EDGAR Submission Header Summary

Submission Form Type	20-F
XBRL Filing	On
Use External XBRL	On
Period of Report	12-31-2016
Filer	NICE Ltd.
CIK	0001003935
CCC	hd7dr#ex
EDGAR Accelerated Filer Status	Large Accelerated Filer
Voluntary Filer	No
Shell Company	Off
Well-known Seasoned Issuer	On
Selected Exchanges	
Exchange	NASD
Confirming Copy	Off
Co-Registrants	
Submission Contact	Yaron Kleiner
Contact Phone Number	972-54-2233054
Documents	51
Emails	edgar@z-k.co.il

Documents

20-F	zk1719837.htm
	20-F
EX-1.2	exhibit_1-2.htm
	Exhibit 1.2
EX-4.14	exhibit_4-14.htm
	Exhibit 4.14
EX-4.15	exhibit_4-15.htm
	Exhibit 4.15
EX-4.16	exhibit_4-16.htm
	Exhibit 4.16
EX-4.17	exhibit_4-17.htm
	Exhibit 4.17
EX-8.1	exhibit_8-1.htm
	Exhibit 8.1
EX-12.1	exhibit_12-1.htm
	Exhibit 12.1
EX-12.2	exhibit_12-2.htm
	Exhibit 12.2
EX-13.1	exhibit_13-1.htm
	Exhibit 13.1
EX-13.2	exhibit_13-2.htm
	Exhibit 13.2
EX-15.1	exhibit_15-1.htm
	Exhibit 15.1
EX-101.INS	nice-20161231.xml
	XBRL Instance Document
EX-101.SCH	nice-20161231.xsd
	XBRL Taxonomy Extension Schema
EX-101.CAL	nice-20161231_cal.xml
	XBRL Taxonomy Extension Calculation Linkbase
EX-101.DEF	nice-20161231_def.xml
	XBRL Taxonomy Extension Definition Linkbase
EX-101.LAB	nice-20161231_lab.xml

	XBRL Taxonomy Extension Label Linkbase
EX-101.PRE	nice-20161231_pre.xml
	XBRL Taxonomy Extension Presentation Linkbase
GRAPHIC	ex4-17101_v1.jpg
GRAPHIC	ex4-17102_v1.jpg
GRAPHIC	ex4-17103_v1.jpg
GRAPHIC	image1.jpg
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 20-F

☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

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

For the fiscal year ended December 31, 2016

OR

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

OR

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

Commission file number 0-27466

NICE LTD.

(Exact name of Registrant as specified in its charter)

N/A

(Translation of Registrant's name into English)

Israel

(Jurisdiction of incorporation or organization)

13 Zarchin Street, P.O. Box 690, Ra'anana 4310602, Israel

(Address of principal executive offices)

Yechiam Cohen, +972-9-7753151, yechiam.cohen@nice.com,
13 Zarchin Street, P.O. Box 690, Ra'anana 4310602, Israel

(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange On Which Registered
American Depositary Shares, each representing one Ordinary Share, par value one New Israeli Shekel per share	**NASDAQ Global Select Market**

Securities registered or to be registered pursuant to Section 12(g) of the Act:

None

(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

None

(Title of Class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: **59,986,493 Ordinary Shares, par value NIS 1.00 per share (which excludes 12,337,073 treasury shares)**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

☒ Yes ☐ No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934.

☐ Yes ☒ No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days:

☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such reports).

☒ Yes ☐ No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or an emerging growth company. See definitions of "accelerated filer", "large accelerated filer" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer ☒ Accelerated Filer ☐
Non-Accelerated Filer ☐ Emerging Growth Company ☐

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

The term "new or revised financial accounting standard" refers to any update issued by the Financial Accounting Standards Board to its Accounting Standards Codification after April 5, 2012.

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

☒ U.S. GAAP
☐ International Financial Reporting Standards as issued by the International Accounting Standards Board
☐ Other

If "Other" has been checked in rsponse to the previous question indicate by check mark which financial statements the registrant has elected to follow:

☐ Item 17 ☐ Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

☐ Yes ☒ No

PRELIMINARY NOTE

This annual report contains historical information and forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 with respect to NICE's business, financial condition and results of operations. The words "anticipate," "believe," "estimate," "expect," "intend," "may," "plan," "project," "should," "strategy," "continue," "goal" and "target" and similar expressions, as they relate to NICE or its management, are intended to identify forward-looking statements. Such statements reflect the current beliefs, expectations and assumptions of NICE with respect to future events and are subject to risks and uncertainties. The forward-looking statements relate to, among other things: operating results; anticipated cash flows; gross margins; adequacy of resources to fund operations; our ability to maintain our average selling prices despite the aggressive marketing and pricing strategies of our competitors; our ability to maintain and develop profitable relationships with our key distribution channels; the financial strength of our key distribution channels; and the market's acceptance of our technologies, products and solutions.

In connection with the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995, we are identifying important factors that, individually or in the aggregate, could cause actual results and outcomes to differ materially from those contained in any forward-looking statements made by us; any such statement is qualified by reference to the following cautionary statements. Many factors could cause the actual results, performance or achievements of NICE to be materially different from any future results, performance or achievements that may be expressed or implied by such forward-looking statements, including, among others, competition with existing or new competitors, changes in executive management, changes in general economic and business conditions, disruption in credit markets, rapidly changing technology, changes in currency exchange rates and interest rates, difficulties or delays in absorbing and integrating acquired operations, products, technologies and personnel, changes in business strategy and various other factors, both referenced and not referenced in this annual report. These risks are more fully described under Item 3, "Key Information – Risk Factors" of this annual report. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those described herein as anticipated, believed, estimated, expected, intended, planned or projected. NICE does not intend or assume any obligation to update these forward-looking statements. Investors should bear this in mind as they consider forward-looking statements and whether to invest or remain invested in NICE's securities.

In this annual report, all references to "NICE," "we," "us," "our" or the "Company" are to NICE Ltd., a company organized under the laws of the State of Israel, and its wholly owned subsidiaries. For a list of our significant subsidiaries, please refer to page 52 of this annual report.

In this annual report, unless otherwise specified or unless the context otherwise requires, all references to "$" or "dollars" are to U.S. Dollars, all references to "EUR" are to Euros, all references to "GBP" are to British Pounds, all references to "CHF" are to Swiss Francs and all references to "NIS" are to New Israeli Shekels. Except as otherwise indicated, the financial statements of and information regarding NICE are presented in U.S. dollars.

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PART I

PART II

PART III

PART I

Item 1. Identity of Directors, Senior Management and Advisers.

Not Applicable.

Item 2. Offer Statistics and Expected Timetable.

Not Applicable.

Item 3. Key Information.

Selected Financial Data

The following selected consolidated balance sheet data as of December 31, 2015 and 2016 and the selected consolidated statements of income data for the years ended December 31, 2014, 2015 and 2016 have been derived from our audited Consolidated Financial Statements. These financial statements have been prepared in accordance with United States generally accepted accounting principles, or U.S. GAAP, and audited by Kost, Forer, Gabbay & Kasierer, a member of Ernst & Young Global. The selected consolidated statements of income data as of December 31, 2012 and 2013 and the selected consolidated balance sheet data for the years ended December 31, 2012, 2013 and 2014 have been derived from other Consolidated Financial Statements not included in this annual report and have also been prepared in accordance with U.S. GAAP and audited by Kost, Forer, Gabbay & Kasierer, a member of Ernst & Young Global. The selected consolidated financial data set forth below should be read in conjunction with and are qualified by reference to Item 5, "Operating and Financial Review and Prospects" and the Consolidated Financial Statements and notes thereto and other financial information included elsewhere in this annual report.

	Year Ended December 31,				
	2012	2013	2014	2015	2016
	(U.S. dollars in thousands, except per share data)				
OPERATING DATA:					
Revenues					
Products	$ 276,319	$ 280,140	$ 289,560	$ 317,900	$ 306,252
Services	482,552	541,375	582,435	608,967	709,290
Total revenues	758,871	821,515	871,995	926,867	1,015,542
Cost of revenues					
Products	78,878	69,335	63,919	66,363	53,032
Services	215,519	230,279	239,592	237,219	284,701
Total cost of revenues	294,397	299,614	303,511	303,582	337,733
Gross profit	464,474	521,901	568,484	623,285	677,809
Operating expenses:					
Research and development, net	103,818	115,431	123,141	128,485	141,528
Selling and marketing	194,346	214,579	231,097	225,817	268,349
General and administrative	94,654	86,467	83,360	90,349	116,569
Amortization of acquired intangible assets	31,455	29,438	19,157	12,528	17,187
Restructuring expenses	1,870	527	5,435	-	-
Total operating expenses	426,143	446,442	462,190	457,179	543,633
Operating income	38,331	75,459	106,294	166,106	134,176
Financial income and other net	8,268	3,927	3,765	5,304	10,305
Income before taxes on income	46,599	79,386	110,059	171,410	144,481
Taxes on income (tax benefits)	(14,799)	26,915	9,909	30,832	21,412
Net income from continuing operations	61,398	52,471	100,150	140,578	123,069
Discontinued operations:					
Gain on disposal and (loss) income from operations	7,301	4,294	4,965	152,459	(8,235)
Taxes on income	805	1,490	2,040	34,206	(2,086)
Net income on discontinued operations	6,496	2,804	2,925	118,253	(6,149)
Net income	67,894	55,275	103,075	258,831	116,920
Basic earnings per share from continuing operations	$ 1.01	$ 0.87	$ 1.69	$ 2.36	$ 2.06
Basic earnings per share from discontinued operations	$ 0.10	$ 0.05	$ 0.05	$ 1.99	$ (0.10)
Basic earnings per share	$ 1.11	$ 0.92	$ 1.74	$ 4.35	$ 1.96
Weighted average number of shares used in computing basic earnings per share (in thousands)	60,905	60,388	59,362	59,552	59,667
Diluted earnings per share from continuing operations	$ 0.99	$ 0.85	$ 1.64	$ 2.29	$ 2.02
Diluted earnings per share from discontinued operations	$ 0.10	$ 0.04	$ 0.05	$ 1.93	$ (0.10)
Diluted earnings per share	$ 1.09	$ 0.89	$ 1.69	$ 4.22	$ 1.92
Weighted average number of shares used in computing diluted earnings per share (in thousands)	62,261	61,380	60,895	61,281	61,035

	At December 31,				
	2012	2013	2014	2015	2016
	(U.S. dollars in thousands)				
BALANCE SHEET DATA*:					
Working capital**	$ 122,108	$ 61,023	$ 107,090	$ 256,089	$ 13,713
Total assets	1,649,676	1,646,030	1,632,952	1,849,613	2,631,876
Shareholders' equity	1,191,088	1,204,796	1,213,456	1,415,149	1,511,332

*Including assets and liabilities that were accounted for as discontinued operations
**Including deferred revenues and advances from customers that are classified as long-term liabilities

Risk Factors

Risks Relating to Global Economy, Competition and Markets

Conditions and changes in the local and global economic environments may adversely affect our business and financial results.

Adverse economic conditions in markets in which we operate can harm our business, and our results of operations can be affected by adverse changes in local and global economic conditions, slowdowns, recessions and economic instability. To the extent that our business suffers as a result of such unfavorable economic and market conditions, our operating results may be materially adversely affected. In particular, enterprises may reduce spending in connection with their contact centers, financial institutions may reduce spending in relation to trading floors and operational risk management (as IT-related capital expenditures are typically lower priority in times of economic slowdowns), and our customers may prioritize other expenditures over our solutions. In addition, enterprises' ordering and payment patterns are influenced by market conditions and could cause fluctuations in our quarterly results. If any of the above occurs, and our customers or partners significantly reduce their spending or significantly delay or fail to make payments to us, our business, results of operations, and financial condition would be materially adversely affected.

Disruption to the global economy could also result in a number of follow-on effects on our business, including a possible (i) slow-down in our business, resulting from lower customer expenditure, inability of customers to pay for products and services, insolvency of customers or insolvency of key partners and vendors, (ii) negative impact on our liquidity, financial condition and share price, which may impact our ability to raise capital in the market, obtain financing and secure other sources of funding in the future on terms favorable to us, and (iii) decreases in the value of our assets that are deemed to be other than temporary, which may result in impairment losses.

In addition, over half of our sales are generated from North America. If there is deterioration or a crisis in the economic and financial stability in the United States, particularly in the financial services sector (which is our main industry vertical), our top tier customers could reduce spending or delay or postpone orders. This could have a material adverse effect on our sales in this region and our results of operations. Any such deterioration in the economic condition in the United States could also negatively impact the accuracy of our forecast of future trends and our plans for future business development.

We face risks relating to our global operations.

We sell our products and solutions throughout the world and intend to continue to increase our penetration of international markets. Our future results could be materially adversely affected by a variety of factors relating to international transactions, including:

- governmental controls and regulations, including import or export license requirements, trade protection measures and changes in tariffs;
- compliance with applicable international and local laws, regulations and practices, including those related to trade compliance, anticorruption, data privacy and protection, tax, labor, employee benefits, customs, currency restrictions and other requirements;
- fluctuations in currency exchange rates;
- longer payment cycles in certain countries in our geographic areas of operations;
- potential adverse tax consequences, including the complexities of foreign value added tax systems;
- political instability, terrorism or the threat of terrorism and general security concerns;
- political unrest, armed conflicts or natural disasters around the world;
- reduced or differing protection for intellectual property rights in some countries; and
- general difficulties in managing our global operations.

On June 23, 2016, the United Kingdom (the "U.K.") held a referendum in which voters approved an exit from the E.U., commonly referred to as "Brexit", and on March 29, 2017 the U.K. delivered to the E.U. the official separation notice in accordance with Article 50 of the Lisbon Treaty. Although it is unknown what the exact terms of separation will be and what the interactions between the U.K. and E.U. countries will be following such separation, it is likely that there will be greater restrictions on imports and exports between the U.K. and E.U. countries and increased regulatory complexities. These changes may impact our business in the U.K. and E.U. and therefore may adversely affect our operations and financial results.

In addition, as of January 20, 2017, a new administration has been organized in the U.S., where the majority of our operations are conducted. During the election process, the intent to amend many of the current regulations was made public by the new administration. In addition, these political changes may affect U.S. trade relationships and agreements. We do not yet know what, if any changes, the new U.S. administration will make, and what the impact on us of any of those changes may be. However any such changes may have a significant impact on our business and operation, which may adversely affect our financial results.

Changes in the political or economic environments, business spending, and the availability and cost of capital in the countries in which we operate, including the impact of such changes on foreign currency rates and interest rates, and the impact of economic conditions on underlying demand for our products and services, could have a material adverse effect on our financial condition, results of operations and cash flow.

As a result of our global presence, especially in emerging markets, we face increasing challenges that could adversely impact our results of operations, reputation and business.

In light of our global presence, especially in emerging markets such as those in Asia, Eastern Europe and Latin America, we face a number of challenges in certain jurisdictions that provide reduced legal protection, including poor protection of intellectual property, inadequate protection against crime (including bribery, corruption and fraud) and breaches of local laws or regulations, as well as challenges relating to competition from companies that already have a local presence in the market, difficulties in recruiting sufficient personnel with appropriate skills and experience, unstable governments and economies, and governmental actions that may affect the flow of goods and currency.

In addition, local business practices in jurisdictions in which we operate, and particularly in emerging markets, may be inconsistent with international regulatory requirements, such as anti-corruption and anti-bribery laws and regulations (including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act) to which we are subject. Although we implement policies and procedures designed to ensure compliance with these laws, we cannot guarantee that none of our employees, contractors and agents, as well as those companies to which we outsource certain of our business operations, will not take actions in violation of our policies or applicable law. Any such violation could have an adverse effect on our business and reputation, and may expose us to criminal or civil enforcement actions, including penalties and fines.

Furthermore, the increased presence of our global operations in lower-cost locations, including outsourcing of certain operations to service providers in such lower-cost locations, could impact the control over our operations, as well as create dependency on such external service providers. Such mode of operation may impact our business and adversely affect our results of operation.

The markets in which we operate are highly competitive and we may be unable to compete successfully.

The markets for our products, solutions and related services are, in general, highly competitive. Our competitors include a number of large, established developers and distributors. Some of our principal competitors or potential competitors may have advantages over us, including greater resources, a broader portfolio of products, applications and services, larger patent and intellectual property portfolios and access to larger customer bases, all of which would enable them to better adapt to new or emerging technologies or customer requirements or devote more resources to the marketing and sale of their products and services. Additionally, continued price reductions by some of our competitors, particularly at times of economic difficulty, may result in our loss of sales or require that we reduce our prices in order to compete, which would adversely affect our revenues, gross margins and results of operations.

Additional competition from new potential entrants to our markets may lead to the widespread availability and standardization of some of the products and services, which could result in the commoditization of our products and services, reduce the demand for our products and services and drive us to lower our prices.

In recent years, some of our competitors, including some of our partners, have increased their presence in our markets through internal development, partnerships and acquisitions. Infrastructure vendors, including suppliers of telecommunication infrastructure equipment, have decided or may decide in the future to enter our market space and compete with us by offering comprehensive solutions. Moreover, major enterprise software vendors, such as those from the traditional enterprise business intelligence and business analytics sector, Customer Relationship Management (or "CRM"**)**, or infrastructure players (mostly telephony or switch vendors), have entered or may decide to enter our market space and compete with us, either by internal development of comprehensive solutions or through acquisition of any of our existing competitors. If we are not able to compete effectively with these market entrants or other competitors, we may lose market share and our business, financial condition or results of operations could be adversely affected.

While the market for our software applications is constantly growing, successful development, positioning and sales execution of our products is a critical factor in our ability to successfully compete and maintain growth. As a result, we expect to continue making significant expenditures on research and development and marketing. In addition, our software solutions may compete with software developed internally by potential clients, as well as software and other solutions offered by competitors. We cannot ensure that the market awareness or demand for our new products or applications will grow as rapidly as we expect, or that the introduction of new products or technological developments by others will not adversely impact the demand for our products.

Successful marketing of our products and services to our customers and partners will be critical to our ability to maintain growth. We cannot assure you that our products or existing partnerships will permit us to compete successfully. The market for some of our solutions is highly fragmented and includes products offering a broad range of features and capabilities. Consolidation through mergers and acquisitions, or alliances formed, among our competitors in this market, who may have greater resources than we have, could substantially influence our competitive position.

As we expand into new markets, we are faced with new competition, which may be able to more quickly develop or adapt to new or emerging technologies, better respond to changes in customer requirements or preferences, or devote greater resources to the development, promotion, and sale of their products. Additionally, prices of most of our solutions have decreased throughout the market in recent years, primarily due to competitive pressures, and may continue to decrease. Further, in relation to our cloud offering, we may be affected by the pricing of certain infrastructure services, such as in the area of Platform as a Service and network connectivity, which would in turn affect the rates we offer to customers. This could have a negative effect on our gross profit and results of operations.

If we are unable to develop or maintain our relationships with existing and new distributors and strategic partners, our business and financial results could be materially adversely affected.

We have agreements in place with many distributors, dealers and resellers to market and sell our products and services in addition to our direct sales force. In certain regions, such as Asia and Eastern Europe, we predominantly work through such partners. Our financial results could be materially adversely affected if our contracts with distribution channel partners or our other partners were terminated, if our relationship with our distribution channel partners or our other partners were to deteriorate, or if the financial condition of our distribution channel partners or our other partners were to weaken.

We believe that developing partnerships and strategic alliances is an important factor in our success in marketing our products. In some markets we have only recently started to develop a number of partnerships and strategic alliances. We may not be able to develop such partnerships or strategic alliances on terms that are favorable to us, if at all. Failure to develop such arrangements that are satisfactory to us may limit our ability to successfully market and sell products and may have a material adverse effect on our business and results of operations.

We leverage strategic relationships with third parties such as system integrators and technology and telephony providers. We also license technology from certain third parties. Certain of these license agreements permit either party to terminate all or a portion of the agreement without cause at any time.

As our market opportunities change and as we grow our business, our dependency on particular distribution channels and strategic partners may increase or we may need to create new strategic partnerships and alliances to address changing market needs. We may not be successful in maintaining, creating or expanding these channels and partnerships, which may negatively impact the development of our business, our growth, gross margins and results of operations.

In addition, the execution of our growth strategy also depends on our ability to create new alliances and enter into strategic partnerships with certain market players. Even if we are able to enter into such alliances, it may be under terms that are not favorable to us, or we may not be able to realize the benefits that are anticipated through such alliances. If we are not successful at these efforts, we may lose sales opportunities, customers and market share, which may have a material adverse effect on our business and results of operations.

The markets in which we operate are characterized by rapid technological changes and frequent new products and service introductions.

We operate in several markets, each characterized by rapidly changing technology, new product introductions and evolving industry standards. The introduction of products embodying new technology and the emergence of new industry standards might exert price pressures on our existing products or render them obsolete. Our markets are also characterized by consistent demand for state of the art technology and products. Existing and potential competitors might introduce new and enhanced products that could adversely affect the competitive position of our products. Our markets are dominated by a group of highly competitive vendors that are introducing dynamic competitive offerings around evolving industry standards.

We believe that our ability to anticipate changes in technology and industry standards and to successfully develop and introduce new, enhanced and differentiated products, on a timely basis, in each of the markets in which we operate, is a critical factor in our ability to grow our business. As a result, we expect to continue to make significant expenditures on research and development, particularly with respect to new software applications, which are continuously required in all our business areas. Moreover, in the event that we do not anticipate changes in technology or industry practices or fail to timely address market needs or not be able to provide the products that are in demand, we may lose market share and our results of operations may be materially adversely affected.

The growth of new communication channels could require substantial modification and customization of our current cross-channel products, as well as the introduction of new multi-channel products. Also, new products and technologies are being used by our customers to communicate with their customers, e.g., use of chatbots. Such introduction of new products and technologies may change the usage patterns of our products and applications by our customers, which may result in some of our products and applications becoming obsolete. We may not be able to timely and effectively address such market trends and needs.

Further, customer adoption of these new technologies may be slower than we anticipate. We cannot assure you that the market or demand for our products and solutions will be sustained or grow as rapidly as we expect (if at all), that we will successfully develop new products or introduce new applications for existing products, that such new products and applications will achieve market acceptance, or that the introduction of new products or technological developments by others will not render our products obsolete. In addition, our products must readily integrate with major third party telephone, security, front-office and back-office systems. Any changes to these third party systems could require us to redesign our products, and any such redesign might not be possible on a timely basis or achieve market acceptance. Our inability to develop products that are competitive in technology and price and responsive to customer needs could have a material adverse effect on our business, financial condition and results of operations.

Therefore, some of the factors that could have a material adverse effect on our business, financial condition and results of operations include industry-specific factors; our ability to continuously develop, introduce, deliver and support commercially viable products, solutions and technologies; the market's rate of acceptance of the product solutions and technologies we offer; our ability to keep pace with market and technology changes; and our ability to compete successfully.

We depend on certain infrastructure vendors' installation base for a portion of our new and recurring sales.

We sell our products, either directly or through our other distribution channels, to customers who use infrastructure of our distributors or of other vendors, or operate in their environment. To the extent that certain infrastructure vendors do not allow or support the integration of our products with their infrastructure or products, or use other means to prevent us from selling our products to such customers, we may experience a reduction in sales to these customers, which is broader than such infrastructure vendors' direct business with us. This could, of course, influence our ability to attract new customers that use such infrastructure products or continue rendering maintenance services and other services and generate recurring sales to existing customers. As a result, we could lose customers and market share, which could have a material adverse effect on our business, financial condition, or results of operation.

General Risks Relating to Our Business, Offerings and Operations

We depend on the stability of the financial services sector.

The financial services sector is our main industry vertical. If there is deterioration or a crisis in the economic and financial stability of financial institutions, as well as any change in rules and regulations that apply to this sector (such as deregulation in the area of compliance), customers in this sector, including our top tier customers, could reduce spending or delay or postpone orders. This could have a material adverse effect on our sales to this sector and our results of operations.

We depend on the success of our recording solutions.

Our recording solutions are based on a computer telephony integrated multi-channel voice recording and retrieval system. We are dependent on the success of our recording solutions to maintain profitability and sustain growth. Our recording solutions currently generate, and in recent years have generated, a significant portion of our revenues, and we will continue to be dependent on the sales of our recording solutions and recurring revenues, such as maintenance services, in the next several years. However, there can be no assurance that the recording market will not decline significantly or that revenues generated from our recording solutions will not be significantly impacted. Also, certain switch manufacturers offer various types of recording solutions, which could result in a significant decline in sales of our recording solutions and in sales of related applications, or a significant decrease in the profit margin on such solutions, any of which could have a material adverse effect on our business, financial condition or results of operations.

The trend of enterprise customers moving from voice to other means of communication with the enterprise (such as self-serve, e-mail, instant messaging, social media and chat), may result in a reduction in the demand for our voice recording platform and applications. If such trend continues, and to the extent not mandated under applicable regulations, our customers may cease to record voice and switch to recording other means of communication. In addition, changes in regulations could reduce the need for recording, which would reduce the demand for our recording and platform. Any of the above may have a material adverse effect on our business, financial condition or results of operations.

The sale of advanced software applications and a multi-product offering requires significant resources and may also delay our recognition of revenues.

Providing advanced software applications and a multi-product offering requires, among other things, the continuous evolution of our sales force, maintenance and support offerings, manpower, research and development, and customer installation methods, as well as our route to market. The sale of advanced software applications is also subject to prolonged processes of customization, implementation and testing. Therefore, the sale of advanced software applications may lead to a longer period between the time we "book" an order and the time we recognize the revenue from such orders. These factors could result in a delay in revenue recognition and materially adversely affect our results of operations.

A significant portion of our business relies on software applications. We cannot guarantee that our customers' adoption of advance software applications will meet our expectation and planning. As a result, certain applications may not reach the critical mass in sales and revenues necessary to offset the high cost of developing and maintaining such advanced applications, which could negatively affect our results of operation.

We depend on a small number of significant customers.

While no single customer accounted for more than five percent of our aggregate revenues in 2016, we do have a small number of significant customers in each sector of our business, each of which could be material to a particular area of our business.

We expect that sales of our products and services to relatively few significant customers could continue to account for a substantial percentage of our sales in the foreseeable future. There can be no assurance that we will be able to retain these key customers or that such customers will not cancel purchase orders, reschedule, or decrease their level of purchases. Loss, cancellation or deferral of business to such customers could have a material adverse effect on our business and operating results.

We may not be able to successfully execute our growth strategy.

Our strategy is to continue investing in, enhancing and securing our business and operations and growing our business, both organically and through acquisitions. Investments in, among other things, new markets, products, solutions, and technologies, research and development, infrastructure and systems, geographic expansion, and additional qualified and experienced personnel, are critical to achieving our growth strategy. Growth of our revenue depends on the success of all these factors, including our ability to capture market share, attract new clients, develop our strategic partnerships, introduce our solutions and services to new global markets, strengthen and improve our solutions through significant investments in research and developments and successfully consummate and integrate acquisitions. However, such investments and efforts may not be successful, and, even if successful, may negatively impact our short-term profitability. Furthermore, in the event of an acquisition we may decide to reduce profits over the short-term in order to achieve long-term expansion or growth, which may involve risks. Additionally, the terms of the credit agreement (the "Credit Agreement") that we entered into in connection with our senior secured credit facility (the "Credit Facility") contains restrictions that could affect our ability to make strategic acquisitions or investments.

Our success depends on our ability to execute our growth strategy effectively and efficiently. If we are unable to execute our growth strategy successfully and properly manage our investments and expenditures, our results of operations and stock price may be materially adversely affected. In addition, as a result of the execution of our growth strategy, our short term profitability may be negatively impacted, including as a result of an acquisition.

We cannot guarantee that we will be able to sustain our growth in future years. The increasing proportion of advanced software applications in our overall sales mix might not compensate for the slowing growth rates of our recording solutions and other more mature products. In addition, our new solutions might not achieve wide market acceptance, and therefore might fail to support revenue growth. The failure to implement our growth strategy successfully could affect our ability to sustain growth and could materially adversely affect our results of operations.

Our business could be materially adversely affected as a result of the risks associated with acquisitions and investments, including our recent acquisition of inContact. In particular, we may not succeed in making additional acquisitions or be effective in integrating such acquisitions.

As part of our growth strategy, we have made a significant number of acquisitions (see Item 5, "Operating and Financial Review and Prospects—Recent Acquisitions" in this annual report for a description of certain of these acquisitions). We expect to continue to make acquisitions and investments in the future as part of our growth strategy. We frequently evaluate the tactical or strategic opportunity available related to complementary businesses, products or technologies. There can be no assurance that we will be successful in making additional acquisitions. Even if we are successful in making additional acquisitions, integrating an acquired company's business into our operations or investing in new technologies may (1) result in unforeseen operating difficulties and large expenditures and (2) absorb significant management attention that would otherwise be available for the ongoing development of our business, both of which may result in the loss of key customers or personnel and expose us to unanticipated liabilities.

In November 2016, we completed our acquisition of inContact. Our success in realizing the anticipated benefits of the acquisition of inContact, and the timing of the realization of such benefits, depends on the successful integration of our business and operations with the acquired business and operations of inContact. The integration of inContact may be complex, costly and time-consuming. The difficulties of integration of inContact include, among others:

- failure to implement our business plan for the combined business;
- unanticipated issues in integrating technologies, products, logistics, information, communications and other systems;
- unanticipated changes in applicable laws and regulations; and
- other unanticipated issues, expenses and liabilities.

Other risks commonly encountered with acquisitions include the effect of acquisitions on our financial and strategic position, the inability to integrate successfully or commercialize acquired technologies and achieve expected synergies or economies of scale on a timely basis and the potential impairment of acquired assets. Further, we may not be able to retain the key employees that may be necessary to operate the business we acquire and we may not be able to attract, in a timely manner, new skilled employees and management to replace them.

In recent years, several of our competitors have also completed acquisitions of companies in our markets or in complementary markets. As a result, it may be more difficult for us to identify suitable acquisitions or investment targets or to consummate acquisitions or investments once identified on acceptable terms or at all. If we are not able to execute on our acquisition strategy, we may not be able to achieve our growth strategy, may lose market share, or may lose our leadership position in one or more of our markets.

We often compete with others to acquire companies, and such competition may result in decreased availability of, or an increase in price for, suitable acquisition candidates. We also may not be able to consummate acquisitions or investments that we have identified as crucial to the implementation of our strategy for other commercial or economic reasons. Further, we may not be able to obtain the necessary regulatory approvals, including those of competition authorities and foreign investment authorities, in countries where we seek to consummate acquisitions or make investments. For those and other reasons, we may ultimately fail to consummate an acquisition, even if we announce the intended acquisition.

We may require significant financing to complete an acquisition or investment, whether through bank loans, raising of debt or otherwise. In connection with the inContact acquisition, we incurred additional indebtedness pursuant to the Credit Facility and, through our wholly owned subsidiary Nice Systems, Inc. ("Nice Systems"), through the issuance of exchangeable senior notes (the "Notes"). In the future, we cannot assure you that such financing options will be available to us on reasonable terms, or at all. If we are not able to obtain the necessary financing, we may not be able to consummate a substantial acquisition or investment and execute our growth strategy. In addition, if we consummate one or more significant acquisitions in which the consideration consists, in whole or in part, of our ordinary shares or American Depositary Shares ("ADSs") representing our ordinary shares, our shareholders may suffer immediate dilution of their interests in us or the value of their interests in us. Our shareholders may also suffer substantial dilution if we issue ADSs upon the conversion of the Notes.

Future acquisitions or investments may also require us to incur contingent liabilities, amortization expenses related to intangible assets and impairment of goodwill, any of which could have a material adverse effect on our operating results and financial condition. In addition, we may knowingly enter into an acquisition that will have a dilutive impact on our earnings per share.

Our seasonal sales patterns could significantly impact our revenues and earnings.

We encounter quarter-to-quarter seasonality, especially given the increasing proportion of advanced software applications in our overall sales mix. The sales cycle for our products and services ranges between a few weeks to several months from initial contact with the potential client to the signing of a contract. Frequently, sales orders accumulate towards the latter part of a given quarter. In addition, our revenues are typically highest in the fourth quarter. As a result, transactions that do not meet all the recognition criteria of that quarter may only be recognized in the following quarter or subsequent quarters, which may have an adverse impact on the booking and revenues in the quarter in which such transactions were entered into. In addition, the timing in which transactions are entered into may shift from one quarter to another. Customers often shift their buying decision towards the end of their budgetary year, which could result in the shifting of booking and revenues from one quarter to another and in many cases to the last quarter of a calendar year.

We believe this seasonality is typical for many software companies and that it may become more pronounced as the proportion of advanced software applications in our overall sales mix continues to increase. Additionally, as a high percentage of our expenses, particularly employee compensation and other overhead costs, are relatively fixed, a variation in the level of sales, especially at or near the end of any quarter, may have a material adverse impact on our quarterly operating results.

Fluctuations in our results of operations may result from our ability to retain and increase sales to existing customers, attract new customers and satisfy our customers' requirements, the timing and success of new product introductions and enhancements or product initiation by our competitors, the purchasing and budgeting cycles of our customers and general economic, industry and market conditions, amongst other factors.

In addition, our quarterly operating results may be subject to significant fluctuations due to additional factors, including the timing and size of orders and shipments to customers (including delays in execution of customer orders), variations in distribution channels, mix of products and services, new product introductions, competitive pressures and general economic conditions. It is difficult to predict the exact mix of products and services for any period between hardware, software and services as well as within the product category between interaction-related platforms and related applications and transactional related platforms and applications. Changes in the mix of products and services across our different business lines may significantly impact our revenues. Further, the period of time from order to delivery of our platforms and applications is short, and therefore our backlog for such products is currently, and is expected to continue to be, small and substantially unrelated to the level of sales in subsequent periods. As a result, our results of operations for any quarter may not necessarily be indicative of results for any future period, and may be below our forecasts.

Our quarterly results may be volatile at times, which could cause us to miss our forecasts.

We generally provide forecasts as to expected future revenues in the coming fiscal quarters and fiscal year. These forecasts are based on management estimation and expectations, our then-existing backlog and an analysis of assumptions and assessments that may not materialize or end up being inaccurate. We may not meet our expectations or those of industry analysts in a particular future quarter, including as a result of the factors described in this Item 3.

