Borrower shall (i) in the case of an Unrestricted Subsidiary becoming a Material Domestic Subsidiary, substantially concurrently with the redesignation or deemed redesignation thereof as a Restricted Subsidiary pursuant to Section 5.12 or (ii) otherwise, 30 days thereafter (or such longer period of time as the Collateral Agent may agree in its sole discretion) (A) cause such Material Domestic Subsidiary to become (x) a Guarantor hereunder by executing and delivering to the Administrative Agent a Counterpart Agreement and (y) a Grantor under the Security Agreement by executing and delivering to the Collateral Agent the joinder agreement required thereunder, and (B) take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements, and certificates reasonably requested by the Collateral Agent or required by the Collateral Documents.

(b) In the event that any Person becomes a Material IP Subsidiary of the Borrower (through acquisition or otherwise), and the Equity Interests of such Material IP Subsidiary are owned by any Loan Party, such Loan Party shall (i) in the case of a Subsidiary that becomes a Material IP Subsidiary as a result of a Permitted IP Transfer, substantially concurrently with the consummation of such Permitted IP Transfer, or (ii) otherwise, within 30 days thereafter (or, in each case, such longer period of time as the Collateral Agent may agree in its sole discretion) take all of the actions referred to in the Security Agreement necessary to grant a perfected security interest in favor of the Collateral Agent, for the benefit of the Secured Parties, under the Security Agreement in the Equity Interests of such Material IP Subsidiary.

(c) With respect to each Material Domestic Subsidiary referred to in clause (a) above and each Material IP Subsidiary referred to in clause (b) above, the Borrower shall promptly after delivering the financial statements pursuant to Sections 5.1(a) or (b), as the case may be, send to the Administrative Agent written notice setting forth (i) the date on which such Person became a Material Domestic Subsidiary or a Material IP Subsidiary, as applicable, and (ii) all of the data required to be set forth in Schedule 3.12 hereto; and such written notice shall be deemed to supplement Schedule 3.12 for all purposes hereof. If requested by the Administrative Agent, the Administrative Agent shall receive an opinion of counsel for the Borrower in form and substance reasonably satisfactory to the Administrative Agent in respect of such customary matters as may be reasonably requested by the Administrative Agent relating to any Counterpart Agreement or joinder agreement delivered pursuant to this Section, dated as of the date of such agreement.

Section 5.11 Further Assurances. Each Loan Party shall take such actions as the Administrative Agent or the Collateral Agent may reasonably request from time to time to ensure that the Obligations are (i) guaranteed by the Guarantors and (ii) are secured by the Collateral.

Section 5.12 Designation of Restricted and Unrestricted Subsidiaries.

(a) The Board of Directors may designate any Subsidiary, including a newly acquired or created Subsidiary, other than a Material IP Subsidiary, to be an Unrestricted Subsidiary if it meets the following qualifications:

(i) such Subsidiary does not own any Equity Interest of the Borrower or any Restricted Subsidiary or a Material IP Subsidiary;

(ii) the Borrower would be permitted to make an Investment at the time of the designation in an amount equal to the aggregate fair market value (as determined by the Borrower in good faith) of all Investments of the Borrower or its Restricted Subsidiaries in such Subsidiary (valued at the Borrower's and the Restricted Subsidiaries' proportional share of the fair market value (as determined by the Borrower in good faith) of such Subsidiary's assets less liabilities);

(iii) any Guarantee or other credit support thereof by the Borrower or any Restricted Subsidiary is permitted under Section 6.1 or Section 6.7;

(iv) neither the Borrower nor any Restricted Subsidiary has any obligation to subscribe for additional Equity Interests of such Subsidiary or to maintain or preserve its financial condition or cause it to achieve specified levels of operating results except to the extent permitted by Section 6.1 or Section 6.7;

(v) immediately before and after such designation, no Default or Event of Default shall have occurred and be continuing or would result from such designation; and

(vi) no Subsidiary may be designated as an Unrestricted Subsidiary if it is a "restricted subsidiary" or a "guarantor" (or any similar designation) for any other Indebtedness of the Borrower or a Restricted Subsidiary.

Once so designated, the Subsidiary will remain an Unrestricted Subsidiary, subject to subsection (b).

(b) (i) A Subsidiary previously designated as an Unrestricted Subsidiary which fails to meet the qualifications set forth in subsections (a)(i), (a)(ii), (a)(iv) or (a)(vi) of Section 5.12 will be deemed to become at that time a Restricted Subsidiary, subject to the consequences set forth in subsection (d) of Section 5.12. (ii) The Board of Directors may designate an Unrestricted Subsidiary to be a Restricted Subsidiary if no Event of Default exists at the time of the designation and the designation would not cause an Event of Default.

(c) Upon a Restricted Subsidiary becoming an Unrestricted Subsidiary,

(i) all existing Investments of the Borrower and the Restricted Subsidiaries therein (valued at the Borrower's and the Restricted Subsidiaries' proportional share of the fair market value of its assets less liabilities) will be deemed made at that time;

(ii) all existing Equity Interest or Indebtedness of the Borrower or a Restricted Subsidiary held by it will be deemed issued or incurred, as applicable, at that time, and all Liens on property of the Borrower or a Restricted Subsidiary securing its obligations will be deemed incurred at that time;



- (iii) all existing transactions between it and the Borrower or any Restricted Subsidiary will be deemed entered into at that time;
- (iv) it will be released at that time from its Guaranty and its obligations under the Security Agreement and all related Liens on its property will be released at that time; and
- (v) it will cease to be subject to the provisions of this Agreement as a Restricted Subsidiary.
- (d) Upon an Unrestricted Subsidiary becoming, or being deemed to become, a Restricted Subsidiary pursuant to Section 5.12(b),
- (i) all of its Indebtedness and Liens will be deemed incurred at that time for purposes of Section 6.1 and Section 6.2, as applicable;
- (ii) all Investments therein previously charged under Section 6.7 will be credited thereunder;
- (iii) if it is a Material Domestic Subsidiary, it shall be required to become a Guarantor pursuant to Section 5.10; and
- (iv) it will be subject to the provisions of this Agreement as a Restricted Subsidiary.

(e) Any designation by the Board of Directors of a Subsidiary as an Unrestricted Subsidiary after the Effective Date will be evidenced to the Administrative Agent by promptly filing with the Administrative Agent a copy of the resolutions of the Board of Directors giving effect to the designation and a certificate of a Responsible Officer of the Borrower certifying that the designation complied with the foregoing provisions.

Section 5.13 Minimum Liquidity. The Borrower and its Restricted Subsidiaries shall maintain Liquidity as of the last day of each fiscal quarter of not less than \$100,000,000 on a consolidated basis.

## ARTICLE VI

### NEGATIVE COVENANTS

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have been cancelled or expired or cash collateralized on terms satisfactory to the applicable Issuing Banks, each Loan Party covenants and agrees with the Lenders that:

Section 6.1 Indebtedness. No Loan Party shall, nor shall it permit any of its Restricted Subsidiaries to, create, incur or assume, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) the Obligations;

(b) Indebtedness of the Borrower or its Restricted Subsidiaries with respect to Capital Lease Obligations, sale-lease back transactions and purchase money Indebtedness in an aggregate principal amount not to exceed (i) \$500,000,000 at any time outstanding or (ii) such greater amount as shall not result, at the time of incurrence of such Indebtedness, in the Borrower's Consolidated Leverage Ratio exceeding 2.50 to 1.00 (to be calculated after giving pro forma effect to the incurrence of such Indebtedness and the use of proceeds thereof (but, for the avoidance of doubt, without netting any cash proceeds thereof), as of the last day of the most recently ended four fiscal quarter period for which financial statements have been or are required to be delivered pursuant to Section 5.1(a) or (b)); provided that any such Indebtedness shall be secured only by the asset (including all accessions, attachments, improvements and the proceeds thereof) acquired, constructed or improved in connection with the incurrence of such Indebtedness;

(c) Indebtedness in an aggregate outstanding principal amount not to exceed (i) \$500,000,000 at any time outstanding or (ii) such greater amount as shall not result, at the time of incurrence of such Indebtedness, in the Borrower's Consolidated Leverage Ratio exceeding 2.50 to 1.00 (to be calculated after giving pro forma effect to the incurrence of such Indebtedness and the use of proceeds thereof (but, for the avoidance of doubt, without netting any cash proceeds thereof), as of the last day of the most recently ended four fiscal quarter period for which financial statements have been or are required to be delivered pursuant to Section 5.1(a) or (b)) that (A) is unsecured, provided that such Indebtedness (1) matures after, and does not require any scheduled amortization or other scheduled payments of principal (other than nominal amortization not to exceed 1% per annum of the original outstanding principal amount of such Indebtedness) prior to, the date that is 181 days after the Maturity Date and (2) is not guaranteed by any Subsidiary that is not a Guarantor or (B) is incurred solely by a Foreign Subsidiary, provided that such Indebtedness is not guaranteed by any Domestic Subsidiary that is not a Guarantor; provided further that, in the case of each of clause (A) and (B), (x) both immediately prior and after giving effect to the incurrence of such Indebtedness, no Default or Event of Default shall exist or result there from and (y) the Borrower delivers a certificate of a Responsible Officer to the Administrative Agent demonstrating compliance with the terms of this Section 6.1(c);