In addition, as described above, our revenues reflect seasonal fluctuations related to slower spending activities in the first quarter, and the increased activity related to the year-end purchasing cycles of many users of our products.

We derive a substantial portion of our sales through indirect channels, making it more difficult for us to predict revenues because we depend partially on estimates of future sales provided by third parties. In addition, changes in our arrangements with our network of channel partners or in the products they offer, such as the introduction of new support programs for our customers, which combines support from our channel partners with back-end support from us, could affect the timing and volume of orders. Furthermore, our expense levels are based, in part, on our expectations as to future revenues. If our revenue levels are below expectations, our operating results are likely to be adversely affected, since most of our expenses are not variable in the short term.

We depend on our ability to recruit and retain key personnel.

In order to compete, we must recruit and retain executives and other key employees. Hiring and retaining qualified executives and other key employees is critical to our business, and competition for highly qualified and experienced managers in our industry is intense. There is no guarantee that additional key management members will not leave the Company, or if they do, that we will be able to identify and hire qualified replacements, or that the transition of new personnel will not cause disruption in our business.

In addition, due to our growth, or as a result of regular recruitment, we will be required to hire and integrate new employees. Recruiting and retaining qualified engineers and computer programmers to perform research and development and to commercialize our products, as well as qualified personnel to market and sell those products, are critical to our success. As of December 31, 2016, approximately 26% of our employees were devoted to research and product development and approximately 22% were devoted to marketing and sales. There can be no assurance that we will be able to successfully recruit and integrate new employees.

There is intense competition to recruit highly skilled employees in the technology industry. We have suffered from attrition in our workforce in previous years and we believe that such attrition will continue in the future. We may not be able to offer current and potential employees a compensation package that is satisfactory in order to keep them within our employment.

In certain locations in which we have development centers, the rate of attrition is high and could have a negative impact on our ability to retain our employees in such centers, timely develop our products and service our customers. In addition, the migration of development and other activities and functions to low-cost countries may result in disruption to our business due to differing levels of employee knowledge, expertise and organizational and leadership skills, greater employee attrition and increased cost of retaining our most highly-skilled employees.

An inability to attract and retain highly qualified employees may have an adverse effect on our ability to develop new products and enhancements for existing products and to successfully market such products, all of which would likely have a material adverse effect on our results of operations and financial position. Our success also depends, to a significant extent, upon the continued service of a number of key management, sales, marketing and development employees, the loss of any of whom could materially adversely affect our business, financial condition and results of operations.

We rely on software from third parties. If we lose the right to use that software, we would have to spend additional capital to redesign our existing software to adhere to new third party providers or develop new software.

We integrate and utilize various third party software products as components of our products and solutions to enhance their functionality. Our business could be disrupted if functional versions of these software products were either no longer available to us or no longer made available to us on commercially reasonable terms. Also, in the event that any of these third party vendors is unable to meet our requirements in a timely manner or that our relationship with any such vendor is terminated, we may experience disruption in our business until an alternative source of supply can be obtained. Any disruption, or any other interruption in a vendor's ability to provide components to us, could result in delays in making product deliveries or inability to deliver, which could have a material adverse effect on our business, financial condition and results of operations.

In addition, some of our third party vendors use proprietary technology and software code that could require significant redesign of our products in the case of a change in vendor. If we lost the right to use such third party software, we would be required to spend additional capital to either redesign our software to function with alternate third party software or develop these components ourselves. As a result, we might be forced to limit the features available in our current or future products and solutions offerings and the commercial release of our products and solutions could be delayed.

Incorrect or improper use of our products and solutions or failure to properly provide professional services and maintenance services could result in negative publicity and legal liability.

Our products and solutions are complex and are deployed in a wide variety of network environments. The proper use of our software requires training and, if our software products are not used correctly or as intended, there may be inaccurate results. Our products may also be intentionally misused or abused by clients who use our products. The incorrect or improper use of our products and solutions or our failure to properly provide professional services and maintenance services, including installation, training, project management, product customizations and consulting to our clients may result in losses suffered by our clients, which could result in negative publicity and product liability or other legal claims against us.

Undetected errors or malfunctions in our products or services could directly impair our financial results and we could face potential product liability claims.

Our software products and services are highly complex. Despite extensive testing by us and by our clients, our products and services may include errors, failures, bugs or other weaknesses. Such errors, failures, bugs or other weaknesses in our products and services could result in product returns, loss of or delay in market acceptance of our products and services, loss of competitive position, or claims by clients or others, which would seriously harm our revenues, financial condition and results of operations. Correcting and repairing such errors, failures or bugs could also require significant expenditures of our capital and other resources and could cause interruptions, delays or cessation of our product licensing.

In addition, the identification of errors in our software applications and services or the detection of bugs by our clients may damage our reputation in the market as well as our relationships with existing clients, which may result in our inability to attract or retain clients.

Further, since our products are used by our customers for important aspects of their business, such as compliance recording and operational risk management functions that are often critical to our clients and must adhere to certain rules and regulations, any errors or defects in, or other performance problems with, our products and services could hurt our reputation and may damage our customers' business. If that occurs, we could lose futures sales, our existing customers could elect not to renew, and we could potentially be subject to product liability claims. In particular, some of our customers, including financial institutions, may suffer significant damages as a result of a failure of our solutions to perform their functions. Although we attempt to limit any potential exposure through quality assurance programs, insurance and contractual terms, we cannot assure you that we will be able to eliminate or successfully limit our liability for any failure of our solutions. Any product liability insurance we carry may not be sufficient to cover our losses resulting from any such product liability claims. The successful assertion of one or more large product liability claims against us could have a material adverse effect on our results of operations and financial condition.

Risks Relating to our Cloud Offering

Our Cloud Software-as-a-Service business model may not be successful or profitable.

The portion of our cloud-based business has grown significantly as a result of the acquisition of inContact and our internal development efforts, and therefore we are more dependent now on the success and profitability of this business area. We may not be able to compete effectively, generate significant revenues or maintain the profitability of our cloud offerings. Additionally, the increasing prevalence of cloud and SaaS delivery models offered by us and our competitors may unfavorably impact pricing in both our on-premise enterprise software business and our cloud business, as well as overall demand for our on-premise software product and service offerings, which could reduce our revenues and profitability. With the move to cloud based solutions, including following the acquisition of inContact, we cannot guarantee that revenues generated from our cloud offerings will compensate for a loss of business in our on-premise enterprise software business. If we do not successfully execute our cloud strategy or anticipate the cloud needs of our customers, our reputation as a cloud services provider could be harmed and our revenues and profitability could decline.

In addition, cloud computing may make it easier for new competitors to enter our markets due to the lower up-front technology costs and easier implementation and for existing market participants to compete with us on a greater scale. Such increased competition is likely to heighten the pressure to decrease pricing, which could have a negative effect on our revenues and results of operations.

The business model of our cloud offerings differs from the business model for the sale of products and services, particularly in that the period for recognizing the revenue from such orders is usually spread over the term of the subscription rather than being tied to a single date. Our cloud offerings are generally purchased by customers on a subscription basis and revenues from these offerings are generally recognized ratably over the term of the subscriptions. Therefore, a significant shift to SaaS-based sales could result in a delay in revenue recognition and materially adversely affect our results of operations and our rate of growth and profitability.

Moreover, the deferred revenue that results from sales of our cloud offerings may prevent any deterioration in sales activity associated with our cloud offerings from becoming immediately observable in our consolidated statement of operations. This is in contrast to revenues associated with our software licenses arrangements in which new software licenses revenues are generally recognized in full at the time of delivery of the related software licenses. Our subscription model also makes it difficult for us to rapidly increase our revenue through additional sales in any period, as revenue from new customers must be recognized over the applicable subscription period.

In addition, the integration of inContact into our cloud strategy may not be as efficient or scalable as anticipated, which could adversely affect our ability to fully realize the benefits we anticipate from this acquisition.

The stability and growth of our cloud related revenues depends on our ability to attract and retain on-going customers, and attract customers in the small to medium business sector.

The revenue model for companies selling software services under the cloud model is to attract customers, retain such customers through the renewal of their monthly subscription contracts and encourage such customers to add additional agent seats and functionality.

As more of our cloud offerings are targeted at small to medium businesses, and not just large size enterprise customers, we may be required to invest more sales efforts in that market segment, diverting our sales resources to a greater number of smaller transactions. In this market segment, we may also encounter greater unpredictability, resulting from the financial stability of customers that may be more vulnerable at times of economic downturn, all of which could negatively impact our results of operation.

As our industry matures, as our clients experience seasonal trends in their businesses, or as competitors introduce lower costs and/or differentiated products or services that are perceived to compete favorably with our services, our ability to add new clients and renew, maintain or up-sell existing clients based on pricing, technology and functionality could be impaired.

We also have relationships with third-party channel partners to attract new customers. Such third-party channel partner relationships may be terminated by either party, and as a result reduce the number of new customers we can attract to our product offering and cause disruptions with existing customer relationships, which could adversely impact our results of operations. The termination of a reseller partner relationship may cause existing customers of that third-party reseller to become more likely to discontinue their services, which could have a significant adverse effect on our results of operations. In addition, acquisitions of our customers or of our third-party channel partners could lead to cancellation of our contracts with those customers or by the acquiring companies.

We are dependent on third-party computer hardware, software and cloud computing platforms that may be difficult to replace.

We rely on computer hardware leased and software licensed from, and cloud computing platforms provided by, third parties in order to offer our services, including Platform as a Service provided by strategic partners. These hardware, software and cloud computing platforms may not continue to provide competitive features and functionality, or may not be available at reasonable prices, on commercially reasonable terms or at all. Any loss of the right to use any of these hardware, software or cloud computing platforms could significantly increase our expenses and otherwise result in delays in the provisioning of our services until equivalent technology is either developed by us, or, if available, is identified, obtained through purchase or license and integrated into our services. As we grow our business, we will continue to depend on both existing and new strategic relationships with such vendors. Our inability to establish and foster these relationships could adversely affect the development of our business, our growth and our results of operations.

Defects or disruptions in our cloud services could impact demand for our services and subject us to substantial liability.

Our cloud services may have errors or defects that could result in unanticipated downtime for our subscribers and harm to our reputation and our business. We have from time to time found defects in, and experienced disruptions to, our services, and new defects or disruptions may occur in the future. In addition, our customers may use our services in unanticipated ways that may cause a disruption in services for other customers attempting to access their data. Since our customers use our services for important aspects of their business, any errors, defects, disruptions in service or other performance problems could harm our reputation and may damage our customers' businesses. As a result, customers could elect to not renew our services or delay or withhold payment to us. We could also lose future sales or customers may make warranty or other claims against us, which may harm our business and adversely affect our results.

We currently serve our customers from third-party data center hosting facilities and cloud computing platform providers. Any damage to, or failure of, our systems generally could result in interruptions in our services. We have from time to time experienced interruptions in our services and such interruptions may occur again in the future. While we have security measures in place, they may be breached as a result of third-party action, including intentional misconduct by computer hackers, employee error, malfeasance or otherwise and result in someone obtaining unauthorized access to our or our third party vendors' systems and infrastructure. This could result in interruptions in our services, which may cause us to issue credits or pay penalties, cause customers to terminate their subscriptions and adversely affect our attrition rates and our ability to attract new customers, all of which would reduce our revenues. Also, we may not be entitled to indemnification or to recuperate any such loss or damage from third party service providers, which may result in us bearing alone the burden of any such liability or losses.

Facilities at which customer data is stored or through which we render our services may be vulnerable to damage or interruption from earthquakes, floods, fires, power loss, telecommunications failures and similar events. They may also be subject to break-ins, sabotage, intentional acts of vandalism and similar misconduct, as well as local administrative actions, changes to legal or permitting requirements and litigation to stop, limit or delay operation. Despite precautions taken at these facilities, the occurrence of a natural disaster or an act of terrorism, a decision to close the facilities without adequate notice or other unanticipated problems at these facilities could result in lengthy interruptions in our services. Even with disaster recovery and business continuity arrangements in place, our services could be interrupted.

We are also dependent on our computer databases, billing systems and accounting computer programs, network and computer hardware that houses these systems to effectively operate our business and market our services. Our clients may become dissatisfied by any system failures that interrupt our ability to provide our service to them. Substantial or repeated system failures would significantly reduce the attractiveness of our services. Significant disruption in the operation of these systems would adversely affect our business and results of operations.

Privacy concerns and legislation, evolving regulation of cloud computing, cross-border data transfer restrictions and other regulations may limit the use and adoption of our services and adversely affect our business.

Governments are adopting new laws and regulations addressing data privacy and the collection, processing, storage and use of personal information. In some cases, foreign data privacy laws and regulations, such as the European Union's Data Protection Directive, and the country-specific laws and regulations that implement that directive, also govern the processing of personal information. These and other requirements could reduce demand for our services or restrict our ability to store and process data or, in some cases, impact our ability to offer our services in certain locations or our customers' ability to deploy our solutions globally.

In addition, regulatory issues relating to the Internet, in general, could affect our ability to provide our services. In the United States, legislation has been adopted that regulates certain aspects of the Internet, including online content, user privacy, taxation, liability for third-party activities and jurisdiction. In addition, a number of initiatives pending in the United States Congress and state legislatures would prohibit or restrict advertising or sale of certain products and services on the Internet, which may have the effect of raising the cost of doing business on the Internet generally.

Furthermore, our customers expect us to meet voluntary certification or other standards established by third parties. If we are unable to maintain these certifications or meet these standards, it could adversely affect our ability to provide our solutions to certain customers and could harm our business. Even the perception that the privacy of personal information is not satisfactorily protected or does not meet regulatory requirements could inhibit sales of our products or services, and could limit adoption of our cloud-based solutions.

Industry-specific regulation and other requirements and standards are evolving and unfavorable industry-specific laws, regulations, interpretive positions or standards could harm our business.

Our customers and potential customers conduct business in a variety of industries, including financial services and telecommunications. Regulators in certain industries have adopted and may in the future adopt regulations or interpretive positions regarding the use of cloud computing and other outsourced services. The costs of compliance with, and other burdens imposed by, industry-specific laws, regulations and interpretive positions may limit our customers' use and adoption of our services and reduce overall demand for our services. Compliance with these regulations may also require us to devote greater resources to support certain customers, which may increase costs and lengthen sales cycles. For example, some financial services regulators have imposed guidelines for use of cloud computing services that mandate specific controls or require financial services enterprises to obtain regulatory approval prior to outsourcing certain functions. If we are unable to comply with these guidelines or controls, or if our customers are unable to obtain regulatory approval to use our services where required, our business may be harmed. If in the future we are unable to achieve or maintain industry specific certifications or other requirements or standards relevant to our customers, it may harm our business and adversely affect our results.

In some cases, industry-specific laws, regulations or interpretive positions may also apply directly to us as a service provider. Any failure or perceived failure by us to comply with such requirements could have an adverse impact on our business.

Some of our enhanced services are dependent on leased network connectivity lines, and a significant disruption or change in these services could adversely affect our business.

A significant portion of our cloud software solutions are provided to customers through a dedicated network of equipment we own that is connected through leased network connectivity lines based on Internet protocol with capacity dedicated to us. We also move a portion of our voice long distance service over this dedicated network.

We lease network connectivity lines and space at co-location facilities for our equipment from third-party suppliers. These co-location facilities represent the backbone of our dedicated network. If any of these suppliers is unable or unwilling to provide or, if we desire, expand their current levels of service to us, the services we offer to customers may be adversely affected. We may not be able to obtain substitute services from other providers at reasonable or comparable prices or in a timely fashion. Any resulting disruptions in the services we offer that are provided over our dedicated network would likely result in customer dissatisfaction and adversely affect our operations. Furthermore, pricing increases by any of the suppliers we rely on for our dedicated network could adversely affect our results of operations if we are unable to pass through pricing increases.

We rely on third party network service providers to originate and terminate public switched telephone network calls, and thus significant failures in these networks could harm our operations.

For our business in the unified communications market, we leverage the infrastructure of third party network service providers to provide telephone numbers, public switched telephone network call termination and origination services, and local number portability for our customers rather than deploying our own network throughout the United States. If any of these network service providers ceases operations or otherwise terminate the services that we depend on, the delay in switching our technology to another network service provider, if available, could have an adverse effect on our business, financial condition or operating results.

Interruptions or delays in our services through third-party error, our own error or the occurrence of unforeseeable events, could harm our ability to deliver our services, which could harm our relationships with customers and subject us to liability.

We provide some of our services through computer hardware that we own and that is currently located in third-party web hosting co-location facilities maintained and operated in various locations globally. Our hosting providers do not guarantee that our customers' access to our solutions will be uninterrupted, error-free or secure. Our operations depend on our providers' ability to protect their and our systems in their facilities against damage or interruption from natural disasters, power or network connectivity failures, criminal acts and similar events. Our back-up computer hardware and systems may not have sufficient capacity to recover all data and services in the event of an outage occurring simultaneously at all facilities. In the event that our hosting facility arrangements were terminated, or there was a lapse of service or accidental or willful damage to such facilities, we could experience lengthy interruptions in our service as well as delays and/or additional expense in arranging new facilities and services. Any or all of these events could cause our customers to lose access to the services they are purchasing from us. In addition, the failure by our third-party hosting facilities to meet our capacity requirements could result in interruptions in our service or impede our ability to scale our operations.

Design and mechanical errors, spikes in usage volume and failure to follow system protocols and procedures could cause our systems to fail, resulting in interruptions in our customers' service to their customers. Any interruptions or delays in our services, whether as a result of third-party error, our own error, natural disasters or security breaches, and whether accidental or willful, could harm our relationships with customers and our reputation. This in turn could cause a reduction in our revenue, subject us to liability, and cause us to issue credits or pay penalties or cause customers to fail to continue service, any of which could adversely affect our business, financial condition and results of operations. In the event of damage or interruption, our insurance policies may not adequately compensate us for any losses that we may incur.

We provide certain service level commitments to our customers, which could cause us to provide credits for future services if the stated service levels are not met for a given period and could adversely impact our revenue.

Our customer agreements for cloud offerings provide service level commitments. If we are unable to meet the stated service level commitments or suffer extended periods of unavailability for our service, we may be contractually obligated to provide these customers with credits for future services. Our revenue could be adversely impacted if we suffer unscheduled downtime that exceeds the allowed downtimes under our agreements with our customers. Any such extended service outages could harm our reputation, revenue and operating results.

Risks Relating to Our Financial Condition

Our debt could adversely affect our financial condition and prevent us from fulfilling our obligations under our financing arrangements.

In connection with the inContact acquisition, we incurred indebtedness pursuant to the Credit Facility available to us under the Credit Agreement and through the issuance of the Notes. The debt incurred could have important consequences to our financial condition and business. For example, it could:

- increase our vulnerability to general adverse economic and industry conditions;
- make it more difficult for us to satisfy our other financial obligations;
- restrict us from making strategic acquisitions or cause us to make non-strategic divestitures;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our debt, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;
- expose us to interest rate fluctuations since the interest on the Credit Agreement is imposed at variable rates;
- make it more difficult for us to satisfy our obligations to our lenders, resulting in possible defaults on and acceleration of such debt;
- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;
- place us at a competitive disadvantage compared to our competitors that have less debt;
- limit our ability to borrow additional funds as needed;
- restrict our ability to prepay the Notes or to pay cash upon exchanges of the Notes; and
- limit our ability to pay dividends, redeem stock or make other distributions.

Our ability to make payments on and to refinance our debt, to fund planned capital expenditures and to maintain sufficient working capital will depend on our ability to generate cash in the future. This is subject to general economic, financial, competitive, business, regulatory and other factors that may be beyond our control.

We cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings will be available to us under the Credit Agreement or from other sources in an amount sufficient to enable us to service our debt or to fund our other liquidity needs. If our cash flow and capital resources are insufficient to allow us to make scheduled payments on our debt, we may need to reduce or delay capital expenditures, sell assets, seek additional capital or restructure or refinance all or a portion of our debt on or before the maturity thereof, any of which could have a material adverse effect on our business, financial condition or results of operations. We cannot assure you that we will be able to refinance any of our debt on commercially reasonable terms or at all, or that the terms of that debt will allow any of the above alternative measures or that these measures would satisfy our scheduled debt service obligations. If we are unable to generate sufficient cash flow to repay or refinance our debt on favorable terms, it could significantly adversely affect our financial condition and the value of our outstanding debt. Our ability to restructure or refinance our debt will depend on the condition of the capital markets and our financial condition. Any refinancing of our debt could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations.

A failure to comply with the covenants and other provisions of our outstanding debt could result in events of default under such instruments, which could permit acceleration of our Notes and borrowings under our Credit Agreement. Any required prepayment or exchange of our Notes or Credit Facility as a result of an event of default or fundamental change triggering such right would lower our current cash on hand such that we would not have those funds available for use in our business, which could adversely affect our operating results.

We are subject to a number of restrictive covenants under the Credit Agreement, which restrict our business and financing activities.

The Credit Agreement imposes, and the terms of any future debt may impose, operating and other restrictions on us. Such restrictions in many respects limit or prohibit, among other things, our and our subsidiaries' ability to:

- incur or guarantee additional debt;
- pay dividends on our ordinary shares or redeem, repurchase or retire our equity interests or subordinated debt;
- transfer or sell our assets:
- make certain payments or investments;
- make capital expenditures;
- create certain liens on assets;
- create restrictions on the ability of our subsidiaries to pay dividends or make other payments to us;
- engage in certain transactions with our affiliates; and
- merge or consolidate with other companies.

The restrictions under the Credit Agreement may, in certain circumstances, prevent us from taking actions that management believes would be in the best interests of our business, and may make it difficult for us to successfully execute our business strategy or effectively compete with companies that do not have similar restrictions. In the event of any event of default under the Credit Agreement, the lenders under the Credit Agreement could elect to terminate their commitments or cease making further loans and accelerate the outstanding loans, and, in any such case, we could ultimately be forced into bankruptcy or liquidation. Because the indenture governing the Notes and the Credit Agreement has customary cross-default provisions, if our obligations under the Credit Agreement are accelerated we may be unable to repay or refinance the amounts due under the Credit Agreement or the Notes.

The conditional exchange feature of the Notes, if triggered, may adversely affect our financial condition and operating results.

In the event the conditional exchange feature of the Notes is triggered, holders of Notes will be entitled at their option to exchange the Notes at any time during specified periods. If one or more holders elect to exchange their Notes, we may elect to settle all or a portion of our exchange obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to exchange their Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital and adversely affect covenants under the Credit Agreement.

We face foreign exchange currency risks.

Exchange rate fluctuations affect our operations. We experience risks from fluctuations in the value of the NIS, EUR, GBP, INR and other currencies compared to the dollar, the functional currency in our financial statements. A significant portion of the expenses associated with our Israeli and Indian operations, including personnel and facilities related expenses, are incurred in NIS and INR, respectively, whereas most of our business and revenues are generated in dollars, and to a certain extent, in GBP, EUR and other currencies. If the value of the dollar decreases against the NIS, our earnings may be negatively affected. In addition, a significant portion of the expenses associated with our European operations are incurred in GBP and EUR. As a result, we may experience an increase in the costs of our operations, as expressed in dollars, which could adversely affect our earnings.

The announcement of Brexit caused significant currency exchange rate fluctuations that generally resulted in the sharp devaluation of the GBP and the strengthening of the U.S. dollar against foreign currencies in which we conduct business. In addition, the outcome of Brexit and interest rate changes in certain countries, may continue to cause volatility in the currency markets. These currency fluctuations may adversely affect our results of operations.

We monitor foreign currency exposure and may use various instruments to preserve the value of sales transactions, expenses and commitments; however, this cannot assure our full protection against risks of currency fluctuations that could affect our financial results. As part of our efforts to mitigate these risks, we use foreign currency hedging mechanisms, which may be ineffective in protecting us against adverse currency fluctuations and can also limit opportunities to profit from exchange rate fluctuations that would otherwise be favorable. For information on the market risks relating to foreign exchange, please see Item 11, "Quantitative and Qualitative Disclosures about Market Risk" in this annual report.

Additional tax liabilities could materially adversely affect our results of operations and financial condition.

As a global corporation, we are subject to income and other taxes both in Israel and various foreign jurisdictions. Our domestic and international tax liabilities are subject to the allocation of revenues and expenses in different jurisdictions and the timing of recognizing revenues and expenses. Additionally, the amount of income taxes paid or accrued is subject to our interpretation of applicable laws in the jurisdictions in which we do business. From time to time, we are subject to income and other tax audits in various jurisdictions, the timing of which is unpredictable. While we believe we comply with applicable tax laws, there can be no assurance that a governing tax authority will not have a different interpretation of the law and assess us with additional taxes. If we are assessed additional taxes, it could have a material adverse effect on our results of operations and financial condition.

In recent years we have seen changes in tax laws resulting in an increase in effective tax rates, especially increased liabilities of corporations and limitations on the ability to benefit from strategic tax planning, with these laws particularly focused on international corporations. Such legislative changes in one or more jurisdictions in which we operate may have implications on our tax liability and have a material adverse effect on our results of operations and financial condition.

The Organization for Economic Cooperation and Development has recently introduced the base erosion and profit shifting project. This project contemplates changes to numerous international tax principles, as well as national tax incentives, and these changes, if adopted by individual countries, could adversely affect our provision for income taxes.

We might recognize a loss with respect to our financial investments.

We invest most of our cash through a variety of financial investments. If the obligor of any of our financial investments defaults or undergoes reorganization in bankruptcy, we may lose a portion of such investment and our assets and income may decrease. In addition, a downturn in the credit markets or the downgrading of the credit rating of our investments could result in a reduction in the market value of our holdings and reduce the liquidity of our investments, which could require us to recognize a loss and would adversely affect our assets and income. For information on the types of our investments, see Item 11, "Quantitative and Qualitative Disclosures About Market Risk" in this annual report.

Changes in accounting principles, or interpretations thereof, could have a significant impact on our financial position and results of operations.

We prepare our Consolidated Financial Statements in accordance with U.S. GAAP. These principles are subject to interpretation by the Securities and Exchange Commission (the "SEC") and various bodies formed to interpret and create appropriate accounting principles. A change in these principles can have a significant effect on our reported results and may even retroactively affect previously reported transactions. Additionally, the adoption of new or revised accounting principles may require that we make significant changes to our systems, processes and controls.

For example, the Financial Accounting Standards Board ("FASB") has issued new accounting standards for revenue recognition and leasing, and while we know that these standards will have an impact on us we are still evaluating the extent of the impact these new accounting standards will have on our consolidated financial statements and related disclosures. Changes resulting from these new standards may result in materially different financial results and may require that we change how we process, analyze and report financial information and that we change financial reporting controls. For additional information regarding these updated standards, see the section titled "Recently Issued Accounting Pronouncements" in Item 5.

Risks Relating to Intellectual Property and Data Protection

We may face risks relating to inadequate intellectual property protection and liability resulting from infringement by our products or solutions of third party proprietary rights.

Our success is dependent, to a significant extent, upon our proprietary technology. We currently hold 202 U.S. patents and 50 patents issued in additional countries covering substantially the same technology as the U.S. patents. We have over 77 patent applications pending in the United States and other countries. We rely on a combination of patent, trade secret, copyright and trademark law, together with non-disclosure and non-competition agreements, as well as third party licenses to establish and protect the technology used in our systems. However, we cannot assure you that such measures will be adequate to protect our proprietary technology, that competitors will not develop products with features based upon, or otherwise similar to our systems, that third party licenses will be available to us or that we will prevail in any proceeding instituted by us in order to enjoin competitors from selling similar products. In most of the areas in which we operate, third parties also have patents which could be found applicable to our technology and products. Such third parties may include competitors, as well as large companies, which invest millions of dollars in their patent portfolios, regardless of their actual field of business. Although we believe that our products and solutions do not infringe upon the proprietary rights of third parties, we cannot assure you that one or more third parties will not make a contrary claim or that we will be successful in defending such claim.

We generally distribute our software products under software license agreements that restrict the use of our products by terms and conditions prohibiting unauthorized reproduction or transfer of the software products. However, effective copyrights and other intellectual property rights protection may be inadequate or unavailable to us in every country in which our software products are available, and the laws of some foreign countries may not be as protective of intellectual property rights as those in Israel and the United States. Consequently, we may be unable to prevent our proprietary technology from being exploited abroad, which could affect our ability to expand to international markets or require costly efforts to protect our technology. Policing the unauthorized use of our products, trademarks and other proprietary rights is expensive, difficult and, in some cases, impossible. Litigation may be necessary in the future to enforce or defend our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others. Such litigation could result in substantial costs and diversion of management resources, either of which could harm our business. Accordingly, despite our efforts, we may not be able to prevent third parties from infringing upon or misappropriating our intellectual property.

In the past we received, from time to time, "cease and desist" letters alleging patent infringements. Although there are currently no formal infringement claims or other actions pending against us, in the event that we are required to defend ourselves against any such claims or actions we could be subject to substantial costs and diversion of management resources.

In addition, to the extent we are not successful in defending such claims, we may be subject to injunctions with respect to the use or sale of certain of our products or to liabilities for damages and may be required to obtain licenses which may not be available on reasonable terms. Any of these may have a material adverse impact on our business or financial condition.

We face risks relating to our use of certain "open source" software tools.

Certain of our software products contain a limited amount of open source code and we may use more open source code in the future. In addition, certain third party software that we embed in our products contains open source code. Open source code is code that is covered by a license agreement that permits the user to liberally use, copy, modify and distribute the software without cost, provided that users and modifiers abide by certain licensing requirements. The original developers of the open source code provide no warranties on such code.

As a result of our use of open source software, we could be subject to suits by parties claiming ownership of what we believe to be open source code and we may incur expenses in defending claims that we did not abide by the open source code license. In addition, third party licensors do not provide intellectual property protection with respect to the open source components of their products, and therefore we may not be indemnified by such third party licensors in the event that we or our customers are held liable in respect of the open source software contained in such third party software. If we are not successful in defending against any such claims that may arise, we may be subject to injunctions and/or monetary damages or be required to remove the open source code from our products. Such events could disrupt our operations and the sales of our products, which would negatively impact our revenues and cash flow.

Moreover, under certain conditions, the use of open source code to create derivative code may obligate us to make the resulting derivative code available to others at no cost. The circumstances under which our use of open source code would compel us to offer derivative code at no cost are subject to varying interpretations. If we are required to publicly disclose the source code for such derivative products or to license our derivative products that use an open source license, our previously proprietary software products may be available to others without charge. If this happens, our customers and our competitors may have access to our products without cost to them, which could harm our business.

We monitor our use of such open source code to avoid subjecting our products to conditions we do not intend. The use of such open source code, however, may ultimately subject some of our products to unintended conditions so that we are required to take remedial action that may divert resources away from our development efforts.

If we fail to prevent information security breaches, our operations, financial condition and reputation may be harmed.

Our services involve the storage and transmission of customers' proprietary information, and security breaches could expose us to a risk of loss of this information and possible liability. While we have security measures in place, they may be breached as a result of third-party action, including intentional misconduct by computer hackers, employee error, malfeasance or otherwise and result in someone obtaining unauthorized access to our IT data, our customers' data or our data, including our intellectual property and other confidential business information.

Some of our customers use our products to compile and analyze highly sensitive or confidential information. We may come into contact with such information or data when we perform service or maintenance functions for our customers. While we have internal policies and procedures for employees in connection with performing these functions, the perception or fact that any of our employees has improperly handled sensitive information of a customer or a customer's end user could negatively affect our business.

Cyber security attacks are becoming increasingly sophisticated and in many cases may not be identified until a security breach actually occurs. If we fail to recognize and deal with such security attacks and threats and if we fail to update our products and solutions and prevent such threatened attacks in real time to protect our customers' or other parties' sensitive information, whether retained in our systems or by our customers using our products, our business and reputation will be harmed.

Third parties may attempt to breach our security measures or inappropriately take advantage of our solutions, including our SaaS and hosting services, through computer viruses, electronic break-ins and other disruptions. Additionally, third parties may attempt to fraudulently induce employees or customers into disclosing sensitive information such as user names, passwords or other information in order to gain access to our customers' data, our data or our systems. Furthermore, our customers may authorize third party technology providers to access their customer data, and some of our customers may not have adequate security measures in place to protect their data that is stored on our services. Because we do not control our customers or third-party technology providers, or the processing of such data by third-party technology providers, we cannot ensure the integrity or security of such transmissions or processing. Malicious third parties may also conduct attacks designed to temporarily deny customers access to our services. Any security breach could result in a loss of confidence in the security of our services, damage our reputation, negatively impact our future sales, disrupt our business and lead to legal liability.

Risks Relating to Regulatory Environment

Changes in the legal and regulatory environment could materially and adversely affect our business, results of operations and financial condition.

Our business, results of operations and financial condition could be materially and adversely affected if laws, regulations or standards relating to our business and products, us or our employees (including labor laws and regulations) are constantly implemented or changed. Such implemented laws and regulations include requirements in the United States, Europe and other territories in relation to, data privacy and protection, anti-bribery and anti-corruption, import and export, labor, tax and environmental and social issues. It is expected that the recently appointed administration in the U.S. will promulgate new or amended or abolish regulations that may impact our customers' business or our operations, such as Dodd –Frank Act or consumer protection laws, and which may reduce the demand for our products and services and may adversely affect our results of operations.

From time to time, we may also operate pursuant to specific authorizations of, and commitments towards, U.S., Israeli or other governmental authorities and agencies. While we make every effort to comply with such requirements, we cannot assure you that we will be fully successful in our efforts, and that our business will not be harmed. Failure to comply with such laws, regulations, authorizations and commitments could results in fines, damages, civil liability and criminal sanctions against us, our officers and our employees, prohibitions on the conduct of our business and damage to our reputation.

We believe there is a global trend toward adoption and enforcement of data privacy, information security and cyber related legislation and procedures. Regulations or interpretive positions may be enforced specifically with respect to the use of SaaS and hosting services and other outsourced services. Adoption of such legislation and regulations may require that we invest in the modification of our solutions to comply with such legislation and regulations, cause a reduction in the use of our solutions and services or subject ourselves or our customers to liability resulting from a breach of such regulations. If we are unable to comply with these specific requirements or guidelines, or privacy and information security legislation in general, it could materially adversely affect our business and results of operations.