(d) Indebtedness of any Restricted Subsidiary to the Borrower or to any other Restricted Subsidiary, or of the Borrower to any Restricted Subsidiary; provided that (i) all such Indebtedness owing by a Loan Party to any Restricted Subsidiary that is not a Guarantor shall be unsecured and subordinated in right of payment to the payment in full of the Obligations and (ii) any such Indebtedness of any Restricted Subsidiary that is not a Guarantor owing to any Loan Party shall be subject to the limitations set forth in Section 6.7(d);

(e) Indebtedness which may be deemed to exist pursuant to any Guarantees, performance, statutory or similar obligations (including in connection with workers' compensation) or obligations in respect of letters of credit, surety bonds, bank guarantees or similar instruments related thereto incurred in the ordinary course of business, or pursuant to any appeal obligation, appeal bond or letter of credit in respect of judgments that do not constitute an Event of Default under clause (k) of Article VIII;

(f) Indebtedness in connection with cash management agreements, netting services, overdraft protections and otherwise similarly in connection with deposit accounts and Indebtedness in connection with credit card, debit card or other similar cards;

(g) Guarantees by the Borrower of Indebtedness of a Restricted Subsidiary or Guarantees by a Restricted Subsidiary of Indebtedness of the Borrower or another Restricted Subsidiary with respect, in each case, to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.1; provided that (i) if the Indebtedness that is being guaranteed is unsecured and/or subordinated to the Obligations, the Guarantee shall also be unsecured and/or subordinated to the Obligations and (ii) in the case of Guarantees by a Loan Party of the obligations of a Restricted Subsidiary that is not a Guarantor, such Guarantees shall be permitted by Section 6.7(d);

(h) Indebtedness existing on the Restatement Effective Date and described in Schedule 6.1;

(i) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Restricted Subsidiary, or to hedge currency exposure or to hedge energy costs or exposure, which, in any case, are not entered into for speculative purposes; and

(j) other Indebtedness in an aggregate outstanding principal amount not to exceed (i) \$150,000,000 at any time outstanding or (ii) such greater amount as shall not result, at the time of incurrence of such Indebtedness, in the Borrower's Consolidated Leverage Ratio exceeding 5.00 to 1.00 (to be calculated after giving pro forma effect to the incurrence of such Indebtedness and the use of proceeds thereof (but, for the avoidance of doubt, without netting any cash proceeds thereof), as of the last day of the most recently ended four fiscal quarter period for which financial statements have been or are required to be delivered pursuant to Section 5.1(a) or (b)); provided that (A) such Indebtedness is unsecured and subordinated in right of payment to the payment in full of the Obligations on terms reasonably satisfactory to the Administrative Agent, (B) such Indebtedness matures after, and does not require any scheduled amortization or other scheduled payments of principal (other than nominal amortization not to exceed 1% per annum of the original outstanding principal amount of such Indebtedness) prior to, the date that is 181 days after the latest Maturity Date then in effect, (C) such Indebtedness is not guaranteed by any Subsidiary that is not a Guarantor; (D) both immediately prior and after giving effect to the incurrence of such Indebtedness, no Default or Event of Default shall exist or result there from and (E) the Borrower delivers a certificate of a Responsible Officer to the Administrative Agent demonstrating compliance with the terms of this Section 6.1(j).

Section 6.2 Liens. The Borrower will not, and will not permit any Restricted Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of the Borrower or any Restricted Subsidiary existing on the Restatement Effective Date and set forth in Schedule 6.2 and any modifications, renewals and extensions thereof and any Lien granted as a replacement or substitute therefor; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Restricted Subsidiary other than improvements thereon or proceeds thereof and (ii) such Lien shall secure only those obligations which it secures on the Restatement Effective Date and any refinancing, extension, renewal or replacement thereof that does not increase the outstanding principal amount thereof except by an amount equal to any premium or other amount paid, and fees and expenses incurred, in connection with such refinancing, extension, renewal or replacement;

(c) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Restricted Subsidiary or existing on any property or asset of any Person that becomes a Restricted Subsidiary (other than pursuant to a redesignation or deemed redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary as provided in Section 5.12) after the Restatement Effective Date prior to the time such Person becomes a Restricted Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Restricted Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Restricted Subsidiary, as the case may be, and any refinancing, extension, renewal or replacement thereof that does not increase the outstanding principal amount thereof except by an amount equal to any premium or other amount paid, and fees and expenses incurred, in connection with such refinancing, extension, renewal or replacement;

(d) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Restricted Subsidiary; provided that (i) such Liens secure Indebtedness that is permitted by Section 6.1(b), (ii) such Liens and the Indebtedness secured thereby are initially incurred prior to or within 180 days after the acquisition or the completion of the construction or improvement of such fixed or capital assets, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring, constructing or improving such fixed or capital assets and customary related expenses, and (iv) such Liens shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary other than additions, accessions, parts, attachments or improvements on or proceeds of such fixed or capital assets; provided that clause (ii) shall not apply to any refinancing, extension, renewal or replacement thereof;

(e) licenses, sublicenses, leases or subleases granted to others in the ordinary course of business not interfering in any material respect with the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(f) the interest and title of a lessor under any lease, license, sublease or sublicense entered into by the Borrower or any Restricted Subsidiary in the ordinary course of its business and other statutory and common law landlords' Liens under leases;

(g) in connection with the sale or transfer of any assets in a transaction not prohibited hereunder, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(h) in the case of any Joint Venture, any put and call arrangements related to its Equity Interests set forth in its organizational documents or any related joint venture or similar agreement;

(i) Liens securing Indebtedness to finance insurance premiums owing in the ordinary course of business to the extent such financing is not prohibited hereunder;

(j) Liens on earnest money deposits of cash or cash equivalents made in connection with any Acquisition not prohibited hereunder;

(k) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and cash equivalents or other securities on deposit in one or more accounts maintained by the Borrower or any Restricted Subsidiary, in each case granted in the ordinary course of business in favor of the bank or banks, securities intermediaries or other depository institutions with which such accounts are maintained, securing amounts owing to institutions with respect to cash management operating account arrangements and similar arrangements;

(l) Liens in the nature of the right of setoff in favor of counterparties to contractual agreements not otherwise prohibited hereunder with the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(m) Liens securing Indebtedness permitted by Section 6.1(c)(ii); provided that (i) such Liens shall extend only to the assets of the Foreign Subsidiary that incurred such Indebtedness and any Foreign Subsidiary that Guarantees such Indebtedness in accordance with Section 6.1(c)(ii) and Section 6.7 and (ii) such Liens shall not extend to any Intellectual Property acquired by any Foreign Subsidiary referred to in the preceding clause (i), directly or indirectly, from any Loan Party, including pursuant to a Permitted IP Transfer;

(n) Liens securing the Obligations pursuant to any Loan Document; and

(o) other Liens securing obligations in an aggregate amount not to exceed \$25,000,000 at any time outstanding.

Section 6.3 Fundamental Changes; Assets Sales; Changes in Business. (a) The Borrower will not, and will not permit any Restricted Subsidiary to, (x) merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, (y) sell, transfer, lease, enter into any sale-leaseback transactions with respect to, or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of the assets of the Borrower and its Restricted Subsidiaries, taken as a whole, or all or substantially all of the Equity Interests of any of its Restricted Subsidiaries (in each case, whether now owned or hereafter acquired), or (z) liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default or Event of Default shall have occurred and be continuing:

(i) any Subsidiary or any other Person may merge into or consolidate with the Borrower in a transaction in which the surviving entity is (x) the Borrower or (y) a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, which corporation shall expressly assume, by a written instrument in form and substance reasonably satisfactory to the Administrative Agent, all the obligations of the Borrower under the Loan Documents;

(ii) any Person (other than the Borrower) may merge into or consolidate with any Restricted Subsidiary in a transaction in which the surviving entity is a Restricted Subsidiary (provided that any such merger or consolidation involving a Guarantor must result in a Guarantor as the surviving entity);

(iii) any Loan Party may sell, transfer, lease or otherwise dispose of its assets to any other Loan Party;

(iv) in connection with any Acquisition, any Restricted Subsidiary may merge into or with, or consolidate with any other Person, and any other Person may merge into such Restricted Subsidiary, so long as the Person surviving such merger or consolidation shall be a Restricted Subsidiary (provided that any such merger or consolidation involving a Guarantor must result in a Guarantor as the surviving entity);

(v) any Restricted Subsidiary may merge into or consolidate with any other Person in a transaction in which such Restricted Subsidiary ceases to be a direct or indirect Subsidiary of the Borrower if such transaction is excluded from the definition of "Asset Sale" by either clause (j) or (k) thereof; and

(vi) any Restricted Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders.

(b) The Borrower will not, and will not permit any of its Restricted Subsidiaries to, consummate any Asset Sale.

(c) The Borrower will not, and will not permit any of its Restricted Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and its Restricted Subsidiaries on the Restatement Effective Date and businesses reasonably related, complementary thereto.