Failure to comply with privacy legislation or procedures may cause us to incur civil liability to government agencies, customers, shareholders and individuals whose privacy may have been compromised.

In addition, our revenues would be adversely affected if we fail to adapt our products and services to changes in rules and regulations applicable to the business of certain clients, such as rules and regulations regarding securities trading, broker sales compliance and anti-money laundering, which could have an impact on their need for our products and services. There are growing compliance and regulatory initiatives and changes for corporations and public organizations around the world that are driven by events and concerns such as accounting scandals, security threats and economic conditions.

While we attempt to prepare in advance for these new initiatives and standards, we cannot assure you that we will be successful in our efforts, that such changes will not negatively affect the demand for our products and services, or that our competitors will not be more successful or prepared than us. Alternatively, a reduction in the implementation of compliance and regulatory requirements in the industries in which we operate could result in a decrease in demand, which could materially and adversely affect our business and results of operations.

In certain industries in which we operate, there may be regulations or guidelines for use of SaaS and hosting services that mandate specific controls or require enterprises to obtain certain approvals prior to outsourcing certain functions. In addition, we may be limited in our ability to transfer or outsource business to certain jurisdictions, and may be limited in our ability to undertake development activity in certain jurisdictions, which may impede on our efficiency and adversely affect our business results of operations.

The accounting method for convertible debt securities that may be settled in cash, such as the Notes, may have a material effect on our reported financial results.

Under Accounting Standards Codification 470-20, Debt with Conversion and Other Options, an entity must separately account for the liability and equity components of convertible or exchangeable debt instruments (such as the Notes) that may be settled entirely or partially in cash upon exchange in a manner that reflects our economic interest cost. The effect of ASC 470-20 on the accounting for the Notes is that the equity component is required to be included in the additional paid-in capital section of shareholders' equity on our consolidated balance sheet, and the value of the equity component would be treated as original issue discount for purposes of accounting for the debt component of the Notes. As a result, we will be required to record a greater amount of non-cash interest expense in current periods presented as a result of the amortization of the discounted carrying value of the Notes to their face amount over the term of the Notes. We will report lower net income (or greater net loss) in our financial results because ASC 470-20 requires interest to include both the current period's amortization of the debt discount and the instrument's coupon interest, which could adversely affect our reported or future financial results.

In addition, convertible or exchangeable debt instruments (such as the Notes) that may be settled entirely or partly in cash are currently accounted for utilizing the treasury stock method if we have the ability and intent to settle exchanges in cash, the effect of which is that the ADSs deliverable upon exchange of the Notes are not included in the calculation of diluted earnings per share except to the extent that the exchange value of the Notes exceeds their principal amount. Under the treasury stock method, for diluted earnings per share purposes, the transaction is accounted for as if the number of ADSs that would be necessary to settle such excess (if we elected to settle such excess in ADSs) are deemed issued. We cannot be sure that we will be able to continue to demonstrate the ability or intent to settle in cash or that the accounting standards in the future will continue to permit the use of the treasury stock method. If we are unable to use the treasury stock method in accounting for the ADSs deliverable upon exchange of the Notes, our diluted earnings per share would be adversely affected.

If we fail to maintain effective internal controls over financial reporting, it could have a material adverse effect on our business, operating results, and the price of our ordinary shares and ADSs.

Effective internal controls are necessary for us to provide reliable financial reports and prepare consolidated financial statements for external reporting purposes in accordance with U.S. generally accepted accounting principles and U.S. securities laws, as well as to effectively prevent material fraud. Because of inherent limitations, even effective internal control over financial reporting may not prevent or detect every misstatement. In addition, if we fail to maintain the adequacy of our internal controls, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal control over financial reporting. Furthermore, as we grow our business or acquire businesses, our internal controls may become more complex and we may require significantly more resources to ensure they remain effective. In addition, we may identify material weaknesses or significant deficiencies in our internal control over financial reporting. Failure to maintain effective internal control over financial reporting could result in investigation or sanctions by regulatory authorities, and could have a material adverse effect on our business and operating results, investor confidence in our reported financial information, and the market price of our ordinary shares and ADSs.

Risks Relating to our Presence in Israel

We are subject to the political, economic and security conditions in Israel.

Our headquarters, primary research and development facilities, and a substantial percentage of our manufacturing capabilities, are located in Israel. Political, economic and military conditions in Israel directly affect our operations. Since the establishment of the State of Israel, a number of armed conflicts have taken place, varying in degree and intensity. There have been ongoing hostilities between Israel and the Palestinians, including continuous rocket and missile attacks on certain areas of the country over the last couple of years. There can be no assurance that such attacks will not have an impact our premises or major infrastructure and transport facilities in the country, which may have a material adverse effect on our ability to conduct business.

Israel also faces threats from Hezbollah militants in Lebanon, from ISIS and rebel forces in Syria, and from Iran. Moreover, some of Israel's neighboring countries have recently undergone or are undergoing significant political changes. Any of these situations could escalate in the future and turn violent, which could affect the Israeli economy generally and us in particular, and have a negative impact on our ability to operate. In addition, acts of terrorism, armed conflicts or political instability in the region could negatively affect global and local economic conditions and harm our results of operations. Furthermore, several countries restrict doing business with Israel and Israeli companies, and additional companies may restrict doing business with Israel and Israeli companies or boycott Israel as a result of an increase in hostilities or due to disagreement with Israel's policies and agenda. This may also seriously harm our operating results, financial condition and the ability to expand our business. Our products are heavily dependent upon components imported from, and most of our sales are made to, countries outside of Israel. Accordingly, our business, financial condition and results of operations could be materially adversely affected if trade between Israel and its present trading partners were interrupted or curtailed. Our results of operations may be negatively affected by the obligation of our personnel to perform military service.

Some of our officers and employees are obligated to perform up to 36 days of annual military reserve duty, and in the event of a military conflict, including the ongoing conflict with the Palestinians, these persons could be called to active duty at any time, for extended periods of time and on very short notice. The absence of a number of our officers and employees for significant periods could disrupt our operations and harm our business. We cannot assess the full impact of these obligations on our workforce or business if conditions should change.

It may be difficult to enforce a U.S. judgment against us and our officers and directors in Israel or the United States, or to serve process on our officers and directors.

Service of process upon us, our Israeli subsidiaries, our directors and officers, and the Israeli experts, if any, named in this annual report, substantially all of whom reside outside the United States, may be difficult to obtain within the United States. Additionally, it may be difficult to enforce civil liabilities under U.S. federal securities law in original actions instituted in Israel. Israeli courts may refuse to hear a claim based on a violation of U.S. securities laws because Israel is not the most appropriate forum to bring such a claim. In addition, even if an Israeli court agrees to hear a claim, it may determine that Israeli law and not U.S. law is applicable to the claim. If U.S. law is found to be applicable, the content of applicable U.S. law must be proved as a fact, which can be a time-consuming and costly process. Certain matters of procedure will also be governed by Israeli law. There is little binding case law in Israel addressing these matters.

Subject to specific time limitations and legal procedures, Israeli courts may enforce a U.S. judgment in a civil matter, including a judgment based upon the civil liability provisions of the U.S. securities laws, as well as a monetary or compensatory judgment in a non-civil matter, provided that the following conditions are met:

- subject to limited exceptions, the judgment is final and non-appealable;
- the judgment was given by a court competent under the laws of the state in which the court is located and is otherwise enforceable in such state;
- the judgment was rendered by a court competent under the rules of private international law applicable in Israel;
- the laws of the state in which the judgment was given provides for the enforcement of judgments of Israeli courts;
- adequate service of process has been effected and the defendant has had a reasonable opportunity to present his arguments and evidence;
- the judgment and its enforcement are not contrary to the law, public policy, security or sovereignty of the State of Israel;
- the judgment was not obtained by fraud and does not conflict with any other valid judgment in the same matter between the same parties; and
- an action between the same parties in the same matter was not pending in any Israeli court at the time the lawsuit was instituted in the U.S. court.

We currently benefit from local government programs as well as international programs and local tax benefits that may be discontinued or reduced.

We derive and expect to continue to derive significant benefits from various programs including Israeli tax benefits relating to our "Preferred Technology Enterprise" programs and certain grants from the National Association for Technology and Innovation (formerly known as the Office of the Chief Scientist of the Ministry of Economy) of the State of Israel (the "NATI"), for research and development.

To be eligible for tax benefits as a Preferred Technology Enterprise, we must continue to meet certain conditions. While we believe that we meet the conditions to entitle us to previously obtained Israeli tax benefits, there can be no assurance that the tax authorities in Israel will concur.

To be eligible for NATI-related grants and benefits, we must continue to meet certain conditions, including conducting the research, development, manufacturing of products developed with such NATI grants in Israel and providing the NATI with an undertaking that the know-how to be funded and any derivatives thereof is wholly owned by us, upon its creation. In addition, we are prohibited from transferring to third parties the know-how developed with these grants without the prior approval of a governmental committee and, possibly, paying a fee. See Item 4, "Information on the Company—Research and Development" in this annual report, for additional information about NATI programs.

Moreover, we participate in the European Community Framework Program for Research, Technological Development and Demonstration, which funds and promotes research. Under these programs we need to comply with certain conditions. If we fail to comply with these conditions, the benefits received could be canceled and we could be required to refund any payments previously received under these programs or pay additional amounts with respect to the grants received under these programs.

If grants, programs and benefits available to us or the laws, rules and regulations under which they were granted are eliminated or their scope is further reduced, or if we fail to meet the conditions of existing grants, programs or benefits and are required to refund grants or tax benefits already received (together with interest and certain inflation adjustments) or fail to meet the criteria for future Preferred Technology Enterprises, our business, financial condition and results of operations could be materially adversely affected.

Provisions of Israeli law may delay, prevent or otherwise impede a merger with, or an acquisition of, our company, which could prevent a change of control, even when the terms of such a transaction are favorable to us and our shareholders.

Israeli corporate law regulates mergers, requires tender offers for acquisitions of shares above specified thresholds, requires special approvals for transactions involving directors, officers or significant shareholders and regulates other matters that may be relevant to these types of transactions.

Furthermore, Israeli tax considerations may make potential transactions unappealing to us or to our shareholders whose country of residence does not have a tax treaty with Israel exempting such shareholders from Israeli tax. These and other similar provisions could delay, prevent or impede an acquisition of us or our merger with another company, even if such an acquisition or merger would be beneficial to us or to our shareholders.

See Item 10, "Additional Information—Mergers and Acquisitions" in this annual report, for additional discussion regarding anti-takeover effects of Israeli law.

Risks Relating to our Securities

The market price of each of our ADSs, ordinary shares and the Notes is volatile and may decline.

Numerous factors, some of which are beyond our control, may cause the market price of our ADSs, ordinary shares and the Notes to fluctuate significantly. These factors include, among other things:

- Quarterly variations in our operating results;
- Changes in expectations as to our future financial performance, including financial estimates by securities
- Perceptions of our company held by analysts and investors;
- Additions or departures of key personnel;
- Announcements related to dividends;
- Development of or disputes concerning our intellectual property rights;
- Announcements of technological innovations;
- Customer orders or new products by us or our competitors;
- Acquisitions or investments by us or by our competitors and partners;
- The exchangeability of the Notes for ADSs;
- Hedging or arbitrage trading activity involving ADSs by holders of the Notes;
- Modification of hedge positions by counterparties to the hedge transactions we entered into simultaneously with the issuance of the Notes, including the possible entry into or unwinding of derivative transactions with respect to the ADSs or the purchase or sale of the ADSs or other NICE securities in secondary market transactions;
- Currency exchange rate fluctuations;
- Earnings releases by us, our partners or our competitors;
- General financial, economic and market conditions;
- Political changes and unrest in regions, natural catastrophes;
- Market conditions in the industry and the general state of the securities markets, with particular emphasis on the technology and Israeli sectors of the securities markets; and
- General stock market volatility.

Our ADSs and ordinary shares are traded on different markets and this may result in price variations.

Our ADSs have been listed on The NASDAQ Stock Market since 1996 and our ordinary shares have been traded on the Tel Aviv Stock Exchange, or the "TASE", since 1991. Trading in our securities on these markets takes place in different currencies (our ADSs are traded in U.S. dollars and our ordinary shares are traded in New Israeli Shekels), and at different times (resulting from different time zones, different trading days and different public holidays in the United States and Israel). As a result the trading prices of our securities on these two markets may differ due to these factors. In addition, any decrease in the price of our securities on one of these markets could cause a decrease in the trading price of our securities on the other market.

Substantial future sales or the perception of sales of our ADSs or ordinary shares, or the exchange of a substantial amount of Notes, or perception thereof, could cause the price of our ADSs or ordinary shares to decline.

Sales of substantial amounts of our ADSs or ordinary shares in the public market, or the perception that these sales could occur, could adversely affect the price of our ADSs and ordinary shares and could impair our ability to raise capital through the sale of additional shares. Such sales may also make it more difficult for us to sell equity or equity-related securities in the future at a time and at a desirable price.

Additionally, future exchanges of the Notes for ADSs, or the perception that these exchanges may occur, could reduce the market price of the ordinary shares or ADSs. This could also impair NICE's abilities to raise additional capital through the sale of its securities.

The market prices of the ordinary shares and the ADSs, which may fluctuate significantly, will directly affect the market price for the Notes.

We expect that the market price of the ordinary shares and the ADSs will affect the market price of the Notes. This may result in greater volatility in the market price of the Notes than would be expected for non-exchangeable notes. The market price of the ordinary shares and the ADSs will likely fluctuate in response to a number of factors, many of which are beyond our control. Holders who receive ADSs upon exchange of the Notes will therefore be subject to the risk of volatility and depressed prices of ADSs. In addition, we expect that the market price of the Notes will be influenced by yield and interest rates in the capital markets, our creditworthiness and the occurrence of certain events affecting us that do not require an adjustment to the exchange rate. Fluctuations in yield rates in particular may give rise to arbitrage opportunities based upon changes in the relative values of the Notes and ADSs. Any such arbitrage could, in turn, affect the market prices of ADSs and the Notes.

Holders of our ADSs are not treated as shareholders of our company.

Holders of our ADSs are not treated as shareholders of our company unless they withdraw the ordinary shares underlying the ADSs from the depositary, which holds the ordinary shares underlying the ADSs. Holders of ADSs therefore do not have any rights as shareholders of our company, other than the rights that they have pursuant to the deposit agreement with the depositary.

We have not registered, and do not currently intend to register, the Notes, the ADSs into which the Notes are exchanged or exchangeable or the ordinary shares represented thereby. There are restrictions on Noteholders' ability to transfer or resell the Notes, ADSs and the underlying ordinary shares.

The Notes, the ADSs deliverable upon exchange of the Notes and the ordinary shares represented thereby were offered and sold pursuant to an exemption from registration under the Securities Act and applicable state securities laws, and we have not registered, and do not currently intend to register, the Notes, the ADSs or such ordinary shares. Therefore, Noteholders may transfer or resell the Notes only in a transaction registered under or exempt from the registration requirements of the Securities Act and applicable state securities laws, and may be required to bear the risk of their investment for an indefinite period of time.

The fundamental change and make-whole fundamental change provisions of the Notes may delay or prevent an otherwise beneficial attempt to acquire our company.

The fundamental change prepayment rights of the Noteholders under the Notes, which would allow Noteholders to require that we prepay all or a portion of their Note upon the occurrence of a fundamental change, and the provisions under the Notes requiring an increase to the exchange rate for exchanges in connection with a make-whole fundamental change, in certain circumstances may delay or prevent an acquisition of NICE that would otherwise be beneficial to our shareholders.

Item 4. Information on the Company.

Company Background

NICE was founded on September 28, 1986, as NICE Neptun Intelligent Computer Engineering Ltd., and on October 14, 1991 was renamed NICE-Systems Ltd. On June 6, 2016 we were renamed NICE Ltd., which is our legal and commercial name. NICE is a company limited by shares organized under the laws of the State of Israel. Our headquarters are located at 13 Zarchin Street, P.O. Box 690, Ra'anana 4310602, Israel (Tel. +972-9-775-3151). In the United States, our subsidiary, NICE Systems, is located at 221 River Street, Hoboken, New Jersey 07030.

In the last three fiscal years, our principal capital expenditures were the acquisition of other businesses, repurchases of our ADRs and distributions of dividends. For information regarding our acquisitions and ordinary share repurchases, please see Item 5, "Operating and Financial Review and Prospects—Recent Acquisitions," and "Liquidity and Capital Resources," in this annual report. For additional information regarding our ordinary share repurchases, please also see Item 16E, "Purchases of Equity Securities by the Issuer and Affiliated Purchasers," in this annual report.

For a breakdown of total revenues by products and services and by geographic markets for each of the last three years, please see Item 5, "Operating and Financial Review and Prospects – Results of Operation," in this annual report.

About NICE

NICE is a global software leader in omnichannel analytics and cloud solutions for the Customer Engagement and Financial Crime & Compliance markets.

Our mission is to empower organizations to make smart business decisions through deep human understanding.

We provide software solutions that help organizations understand their customers and employees and predict their intentions and their needs to create exceptional customer experiences, understand their workforce to drive greater efficiency, and identify suspicious behaviour to prevent financial crime and non-compliant activities.

We do this by providing customer engagement platforms, capturing interactions and transactions across multiple channels and sources and applying best-in-class analytics to this data to provide real-time insight and uncover intent. NICE helps its customers improve their service and security by applying machine learning to cross-industry data and offering customers collective insights. Our solutions allow organizations to operationalize this insight and embed it within their workflows and daily business processes.

NICE is at the forefront of two industry transformations: the adoption of cloud-delivered fully-integrated customer engagement platforms and the shift of financial institutions to integrated risk management platforms for handling end-to-end financial crime prevention.

In both cases, deep integration of process automation and analytics enables customers to achieve much greater effectiveness and efficiency.

Our advanced technologies and core competencies around customer interaction platforms, data capture, process automation, advanced real-time analytics and cloud services were developed organically and through multiple acquisitions.

We rely on several key assets to drive our growth:

- Our **loyal customer base**. Today, more than 25,000 organizations in over 150 countries, including 85 of the Fortune 100 companies, are using NICE solutions.

- Our **market leadership** makes us a well-recognized brand, and creates top-of-mind awareness for our solutions in our areas of operation.

- Our **market-leading products and technologies** for customer engagement, data capture, analytics, and cloud, which are protected by a broad array of patents.

- Our ability to quickly drive mainstream adoption for **innovative solutions** and new technologies, which we introduce to the market through our direct sales force and distribution network.

- Our skilled employees and **domain expertise** in our core markets allows us to bring our customers the right solutions to address key business challenges and build strong customer partnerships.

- Our **services, customer support and operations**, which enable our customers to quickly enjoy the benefits of our solutions, with multiple deployment models in the cloud or on-premises throughout the world and support for full value realization and customer success.

We have established a leadership position in many of our areas of operation by offering comprehensive and innovative enterprise-grade solutions and technologies. Our customers, across all sizes and verticals, including banking, telecommunications, healthcare, insurance, retail, travel, public safety, state and local government and more, are benefiting from the tangible and practical business value that our solutions provide.

Business Overview

NICE is an industry leader operating in two main markets: Customer Engagement and Financial Crime & Compliance. NICE's long term strategy is to strengthen its leadership position in these two market segments and further enhance its position in adjacent markets. During 2016, NICE achieved significant milestones in executing its long term strategy, including the acquisitions of inContact and Nexidia, which significantly enhanced our position as the leader in the Customer Engagement market.

Customer Engagement

Organizations that serve consumers are challenged to provide high quality service that is responsive to their customers' ever-changing needs and to differentiate themselves through efficient and effective customer engagement. In addition, they have to find ways to leverage customer interactions and generate upsell opportunities. They need to accomplish these objectives while containing operational costs and adhering to regulations. NICE Customer Engagement solutions help organizations address these challenges.

NICE is a global leader in the Customer Engagement market. Our portfolio of solutions serves thousands of organizations worldwide, providing an omnichannel customer engagement platform, data-driven insights that empower businesses to deliver consistent and personalized experience across the customer journey, delivered both on-premises and in the cloud. Additionally, our solutions optimize business performance and ensure compliance.

Our solutions serve contact centers, self-service channels, back office operations and retail branches, spanning multiple industries, including: banking, telecommunications, insurance, healthcare, business process outsourcing (BPO), government, utilities, travel, entertainment and e-commerce.

Our customers use our solutions to engage with their customers in real time, understand who they are and what their needs are, and drive the right "next best action." In addition, they can ensure that their employees are engaged, properly trained and in a position to provide the highest quality of service.

With an engaged workforce and understanding of the intent and journey of its consumers, NICE allows organizations to provide the consistent and personalized experience that customers expect, as well as improve operational efficiency, ensure regulatory compliance and increase revenues.

Financial Crime & Compliance

Financial institutions are regularly challenged with prevention of fraud and money laundering, and compliance adherence. They have a common need for risk management solutions that will help them stay ahead of the evolving landscape of threats and efficiently adapt to changes in business and regulatory requirements. NICE provides organizations with proven capabilities for real-time and cross-channel fraud prevention, anti-money laundering, brokerage compliance and enterprise-wide case management. With this complete set of best-in-class solutions, financial institutions can tighten risk controls, lower operational and IT costs, enhance investigation efficiency and improve customer experience.

NICE serves the financial crime & compliance needs of hundreds of organizations, including some of the world's top financial institutions and regulatory authorities. Our solutions monitor millions of financial transactions daily, enabling organizations to mitigate the risk of financial crime, improve compliance and reduce operational costs.

Industry and Technology Trends

Following are the key trends that are driving demand for our solutions:

- **Consumers demand a single omnichannel effortless and immediate experience with consistent service across all touchpoints.** Consumer behavior is significantly changing in terms of expectations and the way they interact with service providers. Consumers demand immediate, effortless, consistent and personalized experiences across all communication channels, including mobile apps, web, chat, SMS, social, and over the phone, with the least amount of effort. They easily and often traverse these channels, depending on their task, location, time-of-day or even progress within a certain process. They view all these channels as one, and organizations are expected to quickly adapt to the large variety of channels as well to view them in the same way their consumers do, offering a consistent experience across all touch points.

- **Cloud adoption is accelerating and demand is expanding across segments.** Cloud delivery is becoming increasingly popular in providing flexible and cost-effective deployment models for enterprise systems. These include SaaS, Contact Center as a Service, Infrastructure as a Service, Platform as a Service, and other cloud-based solutions. By using cloud solutions, customers of all sizes can scale quickly and easily in all geographic locations while paying only for the amount of resources they use. There are several market needs driving this trend, including the desire for business agility, the pressure to continually improve operational efficiency and innovate to reduce total cost of ownership ("TCO"), and to ease implementation complexity.

- **Proliferation of analytics as a main driver for successful customer engagement.** Organizations are increasingly implementing a customer-centric strategy to get better visibility to their customers' multi-channel journey. Organizations are now moving from simple Business Intelligence tools to focused decisioning and real-time action solutions – being proactive instead of reactive and predictive/prescriptive instead of descriptive. Front and back office functions seek to employ analytics to better optimize their operations. In addition, organizations today are exploring cognitive engagement solutions, like interactive computing, predictive analytics and machine learning.

- **Organizations look at Big Data technologies to analyze a wealth of information, derive new business insight and act in real time.** Structured and unstructured data, from millions of omnichannel interactions and transactions, open up an opportunity to gain deep insight and human understanding, regarding customer and employee intentions and behavioral patterns. Organizations keep looking for ways to elevate their usage of Big Data and advance from glimpses of interactions and transactions to a meaningful understanding of behaviors and to identify a customer's underlying concerns. Furthermore, they strive to ensure compliance in real time, which is then translated into action and into providing the best solution and accurate response.

- **Automation and Machine Learning are increasingly used to enhance customer experience and efficiency**. Smart and self-learning machines allow for the automated enhancement of real-time guidance and analytics-based insights (including speech and text analytics), behavior analytics and technique focused on profiling, trending and pattern detection. As a result, organizations increasingly use these technologies to provide faster and more efficient customer service.

- **Preventing financial crime and ensuring stringent compliance and evolving regulatory environments.** Financial services regulators are calling for a fundamental change in the underlying culture of the entities that they regulate, in order to send a strong message from the executive suite on down that protecting an institution, its customers and its assets, is of primary importance. The need to ensure compliance with requirements for advanced technological solutions can be seen across customer interactions and financial services markets. Financial services organizations are increasingly being asked to document and prove to their regulators that the controls that are in place are working and effective. This is evidenced by substantial fines that have recently been levied against such institutions. Furthermore, the regulatory requirements are constantly evolving, requiring financial institutions to respond with solutions that are up to date with the latest modifications.

- **An unpredictable threat landscape environment.** The growing number of data breaches and cyber security incidents puts increasing amounts of personally identifiable information and sensitive data at risk of exposure. This information can be used to open accounts that can be used for laundering money, terrorist financing, account fraud, market manipulation, social engineering, and more. Such potential risks threaten an organization's reputation, as well as create large financial exposures due to both losses as well as fines. In addition, the large volumes of data, having to do with both internal and external threats, place an enormous operational burden on organizations dealing with threats. Having the ability to aggregate, analyze, compare, and decision those incidents and cases increasingly points to the need for a robust and comprehensive way in which cases are handled by large financial services organizations.

- **An increasing need to control cost of compliance.** The regulatory pressures and increasing threat landscape have driven a sharp increase in the number of risk and compliance personnel, which in turn have dramatically increased the cost of compliance. Customers are turning to technology to allow them to control these costs without compromising their compliance adherence and while continuing to lower their exposure to financial crime.

- **An Integrated Risk Management Platform is becoming more prevalent.** The ever-expanding risk landscape and sophistication of financial criminals as well as the need to keep cost in check creates a growing need for a single view of financial crime-related risk, thereby allowing organizations to aggregate and analyze the different detection signals coming from throughout the financial services organization. Financial institutions are seeking a single platform that aggregates all such information from across the organization, analyzes it, acts on it and presents it in a single dashboard to both operations and executives.

Strategy

Strengthening our market leadership

We intend to increase our market-leading position by continuing to offer and expand our comprehensive portfolio of solutions, differentiated by the ability to use analytics and machine learning to drive decisions and actions, addressing various business needs through multiple business models. Our brand, global reach, financial resources, extensive domain expertise and ability to deliver solutions for large organizations will also contribute to increasing our market-leading position.

In recent years we have significantly enhanced our cloud offering, and we will continue to expand this offering. The cloud offering enables us to grow our value to our existing customers, as well as expand NICE's reach to the mid-market, considerably increasing our addressable market size.

We intend to drive additional growth by continuing to develop our direct relationship with customers, nurturing our partner ecosystem, and creating growth in each of our business areas. Additionally, we intend to lead in new product categories, as we introduce novel solutions and enter additional market segments.

Our products and technologies can provide value in markets that are adjacent to our existing markets, such as back office operations, alternative payment service providers, fintech and others. We plan to expand our market reach into such adjacencies, by adapting our products and leveraging technology as well as our customer relationships and brand to expand our addressable market.

Continuing to deliver more comprehensive solutions to our existing customers

One of our main assets is our customer base. We believe there are many opportunities to up-sell and cross-sell within our existing customer base. This includes increasing our customers' exposure to the full breadth of our solutions, migrating them to our next-generation portfolio, and providing them the benefits of our new and expanded offerings.

Continuing organic innovation and development, while also pursuing acquisitions

We intend to continue investing in innovation and development and plan to continue augmenting our organic growth with additional acquisitions that broaden our product and technology portfolio, expand our presence in selected vertical and adjacent markets and geographic areas, broaden our customer base, and increase our distribution channels.

Maximizing the synergetic potential across some of our businesses

While we bring deep domain expertise to a diverse set of industries, most of our solutions are based on the same methodology of capturing and analyzing massive amounts of structured and unstructured data, and driving automatic decisioning and guidance in real time. Thus, an important pillar of our corporate strategy is to maximize the synergies and cooperation between our business areas, where possible.

Introducing joint offerings and combining go-to-market efforts, as well as leveraging extensive complementary domain expertise, technological know-how, capabilities and development, are expected to enable us to grow our business through additional cross-sell and up-sell opportunities. Moreover, this synergetic approach reflects a core NICE value of nurturing a corporate culture focused on delivering encompassing and high-quality customer service.

Providing innovative, real-time analytics and machine learning and cross-channel solutions with significant impact for our customers' businesses

Our solutions address the growing, unmet need to more accurately analyze and extract meaningful information from structured and unstructured data in real time; and to do so across multiple channels, in a wide variety of businesses and operational environments. We enable our customers to embed both real-time and offline analytics into their business processes, positively impacting these processes as they occur, which in turn has a positive impact on their businesses.

We plan to continue to enhance our capabilities in operationalizing Big Data with analytics, behavior prediction, decisioning and guidance. We also plan to continue enabling organizations to address the full lifecycle of interactions, transactions and events (i.e., before, during, and after they occur).

Offering an enterprise software business model

Our strategy is to offer our solutions in alignment with both on-premises and cloud-based enterprise software business models.

In the on-premises model customers purchase a license to use our software indefinitely, while also purchasing related professional services and annual software maintenance. We also offer some of our solutions under a term license, according to which customers purchase a license to use our software for a fixed period of time. Growth in maintenance revenues (which is primarily a result of high maintenance contract renewal rates and the growth of our on-premises client base) is driving an increase in our recurring revenue.

We offer our solutions in cloud-based models, providing our customers access to faster innovation, more flexibility as well as a lower TCO. We see a growing demand for these models and they could enhance our penetration into the smaller business market segment, as well as enable our existing customers to broaden their use of our products. We intend to continue offering our solutions in a variety of models, which enables us to be flexible in effectively addressing our customers' needs. This, in turn, will enable us to focus on growth and improving profitability.

An increase in the proportion of recurring revenue (both from recurring maintenance and cloud sales) out of our overall revenue mix, is expected to provide increasingly predictable revenue streams.

Customer Engagement Business Strategy

Our strategy is to extend our market leading position in the customer engagement space, while continuing to expand beyond the contact center to the different customer experience channels and touch points with multiple delivery models. We will achieve that by providing solutions that focus on:

- Introducing the next-generation Customer Engagement platform, the Experience Center: Combining omnichannel routing, self-service, customer journey analytics, adaptive WFO and automation in the cloud.
- Creating cloud transformation across the Customer Engagement portfolio for all segments and regions, to enhance flexibility, agility and lower TCO.
- Providing a comprehensive suite of customer service essentials, from predictive omnichannel routing and WFO to advanced analytics based applications.
- Infusing Analytics into each and every element of customer engagement.
- Transforming the workforce through Adaptive Workforce Optimization (Adaptive WFO), by creating and managing agent personas through enhancement of the employee experience and engagement, in order to drive their motivation and reduce attrition.
- Leveraging Artificial Intelligence and advanced process automation technologies to dramatically reduce routine employee activities and improve the efficiency of customer engagement solutions
- Extending and increasing our offering to the SMB market segment, through cloud offerings.
- Analyzing individual customer journeys and operationalizing the insights extracted to create business value in real-time for customer experience stakeholders.
- Understanding the voice of the customer, across all touch points, and taking action to address the needs of Customer Experience Officers and other stakeholders in the marketing department.
- Offering solutions to all customer touchpoints implemented in the contact center, as well as solutions that benefit back office operations, retail branches, and self-service channels.

Financial Crime and Compliance Business Strategy

We plan to continue extending our market leading position by focusing on:

- Delivering integrated financial crime and compliance solutions that help financial services organizations to identify issues faster and earlier.

- Leveraging Big Data, machine learning and other advanced technologies, integrated with our financial crime and compliance platform to help customers reduce cost of operations.
- Continuing to cross-sell and up-sell into our existing customer base around the world.
- Continuing to focus on tier 1 clients by providing them with solutions to meet their needs via cloud and on-premise models.
- Leveraging cloud and SaaS to expand the reach of our solutions to tier 2 customers, thereby providing us an opportunity to significantly enhance our addressable market.
- Partnering with world-class consultancy and other firms to identify additional significant opportunities.
- Increasingly selling holistic solutions, combining Financial Crime and Compliance offerings with Customer Engagement offerings.
- Offering our solutions to verticals outside of the traditional financial services, such as gaming, energy, insurance, healthcare, industry regulators, government agencies, and alternative payments providers.

Our Solutions

I. Customer Engagement

Our Solutions' Core Capabilities

Omnichannel Routing enables organizations to run their contact center in the cloud, route contacts and interactions to ensure agents positively and productively interact with customers on any channel. Organizations gain business flexibility by quickly deploying agents anytime, anywhere for maximum operational flexibility and implementing routing and interactive voice, IVR and digital channel response changes in hours, not months.

Omnichannel, Real-time Interaction Analytics enables organizations to uncover the valuable data and insights hidden in customer interactions. It uses advanced technology powered by Nexidia Analytics, for analyzing speech, text, call flow, customer sentiment and employee desktop activity, in order to understand the root cause of service issues and to drive business results.

Omnichannel Recording and Interaction Management enables organizations to capture structured and unstructured customer interaction and transaction data from multiple channels, including: phone calls, chats, emails, videos, customer feedback, web sessions, social media postings, and walk-in centers.

Employee Engagement enables organizations to improve agent's individual productivity, identify performance gaps, deliver targeted coaching, and effectively forecast workloads and schedule staff in an adaptive manner. It fosters performance-driven operations and culture, leverages the power of advanced analytics, and embeds the voice of the customer into daily operations to engage employees.

Customer Journey Solutions enables organizations to analyze the entire customer journey across various touchpoints, transactions and events. These solutions allow our customers to have a comprehensive view of customer intents and actions throughout their journey. They also leverage Big Data infrastructure and predictive analytics models to identify and sequence individual customer interactions across time and touch points, including calls, text, IVR, web, self-service and others. With this analysis, organizations can understand the context of each contact, uncover patterns, predict needs and personalize interactions in real time.