Section 6.4 Restricted Payments. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, declare or make, directly or indirectly, any Restricted Payment except:

(a) so long as (i) no Default or Event of Default has occurred and is continuing or would result therefrom and (ii) Liquidity (determined on a pro forma basis at the time of (and after giving effect to) such Restricted Payment) is not less than \$300,000,000, Restricted Payments in an unlimited amount;

(b) any Restricted Subsidiary of the Borrower may declare and pay dividends or make other Restricted Payments ratably to (i) its equity holders, (ii) the Borrower or (iii) any Guarantor;

(c) the Borrower may make Restricted Payments to redeem in whole or in part any of its Equity Interest (including Disqualified Equity Interests) for another class of its Equity Interests or rights to acquire its Equity Interests (other than, in each case, Disqualified Equity Interests) or with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests (other than Disqualified Equity Interests); provided that the only consideration paid for any such redemption is Equity Interests of the Borrower or the proceeds of any substantially concurrent equity contribution or issuance of Equity Interest (other than, in each case, Disqualified Equity Interests);

(d) Restricted Payments made in connection with equity compensation that consist solely of the withholding of shares to any employee in an amount equal to the employee's tax obligation on such compensation and the payment in cash to the applicable Governmental Authority of an amount equal to such tax obligation; provided that (i) in the case of such Restricted Payments made prior to an IPO, the sum of (A) such Restricted Payments plus (B) the aggregate amount of all such Restricted Payments made in reliance on this clause

(d) prior to or concurrently with such Restricted Payment shall not exceed 10% of the fair market value (as determined by the Borrower in good faith in a manner consistent with the calculation of such employee's tax obligation on such compensation) of the all outstanding Equity Interests of the Borrower at the time such Restricted Payment is made and (ii) in the case of any such Restricted Payment made following an IPO, the sum of (A) any such Restricted Payment plus (B) the aggregate amount of all such Restricted Payments made in reliance on this clause (d) following an IPO but prior to or concurrently with such Restricted Payment shall not exceed 10% of Total Market Cap at the time such Restricted Payment is made;

(e) the Borrower may declare and make dividends payable solely in additional shares of the Borrower's Qualified Equity Interests and may exchange Equity Interests for its Qualified Equity Interests;

(f) following an IPO, the Public Company may make any Restricted Payment that has been declared by the Public Company, so long as (A) such Restricted Payment would be otherwise permitted under clause (a) of this Section 6.4 at the time so declared and (B) such Restricted Payment is made within 60 days of such declaration;

(g) following an IPO, the Public Company may repurchase Equity Interests pursuant to any accelerated stock repurchase or similar agreement; provided that the payment made by the Public Company with respect to such repurchase would be otherwise permitted under clause (a) of this Section 6.4 at the time such agreement is entered into and at the time such payment is made;

(h) the Borrower may repurchase Equity Interests or rights in respect thereof granted to directors, officers, employees or other providers of services to the Borrower and the Subsidiaries at the original purchase price of such Equity Interests or rights in respect thereof pursuant to a right of repurchase set forth in equity compensation plans in connection with a cessation of service;

(i) the Borrower may (x) repurchase fractional shares of its Equity Interests arising out of stock dividends, splits or combinations, business combinations or conversions of convertible securities or exercises of warrants or options or (y) “net exercise” or “net share settle” warrants or options;

(j) the receipt or acceptance by the Borrower or any Subsidiary of the return of Equity Interests issued by the Borrower or any Subsidiary to the seller of a Person, business or division as consideration for the purchase of such Person, business or division, which return is in settlement of indemnification claims owed by such seller in connection with such acquisition;

(k) following an IPO, the Borrower may repurchase Equity Interests pursuant to the terms of a call spread or similar arrangement entered into in connection with the issuance of convertible notes; and

(l) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, the Borrower may purchase, redeem or otherwise acquire its Equity Interest for aggregate consideration not in excess of \$15,000,000 in any fiscal year.

Section 6.5 Restrictive Agreements. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any Restricted Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure the Obligations, or (b) the ability of any Restricted Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Restricted Subsidiary or of any Restricted Subsidiary to Guarantee Indebtedness of the Borrower or any other Restricted Subsidiary under the Loan Documents; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by this Agreement or any other Loan Document, (ii) the foregoing shall not apply to restrictions and conditions existing on the Restatement Effective Date identified on Schedule 6.5 (and shall apply to any extension or renewal of, or any amendment or modification materially expanding the scope of, any such restrictions or conditions taken as a whole), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Restricted Subsidiary or assets of the Borrower or any Restricted Subsidiary pending such sale, provided that such restrictions and conditions apply only to the Restricted Subsidiary or assets to be sold and such sale is not prohibited hereunder, (iv) the foregoing shall not apply to any agreement or restriction or condition in effect at the time any Person becomes a Restricted Subsidiary, so long as such agreement was not entered into solely in contemplation of such Person becoming a Restricted Subsidiary, (v) the foregoing shall not apply to customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures, (vi) clause (a) of the foregoing shall



not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (vii) clause (a) of the foregoing shall not apply to customary provisions in leases, licenses, sub-leases and sub-licenses and other contracts restricting the assignment thereof or restricting the grant of Liens in such lease, license, sub-lease, sub-license or other contract, (viii) the foregoing shall not apply to restrictions or conditions set forth in any agreement governing Indebtedness not prohibited by Section 6.2; provided that such restrictions and conditions are customary for such Indebtedness as determined in the good faith judgment of the Board of Directors, and (ix) the foregoing shall not apply to restrictions on cash or other deposits (including escrowed funds) imposed under contracts entered into in the ordinary course of business.

Section 6.6 Transactions with Affiliates. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates (other than between or among the Borrower and its Restricted Subsidiaries and not involving any other Affiliate except as otherwise permitted hereunder), except (a) on terms and conditions not less favorable to the Borrower or such Restricted Subsidiary than could be obtained on an arm's-length basis from unrelated third parties as determined in good faith by the independent directors of the Board of Directors, (b) payment of customary directors' fees, customary out-of-pocket expense reimbursement, indemnities (including the provision of directors and officers insurance) and compensation arrangements for members of the board of directors, officers or other employees of the Borrower or any of its Restricted Subsidiaries, (c) any transaction involving amounts less than \$500,000 individually or \$5,000,000 in the aggregate in any fiscal year, and (d) any Restricted Payment permitted by Section 6.4.

Section 6.7 Investments. No Loan Party shall, nor shall it permit any of its Restricted Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including any Joint Venture, except:

(a) Investments in cash and Cash Equivalents;

(b) Investments owned as of the Restatement Effective Date in any Restricted Subsidiary and Investments made after the Restatement Effective Date in the Borrower and any wholly owned Restricted Subsidiary of the Borrower which is a Guarantor;

(c) Investments in Unrestricted Subsidiaries and Joint Ventures; provided that such Investments (including through intercompany loans) shall not exceed at any time an aggregate amount of \$75,000,000;

(d) intercompany loans in accordance with Section 6.1(d) to, and other Investments in, Restricted Subsidiaries which are not Guarantors; provided that the aggregate amount of all such Investments (including through such intercompany loans and any Acquisition) shall not exceed, at the time any such Investment is made, the greater of (i) \$150,000,000 and (ii) 15% of Consolidated Total Assets at such time;

(e) loans and advances to employees of the Borrower and its Restricted Subsidiaries made in the ordinary course of business in an aggregate principal amount not to exceed \$10,000,000;

(f) Investments described in Schedule 6.7;

(g) Swap Agreements which constitute Investments;

(h) trade receivables in the ordinary course of business;

(i) guarantees to insurers required in connection with worker's compensation and other insurance coverage arranged in the ordinary course of business;

(j) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in good faith settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;

(k) intercompany Investments by any Foreign Subsidiary in any other Foreign Subsidiary;

(l) lease, utility and other similar deposits in the ordinary course of business;

(m) Investments of any Person in existence at the time such Person becomes a Restricted Subsidiary; provided such Investment was not made in connection with or anticipation of such Person becoming a Restricted Subsidiary;

(n) Investments in the form of non-cash consideration received in connection with Permitted IP Transfers; and

(o) other Investments not otherwise permitted hereunder; provided that the aggregate amount of all such Investments shall not exceed, at the time any such Investment is made, 15% of the Borrower's Consolidated Total Assets at such time.

For purposes of covenant compliance with this Section 6.7, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment, less any amount paid, repaid, returned, distributed or otherwise received in cash in respect of such Investment.

Notwithstanding anything herein to the contrary, no Loan Party shall, nor shall it permit any of its Restricted Subsidiaries to, (i) allow or cause any U.S. Subsidiary (other than a CFC Holdco) to be a subsidiary of a Foreign Subsidiary (other than any such U.S. Subsidiary that is an existing subsidiary of an acquired Foreign Subsidiary at the time of the Acquisition), (ii) sell, lease (as lessor or sublessor), enter into a sale and leaseback arrangement, exclusively license (as licensor or sublicense), exchange, transfer or otherwise dispose of any Material IP to any Person other than a Loan Party, except pursuant to a Permitted IP Transfer.

ARTICLE VII

GUARANTY

Section 7.1 Guaranty of the Obligations. Subject to Section 7.11, the Guarantors jointly and severally hereby irrevocably and unconditionally guaranty the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) (collectively, the "Guaranteed Obligations"); provided that the Guaranteed Obligations of the Borrower in its capacity as a Guarantor shall exclude any Direct Borrower Obligations.