Real-time Process Automation and Guidance enables organizations to have a real-time decisioning engine that supports business decisions. The engine draws on business rules and predictive models to automate mundane manual tasks through process insights derived from analytics that are applied while interactions are taking place, as well as post interactions or in batch mode. This combination enables organizations to make the right decision during individual interactions and across a mass number of interactions, which in turn drives future next-best-action guidance through process automation.

Open Cloud Platform enables organizations to get an enterprise-grade foundation for contact centers of any size to scale securely, deploy quickly, and serve customers globally. We offer an extensive collection of pre-built integrations from the broadest network of ecosystem partners.

The combination of the above capabilities enables organizations to improve customer experience and achieve business and operational goals. Solutions are available individually or as an integrated whole.

Addressing Business and Operational Needs

1. **Omnichannel Routing**

Solution	Description
Automatic Contact Distributor (ACD) and Interactive Voice Response (IVR)	Ensure customer requests are routed to qualified agents or resolved with self-service through a skills-based omnichannel routing engine that provides a universal queue for real-time interaction management, and a consolidated interface with a seamlessly integrated IVR for routing strategies across all supported channels.
Personal Connection	Provide inside sales an easier way to attain quota by connecting with more prospects every day and customer service the ability to reduce inbound calls through personalized, low cost, and proactive outbound notifications.
Customer Engagement Channels	Enable contact centers to service customers via any channel, with extensive routing options, consolidated reporting and a state-of-the-art agent interface. Channels include inbound and outbound voice, callback, voicemail, email, chat, text/SMS, Social Media and work items. Other channels, such as video, are implemented using work items.

2. **Voice as a Service**

Solution	Description
Network and Voice Connectivity Solutions	Provide Voice as a Service network connectivity suite that delivers flexible and reliable telephony services built specifically for the contact center. Offering a full range of telephony options, with guaranteed voice quality. Through our partnership with a leading, independent 3rd party, proactive diagnostic tools and extensive telephony expertise we ensure 99.99%.

3. **Open Cloud Platform**

Solution	Description
CRM Integrations	Provide pre-built CRM integrations, such as the inContact Agent for Salesforce, empower agents to personalize omnichannel customer service. They provide seamless, bidirectional CRM integrations with your contact center that increase agent efficiency and independence by delivering a real-time 360-degree view of the customer.
UCaaS Integrations	Provide pre-built or partner-provided integration with Unified Communication tools that enables seamless collaboration between contact center agents and experts in their organization. This easy to deploy integration provides a single solution for formal and informal contact center agents.
APIs	Empower organizations to customize and integrate their contact center with other business critical solutions to create the optimal customer service environment.

4. **Compliance and Risk**

Solution	Description
Compliance Omnichannel Recording	Proactively captures and retains all customer interactions across multiple touch points to help ensure compliance with government regulations, such as the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Security Exchange Commission Rule 17a-4, the Health Insurance Portability and Accountability Act, the Sarbanes–Oxley Act, the Payment Card Industry Data Security Standard, the Financial Services Authority and Medicare Improvements for Patients and Providers Act, as well as with internal policies. Compliance Recording is also an invaluable tool to resolve disputes, perform investigations and verify sales, as well as provide redundancy and disaster recovery capabilities to meet business continuity requirements.
Trading Floor Compliance Solutions	Enables organizations to capture, monitor and analyze interactions and transactions in real time, in order to proactively minimize risks, detect potential regulatory breaches, counter fraudulent activities, and improve investigative capabilities. These solutions deliver comprehensive, integrated capabilities to effectively manage the complex, ongoing, high-risk exchange of interactions and transactions between traders, firms and their counterparties.
Essential Compliance	Enables trading floors to record and store transactions and interactions in any media, as well as securely manage and access archived material on demand and in a flexible manner. Essential Compliance helps financial and energy trading firms ensure compliance with the strict recordkeeping requirements of today's regulatory environment.
Communication Surveillance	Monitors trading activity across trading turrets, fixed and mobile phones, email, text and instant messaging, chat and social media. It automatically detects potential risks and enables compliance officers to see emerging trends, so that compliance breaches and fraud can be averted. It also enables firms to meet the requirements of the regulatory environment established with the introduction of the Dodd-Frank Act, and related rules and regulations.
Complaint Management	Enables organizations to use analytics to identify interactions at risk, and manage the process of handling the complaint.
Compliance and Script Adherence	Monitors agent interactions, searches for any phrase, at any time, and utilizes the phrases in issue resolution and training exercises. Incorporates real-time monitoring and alerting to guide towards required behaviors. Knows which calls are contained in the audio and helps ensure reading for an audit.

5. **Operational Efficiency**

Solution	Description
Contact Center Omnichannel Recording	Provides comprehensive call recording technology that adapts easily to the unique operational requirements of any contact center. It supports virtually any telephony environment and hybrid networks. This enables a seamless transition during technology migrations as the contact center grows and evolves. It supports thousands of concurrent IP streams in a single platform: capturing, forwarding streams in real time, recording and archiving. It also captures non-voice interactions such as video, chat and email, and stores them in a single recording platform, ensuring regulatory adherence and standardized cross-channel workforce optimization.
Performance Management	Maps enterprise business objectives to group and individual goals, and tracks and reports performance. It also automates critical managerial activities, including employee coaching, recognition, and performance improvement, allowing front-line managers to become more effective and efficient in developing their teams. Performance Management also includes unique capabilities, such as gamification, to engage and motivate and align employees around common and personalized business goals.
Workforce Management	Forecasts an organization's interactions load, schedules agent shifts across multiple sites with appropriate skills to manage and optimize the level of customer service resources in multi-skilled environments. It measures agent and team performance, and provides real-time change management to proactively respond to changing conditions.
Quality Central	Automates quality assurance processes and selection of calls for evaluation based on performance data. The solution facilitates root-cause evaluation, with easy drill down to interactions missing their Key Performance Indicator targets. Quality improvement is thus managed across voice, email, chat, and social media channels.
Nexidia Interaction Analytics	Analyzes large quantities of customer interactions across multiple channels in real time to identify hot topics and root causes quickly, and to produce actionable insights. These insights are then leveraged to improve processes, enhance customer experience, increase sales, optimize marketing campaigns and reduce operational costs.
Back Office Workforce Optimization	Automates manual processes, integrates data from employees' desktops, improves forecast accuracy, enables managers to view and manage resource capacity, and empowers employees to improve their own performance. It also provides tools to ensure regulatory compliance and accuracy, elevating the level of service customers receive across the entire enterprise.
Real-time Authentication	Leverages voice biometrics for authenticating customers in real time. The technology helps organizations to seamlessly enroll customers, expedites agent service, and significantly reduces the risk of fraud for all customers across voice and IVR channels
Call Volume Optimization	Leverages Big Data infrastructure and advanced predictive analytics to help organizations resolve customer needs in one contact, to predict and preempt follow-up calls, and to enable customers to effectively use self-service tools.
Real-time Process Optimization	Automatically monitors agent activity in real time, enabling organizations to identify process bottlenecks and implement best practices. With this information, the solution navigates agents through complex processes using on-screen guidance, and automates routine tasks to shorten handle time and eliminate manual processing errors.
Interactive Voice Response ("IVR") Optimization	The IVR Optimization solution enables customers to reduce customer effort by increasing IVR containment rate, reducing IVR repeat calls, agent transfers, drop-offs and deflections and dramatically improving call center efficiency.
Robotic Automation	Robotic solution for the automation of routine back office and contact center processes. Operated on virtual machines and monitored centrally, these robots handle end-to-end processes, essentially performing any routine task which the human user would otherwise do manually.

6. **Customer Experience**

Solution	Description
Total Voice of the Customer (TVoC)	Collects and analyzes comprehensive data from multiple interaction touch points and channels; analyzes interactions in real time and provides guidance on the next-best-action; proactively reaches out for customer feedback from any touch point, including text message, email, IVR, mobile app, and online forms immediately following an interaction through their channel of choice; and leverages social media analytics to monitor social networks and address customer issues. This enables companies to drive operations and deliver insights across departments by incorporating the customer's perspective.
Customer Journey Optimization	Helps organizations optimize their overall customer interactions process across multiple touch points. The solution automatically constructs a cross-channel map of the customer journey, providing insights into trends and focus areas. It automatically assigns contact reasons to every interaction and reveals customer behavior patterns, helping to predict the customer's next action and to respond accordingly. The solution highlights opportunities for self-service channel containment and offers real-time guidance for an improved customer experience.
Customer Satisfaction	Understands the business practices and behaviors that drive customer satisfaction. Simplifies the customer experience, through methods such as quicker caller identification. Attracts new customers by offering an easier path to service than the competition. Statistically determines which business processes and agent behaviors have the greatest impact on customer behavior.
Customer Churn	Analyzes historic defection data to create models for predicting future churn. Understands causes and effects of customer churn and how to design procedures to reduce the defection rate. Prioritizes at-risk customers based on search results combined with customer data. Collects information to refine retention marketing offers that are better tailored to customer types and demographics.

7. **Sales Optimization**

Solution	Description
Sales Performance Management	Provides the end-to-end ability to create, manage and distribute all aspects of a commissions program. It automates the process of commission, bonus and incentive administration, in support of any type of variable pay system that rewards employees for achieving targets aligned with the business strategy.
Real Time Web Personalization	Uses customer intelligence, predictive models and machine learning to make insightful, real-time personalization decisions during customer interactions over the Web. The solution helps organizations improve customer retention, increase online conversion rates, and deliver better service by taking the next-best-action.
Sales Effectiveness	Helps organizations optimize their campaigns. Locates and quantifies specific events by building the right metrics to align with corporate objectives such as offers made versus up-sell opportunities. Correlates data points such as customer spend and purchase history to build predictive models, prioritizing customers with a propensity to buy and create the next-best offer. Identifies high-performing agents, and bases best practices off their behavior. Establishes thresholds and works with agents, measuring performance against sales driven metrics.

8. Public Safety Incident Debriefing and Investigation

Solution	Description
NICE Inform	Enables public safety agencies and organizations across various industries to capture, consolidate, synchronize and manage multimedia incident information efficiently and effectively. It captures and processes event information from a variety of media: radio and call audio, video, text, Computer-Aided Dispatch (CAD) systems, Geographic Information Systems, and others.
NICE Investigate	Automates and expedites the end-to-end collection, analysis and sharing of all digital case evidence – from Records Management Systems, CAD, interview room and emergency call audio, documents, photos, private and public CCTV, body-worn and in-car video, social media and more – to help facilitate building and clearing more cases faster.

9. Public Safety Emergency Response Optimization

Solution	Description
NICE Multimedia Recording	Addresses the needs of emergency communications, dispatch and air traffic control operations. The recording platform automatically records, analyzes, stores, quickly retrieves and instantly replays telephony, radio and IP voice calls, operator console screens and SMS Text-to-911. TDM and VoIP recordings can be used to ensure compliance with regulations, provide case or incident evidence, and manage and improve departmental quality and productivity.
NICE Inform	Helps emergency centers to effectively record, manage and derive valuable insights from today's higher volume and variety of communications. It captures multimedia communications and helps manage, synchronize and put incidents into context – saving time, money and resources, while ensuring quality and compliance.

II. Financial Crime and Compliance

Our Solutions' Core Capabilities

Core platform: Financial Crime and Compliance solutions (also known as NICE Actimize solutions) share a single, flexible and scalable core platform that enables financial institutions, financial services providers, and others to expand the use of NICE's solutions over time. This eases implementation and lowers total cost of ownership.

Analytical models and flexible tools: The core platform provides dozens of out-of-the-box analytical models with each specific solution, as well as flexible tools that can be used to develop and customize analytical models, data sources, and business processes at both the business and IT levels.

Multi-channel transaction management: The solutions are proven to capture and analyze thousands of financial transactions a second from a variety of sources and channels.

Domain-specific advanced analytics: Comprehensive, domain-specific solutions detect anomalous customer or employee behavior in real time, leveraging industry-proven analytics.

Real-time decisioning and enforcement: A real-time decisioning engine draws on analyzed data to trigger alerts that enable optimal enforcement and resolution. Built-in capabilities for comprehensive workflow and investigation allow effective alert management.

Solutions are available individually or as an integrated whole.

Addressing Business Needs

1. **Enterprise Risk Management**

Solution	Description
Enterprise Risk Case Manager	Enables firms to better manage and mitigate organizational risk by providing a single view of risk across the business. It serves as a central platform for managing alerts, cases, investigations, link analysis, regulatory reporting, financial losses, oversight and more, across multiple lines of business, channels, products, and regions, turning them into actionable insights.

2. **Anti-Money Laundering**

Solution	Description
Suspicious Activity Monitoring	Leverages transaction analytics to offer end-to-end coverage for detection, scoring, alerting, workflow processing and reporting of suspicious activity to make sure nothing slips through the cracks. It supports the full investigation life cycle and, with NICE's integrated case management platform, improves staff productivity, helping meet regulatory obligations in a cost-effective manner.
Watch List Filtering	Provides enterprise-wide customer and transaction screening against multiple watch lists, for end-to-end sanctions list coverage. It identifies and manages sanctioned or high-risk individuals and entities, with real-time name recognition capabilities, providing customers the ability to conduct accurate name matching to prevent non-compliance occurrences.
Customer Due Diligence	Provides integrated risk-based rating and continuous monitoring of accounts throughout the entire customer life-cycle, from initial applicant onboarding to periodic re-screening of existing customers. It is an open, flexible platform that can adapt to unique requirements across business segments, regions, and jurisdictions.
CTR Processing and Automation	Provides seamless automated Currency Transaction Reporting ("CTR") processing to ensure compliance with U.S. Bank Secrecy Act standards, and to optimize CTR processes for efficiency and cost-effectiveness. This allows for the reduction in manual intervention and errors. Built-in validation tools and flexible capabilities enhance the quality and timeliness of completed reports while letting organizations adapt to changing regulatory and business needs.
FATCA Compliance	Helps U.S. and non-U.S. financial institutions comply with the Foreign Account Tax Compliance Act (or FATCA), that requires foreign financial institutions and certain other non-financial foreign entities to report on the foreign assets held by their U.S. account holders). The solution helps establish a structured FATCA program from identifying U.S. owners and customers, and managing their documentation, to generating reports to meet United States Internal Revenue Service requirements. The solution enables complete life cycle assessment for FATCA-status identification, management and reporting, ensuring compliance while minimizing operational and customer impact.
AML Essentials	Addresses the challenges of financial institutions, with coverage that includes Transaction Monitoring, Customer Due Diligence, and Sanctions Screening. Actimize AML Essentials, a cloud-based offering that uses the same power and experience as our enterprise solutions, AML Essentials offers rapid deployment and reduces overhead to make compliance easier and at a lower total cost of ownership.

3. **Fraud Prevention**

Solution	Description
Card Fraud	Enables card issuers, acquirers and processors to detect fraudulent transactions, whether ATM, PIN, signature point-of-sale, or without a physical card. Market leading profile based behavioral analytics takes into account all available transaction, reference and location data to provide holistic coverage of card and account takeover. Solution includes: The Actimize Digital & Mobile Wallet Fraud protects customers from digital account takeover, and protects organizations from fraud liability and negative brand reputation. Monitors and protects a full range of wallet activity, including card/account provisioning, card present and not present purchases, person-to-person transfers, bill payments, and account-service events. The Actimize Pre-Paid Card Fraud solution identifies and prevents fraud in the pre-paid sector. From ATM to point-of-sale (POS) and Card-Not-Present (CNP), all transactions can be identified, interdicted on and alerted in real time.
Remote Banking Fraud	Provides end-to-end protection against account takeover from online, mobile, IVR, and contact center transactions. Unique industry-leading analytic models accurately detect anomalies and patterns in real time and Actimize open analytics offer the flexibility to develop in-house models and strategies. A central "risk hub" enables the sharing of internal and third-party data from multiple channels for fraud and cyber detection, operations, and investigations. By accurately and efficiently coordinating customer lifetime value, transaction amounts and service history, the solution optimizes fraud prevention by offering greater insight into cross-channel authentication and facilitates interdiction strategies.
Commercial Banking Fraud	Specifically designed to address the complexities facing commercial banks, applying targeted analytics to identify fraudulent payments among the high volume of legitimate transactions processed by commercial clients each day. The solution protects payments from origination through approval and processing, allowing organizations to interdict in real time to address suspicious activity and ensure an excellent customer experience.
Employee Fraud	Offers advanced analytic monitoring capabilities and flexible configuration options to detect fraudulent employee activity and violation of corporate policy across the enterprise, business lines, and channels. Comprehensive investigation tools are supported by multichannel data ingest, multi-country data and policy requirement configurations, secure and auditable user access levels, and automated configurable workflows, enabling banks to efficiently sift through employee audit reports and build cases to support fraudulent employee activity.
Deposit Account Fraud	Helps institutions minimize deposit fraud losses by providing comprehensive account activity monitoring. The solution analyzes risk across silos of data and lines of business, consolidates suspicious activity notifications into account and customer level alerts, and allows real-time decisioning to safely accelerate fund availability and enhance customer satisfaction.
Authentication-IQ	Manages multiple authentication methods and risk-based decisions by creating a complete customer profile, based on historical authentication activity, account servicing, and transactional behavior which is then used to identify suspicious behavior at log-in or throughout a session, producing real-time actionable risk scores. Manages the process of step up authentication, choosing the appropriate method, producing alerts and enabling real-time interdiction. Provides alert and case management in a unified context to prioritize investigations and optimize workflow across the enterprise.

4. **Financial Markets Compliance**

Solution	Description
Institutional Trade Surveillance	Provides scenario management for identifying market manipulation and abuse, fair dealings with customers, and insider trading across asset classes (such as equities, fixed income, swaps and futures). It includes specific tools for desk supervision, control room surveillance, and trade reporting practices, to ensure comprehensive oversight and sales and trading compliance across all channels.
Retail Trade Surveillance	Addresses organization-wide compliance needs across a broad range of retail sales practices relating to Know Your Customer ("KYC") and Suitability requirements. It enables local and regional branch management to effectively delegate supervision across products and provides automated desk supervision, with electronic access and sign-off on individual trades.
Employee Trade Surveillance	Detects Conflicts of Interest and Rogue Trading. It completely automates the submission, review and approval process for employees' personal trades, including post-trade reconciliation. It analyzes transactions against rules mapped to the organization's employee trading policies and procedures.
Enterprise Conflicts Management	Offers a unified approach to maintain controls and detect conflicts of interest before they occur on a global, enterprise-wide scale. Enables organizations to effectively manage employee requests for personal trades by evaluating details of the proposed trade in real time and automatically determining if the request should be approved, rejected, or escalated to a supervisor for approval. The solution includes detection models that compare executions with the employee's trade request history to determine whether the trade was pre-cleared and approved and to reconcile the trade details with the terms and conditions of the approved trade request.
Sales Practices and Suitability	Provides coverage for a broad range of sales practices and issues, helping firms meet current and future global regulatory requirements and ensure investment recommendations are consistent with each client's investment objectives and suitability profiles. It also includes a comprehensive toolset to automate sales practice compliance processes. By automating oversight and supervision, firms can ensure consistency and maintain a consolidated audit trail, lowering regulatory risk while improving productivity and efficiency.

Strategic Alliances

We sell our solutions and products worldwide, both directly to customers and indirectly through selected partners to better serve our global customers. We partner with companies in a variety of sales channels, including service providers, system integrators, consulting firms, distributors, value-added resellers and complimentary technology vendors. These partners form a vital network for selling and supporting our solutions and products. We have established a business partner program, which provides full support and a broad portfolio of sales tools to help them promote the NICE offerings, helping to drive mutual revenue growth and success.

We also have strategic technology partnerships in place to ensure full integration with NICE's offerings, delivering value added capabilities that address a variety of technology environments.

The following is a partial list of our main partners, some of which we cooperate with across all of our businesses, while others are only involved in a portion of our initiatives: Accenture, Boston Consulting Group, Cisco, Cognizant, Deloitte, Fuze, IBM, Infosys, IPC, Motorola, PWC, Ring Central, Tata Consulting Services and Verizon.

Professional Service and Support

The NICE Professional Services and Support organization enables our customers to derive sustainable business value from our solutions.

The Professional Service and Support offerings focus on enabling and sustaining business value for our customers. We address all stages of the technology lifecycle, including defining requirements, planning, design, implementation, customization, optimization, proactive maintenance and ongoing support.

Enabling Value

Solution Delivery optimizes solution delivery and enables our customers to achieve their specific business and organizational goals, on time and on budget. NICE solutions are delivered by certified project managers, technical experts, and application specialists. We follow a proven methodology that includes business discovery to map solutions to business processes.

Business Consulting promotes customer success through value-added services targeted to improve business operations, by leveraging and integrating NICE solutions into the customer's daily practices. This global consulting team consists of industry experts who have accumulated a broad portfolio of best practices and honed domain expertise, with extensive experience in implementing vertical market solutions for many industries. This helps our customers accelerate return on investment, increase revenue and minimize business costs.

Managed Analytics empowers organizations to meet short term objectives, such as lowering handle time or improving sales rates, along with achieving long term goals such as customer retention. Our team of experienced practitioners work with customers, guiding the process of collecting interactions, prioritizing subjects to study, conducting analysis and most importantly, developing plans that put the results of the analysis into action.

Customer Education Services provide users with the necessary knowledge and skills to operate NICE solutions and to leverage their capabilities to meet customer needs. These services are offered both before and after the deployment of NICE solutions.

Sustaining Value

Customer Success means working hand-in-hand with our customers to identify areas that can maximize business value and minimize complications, ensuring continued delivery of business benefits.

Cloud Services ensure that solutions hosted in the NICE cloud run optimally, maximizing availability, performance and quality while ensuring the security of customer information. This includes: Hosting Operations, running our Hosting Centers; Development Operations, ensuring that our product development teams optimize our solutions for the cloud environment; and the Hosted Application Support team that operates the solutions, ensuring up-time, scalability and security.

Customer Support and Maintenance responds to customer requests for support on a 24/7 basis, using advanced tools and methodologies. NICE offers flexible service level agreements to meet our customers' needs. Our solutions are generally sold with a warranty for repairs of hardware and software defects or malfunctions. Software maintenance includes an enhancement program with (in the majority of cases) an ongoing delivery of "like-for-like" upgrade releases, service packs and hot fixes. NICE also offers Technical Account Management service or TAM. The TAM is a designated manager responsible for escalation management and overall customer care services.

- **Proactive Maintenance addresses** issues before they can significantly impact our customers' businesses. These offerings include:

- **Advanced Services** – Technical experts perform system-level audits to ensure ongoing compliance with operational specifications as well as specific product customizations tailored to the requirements of the customer.

- **Network Operations Center** – A 24/7 function that proactively monitors NICE-hosted and customer-premises environments with triage, resolution and escalation of system alarms.

- **Managed Technical Services** – NICE offers a suite of managed technical services that enable the customer to fully outsource all necessary responsibilities & functions required in order to manage the NICE solutions. This service includes: dedicated onsite support engineers, system management, updates and upgrades.

Manufacturing and Source of Supplies

The vast majority of our solutions are software-based and are deployed by customers on standard commercial servers.

There is a small portion of our products that have certain hardware elements that are based primarily on standard commercial off-the-shelf components and utilize proprietary in-house developed circuit cards and algorithms, digital processing techniques and software. These products are IT-grade compatible.

We manufacture those of our products that contain hardware elements through subcontractors. Our manufacturers provide us with turnkey manufacturing solutions including order receipt, purchasing, manufacturing, testing, configuration, inventory management and delivery to customers for all of our product lines. NICE is entitled to, and exercises, various control mechanisms and supervision over the entire production process. In addition, the manufacturer of a significant portion of such products, which is a subsidiary of a global electronics manufacturing service provider, is obligated to ensure the readiness of a back-up site in the event that the main production site is unable to operate as required. We believe these outsourcing agreements provide us with a number of cost advantages due to such manufacturer's large-scale purchasing power, and greater supply chain flexibility.

Some of the components we use have a single approved manufacturer while others have two or more options for purchasing. In addition, we maintain an inventory for some of the components and subassemblies in order to limit the potential for interruption. We also maintain relationships directly with some of the more significant manufacturers of our components. Although certain components and subassemblies we use in our existing products are purchased from a limited number of suppliers, we believe that we can obtain alternative sources of supply in the event that such suppliers are unable to meet our requirements in a timely manner.

We have qualified for and received the ISO-9001:2008 quality management for all of our products, as well as the ISO 27001:2013 information security management and ISO 14001:2004 environmental management certifications.

Research and Development

We believe that the development of new products and the enhancement of existing products are essential to our future success. Therefore, we intend to continue to devote substantial resources to research and new product development, and to continuously improve our systems and design processes in order to reduce the cost of our products. Our research and development efforts have been financed through our internal funds and programs sponsored through the Government of Israel and the European community. We believe our research and development effort has been an important factor in establishing and maintaining our competitive position. Gross expenditures on research and development in 2014, 2015 and 2016 were approximately $126.0 million, $132.0 million, and $152.0 million respectively, of which approximately $2.5 million, $2.2 million, and $1.7 million, respectively, were derived from third-party funding, and $0.4 million, $1.4 million, and $8.3 million, respectively, were capitalized software development costs.

In 2016, we were qualified to participate in nine programs funded by the Israeli NATI to develop generic technology relevant to the development of our products. Such programs are approved pursuant to the Law for the Encouragement of Industrial Research and Development, 1984, or the Research and Development Law, and the regulations promulgated thereunder. We were eligible to receive grants constituting between 40% and 66% of certain research and development expenses relating to these programs. Some of these programs were approved as programs for companies with large research and development activities and some of these programs are in the form of membership in certain Magnet consortiums. Accordingly, the grants under these programs are not required to be repaid by way of royalties. However, the restrictions of the Research and Development Law described below apply to these programs. In 2014, 2015, and 2016 we received a total of $2.2 million, $2.1 million, and $1.3 million from the NATI programs, respectively, and we anticipate receiving approximately $0.6 million in 2017 from 2015 and 2016 approved programs.

The Research and Development Law generally requires that the product incorporating know-how developed under an NATI-funded program be manufactured in Israel. However, upon the approval of the NATI (or notification in the event set forth below, as the case may be), some of the manufacturing volume may be performed outside of Israel, provided that the grant recipient pays royalties at an increased rate, which may be substantial, and the aggregate repayment amount is increased, which increase might be up to 300% of the grant (depending on the portion of the total manufacturing volume that is performed outside of Israel). Following notification (rather than approval) to the NATI (and provided the NATI did not object), up to 10% of the grant recipient's approved Israeli manufacturing volume, measured on an aggregate basis, may be transferred out of Israel, subject to payment of the increased royalties referenced above.

The Research and Development Law also provides that know-how developed under an approved research and development program may not be transferred to third parties without the approval of the NATI. Such approval is not required for the sale or export of any products resulting from such research or development. The NATI, under special circumstances, may approve the transfer of NATI-funded know-how outside Israel, including, in the event of a sale of the know how or sale of the grant recipient, provided that the grant recipient pays to the NATI a portion of the sale price paid in consideration for such NATI-funded know-how or in consideration for the sale of the grant recipient itself, as the case may be, which portion will not exceed six times the amount of the grants received plus interest (or three times the amount of the grant received plus interest, in the event that the recipient of the know-how has committed to retain the R&D activities of the grant recipient in Israel after the transfer).

The Research and Development Law imposes reporting requirements with respect to certain changes in the ownership of a grant recipient. The law requires the grant recipient and its controlling shareholders and non-Israeli interested parties to notify the NATI of any change in control of the recipient, or a change in the holdings of the means of control of the recipient that results in becoming an interested party directly in the recipient, and if the interested party is non-Israeli, requires the party to undertake to the NATI to comply with the Research and Development Law. In addition, the rules of the NATI may require prior approval of the NATI or additional information or representations in respect of certain of such events. Furthermore, the Research and Development Law imposes reporting requirements in the event that proceedings commence against the grant recipient, including under certain applicable liquidation, receivership or debtor's relief law or in the event that special officers, such as a receiver or liquidator, are appointed to the grant recipient.

Failure to satisfy the Research and Development Law's requirements may subject us to mandatory repayment of grants received by us (together with interest and penalties), as well as expose us to criminal proceedings. In addition, the Government of Israel may from time to time audit sales of products which it claims incorporates technology funded through NATI programs which may lead to additional royalties being payable on additional products.

The funds available for NATI grants out of the annual budget of the State of Israel were reduced in recent years, and the Israeli authorities have indicated in the past that the government may further reduce or abolish NATI grants in the future. Even if these grants are maintained, we cannot presently predict what would be the amounts of future grants, if any, that we might receive.

We may participate from time to time in the European Community Framework Program for Research, Technological Development and Demonstration, which funds and promotes research. There are no royalty obligations associated with receiving such funding.

Intellectual Property

We currently rely on a combination of trade secret, patent, copyright and trademark law, together with non-disclosure and non-compete agreements, to establish and/or protect the technology used in our systems.

We currently hold 202 U.S. patents and 50 patents issued in additional countries covering substantially the same technology as the U.S. patents. We have over 77 patent applications pending in the United States and other countries. We believe that the improvement of existing products and the development of new products are important in establishing and maintaining a competitive advantage. We believe that the value of our products is dependent upon our proprietary software and hardware continuing to be "trade secrets" or subject to copyright or patent protection. We generally enter into non-disclosure and non-compete agreements with our employees and subcontractors. However, there can be no assurance that such measures will protect our technology, or that others will not develop a similar technology or use technology in products competitive with those offered by us. In most of the areas in which we operate, third parties also have patents which could be found applicable to our technology and products. Such third parties may include competitors, as well as large companies, which invest millions of dollars in their patent portfolios, regardless of their actual field of business. Although we believe that our products do not infringe upon the proprietary rights of third parties, there can be no assurance that one or more third parties will not make a contrary claim or that we will be successful in defending such claim.

In the past we received, from time to time, "cease and desist" letters claiming patent infringements. Although there are currently no formal infringement claims or other actions pending against us, in the event that we are required to defend ourselves against any such claims or actions, we could be subject to substantial costs and diversion of management resources.

In addition, to the extent we are not successful in defending such claims, we may be subject to injunctions with respect to the use or sale of certain of our products or to liabilities for damages and may be required to obtain licenses which may not be available on reasonable terms. Any of these may have a material adverse impact on our business or financial condition.

We own the following trademarks and/or registered trademarks in different countries: Actimize, Actimize logo, NICE Adaptive WFO, NICE WFM, NICE Voice of the Customer, NICE Work Force Management, NICE Incentive Compensation, NICE Real Time Solutions, NICE Trading Recording, Customer Engagement Analytics, Decisive Moment, Fizzback, IEX, inContact, inContact Logo, Insight from Interactions, Intent. Insight. Impact., Last Message Replay, Mirra, NICE, NICE Analyzer, NICE Engage, NICE Engage Platform, NICE Interaction Management, NICE Sentinel, NICE Inform, NICE Inform Lite, NICE Performance Compliance, NICE Sentinel, NICE Inform Media Player, NICE Inform Verify, NICE Logo, NICE Perform, NICE Incentive Compensation Management, NICE Real Time Solutions, NICE Trading Recording, NICE Proactive Compliance, NICE Seamless, NICE Security Recording, NICE SmartCenter, NICE, NiceLog, Nexidia, Nexidia ((!)) Logo, Nexidia Interaction Analytics, Nexidia Advanced Interaction Analytics, Nexidia Search Grid, Neural Phonetic Speech Analytics, Own the Decisive Moment, Scenario Replay, Syfact, Syfact Investigator, TotalView, inContact Cloud Center Solutions, Supervisor on-the-go, VAAS, Voice as a Service, Personal Connection, InTouch, Echo and inCloud.

Seasonality

The majority of our business operates as an enterprise software model, which is characterized, in part, by uneven business cycles throughout the year and under which a significant number of our licenses are entered into in the fourth quarter of each calendar year. We believe that seasonality in our business may become more prominent as the proportion of advanced software applications out of our overall sales mix continues to increase. We believe that these seasonal factors primarily reflect customer spending patterns and budget cycles. In addition, we charge for some of our cloud software based on actual consumption, which may also fluctuate seasonally. While seasonal factors such as these are common in the software and technology industry, this pattern should not be considered a reliable indicator of our future revenue or financial performance. Many other factors, including general economic conditions, also have an impact on our business and financial results. See "Risk Factors" under Item 3, "Key Information" of this annual report for a more detailed discussion of factors which may affect our business and financial results.

Regulation

Export Restrictions

We are subject to applicable export control regulations in countries from which we export goods and services, including the United States, Israel and the United Kingdom. Such regulations may apply with respect to product components that are developed or manufactured in, or shipped from, the United States, Israel and the United Kingdom, or with respect to certain content contained in our products. There are restrictions that apply to software products that contain encryption functionality. In the event that our products and services are subject to such controls and restrictions, we may be required to obtain an export license or authorization and comply with other applicable requirements pursuant to such regulations.

European Environmental Regulations

Our European activities require us to comply with Directive 2002/95/EC of the European Parliament on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment, and Directive 2011/65/EU of the European Parliament on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (together "RoHS"). RoHS provides, among other things, that producers of electrical and electronic equipment may not place new equipment containing certain materials, in amounts exceeding certain maximum concentration values, on the market in the European Union. We are also required to comply with the European Community Regulation on chemicals and their safe use (EC 1907/2006) that deals with the Registration, Evaluation, Authorization and Restriction of Chemical substances ("REACH", SVHC-173), which requires producers to manage the risks from chemicals used in their products and to provide safety information on the substances found in their products.

Our products meet the requirements of the RoHS and REACH directives and we are making every effort in order to maintain compliance, without adversely affecting the quality and functionalities of our products. If we fail to maintain compliance, including by reason of failure of our suppliers to comply, we may be restricted from conducting certain business in the European Union, which could adversely affect our results of operations.

Our European activities also require us to comply with Directive 2002/96/EC of the European Parliament on Waste Electrical and Electronic Equipment ("WEEE"). The WEEE directive covers the labeling, recovery and recycling of IT/Telecommunications equipment, electrical and electronic tools, monitoring and control instruments and other types of equipment, devices and items, and we have set up the operational and financial infrastructure required for collection and recycling of WEEE, as stipulated in the WEEE directive, including product labeling, registration and the joining of compliance schemes. We are taking and will continue to take all requisite steps to ensure compliance with this directive. If we fail to maintain compliance, we may be restricted from conducting certain business in the European Union, which could adversely affect our results of operations.