Section 7.2 Payment by Guarantors. The Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Beneficiary may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of the Borrower or any other Person to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise, Guarantors will upon demand pay, or cause to be paid, in cash, to the Administrative Agent for the ratable benefit of the Beneficiaries, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for the Borrower's becoming the subject of a case under the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against the Borrower for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to the Beneficiaries as aforesaid.

Section 7.3 Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

(a) this Guaranty is a guaranty of payment when due and not of collectability and this Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

(b) the Administrative Agent may enforce this Guaranty during the continuation of an Event of Default notwithstanding the existence of any dispute between the Borrower and any Beneficiary with respect to the existence of such Event of Default;

(c) the obligations of each Guarantor hereunder are independent of the obligations of the Borrower and the obligations of any other guarantor (including any other Guarantor) of the obligations of the Borrower, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against the Borrower, any such other guarantor or any other Person and whether or not the Borrower, any such other guarantor or any other Person is joined in any such action or actions;

(d) payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if the Administrative Agent is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

(e) any Beneficiary, upon such terms as it deems appropriate under the relevant Loan Document, Secured Swap Agreement or Secured Cash Management Services Agreement, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of such Beneficiary in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Beneficiary may have against any such security, in each case as such Beneficiary in its discretion may determine consistent herewith or any applicable Secured Swap Agreement or Secured Cash Management Services Agreement and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any other Loan Party or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Loan Documents or any Secured Swap Agreement or Secured Cash Management Services Agreement; and

(f) this Guaranty and the obligations of the Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations (other than contingent indemnification obligations for which no claim has been made and Obligations in respect of Secured Swap Agreements or Secured Cash Management Services) and the cancellation or expiration or cash collateralization of all Letters of Credit in an amount equal to 103% of Letter of Credit Usage at such time on terms satisfactory to the applicable Issuing Banks), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to

assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Loan Documents, any Secured Swap Agreements, any Secured Cash Management Services Agreements, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Loan Documents, any Secured Swap Agreements, any Secured Cash Management Services Agreements or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Loan Document, such Secured Swap Agreement, such Secured Cash Management Services Agreement or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Loan Documents, any Secured Swap Agreements or any Secured Cash Management Services Agreements or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though any Beneficiary might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) the change, reorganization or termination of the corporate structure or existence of the Borrower or any of its Restricted Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations, whether or not consented to by any Beneficiary; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set offs or counterclaims which the Borrower or any other Person may allege or assert against any Beneficiary in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

Anything contained in this Agreement to the contrary notwithstanding, the obligations of each Guarantor in respect of its Guaranty shall be limited to an aggregate amount equal to the largest amount that would not render its obligations under this Agreement subject to avoidance as a fraudulent transfer or conveyance under Section 548 of the Bankruptcy Code of the United States or any comparable provisions of any similar federal or state law; provided, however, that this limitation shall not apply to the Borrower with respect to its Direct Borrower Obligations.

Section 7.4 Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of the Beneficiaries: (a) any right to require any Beneficiary, as a condition of payment or performance by such Guarantor, to (1) proceed against the Borrower, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (2) proceed against or exhaust any security held from the Borrower, any such other guarantor or any other Person, (3) proceed against or have resort to any balance of any deposit account or credit on the books of any Beneficiary in favor of any Loan Party or any other Person, or (4) pursue any other

remedy in the power of any Beneficiary whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of the Borrower or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of the Borrower or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon any Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to bad faith, gross negligence or willful misconduct; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set offs, recoupments and counterclaims, (iv) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto, and (v) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, the Secured Swap Agreements, the Secured Cash Management Services Agreements or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to the Borrower and notices of any of the matters referred to in Section 7.3 and any right to consent to any thereof; and (f) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof, in each case other than the indefeasible payment in full of the Guaranteed Obligations.

Section 7.5 Guarantors' Rights of Subrogation, Contribution, Etc. Until the Guaranteed Obligations shall have been paid in full (other than contingent indemnification obligations for which no claim has been made and Obligations under or in respect of Secured Swap Agreements or Secured Cash Management Services) and the Commitments shall have terminated, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against the Borrower or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including, (i) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against the Borrower with respect to the Guaranteed Obligations, (ii) any right to enforce, or to participate in, any claim, right or remedy that any Beneficiary now has or may hereafter have against the Borrower, and (iii) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Beneficiary. In addition, until the Guaranteed Obligations shall have been paid in full (other than contingent indemnification obligations for which no claim has been made and Obligations under or in respect of Secured Swap Agreements or Secured Cash Management Services) and all Letters of Credit shall have expired or been cancelled or cash collateralized in an amount equal to 103% of Letter of Credit Usage at such time on terms satisfactory to the applicable Issuing Banks) and the Commitments shall have terminated, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations. Each

Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against the Borrower or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights any Beneficiary may have against the Borrower, to all right, title and interest any Beneficiary may have in any such collateral or security, and to any right any Beneficiary may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations (other than contingent indemnification obligations for which no claim has been made and Obligations under or in respect of Secured Swap Agreements or Secured Cash Management Services) shall not have been paid in full, such amount shall be held in trust for the Administrative Agent on behalf of the Beneficiaries and shall forthwith be paid over to the Administrative Agent for the benefit of the Beneficiaries to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof. Notwithstanding the foregoing, to the extent that any Guarantor's right to indemnification or contribution arises from a payment or sale of Collateral made to satisfy Obligations constituting Swap Obligations, only those Loan Parties for whom such Swap Obligations do not constitute Excluded Swap Obligations shall indemnify and/or contribute to such Guarantor with respect to such Swap Obligations and the amount of any indemnity or contribution shall be adjusted accordingly.

Section 7.6 Subrogation of Other Obligations. Any Indebtedness of the Borrower or any Guarantor now or hereafter held by any Guarantor (the "Obligee Guarantor") is hereby subordinated in right of payment to the Guaranteed Obligations, and any such Indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is continuing shall be held in trust for the Administrative Agent on behalf of the Beneficiaries and shall forthwith be paid over to the Administrative Agent for the benefit of the Beneficiaries to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligee Guarantor under any other provision hereof.

Section 7.7 Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations (other than contingent indemnification obligations for which no claim has been made and Obligations under or in respect of Secured Swap Agreements or Cash Management Services) shall have been paid in full and the Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled or cash collateralized in an amount equal to 103% of Letter of Credit Usage at such time on terms satisfactory to the applicable Issuing Banks. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

Section 7.8 Authority of Guarantors or the Borrower. It is not necessary for any Beneficiary to inquire into the capacity or powers of any Guarantor or the Borrower or the officers, directors or any agents acting or purporting to act on behalf of any of them.

Section 7.9 Financial Condition of the Borrower. Any Loan may be made to the Borrower or continued from time to time and any Secured Swap Agreement or Secured Cash Management Services Agreement may be entered into from time to time, in each case without notice to or authorization from any Guarantor regardless of the financial or other condition of the Borrower or any other Loan Party at the time of any such grant or continuation or at the time such Secured Swap Agreement or Secured Cash Management Services Agreement is entered into, as the case may be. No Beneficiary shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's assessment, of the financial condition of the Borrower or any other Loan Party. Each Guarantor has adequate means to obtain information from the Borrower and the other Loan Parties on a continuing basis concerning the financial condition of the Borrower and the other Loan Parties and their respective ability to perform their obligations under the Loan Documents and the Secured Swap Agreements and Secured Cash Management Services Agreements, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of the Borrower and each other Loan Party and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Beneficiary to disclose any matter, fact or thing relating to the business, operations or conditions of the Borrower or any other Loan Party now known or hereafter known by any Beneficiary.

Section 7.10 Bankruptcy, Etc. (a) So long as any Guaranteed Obligations remain outstanding, no Guarantor shall, without the prior written consent of the Administrative Agent acting pursuant to the instructions of Required Lenders, commence or join with any other Person in commencing any bankruptcy, reorganization or insolvency case or proceeding of or against the Borrower or any other Loan Party. The obligations of the Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Borrower or any other Loan Party or by any defense which the Borrower or any other Loan Party may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

(b) Each Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantors and the Beneficiaries that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve the Borrower or any other Loan Party of any portion of such Guaranteed Obligations. Guarantors will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar Person to pay the Administrative Agent, or allow the claim of the Administrative Agent in respect of, any such interest accruing after the date on which such case or proceeding is commenced.