Similar regulations are being formulated in other parts of the world. We may be required to comply with other similar programs that might be enacted outside Europe in the future.

Competition

We believe that our solutions have several competitive advantages (as set forth above in this Item 4 – "Business Overview") as well as: their scale, performance and accuracy, comprehensiveness of solutions and broad functionality.

We are leaders in the Customer Engagement space. We compete against WFO players such as Verint, Aspect, Calabrio and Genesys. In the CCaaS market, which is a part of the Contact Center Infrastructure market that is still mainly held by traditional on-premises players, we compete against Five9 and Interactive Intelligence (acquired by Genesys), Avaya and other niche vendors. In addition, we are seeing some CRM companies that provide a subset functionality of our broader offerings.

We are leaders in the Financial Crime and Compliance space. We compete against niche vendors that provide one subset of functionality to protect against a specific risk and against vendors that provide a more comprehensive offering. Such vendors include BAE Systems, FICO, Oracle and SAS Institute.

Organizational Structure

The following is a list of our significant subsidiaries, including the name and country of incorporation or residence. Each of our significant subsidiaries is wholly-owned by us.

Name of Subsidiary	Country of Incorporation or Residence
Nice Systems Australia PTY Ltd.s	Australia
NICE Systems Technologies Brasil LTDA	Brazil
NICE Systems Canada Ltd.	Canada
Nice Systems China Ltd.	China
Nice France S.A.R.L.	France
NICE Systems GmbH	Germany
NICE APAC Ltd.	Hong Kong
NICE Systems Kft	Hungary
Nice Interactive Solutions India Private Ltd.	India
Nice Technologies Ltd.	Ireland
Actimize Ltd.	Israel
Nice Japan Ltd.	Japan
NICE Technologies Mexico S.R.L.	Mexico
NICE Netherlands B.V.	Netherlands
Nice Systems (Singapore) Pte. Ltd.	Singapore
Nice Switzerland AG	Switzerland
Actimize UK Limited	United Kingdom
NICE Systems Technologies UK Limited	United Kingdom
NICE Systems UK Ltd.	United Kingdom
Actimize Inc.	United States
Nice Systems Inc.	United States
Nice Systems Latin America, Inc.	United States
Nice Systems Technologies Inc.	United States
Nexidia Inc.	United States
inContact Inc.	United States
CallCopy Inc.	United States
inContact Bolivia S.R.L.	Bolivia
inContact Limited	United Kingdom
inContact Philippines Inc.	Philippines

Property, Plants and Equipment

Our executive offices and engineering, research and development operations are located in North Ra'anana, Israel. The offices occupy approximately 330,000 square feet (which are partially sub-leased as detailed below), with an annual rent and maintenance fee of approximately $15.8 million, paid in NIS and linked to the Israeli consumer price index. The lease for these offices in our Northern Ra'anana facilities will expire in October 2022.

Due to the sale of our Cyber and Intelligence and Physical Security business units during 2015, some of our office space was sub-leased and our portion of the annual rent and maintenance fee is now approximately $7.0 million, paid in NIS and linked to the Israeli consumer price index.

We have leased various other offices and facilities in several other countries. Our headquarters in each region consist of the following facilities:

- Our North American headquarters in Hoboken, New Jersey, occupies approximately 60,000 square feet. We consolidated our North American locations into this one office location in November 2016, and we intend to sub-lease our two former facilities in New Jersey and New York during the remainder of the respective lease terms.

- Our EMEA headquarters in London, occupies approximately 22,500 square feet, and includes an office space and lab; and
- Our APAC headquarters in Singapore occupies approximately 8,000 square feet and is used as office space.

We also have additional material leased facilities, consisting of the following:

- Our Americas facilities located in –
  - Salt Lake City, Utah – an office that occupies approximately 128,000 square feet and includes office space and training facilities;
  - Atlanta, Georgia – two offices that occupy together approximately 40,000 square feet and are used as office space and a lab; and

  Additional offices are located in Colorado, Texas, Ohio and California.
- Our office in Pune, India - occupies 81,000 square feet and includes a research and development and service center.

We believe that our existing facilities are adequate to meet our current needs and substantially adequate to meet our foreseeable future needs.

Item 4A. Unresolved Staff Comments.

None.

Item 5. Operating and Financial Review and Prospects.

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our Consolidated Financial Statements and the related notes and other financial information included elsewhere in this annual report. This discussion contains certain forward-looking statements that involve risks, uncertainties and assumptions. As a result of many factors, including those set forth under Item 3, "Key Information - Risk Factors" and elsewhere in this annual report, our actual results may differ materially from those anticipated in these forward-looking statements. For more information about forward-looking statements, see the Preliminary Note that precedes the Table of Contents of this annual report.

Overview

NICE is a global software leader in omnichannel analytics and cloud solutions for the Customer Engagement and Financial Crime & Compliance markets.

Our mission is to empower organizations to make smart business decisions through deep human understanding.

We provide software solutions that help organizations understand their customers and employees and predict their intentions and their needs to create exceptional customer experiences, understand their workforce to drive greater efficiency, and identify suspicious behaviour to prevent financial crime and non-compliant activities.

We do this by providing customer engagement platforms, capturing interactions and transactions across multiple channels and sources and applying best-in-class analytics to this data to provide real-time insight and uncover intent. NICE helps its customers improve their service and security by applying machine learning to cross-industry data and offering customers collective insights. Our solutions allow organizations to operationalize this insight and embed it within their workflows and daily business processes.

NICE is at the forefront of two industry transformations: the adoption of cloud-delivered fully-integrated customer engagement platforms and the shift of financial institutions to integrated risk management platforms for handling end-to-end financial crime prevention.

In both cases, deep integration of process automation and analytics enables customers to achieve much greater effectiveness and efficiency.

Our advanced technologies and core competencies around customer interaction platforms, data capture, process automation, advanced real-time analytics and cloud services were developed organically and through multiple acquisitions.

We rely on several key assets to drive our growth:

- Our **loyal customer base**. Today, more than 25,000 organizations in over 150 countries, including 85 of the Fortune 100 companies, are using NICE solutions.

- Our **market leadership** makes us a well-recognized brand, and creates top-of-mind awareness for our solutions in our areas of operation.

- Our **market-leading products and technologies** for customer engagement, data capture, analytics, and cloud, which are protected by a broad array of patents.

- Our ability to quickly drive mainstream adoption for **innovative solutions** and new technologies, which we introduce to the market through our direct sales force and distribution network.

- Our skilled employees and **domain expertise** in our core markets allows us to bring our customers the right solutions to address key business challenges and build strong customer partnerships.

- Our **services, customer support and operations**, which enable our customers to quickly enjoy the benefits of our solutions, with multiple deployment models in the cloud or on-premises throughout the world and support for full value realization and customer success.

We have established a leadership position in many of our areas of operation by offering comprehensive and innovative enterprise-grade solutions and technologies. Our customers, across all sizes and verticals, including banking, telecommunications, healthcare, insurance, retail, travel, public safety, state and local government and more, are benefiting from the tangible and practical business value that our solutions provide.

Recent Acquisitions

The following acquisitions were accounted for by the acquisition method of accounting, and, accordingly, the purchase price was allocated to the assets acquired and liabilities assumed based on their respective fair values. The results of operations related to each acquisition are included in our consolidated statement of income from the date of acquisition.

On November 14, 2016, we completed the acquisition of inContact Inc. ("inContact"), a leading provider of cloud contact center software and agent optimization tools. We acquired inContact for total consideration of approximately $1 billion in cash. The acquisition enables us to offer a fully integrated and complete cloud contact center where companies can interact with customers. The acquisition enables the two market leaders to join forces and provide the industry's first fully integrated and complete cloud contact center solution suite.

On March 22, 2016, we completed the acquisition of Nexidia Inc. ("Nexidia"), a leading provider of advanced customer analytics. We acquired Nexidia for total consideration of approximately $135.0 million in cash. The acquisition allows us to offer a combined offering, featuring a best-in-class, analytics-based solution with accuracy, scalability and performance, enabling organizations to expand their analytics usage in critical business use cases. .

On March 11, 2016, we completed the acquisition of Voiceprint International, Inc ("VPI"), a provider of workforce optimization software and services for enterprises, contact centers, first responders and trading floors. We acquired VPI for total consideration of approximately $21.7 million in cash.

In addition, from time to time we complete acquisitions and investments that are not considered material to our business and operations.

Discontinued Operations

In September 2015, we sold our Physical Security business unit to Battery Ventures for total consideration of $92.5 million, consisting of $74.6 million in cash, notes of $2.9 million and up to a $15.0 million earn out based on future performance. Through NICE's Physical Security business unit, we previously provided video surveillance technologies and capabilities to security-aware organizations. We previously accounted for the Physical Security unit under the Security Solution segment.

In July 2015, we sold our Cyber and Intelligence business unit to Elbit Systems and one of its subsidiaries (together, "Elbit") for total consideration of $151.6 million, consisting of $111.6 million in cash and $40.0 million earn out based on future performance. In 2016, Elbit made certain claims in relation to the transaction in accordance with the procedures set in the acquisition agreement between the parties, which the parties settled in December 2016. Pursuant to such settlement, we recorded additional expenses in 2016 and a final net working capital price adjustment. Under the settlement agreement, we also agreed to reduce the earnout by $4.0 million. We previously accounted for the Cyber and Intelligence unit under the Security Solution segment.

Following the sale of these two business units, we have classified their results of operations (including the gain on their disposal) and their assets and liabilities as discontinued operations in accordance with ASC 205-20, "Presentation of Financial Statements - Discontinued Operations".

The carrying amount used in determining the gain on disposal of the operations included goodwill in an amount calculated based on the relative fair values of the disposed operations and the portion of the operation that was retained within the segment.

Off-Balance Sheet Transactions

We have not engaged in nor been a party to any off-balance sheet transactions, as defined in Item 5 of Form 20-F.

Critical Accounting Policies

The preparation of financial statements in conformity with GAAP requires management to make judgments and estimates that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Management believes that the significant accounting policies which affect its more significant judgments and estimates used in the preparation of the Consolidated Financial Statements and those that are the most critical to aid in fully understanding and evaluating our reported results include the following:

- Revenue recognition;
- Allowance for doubtful accounts;
- Impairment of long-lived assets;
- Taxes on income;
- Contingencies;
- Business combination;
- Stock-based compensation
- Marketable securities; and
- Fair value of financial instruments.

Revenue Recognition. We generate revenues from sales of software products and services, which include SaaS and network connectivity, hosting, support and maintenance, implementation, configuration, project management, consulting, training as well as hardware sales. We sell our products directly through our sales force and indirectly through a global network of distributors, system integrators and strategic partners, all of whom are considered end-users.

The basis for our software revenue recognition is substantially governed by the accounting guidance contained in ASC 985-605, "Software-Revenue Recognition." Revenues from sales of our software products are recognized when persuasive evidence of an agreement exists, delivery of the product has occurred, the fee is fixed or determinable and collectability is probable. In transactions where a customer's contractual terms include a provision for customer acceptance, revenues are recognized either when such acceptance has been obtained or as the acceptance provision has lapsed.

For multiple element arrangements within the scope of software revenue recognition guidance, revenues are allocated to the different elements in the arrangement under the "residual method" when Vendor Specific Objective Evidence ("VSOE") of fair value exists for all undelivered elements and no VSOE exists for the delivered elements. Under the residual method, we defer revenue for the fair value of its undelivered elements and recognize revenue for the remainder of the arrangement fee attributable to the elements initially delivered in the arrangement when the basic criteria in ASC 985-605 have been met. Any discount in the arrangement is allocated to the delivered element. Revenues from maintenance and professional services are recognized ratably over the contractual period and as services are performed, respectively.

For arrangements that contain both software and non-software components that function together to deliver the products' essential functionality, we allocate revenue to each element based on its relative selling price. In such circumstances, the accounting principles establish a hierarchy to determine the selling price to be used for allocating revenue to deliverables. The selling price for a deliverable is based on its VSOE, if available, third party evidence ("TPE") if VSOE is not available, or best estimated selling price ("BESP") if neither VSOE nor TPE are available. We establish VSOE of fair value using the price charged for a deliverable when sold separately. When VSOE cannot be established, we attempt to establish fair value of each element based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from that of our peers and our offerings contain a significant level of differentiation such that the comparable pricing of products with similar functionality cannot be obtained. Furthermore, we are unable to reliably determine what similar competitor products' selling prices are on a standalone basis. Therefore, we are typically not able to determine TPE. The BESP price is established considering several external and internal factors including, but not limited to, historical sales, pricing practices and geographies in which we offer our products. The determination of the BESP is subject to discretion.

Our policy for establishing VSOE of fair value of maintenance services is based on the price charged when the maintenance is renewed separately. Establishment of VSOE of fair value of professional services is based on the price charged when these services are sold separately.

Revenues from fixed price contracts that require significant customization, integration and installation are recognized based on ASC 605-35, "Construction-Type and Production-Type Contracts," using the percentage-of-completion method of accounting based on the ratio of costs related to contract performance incurred to date to the total estimated amount of such costs. The amount of revenue recognized is based on the total fees under the arrangement and the percentage of completion achieved. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are first determined, in the amount of the estimated loss on the entire contact.

Our SaaS offerings provide customers access to certain of our software within a cloud-based IT environment on a subscription basis, and may also include network connectivity services over our network or through third party network connectivity providers on a usage basis. Because such offerings do not grant customers the right to take possession of the software, we consider these arrangements to be service contracts which are not within the scope of ASC 985-605. In addition, we also derive revenue from professional services included in implementing or improving a customer's cloud software solutions experience.

Revenues for our SaaS offerings are recognized ratably over the contract term or based on actual usage, commencing with the date the service is made available to customers and all other revenue recognition criteria have been satisfied. Revenue from the network connectivity usage is derived based on customer specific rate plans and call usage and is recognized in the period the call is initiated. Upfront fees related to professional services that are not considered to have standalone value, are deferred and recognized over the estimated life of the customer.

To assess the probability of collection for revenue recognition, we have established a credit policy that determines the credit limit that reflects an amount that is deemed probably collectible for each customer. These credit limits are reviewed and revised periodically on the basis of new customer financial statements information, credit insurance data and payment performance.

We maintain a provision for product returns which is estimated based on our past experience and is deducted from revenues. Actual returns could be different from our estimates.

Deferred revenues include advances and payments received from customers, for which revenue has not yet been recognized.

Allowance for Doubtful Accounts. We regularly review our allowance for doubtful accounts by considering factors such as historical experience, age of the account receivable and current economic conditions that may affect a customer's ability to pay. We allocate a certain percentage for the provision based on the length of time the receivables are past due.

Impairment of Long-Lived Assets. Our long-lived assets include goodwill, property and equipment and identifiable other intangible assets that are subject to amortization.

Goodwill represents the excess of the purchase price in a business combination over the fair value of the net tangible and intangible assets acquired. Under ASC 350, "Intangible - Goodwill and Other," ("ASC 350") goodwill is not amortized, but rather is subject to an annual impairment test. ASC 350 requires goodwill to be tested for impairment at the reporting unit level at least annually or between annual tests in certain circumstances, and written down when impaired. Goodwill is tested for impairment by comparing the fair value of the reporting unit with its carrying value. ASC 350 allows us to first assess qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test. If the qualitative assessment does not result in a more likely than not indication of impairment, no further impairment testing is required. If it does result in a more likely than not indication of impairment, the two-step impairment test is performed. Alternatively, ASC 350 permits to bypass the qualitative assessment for any reporting unit and proceed directly to performing the first step of the goodwill impairment test.

During the fourth quarter of 2016 we performed a qualitative assessment for our reporting units and concluded that the qualitative assessment did not result in a more likely than not indication of impairment, and therefore no further impairment testing was required. Accordingly, during 2016, no impairment charge was recognized.

Our long-lived assets and identifiable intangibles that are subject to amortization are reviewed for impairment in accordance with ASC 360, "Property, Plant, and Equipment", whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Impairment indicators include any significant changes in the manner of our use of the assets and significant negative industry or economic trends. Upon determination that the carrying value of a long-lived asset may not be recoverable based upon a comparison of aggregate undiscounted projected future cash flows to the carrying amount of the asset, an impairment charge is recorded for the excess of the carrying amount over fair value. In 2016 no impairment charge was recognized.

Taxes on Income. We account for income taxes in accordance with ASC 740, "Income Taxes". This topic prescribes the use of the liability method whereby deferred tax asset and liability account balances are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. We provide a valuation allowance, if necessary, to reduce deferred tax assets to the amount that is more likely than not to be realized.

We implement a two-step approach to recognize and measure uncertain tax positions. The first step is to evaluate the tax position taken or expected to be taken in a tax return by determining if the weight of available evidence indicates that it is more likely than not that, on an evaluation of the technical merits, the tax position will be sustained on audit, including resolution of any related appeals or litigation processes. The second step is to measure the tax benefit as the largest amount that is more than 50% (cumulative basis) likely to be realized upon ultimate settlement.

We classify interest and penalties on income taxes (which includes uncertain tax positions) as taxes on income.

Contingencies. We are currently involved in various claims and legal proceedings. We review the status of each matter and assess its potential financial exposure. If the potential loss from any claim or legal proceeding is considered probable and the amount can be reasonably estimated, we accrue a liability for the estimated loss.

Business Combination. We apply the provisions of ASC 805, "Business Combination," and accordingly we allocate the fair value of purchase consideration to the tangible assets acquired, liabilities assumed and intangible assets acquired based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. When determining the fair values of assets acquired and liabilities assumed, management makes significant estimates and assumptions, especially with respect to intangible assets. Significant estimates in valuing certain intangible assets include, but are not limited to future expected cash flows from customer relationships, acquired technology and acquired trademarks from a market participant perspective, useful lives and discount rates. Management's estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates.

Stock-based Compensation. We account for stock-based compensation in accordance with ASC 718, "Compensation - Stock Compensation" ("ASC 718"), which requires the measurement and recognition of compensation expense based on estimated fair values for all share-based payment awards made to employees and directors. ASC 718 requires estimating the fair value of equity-based payment awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as an expense over the requisite service periods in our consolidated statement of income.

We recognize compensation expenses for the value of our awards, which have graded vesting, based on the accelerated attribution method over the requisite service period of each of the awards, net of estimated forfeitures. Estimated forfeitures are based on actual historical pre-vesting forfeitures.

We estimate the fair value of stock options granted using the Black-Scholes-Merton option-pricing model, which requires a number of assumptions: the expected volatility is based upon actual historical stock price movements; the expected term of options granted is based upon historical experience and represents the period of time that options granted are expected to be outstanding; the risk-free interest rate is based on the yield from U.S. Federal Reserve zero-coupon bonds with an equivalent term; and the expected dividend rate (an annualized dividend yield) is based on the per share dividend declared by the our Board of Directors.

We measure the fair value of restricted stock based on the market value of the underlying shares at the date of grant.

Marketable securities. We account for investments in debt securities in accordance with ASC 320, "Investments - Debt and Equity Securities". Management determines the appropriate classification of its investments in debt securities at the time of purchase and re-evaluates such determinations at each balance sheet date.

Marketable securities classified as "available-for-sale" are carried at fair value, based on quoted market prices. Unrealized gains and losses are reported in a separate component of shareholders' equity in accumulated other comprehensive income (loss). Gains and losses are recognized when realized, on a specific identification basis, in our consolidated statements of income.

Our securities are reviewed for impairment in accordance with ASC 320-10-65. If such assets are considered to be impaired, the impairment charge is recognized in earnings when a decline in the fair value of its investments below the cost basis is judged to be other-than-temporary. Factors considered in making such a determination include the duration and severity of the impairment, the reason for the decline in value, the potential recovery period and our intent to sell, including whether it is more likely than not that we will be required to sell the investment before recovery of cost basis. For securities with an unrealized loss that we intend to sell, or it is more likely than not that we will be required to sell before recovery of their amortized cost basis, the entire difference between amortized cost and fair value is recognized in earnings. For securities that do not meet these criteria, the amount of impairment recognized in earnings is limited to the amount related to credit losses, while declines in fair value related to other factors are recognized in other comprehensive income (loss).

Fair Value of Financial Instruments. We apply ASC 820, "Fair Value Measurements and Disclosures" ("ASC 820"). Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date.

In determining fair value, we use various valuation approaches. ASC 820 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from independent sources. Unobservable inputs are inputs that reflect our assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The hierarchy is broken down into three levels based on the inputs as follows:

- Level 1 - Valuations based on quoted prices in active markets for identical assets that we have the ability to access. Valuation adjustments and block discounts are not applied to Level 1 instruments. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.

- Level 2 - Valuations based on one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.

- Level 3 - Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of observable inputs can vary from investment to investment and is affected by a wide variety of factors, including, for example, the type of investment, the liquidity of markets and other characteristics particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment and the investments are categorized as Level 3.

Our marketable securities and foreign currency derivative contracts are classified within Level 2.

The carrying amounts of cash and cash equivalents, short-term bank deposits, trade receivables and trade payables, approximate their fair value due to the immediate or short-term maturities of these financial instruments. The carrying amount of the long term loan approximates its fair value due to the fact the loan bears a variable interest rate.

Recently Issued Accounting Pronouncements

In May 2014, the FASB issued Accounting Standards Update No. 2014-09 (ASU 2014-09) "Revenue from Contracts with Customers (Topic 606)". ASU 2014-09 supersedes the revenue recognition requirements in "Revenue Recognition (Topic 605)", and requires entities to recognize revenue when it transfers promised goods or services 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. As currently issued and amended, ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period, though early adoption is permitted for annual reporting periods beginning after December 15, 2016.

In March 2016, the FASB issued "Revenue from Contracts with Customers (Topic 606) – Principal versus Agent Considerations (Reporting revenue gross versus net)" (ASU 2016-08), which clarifies gross versus net revenue reporting when another party is involved in the transaction. In April 2016, the FASB issued "Identifying Performance Obligations and Licensing" (ASU 2016-10) which amends the revenue guidance on identifying performance obligations and accounting for licenses of intellectual property. The new revenue standard may be applied using either of the following transition methods: (1) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (2) a modified retrospective approach with the cumulative effect of initially adopting the standard recognized at the date of adoption (which includes additional footnote disclosures). The guidance in ASU 2016-08 and 2016-10 is effective upon the adoption of ASU 2014-09.

We will adopt the standard in the first quarter of 2018 and we have yet to select a transition method. We are currently evaluating the effect that the updated standard will have on our consolidated financial statements and related disclosures. While we are continuing to assess all potential impacts of the new standard, we believe the impacts relate to: arrangements that include term-based software licenses, allocation of transaction price to each performance obligation on a relative standalone selling price and capitalization of costs related to obtaining customer contracts.

In January 2016, the FASB issued ASU No. 2016-01, Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities ("ASU 2016-01"), which updates certain aspects of recognition, measurement, presentation and disclosure of financial instruments. ASU 2016-01 will be effective for us in the first quarter of 2019. We are currently evaluating the effect that this guidance will have on our consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, "Leases" ("ASU 2016-02"). The updated standard aims to increase transparency and comparability among organizations by requiring lessees to recognize lease assets and lease liabilities on the balance sheet and requiring disclosure of key information about leasing arrangements. This update is effective for annual periods beginning after December 15, 2018, and interim periods within those annual periods; early adoption is permitted and modified retrospective application is required. We are currently evaluating the impact of adopting ASU 2016-02 on our consolidated financial statements.

In March 2016, the FASB issued ASU 2016-05, "Derivatives and Hedging (Topic 815): Effect of Derivative Contract Novations on Existing Hedge Accounting Relationships" ("ASU 2016-05"), which clarifies that a change in the counterparty to a derivative instrument designated as a hedging instrument does not require de-designation of that hedging relationship, provided that all other hedge accounting criteria are met. The guidance in ASU 2016-05 is effective for annual periods beginning after December 15, 2016; early adoption is permitted as of the beginning of an interim period on a modified retrospective basis. We expect no material impact of this guidance on our consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-09, Compensation – Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting ("ASU 2016-09"), which simplified certain aspects of the accounting for share-based payment transactions, including income taxes, classification of awards and classification in the statement of cash flows. ASU 2016-09 will be effective for financial statements issued for the first quarter of 2017. We will apply this guidance using a modified retrospective transition method and expect to record a total cumulative-effect adjustment in retained earnings as of January 1, 2017 for the revision of the forfeiture fair value and for excess tax benefits that have not previously been recognized in an amount of approximately $6 million.

In August 2016, the FASB issued ASU 2016-15, "Statement of Cash Flows (Topic 230), Classification of Certain Cash Receipts and Cash Payments." The guidance addresses the classification of cash flow related to (1) debt prepayment or extinguishment costs, (2) settlement of zero-coupon debt instruments or other debt instruments with coupon rates that are insignificant in relation to the effective interest rate of the borrowing, (3) contingent consideration payments made after a business combination, (4) proceeds from the settlement of insurance claims, (5) proceeds from the settlement of corporate-owned life insurance, including bank-owned life insurance, (6) distributions received from equity method investees and (7) beneficial interests in securitization transactions. The guidance also clarifies how the predominance principle should be applied when cash receipts and cash payments have aspects of more than one class of cash flows. The guidance will generally be applied retrospectively and is effective for financial statements issued for annual reporting periods beginning after December 15, 2017. Early application is permitted. We are currently evaluating the impact of this standard on our consolidated statement of cash flows.

In October 2016, the FASB issued Accounting Standards Update No. 2016-16, Income Taxes (Topic 740): Intra-Entity Transfers Other than Inventory (ASU 2016-16), which requires companies to recognize the income-tax consequences of an intra-entity transfer of an asset other than inventory. ASU 2016-16 will be effective for financial statements issued for the first quarter of 2018, with the option to adopt it in the first quarter of 2017. We are currently evaluating the effect that this guidance will have on our consolidated financial statements.

In January 2017, the FASB issued ASU 2017-04 "Intangibles - Goodwill and Other (Topic 350): Simplifying the Accounting for Goodwill Impairment" (ASU 2017-04). ASU 2017-04 eliminates step two of the goodwill impairment test, which requires the calculation of the implied fair value of goodwill by assigning the fair value of a reporting unit to all of its assets and liabilities as if that reporting unit had been acquired in a business combination. Instead, an entity will compare 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. ASU 2017-04 is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. We are currently evaluating the effect that this guidance will have on our consolidated financial statements.

In January 2017, the FASB issued ASU 2017-01 "Business Combinations (Topic 805): Clarifying the Definition of a Business" (ASU 2017-04), which provides a more robust framework to use in determining when a set of assets and activities constitute a business. Because the current definition of a business is interpreted broadly and can be difficult to apply, stakeholders previously indicated that analyzing transactions is inefficient and costly and that the definition does not permit the use of reasonable judgment. ASU 2017-04 provides more consistency in applying the guidance, reduces the costs of application, and makes the definition of a business more operable. This update is effective for annual and interim periods beginning after December 15, 2018. We expect no material impact of this guidance on our consolidated financial statements.

Results of Operations

The following table sets forth our selected consolidated statements of income for the years ended December 31, 2014, 2015, and 2016, expressed as a percentage of total revenues. Totals may not add up due to rounding.

	2014	2015	2016
Revenues			
Products	33.2%	34.3%	30.2%
Services	66.8	65.7	69.8
	100.0	100.0	100.0
Cost of revenues			
Products	22.1	20.9	17.3
Services	41.1	38.9	40.1
	34.8	32.8	33.3
Gross profit	65.2	67.2	66.7
Operating expenses			
Research and development, net	14.1	13.9	13.9
Selling and marketing	26.5	24.4	26.4
General and administrative	9.6	9.8	11.5
Amortization of acquired intangibles	2.2	1.3	1.7
Restructuring expenses	0.6	0.0	0.0
Total operating expenses	53.0	49.3	53.5
Operating income	12.2	17.9	13.2
Financial income, net	0.5	0.7	1.1
Other expenses, net	(0.1)	(0.1)	(0.1)
Income before taxes	12.6	18.5	14.2
Taxes on income	1.1	3.3	2.1
Net income from continuing operations	11.5	15.2	12.1
Income (loss) from discontinued operations	0.6	16.4	(0.8)
Taxes on income (tax benefits) from discontinued operations	0.2	3.7	(0.2)
Net income (loss) from discontinued operations	0.4	12.7	(0.6)
Net income	11.9	27.9	11.5

Comparison of Years Ended December 31, 2015 and 2016

Revenues

Our total revenues increased by approximately 9.6% to $1,015.5 million in 2016 from $926.9 million in 2015. Revenues from sales of Customer Engagement Solutions and Financial Crime and Compliance Solutions in 2016 were $754.4 million and $261.1 million, respectively, an increase of 9.6% and 9.4% from 2015, respectively.

The growth in revenues from our Customer Engagement Solutions is mainly attributed to increased demand for our solutions delivered over the cloud and to our expanded analytics offerings, as these offerings enable organizations to improve operational efficiency and customer experience, enhance compliance and improve sales optimization.

The growth in revenues from Financial Crime and Compliance Solutions is primarily driven by increased demand of financial institutions across the globe for solutions that secure financial transactions and prevent fraud and complex financial crimes, magnified by the continued evolution of advancements in our technology.

	Years Ended December 31, (U.S. dollars in millions)			
	2015	2016	Dollar Change	Percentage Change
Product revenues	$ 317.9	$ 306.2	$ (11.7)	(3.7)%
Service revenues	609.0	709.3	100.3	16.5
Total revenues	$ 926.9	$ 1,015.5	$ 88.6	9.6%

The decrease of $27.1 million in product revenues is attributed to our Customer Engagement Solutions, offset by an increase of $15.4 million in revenues from our Financial Crime and Compliance Solutions. The decrease in product revenues is mainly the result of a transition to cloud based solutions in which SaaS revenues are recognized as service revenues and over a subscription period.

The growth in service revenues is mainly due to our solutions delivered over cloud, which constitute approximately 52% of such growth, maintenance services resulting primarily from an increase in install base from previous years' sales, which constitute approximately 29% of such growth, and professional services, which constitute approximately 19% of such growth.

Revenue by Region

	Years Ended December 31, (U.S. dollars in millions)			
	2015	2016	Dollar Change	Percentage Change
United States, Canada and Central and South America ("Americas")	$ 630.1	$ 720.5	$ 90.4	14.4%
Europe, the Middle East and Africa ("EMEA")	196.9	193.5	(3.4)	(1.7)
Asia-Pacific ("APAC")	99.9	101.5	1.6	1.6
Total revenues	$ 926.9	$ 1,015.5	$ 88.6	9.6%

The Americas revenue increased by 14.4% driven by our Customer Engagement Solutions, mainly due to increased demand for our solutions delivered over the cloud and to our analytics offerings.

The EMEA revenue decreased by 1.7%, driven mainly by unfavorable currency effects, partially offset by our Customer Engagement Solutions due to an increase in our analytics offerings.

The APAC revenue increased by 1.6% mainly due to increased demand for our Financial Crime and Compliance Solutions, offset by a decrease in Customer Engagement Solutions.

Cost of Revenues

	Years Ended December 31, (U.S. dollars in millions)			
	2015	2016	Dollar Change	Percentage Change
Cost of product revenues	$ 66.4	$ 53.0	$ (13.4)	(20.2)%
Cost of service revenues	237.2	284.7	47.5	20.0
Total cost of revenues	$ 303.6	$ 337.7	$ 34.1	11.2%

Cost of product revenues decreased both on a dollar basis and as a percentage of product revenues. The decrease is mostly a result of a decrease in royalties and third party product costs payable to vendors, partially offset by higher amortization of intangible assets arising from our recent acquisitions.

Cost of service revenues increased both on a dollar basis and as a percentage of service revenues. The increase is primarily due to increased personnel and amortization of intangible assets arising from our recent acquisitions.

Gross Profit

	Years Ended December 31, (U.S. dollars in millions)			
	2015	2016	Dollar Change	Percentage Change
Gross profit on product revenues	$ 251.5	$ 253.2	$ 1.7	0.7%
as a percentage of product revenues	79.1%	82.7%		
Gross profit on service revenues	371.8	424.6	52.8	14.2%
as a percentage of service revenues	61.0%	59.9%		
Total gross profit	$ 623.3	$ 677.8	$ 54.5	8.7%
as a percentage of total revenues	67.2%	66.7%		

The increase in gross profit on product revenues is primarily a result of increased sales of software based solutions with higher margins and a decrease in royalties and third party product costs payable to vendors.

The increase in service gross profit is mainly attributed to the increase in service revenues. The decrease in service gross margin is primarily attributed to amortization of intangible assets as a result of our recent acquisitions, partially offset by higher margins on SaaS revenues.

Operating Expenses

	Years Ended December 31, (U.S. dollars in millions)			
	2015	2016	Dollar Change	Percentage Change
Research and development, net	$ 128.5	$ 141.5	$ 13.0	10.2%
Selling and marketing	225.8	268.3	42.5	18.8
General and administrative	90.4	116.6	26.2	29.0
Amortization of acquired intangible assets	12.5	17.2	4.7	37.5%

Research and Development, Net. Research and development expenses, before capitalization of software development costs and government grants, increased by $19.5 million to $151.5 million in 2016, as compared to $132.0 million in 2015, and represented 14.9% and 14.2% of revenues in 2016 and 2015, respectively. The increase in research and development is attributed primarily to additional personnel as a result of recent acquisitions. Research and development, net increased by $13.0 million following an increase in capitalized software development costs to $8.4 million in 2016, as compared to $1.4 million in 2015. The increase in capitalized software development is related to our cloud based solutions. Amortization of capitalized software development costs included in cost of product revenues were $0.5 million in 2016 and $0.4 million in 2015.

Selling and Marketing Expenses. Selling and marketing expenses increased to $268.3 million in 2016 as compared to $225.8 million in 2015, and represented 26.4% and 24.4% of total revenues in 2016 and in 2015, respectively. The increase in selling and marketing expenses is attributed primarily to additional personnel as a result of recent acquisitions, an increase in sales incentives and an increase in marketing expenses.

General and Administrative Expenses. General and administrative expenses increased to $116.6 million in 2016 as compared to $90.4 million in 2015, and represented 11.5% of total revenues in 2016 as compared to 9.8% of total revenues in 2015. The increase in general and administrative expenses is attributed primarily to recent acquisitions and integration related expenses, mainly related to the acquisition of inContact, an increase in rent costs following restructuring of our Americas offices and additional personnel as a result of recent acquisitions.

Amortization of acquired intangible assets. Amortization of acquired intangibles included in the operating expenses represented 1.7% and 1.3% of our revenues in 2016 and 2015, respectively. The increase in amortization of acquired intangible assets is attributable to our recent acquisitions, mainly inContact and Nexidia.

Financial and Other Income

	Years Ended December 31, (U.S. dollars in millions)			
	2015	2016	Dollar Change	Percentage Change
Financial income, net	$ 5.7	$ 10.8	$ 5.1	89.5%
Other expenses, net	0.4	0.5	0.1	25%

Financial Income and Other, net. Financial income, net, was $10.8 million in 2016 compared to $5.7 million in 2015. The increase in financial income, net is attributable primarily to gain on realization of investments and gain on currency exchange, partially offset by credit facility expenses related to financing of the inContact acquisition. Other, net amounted to $0.5 million in 2016, compared to $0.4 million in 2015. The expenses comprised primarily of loss on disposal of assets.

Taxes on Income. In 2016, taxes on income amounted to $21.4 million, as compared to $30.8 million in 2015. Our provision for taxes during 2016 decreased as compared with 2015, primarily due to a proportionally significant realization of deferred tax liabilities recorded against the amortization of the newly acquired intangible assets of inContact and Nexidia, and which was partially offset by an increase in our provision for uncertain tax positions.

Our effective tax rate for 2016 was 14.8%, compared to 18.0% in 2015. Our effective tax rate in 2016 was lower due to the above realization of deferred tax liabilities being mainly realized at higher tax rates, as compared with 2015, thus increasing the offseting effect on the effective tax rate.

The majority of our income in Israel continues to benefit from lower tax rates, which were 16.0% in 2016 and 2015, pursuant to our Preferred Enterprise programs, which is discussed in Note 12 of our Consolidated Financial Statements under the caption "Taxes on Income".

Net Income. Net income was $123.1 million in 2016, as compared to $140.6 million in 2015. The decrease in 2016 resulted primarily from acquisition and integration related expenses, inclusion of inContact and Nexidia results with lower operating margin, amortization of intangible assets resulting from our recent acquisitions and increase in rent costs following restructuring of our Americas offices.

Discontinued operations. During 2015 we sold our Cyber and Intelligence and Physical Security business units for gains of $101.8 million and $45.5 million, respectively, which is presented as part of the net income on discontinued operations. During 2016 we recorded additional expenses following a settlement agreement and final net working capital price adjustment.

Comparison of Years Ended December 31, 2014 and 2015

Revenues

Our total revenues increased by approximately 6.3% to $926.9 million in 2015 from $872.0 million in 2014. Revenues from sales of Customer Engagement Solutions and Financial Crime and Compliance Solutions in 2015 were $688.1 million and $238.8 million, respectively, an increase of 2.0% and 21.1% from 2014, respectively. The growth in revenues from Customer Engagement Solutions is primarily driven by increased demand for our portfolio of solutions, as they enable organizations to improve operational efficiency and customer experience, enhance compliance and improve sales optimization. The increase in revenues from Financial Crime and Compliance Solutions is primarily driven by increased scrutiny by regulatory authorities to ensure that financial institutions across the globe have adequate controls in place to secure financial transactions and prevent fraud attempts and complex financial crimes, amplified by the continued evolution of advancements in technology.

	Years Ended December 31, (U.S. dollars in millions)			
	2014	2015	Dollar Change	Percentage Change
Product revenues	$ 289.6	$ 317.9	$ 28.3	9.8%
Service revenues	582.4	609.0	26.6	4.6
Total revenues	$ 872.0	$ 926.9	$ 54.9	6.3%

The increase in product revenues is attributable to an increase of $14.4 million in our revenues from Financial Crime and Compliance Solutions and an increase of $13.9 million in our Customer Engagement Solutions.

The increase in service revenues is attributable to an increase in professional services, of which 58% of the increase is attributed to installations and integrations services and the rest is attributed in maintenance services resulting primarily from an increase in the install base from previous years' sales.

Revenue by Region

	Years Ended December 31, (U.S. dollars in millions)			
	2014	2015	Dollar Change	Percentage Change
United States, Canada and Central and South America ("Americas")	$ 591.1	$ 630.1	$ 39.0	6.6%
Europe, the Middle East and Africa ("EMEA")	189.2	196.9	7.7	4.1
Asia-Pacific ("APAC")	91.7	99.9	8.2	8.9
Total revenues	$ 872.0	$ 926.9	$ 54.9	6.3%

The Americas revenue increased by 6.6%, of which approximately $23.1 million is attributed to growth in the Financial Crime and Compliance Solutions and $15.9 million is attributable to growth in the Customer Engagement Solutions.

The EMEA revenue increased by 4.1%. The increase is primarily attributable to growth in the Financial Crime and Compliance Solutions of$15.9 million, partially offset by a decrease in the Customer Engagement Solutions of $8.2 million.

The APAC revenue increased by 8.9%. The increase is primarily attributable to growth in Customer Engagement and Financial Crime and Compliance Solutions.

Cost of Revenues

	Years Ended December 31, (U.S. dollars in millions)			
	2014	2015	Dollar Change	Percentage Change
Cost of product revenues	$ 63.9	$ 66.4	$ 2.5	3.9%
Cost of service revenues	239.6	237.2	(2.4)	(1.0)
Total cost of revenues	$ 303.5	$ 303.6	$ 0.1	0.0%

Cost of product revenues increased on a dollar basis, but decreased as a percentage of product revenues. The increase on a dollar basis is mostly a result of an increase in royalties payable to third party vendors, partially offset by lower amortization of intangible assets following previous years' acquisitions. The decrease in the percentage of cost of product from product revenue is mainly attributed to revenue increase from software based solutions.

Cost of service revenues decreased on a dollar basis and as a percentage of service revenues. The decrease on a dollar basis is primarily due to a decrease in cost of wages and travel expenses, partially offset by an increase in sub-contractors and consultants. The decrease in the percentage of cost of service from service revenues is mainly attributed to increasing efficiency and better utilization of service resources.

Gross Profit

	Years Ended December 31, (U.S. dollars in millions)			
	2014	2015	Dollar Change	Percentage Change
Gross profit on product revenues	$ 225.7	$ 251.5	$ 25.8	11.4%
as a percentage of product revenues	77.9%	79.1%		
Gross profit on service revenues	342.8	371.8	29.0	8.4%
as a percentage of service revenues	58.9%	61.0%		
Total gross profit	$ 568.5	$ 623.3	$ 54.8	9.6%
as a percentage of total revenues	65.2%	67.2%		

The increase in gross profit margin on product revenues is primarily a result of an increase in product revenues, continued increase in software based solutions with higher margins and a lower amortization of intangible assets.

The increase in gross profit margin on service revenues is primarily attributed to an increase in service revenues and improved efficiency.

Operating Expenses

	Years Ended December 31, (U.S. dollars in millions)			
	2014	2015	Dollar Change	Percentage Change
Research and development, net	$ 123.1	$ 128.5	$ 5.4	4.4%
Selling and marketing	231.1	225.8	(5.3)	(2.3)
General and administrative	83.4	90.4	7.0	8.4
Amortization of acquired intangible assets	19.2	12.5	(6.7)	(34.9)
Restructuring expenses	5.4	0.0	(5.4)	(100)

Research and Development, Net. Research and development expenses, before capitalization of software development costs and government grants, increased to $132.0 million in 2015, as compared to $125.9 million in 2014, and represented 14.2% and 14.4% of revenues in 2015 and 2014, respectively. The increase in research and development, net is attributed primarily to an increase in cost of wages and travel expenses. Capitalized software development costs were $1.4 million in 2015, as compared to $0.4 million in 2014. The increase is a result of capitalization of software development for internal use software that supports our SaaS business. Amortization of capitalized software development costs included in cost of product revenues were $0.4 million in each of 2015 and 2014.

Selling and Marketing Expenses. Selling and marketing expenses decreased to $225.8 million in 2015 as compared to $231.1 million in 2014, and represented 24.4% and 26.5% of total revenues in 2015 and in 2014, respectively. The decrease in selling and marketing expense is attributed primarily to a decrease in cost of wages following a decrease in headcount, sales incentives and travel, partially offset by an increase in advertising and other marketing expenses.

General and Administrative Expenses. General and administrative expenses increased to $90.4 million in 2015 as compared to $83.4 million in 2014, and represented 9.8% of total revenues in 2015 as compared to 9.6% of total revenues in 2014. The increase in general and administrative expense is due primarily to an additional administrative cost incurred in 2015 partially offset by a decrease in rent and utilities expenses following a reorganization and operational efficiency of our facilities, while in 2014 we recorded an income due to re-measurement of earn-out liabilities that resulted from prior year's acquisitions.

Amortization of acquired intangible assets. Amortization of acquired intangibles included in the operating expenses represented 1.3% and 2.2% of our revenues in 2015 and 2014, respectively. The decrease in amortization of acquired intangible assets is primarily attributable to the completion of amortization of intangible assets related to previous years' acquisitions.

Restructuring expenses. We did not incur restructuring expenses in 2015, as compared to $5.4 million in 2014. The restructuring expenses in 2014 were attributed mainly to restructuring of our workforce in certain geographies in order to improve efficiency.

Financial and Other Income

	Years Ended December 31, (U.S. dollars in millions)			
	2014	2015	Dollar Change	Percentage Change
Financial income, net	$ 3.8	$ 5.7	$ 1.9	50%
Other expenses, net	0.0	0.4	0.4	100%

Financial income and other, net. Financial income, net, was $5.7 million in 2015 compared to $3.8 million in 2014. The increase in financial income, net is attributable primarily to a higher cash volume invested. Other, net amounted to $0.4 million in 2015, comprised primarily of loss on disposal of assets.

Taxes on Income. In 2015, taxes on income amounted to $30.8 million, as compared to $9.9 million in 2014. Our provision for taxes during 2015 increased as compared with 2014, mainly as taxes on income for 2014 were favorably affected by certain releases of tax provisions made in prior years.

Our effective tax rate for 2015 was 18.0% compared to 9.0% in 2014. Our tax rate in 2014 was lower due to being favorably affected by releases of tax provisions made in prior years upon a settlement during 2014 of a multi-year tax audit.

The majority of our income in Israel continues to benefit from lower tax rates pursuant to our Preferred Enterprise programs which were 16.0% in 2014 and 2015, the details of which can be found in Note 12 of our Consolidated Financial Statements under the caption "Taxes on Income".

Net Income. Net income was $140.6 million in 2015, as compared to $100.2 million in 2014. The increase in 2015 resulted primarily from increase in revenues and operating margin, offset by an increase in taxes on income in 2015.

Discontinued operations. During 2015 we sold our Cyber and Intelligence and Physical Security business units for gain of $101.8 million and $45.5 million, respectively, which is presented as part of the net income on discontinued operations. There were no divestment activities in 2014.

Liquidity and Capital Resources

In recent years, the cash generated from our operating activities has financed our operations as well as the repurchase of our ordinary shares and payment of dividends. Generally, we invest our excess cash in highly liquid investment grade securities. As of December 31, 2016, we had $286.0 million of cash and cash equivalents and short-term and long-term investments, as compared to $828.4 million at December 31, 2015 and $500.0 million at December 31, 2014.

Cash provided by operating activities was $220.3 million, $244.7 million, and $182.3 million in 2016, 2015, and 2014, respectively. Net cash from operations in 2016 consisted primarily of net income of $126.1 million (excluding loss on disposal of discontinued operations of $9.1 million), adjusted for non-cash activities such as depreciation and amortization of $77.8 million, stock-based compensation of $40.5 million as well as working capital changes derived from an increase in accrued expenses and other liabilities of $15.1 million, decrease in deferred taxes of $25.9 and decrease in trade receivables of $31.7 million. Net cash from operations in 2015 consisted primarily of net income of $111.5 million (excluding gain on disposal of discontinued operations of $147.3 million), adjusted for non-cash activities such as depreciation and amortization of $57.9 million, stock-based compensation of $28.4 million as well as working capital changes derived from an increase in accrued expenses and other liabilities of $38.5 million and increase in deferred revenues of $54.9 million, which were partially offset by a decrease in trade receivables of $56.3 million. Net cash from operations in 2014 consisted primarily of net income of $103.1 million and adjustments for non-cash activities including depreciation and amortization of $73.3 million, stock-based compensation of $29.8 million and working capital changes derived from an increase in accrued expenses and other liabilities of $10.3 million, which were partially offset by a decrease in deferred taxes, net of $27.8 million and in trade payables of $13.8 million.

Net cash used in investing activities was $800.0 million, $28.3 million and $8.9 million in 2016, 2015 and 2014, respectively. In 2016, net cash used in investing activities consisted primarily of payment for the acquisition of inContact, Nexidia and other acquisitions in an aggregate amount of $1,157 million, which were partially offset by net proceeds received from the sale of marketable securities of $403.0 million. In 2015, net cash used in investing activities consisted primarily of net investment in marketable securities and short term bank deposits of $195.0 million and purchase of property and equipment of $16.6 million, which were offset by proceeds from the sale of discontinued operations of $186.1 million. In 2014, net cash used in investing activities consisted primarily of net investment in marketable securities of $28.4 million and net purchase of property and equipment of $16.8 million, which were partially offset by net proceeds from short-term bank deposits of $37.8 million.

Net cash provided by (used in) financing activities was $413 million, $(71.8) million and $(101.8) million in 2016, 2015 and 2014, respectively. In 2016, net cash provided by financing activities was attributed primarily to the long term loan of $464.8 million and proceeds from issuance of shares upon exercise of options and purchase of shares under employee share purchase plans of $23.5 million, which were partially offset by payment of dividends of $38.2 million and repurchase of our ordinary shares of $43.6 million. In 2015, net cash used in financing activities was attributed primarily to the repurchase of our ordinary shares of $68.4 million and payment of dividends of $38.2 million, which were offset by proceeds from the issuance of shares upon exercise of options and purchase of shares under employee share purchase plans of $27.5 million. In 2014, net cash used in financing activities was attributed primarily to the purchase of our ordinary shares of $94.3 million and payment of dividends of $38.0 million, which were partially offset by proceeds from issuance of shares upon exercise of options and purchase of shares under employee share purchase plans of $29.5 million.

We believe that based on our current operating forecast, the combination of existing working capital and expected cash flows from operations will be sufficient to finance our ongoing operations for the next twelve months.

Research and Development and Intellectual Property

For information on our research and development policies and intellectual property, please see Item 4, "Information on the Company" in this annual report.

Trend Information

For information on trends in our industry, please see Item 4, "Information on the Company—Business Overview—Industry and Technology Trends" in this annual report.

For more information on trends, uncertainties, demands, commitments or events that may have a material effect on revenue, please see Item 3, "Key Information—Risk Factors" in this annual report.

Contractual Obligations

Set forth below are our contractual obligations and other commercial commitments as of December 31, 2016 (in thousands of U.S. dollars).

	Payments Due by Period				
Contractual Obligations	**Total**	**Less than 1 year**	**1- 3 years**	**3-5 years**	**More than 5 years**
Operating Leases	140,633	22,886	38,940	31,967	46,840
Unconditional Purchase Obligations	22,700	17,318	5,382	-	-
Severance Pay*	16,885				
Total Contractual Cash Obligations	180,218	40,204	44,322	31,967	46,840
Uncertain Income Tax Positions **	26,659				

* Severance pay relates to accrued obligations to employees as required under applicable labor laws. These obligations are payable only upon termination, retirement or death of the respective employees.

** Uncertain income tax positions under ASC 740 are due upon settlement and we are unable to reasonably estimate the ultimate amount or timing of settlement. See Note 12(h) of our Consolidated Financial Statements for further information regarding our liability under ASC 740.

		Amount of Commitment Expiration Per Period			
Other Commercial Commitments	**Total Amounts Committed**	**Less than 1 year**	**1- 3 years**	**3-5 years**	**More than 5 years**
Guarantees – Continuing operations	4,377,987	3,932,011	360,879	85,097	-
Guarantees – Discontinued operations*	19,910,444	78,500	19,831,944	-	-
Total Guarantees	24,288,431	4,010,511	20,192,823	85,097	-

* Represents guarantees which were not endorsed and remain in effect in relation to contracts assumed as part of the sale of the Cyber and Intelligence business for which we have a back to back contractual commitment and are entitled to indemnification to the extent that these guarantees are realized.

Item 6. Directors, Senior Management and Employees.

6.A. Directors and Senior Management

The following tables set forth, as of April 13, 2017, the name, age and position of each of our directors and executive officers and, in regard to our directors, any of the committees of our board of directors on which they serve and whether any such director is an outside director:

Members of the Board of Directors

Name	Age	Position	Audit Committee Member	Compensation Committee Member	Internal Audit Committee Member	Mergers and Acquisitions Member	Nominations Committee Member	Outside Director*
David Kostman	52	Chairman of the Board of Directors	X			X	X	
Rimon Ben-Shaoul	72	Director	X			X		
Dan Falk	72	Director	X	X	X	X	X	X
Yocheved Dvir	64	Director	X	X	X			X
Yehoshua Ehrlich	67	Director				X		
Leo Apotheker	63	Director		X		X		
Joe Cowan	68	Director		X		X		
Zehava Simon	58	Director	X	X	X			X

* See Item 6, "Directors, Senior Management and Employees—Board Practices— Outside Directors."

Members of Management

Name	Age	Position
Barak Eilam	42	Chief Executive Officer
Miki Migdal	56	President, Enterprise Product Group
Joseph Friscia	62	President, NICE-Actimize
Paul Jarman	47	Chief Executive Officer, InContact
Beth Gaspich	51	Chief Financial Officer
Yechiam Cohen	60	Corporate Vice President, General Counsel and Corporate Secretary
Eran Porat	54	Corporate Vice President, Finance
Eran Liron	49	Executive Vice President, Marketing and Corporate Development
Barry Cooper	46	Chief Operating Officer
Sigal Gill-More - Feferman	47	Executive Vice President, Human Resources

In May 2016, Ms. Sarit Sagiv retired from her position as Chief Financial Officer, and Ms. Beth Gaspich assumed the position effective October 2016.

Set forth below is a biographical summary of each of the above-named directors and executive officers of NICE. Each of our directors qualifies as an independent director under applicable NASDAQ rules.

David Kostman has served as one of our directors since 2001, with the exception of the period between June 2007 and July 2008, and as our Chairman of the Board since February 2013. Mr. Kostman is currently Executive Chairman of Nanoosh LLC. He recently served on the board of directors of publicly traded Retalix Ltd., which was acquired by NCR Corporation, and serves on the board of directors of Outbrain, Inc., ironSource Ltd. and Tivit S.A. From 2006 until 2008, Mr. Kostman was a Managing Director in the investment banking division of Lehman Brothers, heading the Global Internet Group. From April 2003 until July 2006, Mr. Kostman was Chief Operating Officer and then Chief Executive Officer of Delta Galil USA, a subsidiary of publicly traded Delta Galil Industries Ltd. From 2000 until 2002, Mr. Kostman was President of the International Division and Chief Operating Officer of publicly traded VerticalNet Inc. Prior to that Mr. Kostman worked in the investment banking divisions of Lehman Brothers (1994-2000) focusing on the technology and Internet sectors and NM Rothschild & Sons (1992-1993), focusing on M&A and privatizations. Mr. Kostman holds a Bachelor's degree in Law from Tel Aviv University and a Master's degree in Business Administration from INSEAD.

Rimon Ben-Shaoul has served as one of our directors since September 2001. Since 2001, Mr. Ben-Shaoul has served as Co-Chairman, President, and Chief Executive Officer of Koonras Technologies Ltd., a technology investment company controlled by LEADER Ltd., an Israeli holding company. Mr. Ben-Shaoul also serves as a director of MIND C.T.I. Ltd. and several private companies, and served as a director of BVR Systems Ltd. In addition, he served as the President and Chief Executive Officer of Polar Communications Ltd., which manages media and communications investments. Mr. Ben-Shaoul also served as the Chairman of T.A.T Technologies Ltd., a public company listed on NASDAQ and TASE. Between 1997 and 2001, Mr. Ben-Shaoul was the President and Chief Executive Officer of Clal Industries and Investments Ltd., one of the largest holding companies in Israel with substantial holdings in the high tech industry. During that time, Mr. Ben-Shaoul also served as Chairman of the Board of Directors of Clal Electronics Industries Ltd., Scitex Corporation Ltd., and various other companies within the Clal Group. Mr. Ben-Shaoul also served as a director of ECI Telecom Ltd., Fundtech Ltd., Creo Products, Inc. and Nova Measuring Instruments Ltd. From 1985 to 1997, Mr. Ben-Shaoul was President and Chief Executive Officer of Clal Insurance Company Ltd. and a director of the company and its various subsidiaries. Mr. Ben-Shaoul holds a Bachelor's degree in Economics and Statistics and a Master's degree in Business Administration, both from Tel-Aviv University.

Dan Falk has served as one of our statutory outside directors since 2001. From 1999 to 2000, Mr. Falk was President and Chief Operating Officer of Sapiens International Corporation N.V. From 1985 to 1999, Mr. Falk served in various positions in Orbotech Ltd., the last of which were Chief Financial Officer and Executive Vice President. From 1973 to 1985, he served in several executive positions in the Israel Discount Bank. Mr. Falk also serves on the board of directors of Orbotech Ltd., Ormat Technologies Inc. and Attunity Ltd. Mr. Falk holds a Bachelor's degree in Economics and Political Science and a Master's degree in Business Administration, both from the Hebrew University, Jerusalem.

Yocheved Dvir has served as one of our statutory outside directors since January 2008. Since 2000, Ms. Dvir has served as a strategic advisor in business development affairs to multiple companies and initiatives that were being founded. Ms. Dvir also serves on the board of directors of Menorah Insurance Company and its subsidiary, Alrov Real Estate and Endey Med. She recently served on the boards of Visa Cal, Trendline Business Information & Communications Ltd., Israel Corporation Ltd., ECI Telecom Ltd., Strauss Industries Ltd., Phoenix Holding and Phoenix Insurance Co. Between 1990 and 2000, Ms. Dvir served as a Senior Vice President of the Migdal Group. Ms. Dvir joined the Migdal Group in 1981 and, until late 2000, held a number of senior financial and managerial positions, including Head of the Group's Economics Department (1986-1988), Head of the Group's Corporate Office (1989-1992), Head of the Group's General Insurance Division and Corporate Office (1993-1997), Group CFO (1997-1999), Head of the Group's Strategic Development Division and Marketing Array and Risk Manager (2000). Ms. Dvir holds a Bachelor's degree in Economics and Statistics from the University of Haifa and completed studies towards a second degree in Statistics from the Hebrew University of Jerusalem.

Yehoshua (Shuki) Ehrlich has served as one of our directors since September 2012. Mr. Ehrlich is an active social investor, serving as Chairman of "Committed to Give", a group formed by Israeli social investors for promoting philanthropy in Israel and several other social organizations. Mr. Ehrlich also serves as a member of the executive board of Israel Venture Network and a board member of AfterDox, an angels' investment group. Between the years 2000 and 2010, Mr. Ehrlich served as Managing Director at Giza Venture Capital, where he focused on the communications, enterprise software and information technology sectors. Formerly, Mr. Ehrlich had a fifteen-year career with Amdocs, a public software company specializing in billing, CRM, order management systems for telecommunications and Internet service providers. In his last role at Amdocs, Mr. Ehrlich served as Senior Vice President of Business Development. Mr. Ehrlich holds a Bachelor of Science in Mathematics and Computer Science from the Tel Aviv University.

Leo Apotheker has served as one of our directors since August 2013. Mr. Apotheker was the Managing Partner and co-founder of efficiency capital SAS, a growth capital advisory firm, from 2012 to 2014. From 2010 to 2011, Mr. Apotheker served as Chief Executive Officer of Hewlett Packard Company. From 2008 to 2010, he served as Chief Executive Officer of SAP AG. In addition, he is currently chairman of the board of each of KMD, one of Denmark's leading IT and software companies, Unit4, a leading Dutch software company, and Signavio GmbH, Vice Chairman and Lead Director of Schneider SE, and a member of the board of Taulia Inc. Mr. Apotheker holds a Bachelor's degree in Economics and International Relations from the Hebrew University of Jerusalem.

Joe Cowan has served as one of our directors since August 2013. Mr. Cowan has been the CEO and director of Epicor since October 2013, and since Sept 2016 has been a director of ChannelAdvidsor, Inc. During 2013 Mr. Cowan served as President of DataDirect Networks, Inc., and from 2010 until 2013, Mr. Cowan served as the Chief Executive Officer and President of Online Resources Corp. During 2009, he served as an Operating Executive and Consultant at Vector Capital. From 2007 to 2009, Mr. Cowan served as the Chief Executive Officer of Interwoven Inc. From 2004 to 2006, Mr. Cowan served as the President and Chief Executive Officer of Manugistics Inc. and Manugistics Group Inc. Prior to that, Mr. Cowan served in various senior executive positions, including as the Chief Operating Officer of Baan Co. NV and Avantis GOB NV. He has been a Director of DataDirect Networks, Inc. between 2011 and February 2013. Mr. Cowan has also served on the boards of various publicly traded companies, including ChannelAdvidsor Inc., Interwoven Inc., Online Resources Corporation, Manugistics Group Inc. and Blackboard Inc., as well as several private companies. Mr. Cowan holds a M.S. degree in Electrical Engineering from Arizona State University and holds a B.S. degree in Electrical Engineering from Auburn University.

Zehava Simon has served as one of our statutory outside directors since July 2015. Ms. Simon served as a Vice President of BMC Software Inc. from 2000 until 2013, most recently as Vice President of Corporate Development. From 2002 to 2011, Ms. Simon served as Vice President and General Manager of BMC Software in Israel. Prior to that, Ms. Simon held various positions at Intel Israel, which she joined in 1982, including leading of Finance & Operations and Business Development for Intel in Israel. Ms. Simon is currently a board member of Audiocodes, a public company traded on NASDAQ and TASE, Nova Measurements, a publicly-traded company on NASDAQ and TASE, and Amiad Water Systems, a public company traded on the London Stock Exchange. Ms. Simon is a former member of the board of directors of Insightec Ltd., M-Systems Ltd. (acquired by SanDisk Corp.) and Tower Semiconductor Ltd. Ms. Simon holds a B.A. in Social Sciences from the Hebrew University, Jerusalem, a law degree (LL.B.) from the Interdisciplinary Center in Herzliya and an M.A. in Business and Management from Boston University.

Barak Eilam has served as Chief Executive Officer since April 2014. In his previous position with NICE, Mr. Eilam was President of our American division from July 2012 to March 2014. Prior to that, Mr. Eilam was the head of sales and the general manager of the Enterprise Group in the Americas. From 2007 to 2009, Mr. Eilam founded and served as the general manager of the NICE Interaction Analytics Global Business Unit. Mr. Eilam has also served in a variety of executive positions within NICE, managing different aspects of the business in product development, sales and product management. Before joining NICE in 1999, Mr. Eilam was an officer for an elite intelligence unit in the Israeli defense forces. Mr. Eilam holds a Bachelor's degree in Electrical and Electronics Engineering from Tel Aviv University.

Miki Migdal has served as President of the NICE Enterprise Product Group since July 2014. Prior to joining NICE, Mr. Migdal was the CEO of SAP Israel and held additional leadership roles at SAP including Senior Vice President of Development at SAP Global and President of SAP Labs Israel. He also served in executive positions at B.V.R Systems, Amdocs and Mercury Interactive (HP Software). Mr. Migdal holds a B.Sc. in Math and Computer Science from Tel Aviv University.

Joseph Friscia has served as President of NICE Actimize since April 2014. Prior to joining NICE, Mr. Friscia served as President of BAE Systems' Applied Intelligence Americas business. He joined BAE when BAE Systems acquired Norkom Technologies, where he had served as General Manager and Executive Vice President of the Americas. Prior to Norkom, Mr. Friscia was a co-founder of Pegasystems, Inc., the leading Business Process Management software company, from its origin and through taking it public in 1996. Mr. Friscia holds an MBA degree from Adelphi University and a B.A. from Long Island University.

Paul Jarman has served as NICE inContact CEO since November 2016, and served as inContact CEO since January 2005 until we acquired inContact. Prior to becoming CEO, Mr. Jarman served as inContact's President from December 2002. Prior to December 2002, he served as inContact's Executive Vice President. Mr. Jarman was instrumental in guiding inContact from its roots in telecommunications to its strategic offering of cloud-based contact center solutions and has been a part of every major enhancement the company has made since 1997. Mr. Jarman led inContact's listing on NASDAQ. Prior to joining inContact, he was an executive with HealthRider, Inc. Mr. Jarman holds a Bachelor of Science degree in Accounting from the University of Utah.

Beth Gaspich has served as our Chief Financial Officer since October 2016. Ms. Gaspich joined NICE as CFO of the financial crime and compliance division NICE Actimize in September 2011, where she was responsible for finance, legal and business operations. Prior to joining NICE, she was Chief Financial Officer for Archive Systems, Inc., a privately held document management software provider. She also served as VP of Finance at RiskMetrics Group, Inc., a cloud based risk management software company. Ms. Gaspich was one of the founding members of RiskMetrics Group and assisted in taking the company through a successful public offering on the NYSE in January 2008. Prior to that, Ms. Gaspich held several other senior positions throughout her career at large global financial institutions, including JP Morgan and Price Waterhouse. Ms. Gaspich holds a BA in Accounting from the University of Missouri.

Yechiam Cohen has served as our Corporate Vice President, General Counsel and Corporate Secretary since 2005. From 1996 to 2004, he served as General Counsel of Amdocs, a publicly traded company and a leading provider of billing and CRM software solutions to the telecommunications industry. Before joining Amdocs, Mr. Cohen was a partner in the Tel Aviv law firm of Dan Cohen, Spigelman & Company. From 1987 to 1990, he was an associate with the New York law firm of Dornbush, Mensch, Mandelstam and Schaeffer. Mr. Cohen served as a law clerk to Justice Beijski of the Supreme Court of Israel in Jerusalem. He holds a Bachelor's degree from the Hebrew University School of Law and is admitted to practice law in Israel and New York.

Eran Porat has served as our Corporate Vice President, Finance since 2004. From March 2000 to 2004, he served as our Corporate Controller. From 1997 to February 2000, Mr. Porat served as Corporate Controller of Tecnomatix Technologies Ltd. From 1996 to 1997, he served as Corporate Controller of Nechushtan Elevators Ltd. Mr. Porat is a certified public accountant and holds a Bachelor's degree in economics and accounting from Tel Aviv University.

Eran Liron has served as our Executive Vice President, Marketing and Corporate Development since October 2013, and as Executive Vice President, Corporate Development since February 2006. From 2004 to 2006, he served as Director of Corporate Development at Mercury Interactive Corporation, a software company, and prior thereto he held several business development positions at Mercury Interactive. Before joining Mercury, Mr. Liron served in several marketing roles at software startups and at Tower Semiconductor. Mr. Liron holds a Bachelor of Science degree from the Technion – Israel Institute of Technology and a Doctorate in Business from the Stanford Graduate School of Business in California.

Barry Cooper has been with NICE since 2011 and serves as our Chief Operating Officer (COO) since May 2016. Prior to serving as COO, Mr. Cooper served as Vice President, Business Operations for APAC from March, 2011 until June 2013, and as of July 2013 and until assuming the role of CCO, he served as Executive Vice President, Professional Services and Cloud. Prior to joining NICE, Mr. Cooper was a Management Consultant at Accenture; the Head of Customer Service, IT and Billing at Time Telekom, Malaysia; and Vice President of Professional Services, APAC for CSG Systems, later Comverse. Mr. Cooper holds a First Class Bachelor of Computer Science and Mathematics with Honors from Salford University in the United Kingdom.

Sigal Gill-More-Feferman has served as Executive Vice President, Human Resources since September 2009. From 1996 until 2009, Ms. Gill-more-Feferman held several field, regional and corporate roles at Microsoft. In her most recent role at Microsoft, Ms. Gill-more-Feferman led the staffing function across all international regions (EMEA, Asia, Latin America) overseeing both Sales and R&D sites. Ms. Gill-more-Feferman holds a Master's degree in organizational behavior from Tel Aviv University.

There are no family relationships between any of the directors or executive officers named above.

6.B. Compensation

(a) Aggregate Executive Compensation

The aggregate compensation paid to or accrued on behalf of all our directors and executive officers as a group of 19 persons during 2016 consisted of approximately $7.3 million in salary, fees, bonus, commissions and directors' fees and approximately $0.8 million in amounts set aside or accrued to provide pension, retirement or similar benefits, but excluding amounts we expended for automobiles made available to our officers, expenses (including business travel, professional and business association dues and expenses) reimbursed to our officers and other fringe benefits commonly reimbursed or paid by companies in Israel.

We have a performance-based bonus plan for our executive management team. The plan is based on our overall performance, the particular unit performance, individual performance and the results of the customer satisfaction survey conducted annually. The measurements can change year over year, and are a combination of financial parameters, including revenues, booking and operating income. The plan is reviewed and approved by our Board of Directors annually, as is any bonus payment under the plan.

During 2016, our officers and directors received, in the aggregate, (i) options to purchase 211,674 ordinary shares, that include 91,700 options with an exercise price equal to the par value of the ordinary shares (the "par value options"), and (ii) 163,535 restricted share units, under our equity based compensation plans. The options (other than the par value options) have a weighted average price of $52.64 and all options will expire six years after the date of grant. The restricted shares units are granted at par value of the ordinary shares. For information regarding our option exchange program, see "Share Ownership–Option Exchanges and Price Adjustment" below.