(c) In the event that all or any portion of the Guaranteed Obligations are paid by the Borrower or any Subsidiary, the obligations of Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from any Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

Section 7.11 Excluded Swap Obligations. (a) Notwithstanding any provision of this Agreement or any other Loan Document, no Guaranty by any Guarantor under any Loan Document shall include a guaranty of any Obligation and no Guaranteed Obligations shall include any Obligation that, as to such Guarantor, is an Excluded Swap Obligation, and no Collateral provided by any Guarantor shall secure any Obligation and no Secured Obligations shall include any Obligation that, as to such Guarantor, is an Excluded Swap Obligation. In the event that any payment is made pursuant to any Guaranty by any Guarantor, or any amount is realized from Collateral of any Guarantor, as to which any Guaranteed Obligations or Secured Obligations, as applicable, are Excluded Swap Obligations, such payment or amount shall be applied to pay the Guaranteed Obligations or Secured Obligations, as applicable, of such Guarantor as otherwise provided herein and in the other Loan Documents without giving effect to such Excluded Swap Obligations, with payments from Guarantors of all Obligations, on the one hand, and Guarantors who cannot guarantee Excluded Swap Obligations, on the other hand, being distributed in such manner (but without applying payments from Guarantors who cannot guarantee Excluded Swap Obligations to such obligations) so as to ensure, as nearly as practicable, the distribution of payments as required by the Loan Documents. Each reference in this Agreement or any other Loan Document to the ratable application of such amounts as among the Guaranteed Obligations, the Secured Obligations or the Obligations or any specified portion thereof that would otherwise include such Excluded Swap Obligations shall be deemed so to provide.

(b) Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time to enable each other Loan Party to honor all of its obligations under the Loan Documents in respect of Swap Obligations; provided, however, that such Qualified ECP Guarantor shall only be liable under this Section for the maximum amount of such liability that can be hereby incurred by such Qualified ECP Guarantor without rendering its obligations under this Section or otherwise its Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer and not for any greater amount. The obligations of each Qualified ECP Guarantor under this Section shall remain in full force and effect until its Guaranty is released. Each Qualified ECP Guarantor intends that this Section shall constitute, and this Section shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

ARTICLE VIII

EVENTS OF DEFAULT

If any of the following events (each, an “Event of Default”) shall occur:

- (a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable or any amount due and payable to any Issuing Bank in reimbursement of any drawing under any Letter of Credit, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;
- (b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under any of the Loan Documents, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;
- (c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Restricted Subsidiary in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement, any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been incorrect in any material respect when made or deemed made (other than to the extent qualified by materiality or “Material Adverse Effect”, in which case, such representation or warranty shall prove to have been incorrect in any respect);
- (d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.2, Section 5.3 (solely with respect to such Loan Party’s existence), Section 5.9, Section 5.13 or in Article VI;
- (e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any of the Loan Documents (other than those specified in clause (a), (b) or (d) of this Article of this Agreement), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);
- (f) the Borrower or any Restricted Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure shall have continued after the applicable grace period, if any;
- (g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Restricted Subsidiary or its debts, or of a substantial part of its assets, under any Debtor Relief Law or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Restricted Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Restricted Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Debtor Relief Law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Restricted Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Restricted Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) (i) one or more judgments for the payment of money in excess of \$25,000,000 in the aggregate shall be rendered against the Borrower, any Restricted Subsidiary or any combination thereof (to the extent not paid or covered by a reputable and solvent independent third-party insurance company which has not disputed coverage) and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed (or an action of similar effect in any jurisdiction outside the U.S.), or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Restricted Subsidiary to enforce any such judgment and such action shall not be stayed (or an action of similar effect in any jurisdiction outside the U.S.) or (ii) any non-monetary judgment, writ or warrant of attachment or similar process shall be entered or filed against the Borrower, any Restricted Subsidiary or any combination thereof or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed (or an action of similar effect in any jurisdiction outside the U.S.) for a period of 30 consecutive days and such non-monetary judgment, writ, warrant of attachment or similar process would reasonably be expected to have a Material Adverse Effect;

(l) one or more ERISA Events shall have occurred;

(m) a Change in Control shall occur; or

(n) (i) any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the obligations hereunder or thereunder, ceases to be in full force and effect; or any Loan Party contests in any manner the validity or enforceability of any Loan Document, (ii) the Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any material portion of the Collateral purported to be covered by the Collateral Documents with the priority required by the relevant Collateral Document for any reason other than the failure of the Collateral Agent or any Secured Party to take any action within its control or (iii) any Loan Party shall contest in any manner the validity or perfection of any Lien in any material portion

of the Collateral purported to be covered by the Collateral Documents; then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments and the obligation of the Issuing Banks to issue any Letters of Credit, and thereupon the Commitments and such obligations shall terminate immediately, (ii) the Administrative Agent may cause the Collateral Agent to enforce any and all Liens and security interests created pursuant to the Collateral Documents, (iii) direct the Borrower to pay (and the Borrower hereby agrees upon receipt of such notice, or upon the occurrence of any Event of Default specified in Article VIII (h) or (i) to pay) to the Administrative Agent such additional amounts of cash as are reasonably requested by the applicable Issuing Banks, to be held as security for the Borrower's reimbursement Obligations in respect of Letters of Credit then outstanding as set forth in Section 2.4(j) and (iv) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder (including any amounts required to be deposited in respect of Letters of Credit pursuant to Section 2.4(j)), shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

## ARTICLE IX

### THE AGENTS

Each of the Lenders (including in its capacity as a potential counterparty under a Secured Swap Agreement or a provider of Secured Cash Management Services), Secured Parties and Issuing Banks hereby irrevocably appoints JPMCB as the Administrative Agent and Collateral Agent (and JPMCB hereby accepts such appointment) and authorizes the Administrative Agent and the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent and the Collateral Agent by the terms hereof, together with such actions and powers as are reasonably incidental thereto. Except, in each case, as set forth in the sixth paragraph of this Article, the provisions of this Article are solely for the benefit of the Agents and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any of such provisions.

The Person serving as the Agent (which for purposes of this Article shall mean the Administrative Agent and the Collateral 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 Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent

hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if it were not the Agent hereunder and without any duty to account therefor to the Lenders.

The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent: (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) shall not 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 Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 10.2 or in the other Loan Documents); provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the 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) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and 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 the Person serving as Agent or any of its Affiliates in any capacity. The 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 under the circumstances as provided in Section 10.2) or (ii) in the absence of its own gross negligence or willful misconduct. The Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Agent by the Borrower or a Lender, and the 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 in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or the occurrence of any 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 Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

The 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 or sent by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to be 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, that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Agent may consult with legal counsel (who may be counsel for the Borrower), 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 Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Agent. The Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

The Administrative Agent shall have the right to resign at any time by giving prior written notice thereof to the Lenders and the Borrower. The Administrative Agent shall have the right to appoint a financial institution to act as the Administrative Agent and/or the Collateral Agent hereunder, subject to the reasonable satisfaction of the Borrower and the Required Lenders, and the Administrative Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation, (ii) the acceptance of such successor Administrative Agent by the Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Borrower and the Required Lenders. Upon any such notice of resignation, if a successor Administrative Agent has not already been appointed by the retiring Administrative Agent, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor Administrative Agent. If neither the Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that, until a successor Administrative Agent is so appointed by the Required Lenders or the Administrative Agent, any collateral security held by the Administrative Agent in its role as the Collateral Agent on behalf of the Lenders and the Issuing Banks under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Any successor Administrative Agent shall be a bank with an office in the United States or an Affiliate of any such bank with an office in the United States. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall promptly (x) transfer to such successor Administrative Agent all sums, securities and other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents, and (y) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such retiring Administrative Agent shall be discharged from its duties and obligations hereunder. Except as provided above, any resignation of JPMCB or its successor as the Administrative Agent pursuant to this Article shall also constitute the resignation of JPMCB or its successor as the Collateral Agent. After any retiring Administrative Agent's resignation hereunder as Administrative Agent and Collateral Agent, the provisions of this Article IX shall

inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent and Collateral Agent hereunder and while it continues to hold any collateral security as nominee until a successor Collateral Agent is appointed. Any successor Administrative Agent appointed pursuant to this Article IX shall, upon its acceptance of such appointment, become the successor Collateral Agent for all purposes hereunder.

In addition to the foregoing, the Collateral Agent may resign at any time by giving prior written notice thereof to the Lenders and the Grantors. The Administrative Agent shall have the right to appoint a financial institution as the Collateral Agent hereunder, subject to the reasonable satisfaction of the Borrower and the Required Lenders and the Collateral Agent's resignation shall become effective on the earliest of (i) 30 days after delivery of the notice of resignation, (ii) the acceptance of such successor Collateral Agent by the Borrower and the Required Lenders or (iii) such other date, if any, agreed to by the Required Lenders and the Borrower. Upon any such notice of resignation, the Required Lenders shall have the right, upon five Business Days' notice to the Administrative Agent and in consultation with the Borrower, to appoint a successor Collateral Agent. Until a successor Collateral Agent is so appointed by the Required Lenders or the Administrative Agent, any collateral security held by the Collateral Agent on behalf of the Lenders and/or the Issuing Banks under any of the Loan Documents shall continue to be held by the retiring Collateral Agent as nominee until such time as a successor Collateral Agent is appointed. Upon the acceptance of any appointment as the Collateral Agent hereunder by a successor Collateral Agent, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent under this Agreement and the Collateral Documents, and the retiring Collateral Agent under this Agreement shall promptly (x) transfer to such successor Collateral Agent all sums, securities and other items of Collateral held hereunder or under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Agreement and the Collateral Documents, and (y) execute and deliver to such successor Collateral Agent or otherwise authorize the filing of such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the security interests created under the Collateral Documents, whereupon such retiring Collateral Agent shall be discharged from its duties and obligations under this Agreement and the Collateral Documents. After any retiring Collateral Agent's resignation hereunder as the Collateral Agent, the provisions of this Agreement and the Collateral Documents shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement or the Collateral Documents while it was the Collateral Agent hereunder and while it continues to hold any collateral security as nominee until a successor Collateral Agent is appointed.

Any resignation of JPMCB or its successor as the Administrative Agent pursuant to this Article IX shall also constitute the resignation of JPMCB or its successor as Swing Line Lender and Issuing Bank, and any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become successor Swing Line Lender and Issuing Bank for all purposes hereunder. In such event (i) the Borrower shall prepay any outstanding Swing Line Loans made by the retiring Administrative Agent in its capacity as Swing Line Lender, (ii) upon such prepayment, the retiring Administrative Agent and Swing Line Lender shall surrender any Swing Line Note held by it to the Borrower for cancellation, and

(iii) the Borrower shall issue, if so requested by successor Administrative Agent and Swing Line Lender, a new Swing Line Note to the successor Administrative Agent and Swing Line Lender, in the principal amount of the Swing Line Sublimit then in effect and with other appropriate insertions. After such resignation of JPMCB as an Issuing Bank hereunder, JPMCB shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit.

Each Lender acknowledges that it has, independently and without reliance upon the 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 credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the 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 decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Anything herein to the contrary notwithstanding, none of the Arranger, the Syndication Agent, any Co-Documentation Agent or any Joint Bookrunner shall 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, Collateral Agent or a Lender hereunder.

Each Secured Party hereby authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of the Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Guaranty, the Collateral and the Collateral Documents; provided that neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty of care, duty of disclosure or any other obligation whatsoever to any holder of Obligations with respect to any Secured Swap Agreement or Secured Cash Management Services. Subject to Section 10.2, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable, may execute any documents or instruments necessary to (i) in connection with a sale or disposition of assets permitted by this Agreement, release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets or to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.2) have otherwise consented or (ii) release any Guarantor from the Guaranty pursuant to Section 10.17 or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.2) have otherwise consented.

Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrower, the Administrative Agent, the Collateral Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent, and (ii) in the



event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless 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 Collateral Agent at such sale or other disposition.

No Secured Swap Agreement or Secured Cash Management Services Agreement will create (or be deemed to create) in favor of any Lender Counterparty that is a party thereto any rights to manage or release any Collateral or of the obligations of any Guarantor under the Loan Documents except as expressly provided in clause (vii) of the last sentence of Section 10.2(b) of this Agreement and Section 7.3 of the Security Agreement. By accepting the benefits of the Collateral, such Lender Counterparty shall be deemed to have appointed Collateral Agent as its agent and agreed to be bound by the Loan Documents as a Secured Party, subject to the limitations set forth in this paragraph.

Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Obligations (other than contingent indemnification obligations for which no claim has been made and Obligations in respect of any Secured Swap Agreement or Secured Cash Management Services) have been paid in full, all Commitments have terminated or expired and all Letters of Credit shall have terminated or expired without any pending drawing thereon (or the outstanding Letters of Credit have been cash collateralized in an amount equal to 103% of all Letter of Credit Usage at such time in a manner satisfactory to the applicable Issuing Banks), upon request of the Borrower, the Administrative Agent shall (without notice to, or vote or consent of, any Lender, or any Affiliate of any Lender that is a party to any Secured Swap Agreement or a provider of any Secured Cash Management Services) take such actions as shall be required to release its security interest in all Collateral, and to release all Guaranties provided for in any Loan Document, whether or not on the date of such release there may be outstanding Obligations in respect of Secured Swap Agreements or Secured Cash Management Services. Any such release of any Guaranty shall be deemed subject to the provision that such any Guaranty shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

## ARTICLE X

### MISCELLANEOUS

Section 10.1 Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy (or other facsimile transmission), as follows:

(i) if to the Borrower, to it at Dropbox Holding, LLC, 333 Brannan Street, San Francisco, CA 94107, Attention: Ramsey Homsany, General Counsel (email: ramsey@dropbox.com), with a copy to Fenwick & West LLP, Attention: David Michaels, Esq., 801 California Street, Mountain View, CA 94041, (email: #####);

(ii) if to the Administrative Agent, to it at JPMorgan Chase Bank, N.A., Loan and Agency Services Group, 500 Stanton Christiana Road, Ops 2, 3rd Floor, Newark, DE 19713, Attention of Eugene Tull III (Telecopy No. #####);

(iii) if to the Collateral Agent, to it at CIB DMO WLO, Mail code NY1-C413, 4 Chase Metrotech Center, Brooklyn, NY 11245 (email: #####);

(iv) if to the Swing Line Lender, to it at JPMorgan Chase Bank, N.A., Loan and Agency Services Group, 500 Stanton Christiana Road, Ops 2, 3rd Floor, Newark, DE 19713, Attention of Eugene Tull III (Telecopy No. #####);

(v) if to any Issuing Bank, to it at its address (or telecopy (or other facsimile transmission) number) most recently specified by it in a notice delivered to the Administrative Agent and the Borrower (or, in the absence of any such notice, to the address (or telecopy (or other facsimile transmission) number) set forth in the Administrative Questionnaire of the Lender that is serving as such Issuing Bank or is an Affiliate thereof); and

(vi) if to any other Lender, to it at its address (or telecopy (or other facsimile transmission) number) set forth in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopy (or other facsimile transmission) shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Notices and other communications to the Lenders, Swing Line Lender and Issuing Banks hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender, Swing Line Lender and applicable Issuing Bank. The Administrative Agent or the Borrower 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.

(c) Any party hereto may change its address or telecopy (or other facsimile transmission) number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

The Borrower agrees that the Administrative Agent may make the Communications (as defined below) available to the Lenders by posting the Communications on Debt Domain, IntraLinks, Syndtrack or another similar electronic system (the "Platform"). 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 effected thereby (the "Communications"). No warranty of any kind, express, implied or statutory, including 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") be responsible or liable for damages arising from the unauthorized use by others of information or other materials obtained through internet, electronic, telecommunications or other information transmission, except to the extent that such damages have resulted from the willful misconduct or gross negligence of such Agent Party (as determined in a final, non-appealable judgment by a court of competent jurisdiction).

Section 10.2 Waivers; Amendments. (a) No failure or delay by any Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Agents, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance, amendment, extension or increase of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether any Agent, any Lender or the applicable Issuing Bank may have had notice or knowledge of such Default at the time.

(b) None of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided, however, that no such amendment, waiver or consent shall: (i) extend or increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan, reduce the rate of interest thereon, or reduce any reimbursement obligation in respect of any Letter of Credit, or reduce any fees payable hereunder, without the written consent of each Lender and Issuing Bank directly affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the

scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby; provided, however, that notwithstanding clause (ii) or (iii) of this Section 10.2(b), only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the default rate set forth in Section 2.12(c), (iv) change Section 2.17(b), Section 2.17(c) or any other Section hereof providing for the ratable treatment of the Lenders, in each case in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) release all or substantially all of the value of any Guaranty or the Collateral, without the written consent of each Lender, except to the extent the release of any Guarantor or any Collateral is permitted pursuant to Article IX or Section 10.17 (in which case such release may be made by the Administrative Agent or the Collateral Agent, as applicable, acting alone), (vi) change any of the provisions of this Section or the percentage referred to in the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender, (vii) extend the stated expiration date of any Letter of Credit beyond the Maturity Date without the written consent of the applicable Issuing Bank, each Lender directly affected thereby, and the beneficiary(ies) of such Letter of Credit or (viii) change the definition of "Pro Rata Share" without the written consent of each Lender. Notwithstanding anything to the contrary herein, (A) no such agreement shall amend, modify or otherwise affect the rights or duties of the Agents hereunder without the prior written consent of such Agent, (B) no such amendment shall amend, modify, terminate or waive any obligation of Lenders relating to the purchase of participations in Letters of Credit as provided in Section 2.4(d) without the written consent of the Administrative Agent and of each Issuing Bank, and no such agreement shall amend, modify or otherwise affect the rights or duties of any Issuing Bank hereunder without the prior written consent of such Issuing Bank, (C) no such amendment shall amend, modify, terminate or waive any provision hereof relating to the Swing Line Sublimit or the Swing Line Loans without the consent of Swing Line Lender, (D) 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 Commitment of any Defaulting Lender may not be increased or the termination thereof extended without the consent of such Lender, (y) the principal amount of any Defaulting Lender's Loan, or the interest rate thereon or any fees payable hereunder to any Defaulting Lender may not be reduced without the consent of such Lender and (z) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender, (E) this Agreement may be amended to provide for a Commitment Increase in the manner contemplated by Section 2.19 and the extension of the Maturity Date as contemplated by Section 2.20, (F) the provisions of Section 2.19 requiring the Borrower to offer a Commitment Increase to the Lenders prior to any other Person may be amended or waived with the consent of the Required Lenders and (G) any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency, so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment.