Pursuant to the requirements of the Israeli Companies Law, 5759–1999, or the Israeli Companies Law, remuneration of our directors requires shareholder approval. Compensation and reimbursement for outside directors (as described below) is statuto-rily determined pursuant to the Israeli Companies Law. Effective as of July 1, 2015, our shareholders approved the payment to each of our non-executive directors, including outside directors, of an annual fee of $40,000 and a meeting attendance fee of $1,500 for each Board meeting attended (whether in person or through media), and $1,000 for each Board committee meeting attended (whether in person or through media) (in each case paid in U.S. dollars or in NIS based on the exchange rate on the date of the approval by shareholders), subject to additional value added tax, as applicable.

On July 9, 2015, at our 2015 annual general meeting of shareholders, following the recommendation of our compensation committee and approval by our Board of Directors, our shareholders approved an amended compensation policy for directors and officers. In addition, our shareholders approved a supplemental annual cash fee for the Chairman of the Board in the amount of NIS 450,000 (equivalent to approximately $115,652). The supplemental annual fee is subject to adjustment for changes in the Israeli consumer price index after September 2012.

(b) Individual Compensation of Covered Executives

The following describes the compensation of our five most highly compensated executive officers in 2016, based on the total of salary costs, bonus cost and equity costs expensed in 2016 ("Covered Executives").

The compensation specified below is broken down into the following components (all amounts specified below are in terms of cost to the Company, as recorded in our financial statements). U.S. dollar amounts indicated for Salary, Bonus and Equity Costs are in thousands of dollars and for Covered Executives in Israel are based on the Shekel exchange rate of 3.82, which represents the average rate for the year, and for the Covered Executive in Singapore are based on the Singapore dollar exchange rate of 1.42, which represents the average rate for that year.

(1) Salary Costs. Salary Costs include gross salary, benefits and perquisites, including those mandated by applicable law which may include, to the extent applicable to each Covered Executive, payments, contributions and/or allocations for pension, severance, vacation, travel and accommodation, car or car allowance, medical insurances and risk insurances (e.g., life, disability, accidents), phone, convalescence pay, relocation, payments for social security, and other benefits consistent with the Company's guidelines.

(2) Bonus Costs. Bonus Costs represent bonuses granted to the Covered Executive with respect to the year ended December 31, 2016, paid in accordance with the Company's performance-based bonus plan or as detailed in footnotes below.

(3) Equity Costs. Represents the expense recorded in our financial statements for the year ended December 31, 2016, with respect to equity granted in 2016 and in previous years (if applicable). For assumptions and key variables used in the calculation of such amounts see note 13b of our audited Consolidated Financial Statements.

i. **Barak Eilam – CEO.** Salary Costs - $831; Bonus Costs - $1,204; Equity Costs - $1,601 expense recorded in 2016 for equity granted in 2016 and $1,951 expense recorded in 2016 for equity granted in previous years.

ii. **Tom Dziersk – former President, NICE Americas.** Salary Costs - $492; Bonus Costs - $350; Equity Costs - $676 expense recorded in 2016 for equity granted in 2016 and $573 expense recorded in 2016 for equity granted in previous years.

iii. **John O'Hara – President, NICE EMEA.** Salary Costs - $437; Bonus Costs - $336 and $721 expense recorded in 2016 for equity granted in 2016.

iv. **Joseph Friscia – President, NICE Actimize.** Salary Costs - $406; Bonus Costs - $424; Equity Costs - $622 expense recorded in 2016 for equity granted in 2016 and $409 expense recorded in 2016 for equity granted in previous years.

v. **Raghav Sahgal – former President, NICE APAC**. Salary Costs - $419; Bonus Costs - $356; Equity Costs - $432 expense recorded in 2016 for equity granted in 2016 and $389 expense recorded in 2016 for equity granted in previous years.

Board Practices

Corporate Governance Practices

We are incorporated in Israel and therefore are subject to various corporate governance practices under the Israeli Companies Law, relating to such matters as outside directors, the internal audit committee, the internal auditor and approvals of interested party transactions. These matters are in addition to the ongoing listing conditions of the NASDAQ and other relevant provisions of U.S. securities laws. Under applicable NASDAQ rules, a foreign private issuer may generally follow its home country rules of corporate governance in lieu of comparable NASDAQ requirements, except for certain matters such as composition and responsibilities of the audit committee and the independence of its members. For further information see Item 16G, "Corporate Governance" of this annual report.

General Board Practices

Our articles of association provide that the number of directors serving on the Board shall be not less than three but shall not exceed thirteen. Our directors, other than outside directors, are elected at the annual shareholders meeting to serve until the next annual meeting or until their earlier death, resignation, bankruptcy, incapacity or removal by an extraordinary resolution of the general shareholders meeting. Directors may be re-elected at each annual shareholders meeting. The Board may appoint additional directors (whether to fill a vacancy or create new directorships) to serve until the next annual shareholders meeting, provided, however, that the Board shall have no obligation to fill any vacancy unless the number of directors is less than three.

The Board may, subject to the provisions of the Israeli Companies Law, appoint a committee of the Board and delegate to such committee all or any of the powers of the Board, as it deems appropriate. Notwithstanding the foregoing and subject to the provisions of the Israeli Companies law, the Board may, at any time, amend, restate or cancel the delegation of any of its powers to any of its committees. The Board has appointed an internal audit committee under the Israeli Companies Law that has three members, an audit committee that has five members, a compensation committee that has five members, a nominations committee that has two members and a mergers and acquisitions committee that has six members. We do not have, nor do our subsidiaries have, any directors' service contracts granting to the directors any benefits upon termination of their employment. In addition, from time to time the Board may appoint an ad hoc committee for certain purposes, such as the review, negotiation and recommendation of approval of M&A transactions.

Outside Directors

Except as discussed below, under the Israeli Companies Law companies incorporated under the laws of Israel whose shares have been offered to the public in or outside of Israel are required to appoint at least two "outside" directors. Pursuant to regulations under the Israeli Companies Law that took effect in April 2016, a Nasdaq-listed company that does not have a controlling shareholder is entitled to opt out of the provisions of the Israeli Companies Law requiring at least two outside directors and certain related requirements, so long as the company complies with the SEC regulations and Nasdaq listing rules regarding independent directors and the composition of the audit and compensation committees. In December 2016, our shareholders approved amendments to our articles of association, pursuant to which our Board of Directors may elect to opt out of such requirements and we would not be required to have outside directors serve on our Board of Directors (together the "2016 Relief Amendments"). According to these new regulations, an outside director that was appointed prior to a company opting out of such requirements may continue in office until the end of his or her then-current term or until the end of the second annual general meeting convened after the applicable company opts out of the requirement, whichever is earlier.

Outside directors are required to possess professional qualifications as set out in regulations promulgated under the Israeli Companies Law. The Israeli Companies Law provides that a person may not be appointed as an outside director if (i) such person or person's relative or affiliate has, at the date of appointment, or had at any time during the two years preceding such date, any affiliation with the company, a controlling shareholder thereof or their respective affiliates; or (ii) in a company that does not have a 25% shareholder, such person has an affiliation with any person who, at the time of appointment, is the chairman, the chief executive officer, the chief financial officer or a 5% shareholder of the company. In general, the term "affiliation" includes:

- an employment relationship;
- a business or professional relationship maintained on a regular basis;
- control; and
- service as an office holder.

No person may serve as an outside director if the person's position or other activities create, or may create a conflict of interest with the person's responsibilities as an outside director or may otherwise interfere with the person's ability to serve as an outside director. Until the lapse of two years from termination of office, a company or its controlling shareholder may not give any direct or indirect benefit to the former outside director.

Outside directors are to be elected by a majority vote at a shareholders' meeting, provided that either:

- the majority of shares voted at the meeting shall include at least a majority of the shares of non-controlling shareholders present at the meeting and voting on the matter (without taking into account the votes of the abstaining shareholders); or

- the total number of shares of non-controlling shareholders voted against the election of the outside directors does not exceed two percent of the aggregate voting rights in the company.

The initial term of an outside director is three years and may be extended for up to two additional three-year terms. Thereafter, he or she may be reelected by our shareholders for additional periods of up to three years each only if the internal audit committee and the Board of Directors confirm that, in light of the outside director's expertise and special contribution to the work of the Board of Directors and its committees, the reelection for such additional period is beneficial to the company. Reelection of an outside director may be effected through one of the following mechanisms: (1) the Board of Directors proposed the reelection of the nominee and the election was approved by the shareholders by the majority required to appoint outside directors for their initial term; or (2) one or more shareholders holding one percent or more of a company's voting rights or the outside director proposed the reelection of the nominee, and the reelection is approved by a majority of the votes cast by the shareholders of the company, excluding the votes of controlling shareholders and those who have a personal interest in the matter as a result of their relations with the controlling shareholders, provided that the aggregate votes cast in favor of the reelection by such non-excluded shareholders constitute more than two percent of the voting rights in the company. An outside director may be removed only in a general meeting, by the same percentage of shareholders as is required for electing an outside director, or by a court, and in both cases only if the outside director ceases to meet the statutory qualifications for appointment or if he or she has violated the duty of loyalty to us. Unless we actually adopt the applicable relief provided under the 2016 Relief Amendments, each committee of a company's Board of Directors which is empowered to exercise any of the Board's powers is required to include at least one outside director, provided that each of the internal audit committee and compensation committee must include all of the outside directors.

An outside director is entitled to compensation as provided in regulations adopted under the Israeli Companies Law and is otherwise prohibited from receiving any other compensation, directly or indirectly, from the company. In accordance with such regulations, our shareholders approved that our outside directors are to receive compensation equal to that paid to the other members of the Board of Directors. For further information, please see Item 6, "Directors, Senior Management and Employees—Compensation" in this annual report.

Financial and Accounting Expertise

Pursuant to the Israeli Companies Law, our Board of Directors has determined that at least one member of our Board of Directors must be an "accounting and financial expert." The Israeli Companies Law requires that all outside directors must be "professionally qualified." Under applicable NASDAQ rules, each member of our audit committee must be financially literate and at least one of the members must have experience or background that results in such member's financial sophistication. Our Board of Directors has determined that each of Dan Falk and Yocheved Dvir is an "accounting and financial expert" for purposes of the Israeli Companies Law and is financially sophisticated for purposes of applicable NASDAQ rules. See also Item 16A, "Audit Committee Financial Expert" in this annual report.

Independent Directors

Under the rules of the NASDAQ, a majority of our directors are required to be "independent" as defined in applicable NASDAQ rules. All of our directors satisfy the respective independence requirements of NASDAQ.

In addition, our Articles of Association provide that, if we do not have a shareholder that holds 25% or more of our issued and outstanding share capital, a majority of the directors must be "independent" as defined in the Israeli Companies Law and the regulations promulgated thereunder. If we have a shareholder that holds 25% or more of our issued and outstanding share capital, then at least one third of the directors must be "independent." All of our directors satisfy the respective independence requirements of the Israeli Companies Law. The qualifications for independent directors under the Israeli Companies Law are similar to those for outside directors, as described above under "—Outside Directors", including the nine-year term limit and the ability to extend such term beyond nine years upon the approval of our internal audit committee and Board of Directors.

Internal Audit Committee

The Israeli Companies Law requires public companies to appoint an internal audit committee. The role of the internal audit committee under the Israeli Companies Law is to examine flaws in the management of the company's business in consultation with the internal auditors and the independent accountants, and to propose remedial measures to the board. The internal audit committee also reviews interested party transactions for approval as required by law, including approval of the remuneration of a director in any capacity, which also requires Board, Compensation Committee and shareholder approval. The internal audit committee also assesses our internal audit system and the performance of our internal auditor, and oversees the implementation and enforcement of our compliance program. Under the Israeli Companies Law, an internal audit committee must consist of at least three directors, including all of the outside directors. The members of the internal audit committee must satisfy certain independence standards under the Israeli Companies Law, and the chairman of the internal audit committee must be an outside director. The chairman of the Board of Directors, any director employed by the company or by its controlling shareholder or by an entity controlled by the controlling shareholder, a director who regularly provides services to the company or to its controlling shareholder, any director who derives most of its income from the controlling shareholder and a controlling shareholder or any relative of a controlling shareholder, may not be a member of the internal audit committee. Pursuant to the 2016 Relief Amendments, the Company may elect to opt out of the composition and attendance rules set with respect to the internal audit committee under the Israeli Companies Law, so long as the company complies with the SEC regulations and Nasdaq listing rules regarding the composition and attendance rules in that respect.

All of the current members of our internal audit committee (presently comprised of Yocheved Dvir (Chairman), Dan Falk and Zehava Simon) meet these qualifications.

Internal Auditor

Under the Israeli Companies Law, the Board of Directors must appoint an internal auditor, proposed by the internal audit committee. The role of the internal auditor is to examine, among other matters, whether the company's activities comply with the law and orderly business procedure. Under the Israeli Companies Law, the internal auditor may be an employee of the company but may not be an interested party or office holder, or a relative of any interested party or office holder, and may not be a member of the company's independent accounting firm or its representative. We have appointed an internal auditor in accordance with the requirements of the Israeli Companies Law.

Audit Committee

The NASDAQ rules require that the audit committee of a listed company be composed of at least three directors, each of whom is (i) independent; (ii) does not receive any compensation (except for board fees) from the company; (iii) is not an affiliated person of the company or any subsidiary; and (iv) has not participated in the preparation of the company's (or a current subsidiary's) financial statements during the past three years. All of the current members of our audit committee (presently comprised of Rimon Ben-Shaoul (Chairman), David Kostman, Dan Falk, Yocheved Dvir and Zehava Simon) meet the NASDAQ standards described above.

Our audit committee has adopted a charter specifying the committee's purpose and outlining its duties and responsibilities which include, among other things, (i) appointing, retaining and compensating the company's independent auditor, subject to shareholder approval, (ii) pre-approving all services of the independent auditor, (iii) reviewing the annual audited financial statements and quarterly financial statements and the content of our earnings press releases, and (iv) overseeing our accounting and financial reporting processes and the audits of our financial statements. Our audit committee is also authorized to act as our "qualified legal compliance committee." As such, our audit committee will be responsible for investigating reports made by attorneys appearing and practicing before the SEC in representing us, of perceived material violations of U.S. federal or state securities laws, breaches of fiduciary duty or similar material violations of U.S. law by us or any of our agents.

We believe we currently meet the applicable NASDAQ requirements with respect to our Audit Committee and we intend to continue to take all actions as may be necessary for us to maintain our compliance with applicable NASDAQ requirements with respect to our Audit Committee.

Compensation Committee

As required by NASDAQ rules, our compensation committee approves the compensation of our executive officers. The compensation committee is also authorized to approve the grant of stock options and other securities to eligible grantees under our benefit plans pursuant to guidelines adopted by our Board of Directors. However, grants of stock options and other securities to our executive officers also require approval of our Board of Directors. Under the Israeli Companies Law, the Board of Directors of a public company must establish a compensation committee. Pursuant to the 2016 Relief Amendments, the Company may elect to opt out of the relevant composition and attendance rules set under the Israeli Companies Law, and to comply with the SEC regulations and Nasdaq listing rules that apply to the composition and attendance rules of a compensation committee. To date, the Company has continued to also follow the Israeli Companies Law with respect to the composition and attendance rules of a compensation committee, as it consists of at least three directors who satisfy the independence qualifications as further detailed above in relation to internal audit committee members, and the chairman of the compensation committee is an outside director.

Under the Israeli Companies Law, the role of the compensation committee is to recommend to the Board of Directors, for ultimate shareholder approval by a special majority, a policy governing the compensation of office holders based on specified criteria, to review modifications to the compensation policy from time to time, to review its implementation and to approve the actual compensation terms of office holders prior to the approval thereof by the Board of Directors.

Pursuant to the NASDAQ rules, our compensation committee is required to consist of at least two members, with all members of the compensation committee required to be independent, unless we elect to take advantage of the exemption provided to "foreign private issuers" to comply with home country practice instead of the listing rules of exchanges such as NASDAQ, which we do not presently intend to do. The determination of whether a director is independent takes into account all factors relevant to whether a director has a relationship to us which would be material to such director's ability to be independent from management in connection with carrying out the duties of a compensation committee member. Factors required for consideration in making this determination specifically include (i) the source of compensation of such director (including any consulting, advisory or other compensatory fee paid by us to such director) and (ii) whether such director is affiliated with us or one of our affiliates or subsidiaries. Pursuant to the NASDAQ rules, we are also required to have a compensation committee charter, which, among other things, must set forth the scope of the compensation committee's responsibilities and how they will be carried out, as well as grant the compensation committee the power to retain compensation advisers following consideration of certain factors that may be indicative of a conflict of interest by the compensation adviser in rendering compensation advice.

Our Board of Directors adopted a compensation committee charter that includes the requirements of the NASDAQ rules. However, the charter provides that if there is any conflict between the responsibilities and requirements set forth therein and either the Israeli Companies Law or compensation policy approved by our Board of Directors upon the recommendation of our compensation committee and subsequently approved by our shareholders (the "Compensation Policy"), the latter will govern. For information regarding the Compensation Policy, see Item 10 - "Additional Information - Memorandum and Articles of Association – Approval of Office Holder Compensation" in this annual report.

We do not believe that there are any existing conflicts between the compensation committee charter and either of the Israeli Companies Law or the Compensation Policy. However, if any such conflict should develop, such that we are no longer in compliance with the requirements of the NASDAQ rules, we intend to utilize the foreign private issuer exemption described above with respect to such requirement, and in accordance with the NASDAQ rules we will disclose the practice that we follow in lieu of the applicable NASDAQ requirement in our future annual reports.

All of the current members of the compensation committee, Dan Falk (chairman), Yocheved Dvir, Joe Cowan, Leo Apotheker and Zehava Simon, satisfy the respective independence requirements of both the NASDAQ rules and the Israeli Companies Law.

Nominations Committee

As required by NASDAQ rules, our nominations committee recommends candidates for election to our Board of Directors pursuant to a written charter. Both of the current members of this committee, David Kostman and Dan Falk, are independent directors.

Mergers and Acquisitions Committee

Our Board of Directors has delegated powers with respect to the review and recommendation of mergers and acquisitions and related investments and transactions, which are then subject to approval by the Board of Directors. The committee also has limited authority to approve mergers and acquisitions for consideration up to a certain amount. All of the current members of this committee, David Kostman (chairman), Dan Falk, Rimon Ben Shaoul, Yehoshua Ehrlich, Leo Apotheker and Joe Cowan, are independent directors.

Employees

As of December 31, 2016, we had 4,930 employees worldwide, which represented an increase of approximately 48.6% from December 31, 2015.

The following table sets forth the number of our full-time employees at the end of each of the last three fiscal years as well as the main category of activity and geographic location of such employees:

	At December 31,		
Category of Activity	**2014***	**2015**	**2016****
Operations	108	86	66
Customer Support	1,300	1,374	1,928
Sales & Marketing	691	682	1069
Research & Development	687	801	1,294
General & Administrative	378	352	573
Total	3,164	3,316	4,930
Geographic Location			
Israel	991	946	944
Americas	1,298	1,263	2,544
Europe	590	564	530
Asia Pacific	285	543	912
Total	3,164	3,316	4,930

* The 2014 numbers exclude 349 employees of the Physical Security and Cyber and Intelligence business units sold by NICE in 2015 (for more information, please see Item 5, "Operating and Financial Review and Prospects—Discontinued Operations" in this annual report).

** The substantial increase in number of employees in 2016 resulted mainly from acquisitions and an increase in personnel in certain locations (for more information, please see Item 5, "Operating and Financial Review and Prospects—Recent Acquisitions" in this annual report).

We also utilize temporary employees in various activities. On average, we employed 50 temporary employees and obtained services from 918 consultants (not included in the numbers set forth above) during 2016.

Our future success will depend in part upon our ability to attract and retain highly skilled and qualified personnel. Although competition for such personnel is generally intense, we believe that adequate personnel resources are currently available in Israel to meet our requirements.

We are not a party to any collective bargaining agreement with our employees or with any labor organization. However, we are subject to certain labor related statutes, and to certain provisions of collective bargaining agreements between the Histadrut (General Federation of Labor in Israel) and the Coordinating Bureau of Economic Organizations (includ-ing the Industrialists' Association of Israel) that are applicable to our Israeli employ-ees by order of the Israeli Ministry of Labor and Welfare. These statutes and provisions principally concern the length of the work day and the work week, minimum wages for workers, insurance for work-related accidents, determination of severance pay and other conditions of employment. Israeli law generally requires the payment by employers in Israel of severance pay upon the death of an employee, his retirement or upon termination of employment by the employer without due cause. We currently fund our ongoing severance obligations in Israel by making monthly payments to approved severance funds or insurance policies. For more information, please see Note 2p to our Consolidated Financial Statements. In addition, according to the National Insurance Law, Israeli employers and employees are required to pay predetermined sums to the National Insurance Institute, an organization similar to the U.S. Social Security Administration. These contributions entitle the employees to benefits in periods of unemployment, work injury, maternity leave, disability, reserve military service and bankruptcy or winding-up of the employer. Since January 1, 1995, such amount also includes payments for national health insurance. The payments to the National Insurance Institute are equal to approximately 17.85% of an employee's wages (up to a certain cap as determined from time to time by law), of which the employee contributes approximately 62% and the employer contributes approximately 38%.

In addition to our severance obligations for employees located in Israel, we pay severance benefits to our employees located elsewhere in accordance with the local laws and practices of the countries in which they are employed. Moreover, we are subject to Dutch labor laws and practices for our employees in Alkmaar.

Employment Agreements

We have employment agreements with our officers. Pursuant to these employ-ment agreements, each party may terminate the employment without cause by giving a 30, 60 or 90 day prior written notice (six to twelve months in the case of certain senior officers). In addition, we may terminate such agreement for cause with no prior notice. The agreements generally include non-competition and non-disclosure provisions, although the enforceability of non-competition provisions in employment agreements under Israeli law is very limited.

Share Ownership

As of April 13, 2017, our directors and executive officers beneficially owned an aggregate of 483,280 options to purchase ordinary shares that were vested on such date or that are scheduled to vest within 60 days thereafter, or approximately 0.80% of our outstanding ordinary shares. The options have an average exercise price of $41.26 per share and expire between 2017 and 2026. No individual director or executive officer beneficially owns 1% or more of our outstanding ordinary shares.

The following is a description of each of our option equity plans, under which awards were outstanding during 2016.

2016 Share Incentive Plan

In February 2016, we adopted the NICE-Systems Ltd. 2016 Share Incentive Plan, or 2016 Plan, to provide incentives to employees, directors, consultants and/or contractors by rewarding performance and encouraging behavior that will improve our profitability. Under the 2016 Plan, our employees, directors, consultants and/or contractors may be granted any equity-related award, including any type of an option to acquire our ordinary shares and/or share appreciation right and/or share and/or restricted share and/or restricted share unit and/or other share unit and/or other share-based award and/or other right or benefit under the Plan, including any such equity related award that is a performance based award (each an "Award"). We have registered, through the filing of registration statements on Form S-8 with the SEC under the U.S. Securities Act of 1933 (the "Securities Act"), 2,000,000 ADSs for issuance under the 2016 Plan.

Generally, under the terms of the 2016 Plan, and unless determined otherwise by the Board of Directors, 25% of the restricted share units and par value options granted become vested on each of the four consecutive annual anniversaries following the date of grant. Specifically with respect to options (other than options granted at an exercise price equal to their nominal value), unless determined otherwise by the Administrator, 25% of an Award granted becomes exercisable on the first anniversary of the date of grant and 6.25% becomes exercisable once every quarter during the subsequent three years. Certain executive officers are entitled to acceleration of vesting of awards in the event of a change of control, subject to certain conditions. Awards with a vesting period expire six years after the date of grant. Options that are performance-based shall expire seven years following the date of grant. Awards are non-transferable except by will or the laws of descent and distribution.

Options would be granted at an exercise price equal to the average of the closing prices of one American Depositary Receipts or ADR, as quoted on the NASDAQ market, during the 30 consecutive calendar days preceding the date of grant, unless determined otherwise by the administrator of the 2016 Plan (including in some cases options granted with an exercise price equal to the nominal value of an ordinary share).

Our Board of Directors also adopted an addendum to the 2016 Plan for Awards granted to grantees who are residents of Israel (the "Addendum") and resolved to elect the "Capital Gains Route" (as defined in Section 102(b)(2) of the Tax Ordinance for the grant of Awards to Israeli grantees. The U.S. addendum of the 2015 Plan provides only for non-qualified stock options for purposes of U.S. tax laws.

The 2016 Plan provides that the number of shares that may be subject to Awards granted under the 2016 Plan shall be an amount per calendar year, equal to 3.5% of our issued and outstanding share capital as of December 31 of the preceding calendar year. Out of such quantity, options that are not granted in a particular calendar year will not be allocated during the next calendar years. By setting these terms, our Board of Directors took into account the need for current employee retention and retention of future employees, including, specifically, the need to retain in certain years employees that join through acquisitions. During 2016, we granted 1,141,488 options and restricted share units under the 2016 Plan (which constituted 1.58% of our issued and outstanding share capital as of December 31, 2016).

The 2016 Plan is generally administered by our Board of Directors and compensation committee, which determines the grantees under the 2016 Plan and the number of Awards to be granted. As of April 13, 2017, options and restricted share units to purchase 1,303,109 ordinary shares were outstanding under the 2016 Plan at a weighted average exercise price of $4.37.

2008 Share Incentive Plan

In June 2008, we adopted the NICE-Systems Ltd. 2008 Share Incentive Plan, or 2008 Plan, to provide incentives to employees, directors, consultants and/or contractors by rewarding performance and encouraging behavior that will improve our profitability. Under the 2008 Plan, our employees, directors, consultants and/or contractors may be granted any equity-related award, including any type of an option to acquire our ordinary shares and/or share appreciation right and/or share and/or restricted share and/or restricted share unit and/or other share unit and/or other share-based award and/or other right or benefit under the Plan (each an "Award"). We have registered, through the filing of registration statements on Form S-8 with the SEC under the Securities Act, 8,000,000 ADSs for issuance under the 2008 Plan.

Generally, under the terms of the 2008 Plan, 25% of an Award granted becomes exercisable on the first anniversary of the date of grant and 6.25% becomes exercisable once every quarter during the subsequent three years. Specifically with respect to restricted share units and par value options, unless determined otherwise by the Board of Directors, 25% of the restricted share units and par value options granted become vested on each of the four consecutive annual anniversaries following the date of grant. Certain executive officers are entitled to acceleration of vesting of awards in the event of a change of control, subject to certain conditions. Awards with a vesting period expire six years after the date of grant. Pursuant to an amendment of the 2008 Plan approved by our Board of Directors on February 4, 2014, options that are performance-based and are granted during calendar year 2014 and thereafter shall expire seven years following the date of grant. Awards are non-transferable except by will or the laws of descent and distribution.

In December 2010, the 2008 Plan was amended to provide that options would be granted at an exercise price equal to the average of the closing prices of one American Depositary Receipts or ADR, as quoted on the NASDAQ market, during the 30 consecutive calendar days preceding the date of grant, unless determined otherwise by the administrator of the 2008 Plan (including in some cases options granted with an exercise price equal to the nominal value of an ordinary share). Prior to the amendment of the 2008 Plan that occurred in 2010, options to acquire ordinary shares were granted at an exercise price of not less than the fair market value of the ordinary shares on the date of the grant, subject to certain exceptions which could be determined by the Company's Board of Directors, including in some cases the granting of par value options.

Our Board of Directors adopted an addendum to the 2008 Plan for Awards granted to grantees who are residents of Israel (the "Addendum"). On June 16, 2008, our Board of Directors resolved to elect the "Capital Gains Route" (as defined in Section 102(b)(2) of the Tax Ordinance) for the grant of Awards to Israeli grantees, which is described below under "2003 Stock Option Plan." The U.S. addendum of the 2008 Plan provides only for non-qualified stock options for purposes of U.S. tax laws.

The 2008 Plan provides that the number of shares that may be subject to Awards granted under the 2008 Plan shall be an amount per calendar year, equal to 3.5% of our issued and outstanding share capital as of December 31 of the preceding calendar year. Out of such quantity, options that are not granted in a particular calendar year will not be allocated during the next calendar years. By setting these terms, our Board of Directors took into account the need for current employee retention and retention of future employees, including, specifically, the need to retain in certain years employees that join through acquisitions. During 2016, we granted 18,460 options and restricted share units under the 2008 Plan (which constituted 0.03% of our issued and outstanding share capital as of December 31, 2016).

The 2008 Plan is generally administered by our Board of Directors and compensation committee, which determines the grantees under the 2008 Plan and the number of Awards to be granted. As of April 13, 2017, options and restricted share units to purchase 1,664,790 ordinary shares were outstanding under the 2008 Plan at a weighted average exercise price of $19.23.

Nexidia Inc. 2005 Stock Incentive Plan

In 2005, Nexidia adopted the Nexidia Inc. 2005 Stock Incentive Plan (the "Nexidia Plan"), to attract and retain Nexidia's employees, directors, consultants and advisors and to align the interests of such recipients with the interests of Nexidia's shareholders. Under the Nexidia Plan, the grantees can receive incentive and non-qualified options to acquire shares of Nexidia's common stock, restricted stock awards, restricted stock units and stock appreciation rights.

Pursuant to the terms of the Nexidia acquisition agreement, we assumed and converted Nexidia's stock options and restricted stock units originally granted under the Nexidia Plan into stock options and restricted stock units of NICE, respectively.

As of April 13, 2017, assumed Nexidia options to purchase 16,661 shares of NICE and 129,500 assumed restricted share units were outstanding under the inContact Plan, at a weighted average exercise price of $0.74. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 173,860 ordinary shares for issuance under the Nexidia Plan.

inContact, Inc. 2008 Equity Incentive Plan

In 2008, inContact adopted the inContact, Inc. 2008 Equity Incentive Plan, as subsequently amended in June 14, 2012 (as amended, the "inContact Plan") to enhance inContact's ability to attract and retain those employees, officers, directors and consultants who are expected to make important contributions to inContact and any of its subsidiaries and to align the interests of such recipients with the interests of inContact's shareholders. Under the inContact Plan, the grantees can receive incentive and non-qualified options to acquire shares of inContact's common stock and can receive stock appreciation rights.

Pursuant to the terms of the inContact Merger Agreement, we assumed and converted inContact's stock options, restricted stock awards and restricted stock units originally granted under the inContact Plan into stock options, restricted stock awards and restricted stock units of NICE, respectively.

As of April 13, 2017, assumed inContact options to purchase 220,767 shares of NICE and 172,828 assumed restricted share units and restricted shares were outstanding under the inContact Plan, at a weighted average exercise price of $23.37. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 476,114 ordinary shares for issuance under the inContact Plan.

Actimize Ltd. 2003 Omnibus Stock Option and Restricted Stock Incentive Plan

Pursuant to the terms of the acquisition of Actimize Ltd. in August 2007, we assumed and replaced the stock options and restricted shares granted by Actimize.

In 2003, Actimize adopted the 2003 Omnibus Stock Option and Restricted Stock Incentive Plan, or the 2003 Actimize Plan, to afford an incentive to employees, officers, office holders, directors, subcontractors and consultants of Actimize or any subsidiary of Actimize, to acquire a proprietary interest in Actimize, to increase their efforts on behalf of Actimize and to provide the success of Actimize's business. Under the 2003 Actimize Plan, the grantees could be granted options to acquire Actimize's ordinary shares, restricted shares and shares. Incentive stock options to acquire ordinary shares of Actimize were granted at an exercise price not less than the fair market value of the ordinary shares of Actimize on the date of grant or as determined by Actimize's Board of Directors or by a committee thereof. In addition, the options were granted at an exercise price of not less than the par value of the ordinary shares of Actimize.

In September 2007, we registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, an aggregate of 987,104 ADSs, which are comprised of (i) 564,225 ADSs subject to issuance upon the exercise of stock options outstanding under the 2003 Actimize Plan and (ii) 422,879 ADSs representing restricted ordinary shares issued in lieu of restricted shares issued under the 2003 Actimize Plan.

Generally, under the terms of the 2003 Actimize Plan, 25% of the options granted become exercisable on the first anniversary of the date of grant and 6.25% become exercisable following the lapse of every consecutive quarter thereafter during the subsequent three years. Options generally expire ten years after the date of grant. Options are non-transferable except upon the death of the grantee. When applicable, the options are held by, and registered in the name of, a trustee for a period of two years after the date of grant in accordance with Section 102 of the Tax Ordinance.

As of April 13, 2017, assumed Actimize options to purchase 4,191 ordinary shares of NICE were outstanding at a weighted average exercise price of $14.60. No additional grants are being made under this plan following the acquisition of Actimize.

e-Glue Software Technologies Inc., 2004 Stock Option Plan

In 2004, e-Glue adopted the 2004 Stock Option Plan that was further amended by e-Glue on June 9, 2010 (the "2004 e-Glue Plan"), for the grant of awards to employees, directors and service providers of e-Glue and its subsidiaries. The 2004 e-Glue Plan provides for the grant of options to acquire e-Glue's stock, for the grant of restricted stock and for the grant of restricted share units.

Pursuant to the terms of the e-Glue acquisition agreement, we assumed the outstanding stock options and restricted share units granted by e-Glue under the 2004 e-Glue Plan that did not expire upon closing of the e-Glue acquisition. Following such assumption, the options represent rights to purchase ordinary shares of NICE or restricted share units of NICE, pursuant to a set formula (such options and restricted share units, together the "Assumed e-Glue Options"). Some of the Assumed e-Glue Options have a three year vesting period, with a third becoming vested and exercisable one year from their date of grant and the remainder vesting and become exercisable in equal installments on an annual basis over the following two years. The remaining portion of the Assumed e-Glue Options vest as follows: 25% vest and become exercisable one year from their date of grant, and the remaining 75% vested and became exercisable on December 31, 2011. Certain Assumed e-Glue Options are subject to acceleration rights if employment is terminated within a limited time period and under certain circumstances. If the grantee ceases to be an employee or service provider of us or one of our subsidiaries, for any reason, the optionee may exercise or be entitled to the Assumed e-Glue Options to the extent they were vested and exercisable on the date of termination of employment or service, as the case may be, but only during the period ending on the earlier of (a) 10 years from the date of grant (unless sooner terminated as provided in a specific award agreement) or (b) three months after the date of termination of employment or service, as the case may be. However, if the optionee dies or becomes disabled prior to the expiration date of his or her Assumed e-Glue Options while still in the employ or service of us or one of our subsidiaries, or during the three month period described in the preceding sentence, or in the event of the retirement of the optionee for reasons of disability (within the meaning of Section 22(e)(3) of the U.S. Internal Revenue Code, 1986), the Assumed e-Glue Options shall remain exercisable until the earlier of their expiration date in accordance with the award agreement or one year from the date of such death or retirement. When applicable, the Assumed e-Glue Options shall be held by, and registered in the name of, a trustee, according to Section 102(b) of the Tax Ordinance.