Section 10.3 Expenses; Indemnity; Damage Waiver. (a) The Borrower shall pay (i) all reasonable and documented out of pocket expenses incurred by the Agents, the Arranger, the Joint Bookrunners and their respective Affiliates, including the reasonable and documented fees, disbursements and other charges of one firm of counsel for the Agents, the Arranger and the Joint Bookrunners, taken as a whole, (and if reasonably necessary (as determined by the Administrative Agent in consultation with the Borrower), of a single local counsel in each appropriate jurisdiction) in connection with the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of this Agreement, any other Loan Document or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all documented out-of-pocket expenses incurred by the Agents, the Arranger, the Joint Bookrunners, each Issuing Bank and each Lender, including the fees, disbursements and other charges of one firm of counsel for the Agents and the Lenders, taken as a whole, (and if reasonably necessary (as determined by the Administrative Agent in consultation with the Borrower), of a single local counsel in each appropriate jurisdiction and in the case of an actual or potential conflict of interest where any Agent or any Lender affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected person), in connection with the enforcement or protection of its rights in connection with this Agreement or any other Loan Document, including its rights under this Section, or in connection with the Loans made, or Letters of Credit issued hereunder, including all such out-of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Each Loan Party shall indemnify each Agent, the Arranger, the Joint Bookrunners, each Issuing Bank and each 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, costs or reasonable and documented expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party 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, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use of the proceeds thereof (including any refusal by the Issuing Bank 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 Hazardous Materials 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 and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party

or the Borrower or any Affiliate of the Borrower); provided that such indemnity shall not, as to any Indemnitee, be available (w) with respect to Taxes (and amounts relating thereto), the indemnification for which shall be governed solely and exclusively by Sections 2.14 and 2.16, other than any Taxes that represent losses, claims or damages arising from any non-Tax claim, (x) to the extent that such losses, claims, damages, liabilities, costs or reasonable and documented expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, (y) if arising from a material breach by such Indemnitee or one of its Affiliates of its express obligations under this Agreement or any other Loan Document (as determined by a court of competent jurisdiction by final and non-appealable judgment) or (z) if arising from any dispute between and among Indemnitees that does not involve an act or omission by the direct parent of the Borrower, the Borrower or any of its Subsidiaries (as determined by a court of competent jurisdiction by final and non-appealable judgment) other than any proceeding against any Agent, the Arranger, the Joint Bookrunners or the Issuing Banks in such capacity.

(c) To the extent that any Loan Party fails to pay any amount required to be paid by it to the Agents or the Issuing Banks under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Issuing Bank or such Agent, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent or the Issuing Banks in its capacity as such.

(d) Without limiting in any way the indemnification obligations of the Loan Parties pursuant to Section 10.3(b) or of the Lenders pursuant to Section 10.3(c), to the extent permitted by applicable law, each party hereto shall not assert, and hereby waives, any claim against any Indemnitee or the Borrower or any of its Subsidiaries, 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 or any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee shall be liable for (i) any indirect, special, exemplary, incidental, punitive or consequential damages (including any loss of profits, business or anticipated savings) which may be alleged as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof and (ii) any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee 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 other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

Section 10.4 Successors and Assigns. (a) 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, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and each Issuing Bank (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. 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 (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (but not to the Borrower or an Affiliate thereof or any natural person) 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) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower, provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee and provided further 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; and

(B) the Administrative Agent, each Issuing Bank and Swing Line Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or 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) shall not be less than \$5,000,000 (or a greater amount that is an integral multiple of \$1,000,000) unless each of the Borrower and the Administrative Agent otherwise consent; provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) 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;

(C) 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;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any tax forms required by Section 2.16(e) and an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws;

(E) no such assignment shall be made to (i) any Loan Party nor any Affiliate of a Loan Party, (ii) 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 (ii) or (iii) any Disqualified Lender; and

(F) 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 or any Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in accordance with its Applicable 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.

For the purposes of this Section, the term "Approved Fund" has the following meaning:

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and 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.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto 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 [Section 2.14](#), [Section 2.15](#), [Section 2.16](#) and [Section 10.3](#)); 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 Section 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 (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices 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 Commitment of, and amounts on the Loans owing to, and drawings under Letters of Credit 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, notwithstanding notice to the contrary. The Register is intended to establish that each 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 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. The Borrower agrees to indemnify the Administrative Agent from and against any and all losses, claims, damages and liabilities of whatsoever nature which may be imposed on, asserted against or incurred by the Administrative Agent in performing its duties under this [Section 10.4\(b\)\(iv\)](#), except to the extent that such losses, claims, damages or liabilities are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent. The Loans (including principal and interest) are registered obligations and the right, title, and interest of any Lender or its assigns in and to such Loans shall be transferable only upon notation of such transfer in the Register.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and any tax forms required by [Section 2.16\(e\)](#) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to [Section 2.6\(b\)](#), [Section 2.17\(d\)](#) or [Section 10.3\(c\)](#), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of, or notice to, the Borrower, the Administrative Agent, sell participations to one or more banks or other entities (but not to the Borrower or an Affiliate thereof or any natural person) (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent 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. 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 or any other Loan Document; 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 described in the first proviso to Section 10.2(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 2.14, Section 2.15 and Section 2.16 (subject to the requirements and limitations therein, including the requirements under Section 2.16(e) (it being understood and agreed that the documentation required under Section 2.16(e) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant agrees to be subject to the provisions of Section 10.12 as if it were an assignee under paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.8 as though it were a Lender, provided that such Participant agrees to be subject to Section 2.17(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.14 or Section 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.16(e) as though it were a Lender.

(iii) Each Lender that sells a participation shall, acting solely for United States federal income tax purposes 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.

(d) 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, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) (i) No assignment or participation shall be made to any Person that was a Disqualified Lender (other than, in the case of participations (but not assignments), a Person who was a Disqualified Institution solely as a result of clause (c) of the definition thereof) as of the date (the "Trade Date") on which the assigning Lender entered into a binding agreement to sell and assign all or a portion of its rights and obligations under this Agreement to such Person (unless the Borrower has consented to such assignment in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Lender for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee that becomes a Disqualified Lender after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Lender"), (A) such assignee shall not retroactively be disqualified from becoming a Lender and (B) the execution by the Borrower of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Lender. Any assignment in violation of this clause (e)(i) shall not be void, but the other provisions of this clause (e) shall apply.

(ii) If any assignment or participation is made to any Disqualified Lender without the Borrower's sole prior written consent in violation of clause (e)(i) above, or if any Person becomes a Disqualified Lender after the applicable Trade Date, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Lender and the Administrative Agent, (A) in the case of outstanding Loans held by Disqualified Lenders, purchase or prepay such Loans by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and/or (B) require such Disqualified Lender to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 10.4), all of its interest, rights and obligations under this Agreement to one or more Persons at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Lenders (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the Borrower, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Lender will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Lenders consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws, each Disqualified Lender party hereto hereby agrees (1) not to vote on such plan, (2) if such Disqualified Lender does vote on such plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be “designated” pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(iv) The Administrative Agent shall have the right, and the Borrower hereby expressly authorizes the Administrative Agent to (1) post the list of Disqualified Lenders provided by the Borrower and any updates thereto from time to time (collectively, the “DQ List”) on the Platform and/or (2) provide the DQ List to each Lender requesting the same.

Section 10.5 Survival. All covenants, agreements, representations and warranties made by the Loan Parties herein or in the other Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance or any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that any Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any Loan Document is executed and delivered or any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Section 2.14, Section 2.15, Section 2.16 and Section 10.3 and Article IX shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments, the cancellation or expiration of the Letters of Credit and the reimbursement of any amounts drawn thereunder, the resignation of any Agent, the replacement of any Lender, or the termination of this Agreement or any provision hereof.

Section 10.6 Integration; Effectiveness. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Agents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective as provided in the Amendment and Restatement Agreement.

Section 10.7 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 10.8 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank and each of its respective Affiliates is hereby authorized at any time and from time to time, 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 whatever currency) or other amounts at any time held by, and other obligations (in whatever currency) at any time owing by such Lender, Issuing Bank or Affiliate to or for the credit or the account of any Loan Party against any of and all the obligations of such Loan Party now or hereafter existing under this Agreement or any other Loan Document held by such Lender or Issuing Bank, irrespective of whether or not such Lender or Issuing Bank shall have made any demand under this Agreement or such other Loan Document and although such obligations may be unmatured; provided that in the event that any Defaulting Lender 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 2.21 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks 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 as to which it exercised such right of setoff. The rights of each Lender and Issuing Bank under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender or Issuing Bank may have. Each Lender and Issuing Bank agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 10.9 Governing Law; Jurisdiction; Consent to Service of Process. (a) **THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.**

(b) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York sitting in New York County, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding shall be heard and determined, exclusively in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against any Loan Party or its properties in the courts of any jurisdiction.

(c) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 10.1. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

**Section 10.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

Section 10.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

**Section 10.12 Confidentiality.** (a) Each of the Agents and the Lenders (which term shall for the purposes of this Section 10.12 include the Issuing Banks) agrees to (i) maintain the confidentiality of the Information (as defined below), (ii) not disclose any Information to any individual or organization, either internally or externally, without the prior written consent of the Borrower (which consent shall not be unreasonably withheld, conditioned or delayed), and (iii) not use the Information for any purpose except in connection with the Loan Documents, except that Information may be disclosed (A) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors, or to any credit insurance provider relating to any Loan Party and its obligations, in each case whom it reasonably determines needs to know such information in connection with this Agreement and the transactions contemplated hereby (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 requested by any regulatory authority or any self-regulatory body claiming oversight over any Lender or any of its Affiliates, (C) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (in which case such Agent or such Lender, as applicable, agrees, to the extent permitted by applicable law, to inform the Borrower promptly thereof), (D) to any other party to this Agreement, (E) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (F) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of any of its rights or obligations under this Agreement, (G) with the consent of the Borrower, (H) 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 any Agent or any Lender on a non-confidential basis from a source other than the Borrower, (I) to any Participant or "bona fide" prospective Participant in, or any "bona fide" prospective assignee of, the Commitments, the Loans or any Lender's rights or obligations under this Agreement (in each case other than any Disqualified Lender) or (J) to any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations in each case other than any Disqualified Lender; provided that, in the case of clauses (I) and (J) of this Section 10.12 (x) such disclosure shall be subject to the Borrower's consent (which shall not be unreasonably withheld, conditioned or delayed) at any time prior to an IPO, (y) such Participant, prospective Participant, prospective assignee, actual or prospective counterparty or advisor is advised of and agrees, in advance of such disclosure, in writing (including pursuant to customary "click-through" procedures), to be bound by either the provisions of this Section 10.12 or other provisions that are at least as restrictive as the provisions contained in this Section 10.12 and (z) no consent of Borrower shall be required (I) with respect to the provision of Limited Information to a Participant or assignee if the Borrower shall have consented to the initial provision of Information or Limited Information to such Participant or assignee, (II) with respect to any administrative notices from the Administrative Agent to any Lender and (III) during any time that a Default or Event of Default has occurred and is continuing. For the purposes of this Section, "Information" means all information received from the Borrower, or from any of its Affiliates, representatives or advisors on behalf of the Borrower, relating to the Borrower or its business (including, for the avoidance of doubt, the DQ List), 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 by any of its Affiliates, representatives or advisors on behalf of the Borrower. 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 information.

(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 10.12(a) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

Section 10.13 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the “Charges”), shall exceed the maximum lawful rate (the “Maximum Rate”) which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

Section 10.14 No Advisory or Fiduciary Responsibility. In connection with all aspects of each Transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its subsidiaries’ understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agents, the Arranger, the Joint Bookrunners and the Lenders (which term shall for the purposes of this Section include the Issuing Banks) are arm’s- length commercial transactions between such Loan Party and its Affiliates, on the one hand, and the Agents, the Arranger, the Joint Bookrunners and the Lenders,



on the other hand, (B) such Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) such Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the Transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Agents, the Arranger, the Joint Bookrunners and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Loan Party or any of its subsidiaries, or any other Person and (B) neither any Agent, the Arranger, any Joint Bookrunner nor any Lender has any obligation to any Loan Party or any of its Affiliates with respect to the Transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Arranger, the Joint Bookrunners and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of such Loan Party and its Affiliates, and neither any Agent, the Arranger, any Joint Bookrunner nor any Lender has any obligation to disclose any of such interests to such Loan Party or its Affiliates. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Agents, the Arranger, the Joint Bookrunners and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.15 Electronic Execution of Assignments and Certain Other Documents. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) 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.

Section 10.16 USA PATRIOT Act. Each Lender (which term shall for the purposes of this Section include the Issuing Banks) that is subject to the requirements of the USA Patriot Act and the Administrative Agent (for itself and not on behalf of any Lenders) hereby notifies each Loan Party that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the USA Patriot Act. Each Loan Party shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

Section 10.17 Release of Guarantors. In the event that all the Equity Interests in any Guarantor are sold, transferred or otherwise disposed of to a Person other than the Borrower or its Restricted Subsidiaries in a transaction permitted under this Agreement, the Administrative Agent shall, at the Borrower’s expense, promptly take such action and execute such documents as the Borrower may reasonably request to terminate the Guaranty of such Guarantor.

Section 10.18 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among the parties hereto, 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; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(A) a reduction in full or in part or cancellation of any such liability;

(B) a conversion of all, or a portion of, such liability into shares or other instruments of ownership 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 shares or other instruments of ownership 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.

Section 10.19 Conversion of Currencies. (a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures in the relevant jurisdiction the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the "Applicable Creditor") shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than the currency in which such sum is stated to be due hereunder (the "Agreement Currency"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction 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 Applicable Creditor in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section 10.19 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

**Schedule 1.1 Excluded Leases.**

**[list of Excluded Leases]**

**Schedule 1.2 Permitted Holders.**

**[list of Permitted Holders]**

**Schedule 2.1 Commitments.**

[list of Lender Commitments]

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**Schedule 3.4 Financial Condition.**

None.

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**Schedule 3.5 Material Real Estate Assets.**

None.

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**Schedule 3.6 Disclosed Matters.**

None.



**Schedule 3.12 Subsidiaries.**

**[list of Subsidiaries]**

**Schedule 3.17 Immaterial Subsidiaries.**

**[list of Immaterial Subsidiaries]**

**Schedule 3.18 UCC Filing Jurisdictions.**

[list of UCC Filing Jurisdictions]

**Schedule 6.1 Existing Indebtedness.**

[list of Existing Indebtedness]

**Schedule 6.2 Existing Liens.**

[list of Existing Liens]

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**Schedule 6.5 Existing Restrictions.**

None.

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**Schedule 6.7 Existing Investments.**

None.

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**Exhibit B**



**Schedule 3.2  
To the Pledge and Security Agreement**

**Names and Locations**

**Names**

<u>Grantor's Exact Legal Name</u>	<u>Previous Legal Names and Date of Change (past 5 years)</u>	<u>Federal EIN</u>	<u>Jurisdiction of Organization</u>	<u>Organizational Identification Number</u>
Dropbox, Inc.	n/a	26-0138832	Delaware	4348296
Dropbox Holding, LLC	n/a	n/a	Delaware	5398840

**Locations**

<u>Grantor</u>	<u>Chief Executive Office and "Location" Under Section 9-307 of the UCC</u>
Dropbox, Inc.	333 Brannan Street, San Francisco, CA 94107
Dropbox Holding, LLC	333 Brannan Street, San Francisco, CA 94107

**Changes in Jurisdiction of Organization, Chief Executive Office, "Location" Under Section  
9-307 of the UCC, Identity or Organizational Structure**

<u>Grantor</u>	<u>Description of Change</u>	<u>Date of Change (past 5 years)</u>
Dropbox, Inc.	The chief executive office of Dropbox, Inc. moved from 185 Berry Street, Suite 400, San Francisco, CA 94107 to 333 Brannan Street, San Francisco, CA 94107	March 30, 2016
Dropbox Holding, LLC	The chief executive office of Dropbox, Inc. moved from 185 Berry Street, Suite 400, San Francisco, CA 94107 to 333 Brannan Street, San Francisco, CA 94107	March 30, 2016

**Schedule 3.3  
To the Pledge and Security Agreement**

**Filings**

UCC Filings

Grantor  
Dropbox, Inc.  
Dropbox Holding, LLC

Filing Office and Jurisdiction  
Secretary of State – Delaware  
Secretary of State – Delaware

Copyright Filings

None.

Patent and Trademark Filings

Grantor  
Dropbox, Inc.

Filing Office and Jurisdiction  
U.S. Patent and Trademark Office

**Schedule 3.5  
To the Pledge and Security Agreement**

**Pledged Stock**

<u>Grantor</u>	<u>Issuer</u>	<u>Percent of Equity Interest Owned</u>	<u>Percent of Equity Interest Pledged</u>
Dropbox, Inc.	CloudOn, Inc.	100%	100%

**Pledged Partnership Interests**

None.

**Pledged LLC Interests**

None.

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**Schedule 3.6  
To the Pledge and Security Agreement**

**Intellectual Property**

**Copyrights**

**[list of Copyrights]**

**Patents**

**[list of Patents]**

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## Trademarks

[list of Trademarks]

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## License Agreements

Dropbox, Inc. holds licenses to the below patents pursuant to that certain License Agreement dated September 14, 2012 by and between Anchovi Labs, Inc. and California Institute of Technology and by virtue of the Asset Purchase Agreement by and among Dropbox, Inc., Angus Acquisition Corp., Anchovi Labs, Inc. and the stockholders of Anchovi Labs, Inc.

**[list of License Agreements]**

**Subsidiaries of Registrant**

<b><u>Name of Subsidiary</u></b>	<b><u>Jurisdiction of Incorporation</u></b>
Carol Acquisition Corp	Delaware
CloudOn, Inc.	Delaware
Dropbox Holding, LLC	Delaware
Orcinus Holdings, LLC	Delaware
Dropbox Australia Pty Ltd.	Australia
Dropbox Bermuda	Bermuda
Dropbox International Unlimited Company	Ireland
CloudOn, Ltd.	Israel
Dropbox France S.A.S	France
Dropbox Germany GmbH	Germany
Dropbox UK Online Ltd. Zweigniederlassung Hamburg	Germany
Dropbox Japan kk	Japan
Dropbox Mexico S. de R.L. de C.V	Mexico
Dropbox Netherlands B.V.	Netherlands
Dropbox Singapore Pte. Ltd.	Singapore
Dropbox Sweden AB	Sweden
Dropbox UK Online Ltd.	United Kingdom