As of April 13, 2017, Assumed e-Glue Options and restricted share unit to purchase 420 ordinary shares of NICE were outstanding under the 2004 e-Glue Plan. The exercise price per share underlying the options and restricted share units is equal to the nominal value of an ordinary share. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 76,035 ADRs for issuance under the 2004 e-Glue Plan.

Fizzback Group (Holdings) Limited Employee Share Option Scheme

In July 2010, Fizzback adopted the Fizzback Group (Holdings) Limited Employee Share Option Scheme, as amended (the "Fizzback Plan"), to grant options to employees, directors and consultants, as applicable, of Fizzback. Under the Fizzback Plan, the grantees could be granted options which are deemed "qualifying options" for the purposes of the EMI Code (as that term is defined in the United Kingdom's Income Tax (Earnings and Pensions) Act 1993) to acquire Fizzback's ordinary shares, restricted share units and unapproved options.

Pursuant to the terms of the Fizzback share purchase agreement, we replaced the options and restricted share units originally granted under the Fizzback Plan with stock options to purchase ordinary shares of NICE and restricted share units of NICE, respectively.

Under the Fizzback Plan, the exercise price per option shall be determined by the Board of Directors in its sole and absolute discretion provided that such price shall not be less than the nominal value per option, or (when applicable) such price as from time to time adjusted pursuant to the Fizzback Plan. If a grantee ceases to be an employee, all options which have not become exercisable or which, having become exercisable, have not been exercised, shall lapse.

Options generally expire, *inter alia*, ten years after the date of grant, upon an insolvent liquidation of Fizzback or upon the grantee being adjudged bankrupt.

As of April 13, 2017, assumed Fizzback options and restricted share units to purchase 4,288 ordinary shares of NICE were outstanding under the Fizzback Plan, at a weighted average exercise price of $0.48. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 165,695 ordinary shares for issuance under the Fizzback Plan.

Merced Plans

Merced Systems, Inc. 2001 Stock Plan

In 2001, Merced adopted the Merced Systems, Inc. 2001 Stock Plan, as amended (the "2001 Merced Plan"), to afford an incentive to employees and consultants of Merced and to promote the success of Merced's business. Under the 2001 Merced Plan, the grantees could be granted options to acquire Merced's ordinary shares and restricted shares.

Pursuant to the terms of the Merced acquisition agreement, we assumed and converted Merced's options and replaced Merced's restricted shares that were originally granted under the 2001 Merced Plan into stock options to purchase ordinary shares of NICE, and with restricted shares of NICE, respectively.

Under the 2001 Merced Plan, the exercise price per share of incentive stock options granted to an employee shall be no less than 100% of the fair market value per share on the date of grant, or 110% of the fair market value if the employee was a 10% shareholder of Merced at the date of grant. The exercise price per share of non-statutory stock options granted shall be no less than 85% of the fair market value per share on the date of grant, or 110% of the fair market value if the person was a 10% shareholder of Merced at the date of grant, if required by applicable law and, if not so required, the exercise price per share shall be determined by the plan administrator. Notwithstanding the foregoing, options may be granted with an exercise price per share other than as required above pursuant to a merger or other corporate transaction.

An option granted under the 2001 Merced Plan is exercisable at the rate of at least 20% per year over five years from the date the option was granted. Options generally expire ten years after the date of grant.

Merced Systems, Inc. 2011 Stock Plan

In 2011, Merced adopted the Merced Systems, Inc. 2011 Stock Plan (the "2011 Merced Plan"), to afford an incentive to employees and consultants of Merced and to promote the success of Merced's business. Under the 2011 Merced Plan, the grantees could be granted options to acquire Merced's ordinary shares and restricted share units.

Pursuant to the terms of the Merced acquisition agreement, we assumed and converted Merced's options and restricted share units originally granted under the 2011 Merced Plan into stock options to purchase ordinary shares of NICE and restricted share units of NICE, respectively.

Under the 2011 Merced Plan, the exercise price per share of incentive stock options granted to an employee shall be no less than 100% of the fair market value per share on the date of grant, or 110% of the fair market value if the employee was a 10% shareholder of Merced at the date of grant. The exercise price per share of non-statutory stock options shall be no less than 85% of the fair market value per share on the date of grant, or 110% of the fair market value if the person was a 10% shareholder of Merced at the date of grant, if required by applicable law and, if not so required, the exercise price per share shall be determined by the plan administrator. Notwithstanding the foregoing, options may be granted with an exercise price per share other than as required above pursuant to a merger or other corporate transaction.

An option granted under the 2011 Merced Plan is exercisable at the rate of at least 20% per year over five years from the date the option was granted. Options generally expire ten years after the date of grant.

As of April 13, 2017, assumed Merced options, restricted share units and restricted shares to purchase 7,370 ordinary shares of NICE were outstanding under the 2001 Merced Plan and the 2011 Merced Plan, at a weighted average exercise price of $13.74. We have registered, through the filing of a registration statement on Form S-8 with the SEC under the Securities Act, 343,288 ordinary shares for issuance under the 2001 Merced Plan and the 2011 Merced Plan.

Item 7. Major Shareholders and Related Party Transactions

Major Shareholders

The following table sets forth certain information with respect to the beneficial ownership of our ordinary shares, with respect to each person known to us to be the beneficial owner of 5% or more of our outstanding ordinary shares, reported as of April 13, 2017. None of our shareholders has any different voting rights than any other shareholder.

Name and Address	Number of Shares	Percent of Shares Beneficially Owned (1)
Janus Capital Management LLC 151 Detroit Street Denver, Colorado 80206, USA	4,559,401(2)	7.6%
Massachusetts Financial Services Company 111 Huntington Avenue Boston, Massachusetts 02199	4,077,833(3)	6.8%
Psagot Investment House Ltd. 14 Ahad Ha'am Street Tel Aviv 65142, Israel	3,390,434(4)	5.6%
Migdal Insurance & Financial Holdings Ltd. 4 Efal Street; P.O. Box 3063 Petach Tikva 49512, Israel	3,143,558(5)	5.2%

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(1) Based upon 60,039,322 ordinary shares issued and outstanding as of April 13, 2017.

(2) This information is based upon a Schedule 13G/A filed by Janus Capital Management LLC with the SEC on February 14, 2017.

(3) These securities consist of (i) American Depositary Shares that can be converted to ordinary shares and (ii) ordinary shares. This information is based upon a Schedule 13G/A filed by Massachusetts Financial Service Company with the SEC on February 14, 2017.

(4) These securities are held for members of the public through, among others, portfolio accounts managed by Psagot Securities Ltd., Psagot Exchange Traded Notes Ltd., mutual funds managed by Psagot Mutual Funds Ltd., provident funds managed by Psagot Provident Funds and Pension Ltd., and pension funds managed by Psagot Pension (Haal) Ltd., according to the following segmentation: 1,556,434 ordinary shares are held by portfolio accounts managed by Psagot Securities Ltd., 1,046,023 ordinary shares are held by Psagot Exchange Traded Notes Ltd., 699,431 ordinary shares are held by provident funds managed by Psagot Provident Funds and Pension Ltd., 80,138 ordinary shares are held by mutual funds managed by Psagot Mutual Funds Ltd. (of this amount, 9,500 shares may also be considered beneficially owned by Psagot Securities Ltd., but are not included in the shares beneficially owned by Psagot Securities Ltd., as indicated above) and 8,408 ordinary shares are held by Psagot Insurance Company Ltd. Each of the foregoing companies is a wholly-owned subsidiary of Psagot Investment House Ltd. This information is based upon a Schedule 13G/A filed by Psagot Investment House Ltd. with the SEC on February 15, 2017.

(5) Of these securities, (i) 3,026,144 ordinary shares are held for members of the public through, among others, provident funds, mutual funds, pension funds and insurance policies, which are managed by subsidiaries of Reporting Person, according to the following segmentation: 1,626,441 ordinary shares are held by profit-participating life assurance accounts, 1,175,834 ordinary shares are held by provident funds and companies that manage provident funds, and 223,869 ordinary shares are held by companies for the management of funds for joint investments in trusteeship, each of which subsidiaries operates under independent management and makes independent voting and investment decisions, and (ii) 117,414 are beneficially held for their own account (Nostro account). This information is based upon a Schedule 13G filed by Migdal with the SEC on January 26, 2017.

As of April 13, 2017, we had approximately 46 registered ADS holders of record in the United States, with our ADS holders holding in total approximately 46% of our outstanding ordinary shares, as reported by JPMorgan Chase Bank, N.A., the depositary for our ADSs.

As of December 31, 2016, Harel Insurance Investments and Financial Services Ltd. ("Harel") held 2,909,357 or 4.9% of our ordinary shares. This information is based upon a Schedule 13G/A filed by Harel with the SEC on January 31, 2017. Of these ordinary shares (i) 2,792,803 shares are held for members of the public through, among others, provident funds and/or mutual funds and/or pension funds and/or insurance policies, which are managed by subsidiaries of Harel, each of which subsidiaries operates under independent management and makes independent voting and investment decisions and (ii) 116,554 shares are beneficially held for their own account.

As of December 31, 2016, IDB Development Corporation Ltd. ("IDB") held 2,288,700 or 3.8% of our ordinary shares. This information is based upon a Schedule 13G/A filed by IDB and Clal Insurance Enterprise Holdings Ltd. with the SEC on February 14, 2017. These shares include 2,340 ordinary shares held directly by Bayside Land Corporation Ltd., an Israeli public corporation and a majority owned subsidiary of Property and Building Corporation Ltd., which is an Israeli public corporation and a majority owned subsidiary of Discount Investment Corporation Ltd., which is an Israeli public corporation and a majority owned subsidiary of IDB. The 2,288,700 ordinary shares exclude 59,266 ordinary shares, all of which are held for members of the public through, among others, portfolio management and/or mutual funds, which are managed by Epsilon Investment House Ltd. and/or Epsilon Mutual Funds Management (1991) Ltd, each an indirect subsidiary of IDB.

To our knowledge, we are not directly or indirectly owned or controlled by another corporation or by any foreign government and there are no arrangements that might result in a change in control of our company.

Related Party Transactions

None.

Item 8. Financial Information.

Consolidated Statements and Other Financial Information

See Item 18, "Financial Statements" in this annual report.

Legal Proceedings

From time to time we or our subsidiaries may be involved in legal proceedings and/or litigation arising in the ordinary course of our business. While the outcome of these matters cannot be predicted with certainty, we do not believe they will have a material effect on our consolidated financial position, results of operations, or cash flows.

We are not involved in any legal proceedings that we believe, individually or in the aggregate, will have a material adverse effect on our business, financial condition or results of operation, except as noted below.

Patent Lawsuit by NICE

On August 27, 2015, we initiated a lawsuit in the United States District Court for the District of Delaware by filing a complaint against ClickFox for infringement of NICE's U.S. Patent No. 8,976,955 ("the '955 patent") entitled "System and method for tracking web interactions with real time analytics". ClickFox moved to dismiss the complaint on October 26, 2015. Subsequently, we filed an amended complaint alleging infringement of additional claims of the 955 patent, and ClickFox filed a renewed motion to dismiss. A motion hearing was held on April 22, 2016, and on September 15, 2016, the court granted ClickFox's motion to dismiss for lack of patent-eligible subject matter. We filed a Notice of Appeal to the Court of Appeals for the Federal Circuit on January 11, 2017. The hearing of the appeal is expected to take place towards the end of 2017 or in early 2018.

Dispute under Sale Agreement

Following the divestiture of one of our business units, the buyer of such business unit made certain demands and allegations, claiming indemnification pursuant to the sale agreement between NICE and such buyer. NICE denied all demands and allegations made by the buyer in accordance with the mechanism set in the sale agreement regarding such matters. The parties have recently reached and executed a settlement agreement, and this dispute is no longer pending.

Disputes and litigations inherited following the acquisition of inContact:

In May 2009, inContact was served in a lawsuit titled California College, Inc., et al., v. UCN, Inc., et al. In the lawsuit, California College alleges that (1) inContact made fraudulent and/or negligent misrepresentations in connection with the sale of its services with those of Insidesales.com, Inc., another defendant in the lawsuit, (2) inContact breached its service contract with California College and an alleged oral contract between the parties by failing to deliver contracted services and product and failing to abide by implied covenants of good faith and fair dealing, and (3) inContact's conduct interfered with prospective economic business relations of California College with respect to enrolling students. California College filed an amended complaint that has been answered by Insidesales.com and inContact. California College originally sought damages in excess of $20.0 million. Insidesales.com and inContact filed cross-claims against one another, which they subsequently agreed to dismiss with prejudice. In October 2011, California College reached a settlement with Insidesales.com, the terms of which have not been disclosed and remain confidential. In June of 2013, California College amended its damages claim to $14.4 million, of which approximately $5.0 million was alleged to be pre-judgment interest. On September 10, 2013, the court issued an order on inContact's Motion for Partial Summary Judgment. The court determined that factual disputes exist as to several of the claims, but dismissed California College's cause of action for intentional interference with prospective economic relations and the claim for prejudgment interest. Dismissing the claim for prejudgment interest effectively reduced the claim for damages to approximately $9.2 million. At this stage we are unable to evaluate the probability of a favorable or unfavorable outcome in this litigation.

On June 10, 2016, a complaint captioned Natalie Gordon v. inContact, Inc., et al., was filed in the Third Judicial District Court of Salt Lake County, State of Utah (the "Court") naming as defendants inContact and its Board of Directors (the "Gordon Action"). The plaintiff filed an amended complaint on July 1, 2016. On July 5, 2016, a complaint captioned David Stern v. inContact, Inc., et al., was filed in the same court naming as defendants inContact and its Board of Directors. On July 8, 2016, a complaint captioned Andre Davis v. inContact. Inc., et al., was filed in the same court naming as defendants inContact, its Board of Directors, Nice and Victory Merger Sub Inc., a wholly owned subsidiary of ours. On July 14, 2016 the Court ordered the three actions consolidated and designated the amended complaint in the Gordon action as the operative complaint. The consolidated action purported to be a class action brought by shareholders alleging that the members of inContact's Board of Directors breached their fiduciary duties by approving the Merger Agreement with NICE pursuant to which inContact was acquired as a wholly owned indirect subsidiary of ours. On August 4, 2016 the parties entered into a Memorandum of Understanding for the settlement of the three actions. The parties have recently completed the negotiation of the settlement agreement, and we expect that this action will be formally dismissed in the near future.

Dividends

Our Board of Directors previously approved a dividend plan under which we paid quarterly cash dividends to holders of our ordinary shares and ADRs subject to declaration by the Board. The annual dividend amount under the dividend plan was $0.64 per share, or $0.16 per share quarterly. The total amount of dividends paid in 2016 was $0.64 per share. Under Israeli law, dividends may be paid only out of profits and other surplus (as defined in the law) as of our most recent financial statements or as accrued over a period of two years, whichever is higher, provided that there is no reasonable concern that the dividend distribution will prevent us from meeting our existing and foreseeable obligations as they come due.

On January 6, 2017, our Board of Directors approved the termination of this dividend plan, and we do not have any plans at this time to make any future dividend payments. Payment of future dividends, if any, will be at the discretion of our Board of Directors and will depend on various factors, such as our statutory profits, financial condition, operating results and current and anticipated cash needs. In the event cash dividends are declared by us, we may decide to pay such dividends in Israeli currency. Under current Israeli regulations, any cash dividend in Israeli currency paid in respect of ordinary shares purchased by non-residents of Israel with non-Israeli currency may be freely repatriated in such non-Israeli currency, at the rate of exchange prevailing at the time of conversion. For more information regarding the taxation implications of the dividend plan, see "Item 10 - Additional Information - Taxation" of this annual report.

Significant Changes

On January 18, 2017, we issued $287.5 million aggregate principal amount of the Notes. The Notes bear interest at a fixed rate of 1.25% per year, payable semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2017. Subject to satisfaction of certain conditions and during certain periods, at the option of the holders the notes are exchangeable for (at our election) (i) cash, (ii) ADSs or (iii) a combination thereof. The exchange rate was initially set at 12.0260 ADSs per $1,000 principal amount of Notes (equivalent to an initial exchange price of approximately $83.15 per ADS), subject to future adjustment.

In connection with the issuing of the Notes, we entered into privately negotiated exchangeable note hedge transactions with some of the initial purchasers (and/or their respective affiliates) (the "option counterparties"). Subject to customary anti-dilution adjustments substantially similar to those applicable to the Notes, the exchangeable note hedge transactions cover the same number of our ADSs that initially underlie the Notes. The hedge transactions are expected generally to reduce potential dilution to our ADSs and/or offset potential cash payments we are required to make in excess of the principal amount, in each case, upon any exchange of the Notes. Concurrently with the entry into the exchangeable note hedge transactions, we entered into warrant transactions with the option counterparties relating to the same number of ADSs, with a strike price of $101.8200 per ADS, subject to customary anti-dilution adjustments.

Our proceeds from the offering of the Notes were $280.4 million, after deducting the underwriters' fees and offering expenses. We used $20.3 million of the net proceeds of the offering to pay the cost of the exchangeable note hedge transactions (such cost is net of the proceeds we received upon sale of the warrant transactions). The remaining net proceeds of the offering were used to repay a portion of the outstanding borrowings under our Credit Facility.

Item 9. The Offer and Listing.

Trading in the ADSs

Our ADSs have been quoted on the NASDAQ Stock Market under the symbol "NICEV" from our initial public offering in January 1996 until April 7, 1999, and thereafter under the symbol "NICE." Prior to that time, there was no public market for our ordinary shares in the United States. Each ADS represents one ordinary share. The following table sets forth, for the periods indicated, the high and low reported market (sale) prices for our ADSs.

	ADSs	
	High	**Low**
Annual		
2012	40.04	29.51
2013	42.12	33.63
2014	51.75	37.08
2015	68.38	47.95
2016	69.79	54.12
Quarterly		
Quarterly 2016		
First Quarter	$ 66.28	$ 54.12
Second Quarter	67.25	59.07
Third Quarter	69.46	62.98
Fourth Quarter	69.79	63.72
Quarterly 2017		
First Quarter	70.84	65.59
Second Quarter (through April 20, 2017)	68.66	66.57
Monthly		
September 2016	$ 68.83	$ 64.01
October 2016	67.67	65.92
November 2016	69.79	64.18
December 2016	68.94	63.72
January 2017	70.49	65.59
February 2017	70.84	67.18
March 2017	69.52	65.72
April 2017 (through April 20, 2017)	68.66	66.57

On April 20, 2017, the last reported price of our ADSs was $68.31 per ADS.

JPMorgan Chase Bank, N.A. is the depositary for our ADSs. Its address is 4 New York Plaza, Floor 12, New York, New York 10004.

Trading in the Ordinary Shares

Our ordinary shares have been listed on the Tel-Aviv Stock Exchange, or TASE, since 1991. Our ordinary shares are not listed on any other stock exchange and have not been publicly traded outside Israel (other than through ADSs as noted above). The table below sets forth the high and low reported market (sale) prices of our ordinary shares (in NIS and dollars) on the TASE. The translation into dollars is based on the daily representative rate of exchange published by the Bank of Israel.

	Ordinary Shares			
	High		Low	
	NIS	$	NIS	$
Annual				
2012	150.00	38.82	117.80	30.29
2013	149.10	42.21	122.10	33.27
2014	203.30	51.94	130.60	36.90
2015	262.6	68.76	189.4	47.95
2016	268.0	69.76	207.2	53.29
Quarterly 2016				
First Quarter	251.9	66.33	207.2	53.29
Second Quarter	255.9	66.33	229.2	58.77
Third Quarter	263.6	69.26	242.3	62.65
Fourth Quarter	268.0	69.76	244.9	64.19
Quarterly 2017				
First Quarter	269.50	71.19	239.30	65.58
Second Quarter (through April 20, 2017)	250.70	69.07	243.50	66.66
Monthly				
September 2016	259.4	68.95	242.3	64.00
October 2016	259.0	67.80	249.4	65.81
November 2016	268.0	69.76	244.9	64.19
December 2016	265.6	68.90	247.5	64.83
January 2017	269.5	71.19	252.6	65.58
February 2017	267.7	71.05	251.2	67.00
March 2017	256.9	69.67	239.3	65.89
April 2017 (through April 20, 2017)	250.7	69.07	243.5	66.66

As of April 20, 2017, the last reported price of our ordinary shares on the TASE was NIS 248.1 (or $67.71) per share.

Item 10. Additional Information.

Memorandum and Articles of Association

Organization and Register

We are a company limited by shares organized in the State of Israel under the Israeli Companies Law. We are registered with the Registrar of Companies of the State of Israel and have the company number 52-0036872.

Objectives and Purposes

Our objectives and purposes include a wide variety of business purposes, including all kinds of research, development, manufacture, distribution, service and maintenance of products in all fields of technology and engineering and to engage in any other kind of business or commercial activity. Our objectives and purposes are set forth in detail in Section 2 of our memorandum of association.

Directors

Our articles of association provide that the number of directors serving on the Board shall be not less than three but shall not exceed thirteen. As discussed above in Item 6, "Directors, Senior Management and Employees – Board Practices – Outside Directors", in December 2016, our shareholders approved amendments to our articles of association, pursuant to which our Board of Directors may elect to opt out of such requirements and we would not be required to have outside directors serve on our Board of Directors. Our directors, other than outside directors, are elected at the annual shareholders meeting to serve until the next annual meeting or until their earlier death, resignation, bankruptcy, incapacity or removal by resolution of the general shareholders meeting. Directors may be re-elected at each annual shareholders meeting. The Board may appoint additional directors (whether to fill a vacancy or create new directorship) to serve until the next annual shareholders meeting, provided, however, that the Board shall have no obligation to fill any vacancy unless the number of directors is less than three. Our officers serve at the discretion of the Board.

The Board of Directors may meet and adjourn its meetings according to the Company's needs but must meet at least once every three months. A meeting of the Board may be called at the request of any two directors. The quorum required for a meeting of the Board consists of a majority of directors who are lawfully entitled to participate in the meeting and vote thereon. The adoption of a resolution by the Board requires approval by a simple majority of the directors present at a meeting in which such resolution is proposed. In lieu of a Board meeting, a resolution may be adopted if all of the directors lawfully entitled to vote thereon consent not to convene a meeting.

Subject to the Israeli Companies law, the Board may appoint a committee of the Board and delegate to such committee all or any of the powers of the Board, as it deems appropriate. Under the Israeli Companies Law the Board of Directors must appoint an internal audit committee, comprised of at least three directors. The function of the internal audit committee is to review irregularities in the management of the Company's business and recommend remedial measures. The committee is also required, under the Israeli Companies Law, to approve certain related party transactions and to assess our internal audit system and the performance of our internal auditor. Notwithstanding the foregoing, the Board may, at any time, amend, restate or cancel the delegation of any of its powers to any of its committees. The Board has appointed an internal audit committee which has three members, an audit committee which has five members, a compensation committee which has five members, a nominations committee which has two members and a mergers and acquisitions committee which has six members. For more information on the Company's committees, please see Item 6, "Directors, Senior Management and Employees—Board Practices" in this annual report.

Fiduciary Duties of Officers

The Israeli Companies Law codifies the fiduciary duties that "office holders," including directors and executive officers, owe to a company. An office holder's fiduciary duties consist of a duty of care and a duty of loyalty. The duty of loyalty includes avoiding any conflict of interest between the office holder's position in the company and his personal affairs, avoiding any competition with the company, avoiding exploiting any business opportunity of the company in order to receive personal advantage for himself or others, and revealing to the company any information or documents relating to the company's affairs which the office holder has received due to his position as an office holder.

Approval of Certain Transactions

The Israeli Companies Law requires that an office holder of a company promptly disclose any personal interest that he or she may have and all related material information known to him or her, in connection with any existing or proposed transaction by the company. In addition, if the transaction is an extraordinary transaction as defined under Israeli law, the office holder must also disclose any personal interest held by the office holder's spouse, siblings, parents, grandpar-ents, descendants, spouse's descendants and the spouses of any of the foregoing. In addition, the office holder must also disclose any interest held by any corporation in which the office holder is a 5% or greater shareholder, director or general manager or in which he or she has the right to appoint at least one director or the general manager. An extraordinary transaction is defined as a transaction not in the ordinary course of business, not on market terms, or that is likely to have a material impact on the company's profitability, assets or liabilities.

In the case of a transaction which is not an extraordinary transaction, after the office holder complies with the above disclosure requirement, only Board approval is required unless the articles of association of the company provide otherwise. The transaction must not be adverse to the company's interest. Furthermore, if the transaction is an extraordinary transaction, then, in addition to any approval stipulated by the articles of association, it also must be approved by the company's internal audit committee and then by the Board of Directors, and, under certain circumstances, by a meeting of the shareholders of the company. An office holder who has a personal interest in a transaction that is considered at a meeting of the Board of Directors or the internal audit committee generally may not be present at the deliberations or vote on this matter, unless the chairman of the Board or chairman of the internal audit committee, as the case may be, determined that the presence of such person is necessary to present the transaction to the meeting. If a majority of the directors have a personal interest in an extraordinary transaction with the company, shareholder approval of the transaction is required.

It is the responsibility of the audit committee to determine whether or not a transaction should be deemed an extraordinary transaction. In addition, as a result of a recent amendment to the Israeli Companies Law, the audit committee must also establish (i) procedures for the consideration of any transaction with a controlling shareholder, even if it is not extraordinary, such as a competitive process with third parties or negotiation by independent directors, and (ii) approval requirements for controlling shareholder transactions that are not negligible.

The Israeli Companies Law applies the same disclosure requirements to a controlling share-holder of a public company, which includes a shareholder that holds 25% or more of the voting rights if no other shareholder owns more than 50% of the voting rights in the company. Extraor-dinary transactions with a controlling shareholder or in which a controlling shareholder has a personal interest, and the terms of management fees of a controlling shareholder or compensation of a controlling shareholder who is an office holder, require the approval of the audit committee, the Board of Directors and the shareholders of the company by simple majority, provided that either such majority vote must include at least a simple majority of the shareholders who have no personal interest in the transaction and are present at the meeting (without taking into account the votes of the abstaining shareholders), or that the total shareholdings of those who have no personal interest in the transaction who vote against the transaction represent no more than two percent of the voting rights in the company. Any such extraordinary transaction whose term is longer than three years requires further shareholder approval every three years, unless (with respect to transactions not involving management fees or employment terms) the internal audit committee approves that a longer term is reasonable under the circumstances.

In addition, under the Israeli Companies Law, a private placement of securities requires approval by the Board of Directors and the shareholders of the company if it will cause a person to become a controlling shareholder or if:

- the securities issued amount to 20% or more of the company's outstanding voting rights before the issuance;
- some or all of the consideration is other than cash or listed securities or the transaction is not on market terms; and
- the transaction will increase the relative holdings of a shareholder that holds five percent or more of the company's outstanding share capital or voting rights or that will cause any person to become, as a result of the issuance, a holder of more than five percent of the company's outstanding share capital or voting rights.

According to the Company's articles of association, certain resolutions, such as resolutions regarding mergers and windings up, require approval of the holders of 75% of the shares represented at the meeting and voting thereon.

Approval of Office Holder Compensation

Under the Israeli Companies Law, we are required to adopt a compensation policy, recommended by the compensation committee, and approved by the Board of Directors and the shareholders, in that order, at least once every three years. Following the recommendation of our compensation committee and approval by our Board of Directors, our shareholders approved such compensation policy at our 2013 annual general meeting of shareholders held on August 27, 2013, and an amended compensation policy at our 2015 annual general meeting of shareholders held on July 9, 2015. At the Company's special general meeting held on December 21, 2016, following the recommendation of our compensation committee and approval by our Board of Directors, our shareholders approved certain amendments to the current compensation policy. The shareholder approval requires a majority of the votes cast by shareholders, excluding any controlling shareholder and those who have a personal interest in the matter (similar to the threshold described above). In general, all office holders' terms of compensation – including fixed remuneration, bonuses, equity compensation, retirement or termination payments, indemnification, liability insurance and the grant of an exemption from liability - must comply with the company's compensation policy. Although NASDAQ rules generally require shareholder approval when an equity based compensation plan is established or materially amended, as a foreign company we follow the aforementioned requirements of the Israeli Companies Law.

In addition, the compensation terms of directors, the chief executive officer, and any employee or service provider who is considered a controlling shareholder generally must be approved separately by the compensation committee, the Board of Directors and the shareholders of the company, in that order. Notwithstanding, a company's compensation committee and board of directors are permitted to approve the compensation terms of a chief executive officer or of a director, without convening a general meeting of shareholders, provided however, that such terms: (1) are not more beneficial than such officer's former terms or than the terms of his predecessor, or are essentially the same in their effect; (2) are in line with the compensation policy; and (3) are brought for shareholder approval at the next general meeting of shareholders.

The compensation terms of other officers require the approval of the compensation committee and the Board of Directors. An amendment of existing compensation terms of an office holder who is not a director, if the compensation committee determines that the amendment is not material, requires the approval of the compensation committee only. Pursuant to a recent amendment to regulations promulgated under the Israeli Companies Law governing the relaxation in transactions with interested parties - an amendment of the existing compensation terms of office holders who are subordinate to the chief executive officer, if the amendment is not material and the changes are in line with the existing compensation policy, requires only the chief executive officer's approval (in accordance to such amendment, on December 21, 2016, our shareholders approved an amendment to the compensation policy, which provided our chief executive officer the authority to approve non-material changes to the compensation terms of office holders subordinated to him, without seeking the approval of the compensation committee).

Duties of Shareholders

Under the Israeli Companies Law, a shareholder has a duty to act in good faith towards the company and other shareholders and to refrain from abusing his or her power in the company including, among other things, voting in a general meeting of shareholders on the following matters:

- any amendment to the articles of association;
- an increase of the company's authorized share capital;
- a merger; or
- approval of interested party transactions which require shareholder approval.

In addition, any controlling shareholder, any shareholder who knows that it possesses power to determine the outcome of a shareholder vote and any shareholder who, pursuant to the provisions of a company's articles of association, has the power to appoint or prevent the appointment of an office holder in the company, is under a duty to act with fairness towards the company. The Israeli Companies Law does not describe the substance of this duty but provides that a breach of his duty is tantamount to a breach of fiduciary duty of an officer of the company.

Exemption, Insurance and Indemnification of Directors and Officers

We provide our directors with indemnification letters whereby we agree to indemnify them to the fullest extent permitted by law. On September 19, 2011, at our 2011 annual general meeting of shareholders, after the approval of the audit committee and the Board, our shareholders approved a modified form of indemnification letter to ensure that our directors are afforded protection to the fullest extent permitted by law.

Exemption of Office Holders

Under the Israeli Companies Law, an Israeli company may not exempt an office holder from liability for breach of his duty of loyalty, but may exempt in advance an office holder from liability to the company, in whole or in part, for a breach of his duty of care (except in connection with distributions), provided the articles of association of the company allow it to do so. Our articles of association do not allow us to do so.

Office Holder Insurance

Our articles of association provide that, subject to the provisions of the Israeli Companies Law, including the receipt of all approvals as required therein or under any applicable law, we may enter into an agreement to insure an office holder for any responsibility or liability that may be imposed on such office holder in connection with an act performed by such office holder in such office holder's capacity as an office holder of us with respect to each of the following:

- a violation of his duty of care to us or to another person,
- a breach of his duty of loyalty to us, provided that the office holder acted in good faith and had reasonable grounds to assume that his act would not prejudice our interests,
- a financial obligation imposed upon him for the benefit of another person,
- a payment which the office holder is obligated to make to an injured party as set forth in Section 52(54)(a)(1)(a) of the Israeli Securities Law, 5728-1968, as amended (the "Securities Law") and Litigation Expenses (as defined below) that the office holder incurred in connection with a proceeding under Chapters H'3, H'4 or I'1 of the Securities Law, and
- any other event, occurrence or circumstance in respect of which we may lawfully insure an office holder.

Indemnification of Office Holders

Our articles of association provide that, subject to the provisions of the Israeli Companies Law, including the receipt of all approvals as required therein or under any applicable law we may indemnify an office holder with respect to any liability or expense for which indemnification may be provided under the Companies Law, including the following liabilities and expenses, provided that such liabilities or expenses were imposed upon or incurred by such office holder in such office holder's capacity as an office holder of us:

- a monetary liability imposed on or incurred by an office holder pursuant to a judgment in favor of another person, including a judgment imposed on such office holder in a settlement or in an arbitration decision that was approved by a court of law;
- reasonable Litigation Expenses, expended by the office holder as a result of an investigation or proceeding instituted against him by a competent authority, provided that such investigation or proceeding concluded without the filing of an indictment against him and either (A) concluded without the imposition of any financial liability in lieu of criminal proceedings or (B) concluded with the imposition of a financial liability in lieu of criminal proceedings but relates to a criminal offense that does not require proof of criminal intent (*mens rea*) or in connection with a financial sanction;
- "conclusion of a proceeding without filing an indictment" in a matter in which a criminal investigation has been instigated and "financial liability in lieu of a criminal proceeding," have the meaning ascribed to them under the Israeli Companies Law. The term "Litigation Expenses" shall include, without limitation, attorneys' fees and all other costs, expenses and obligations paid or incurred by an office holder in connection with investigating, defending, being a witness or participating in (including on appeal), or preparing to defend, be a witness or participate in any claim or proceeding relating to any matter for which indemnification may be provided;

- reasonable Litigation Expenses, which the office holder incurred or with which the office holder was charged by a court of law, in a proceeding brought against the office holder, by the Company, on its behalf or by another person, or in a criminal prosecution in which the office holder was acquitted, or in a criminal prosecution in which the office holder was convicted of an offense that does not require proof of criminal intent (*mens rea*);

- a payment which the office holder is obligated to make to an injured party as set forth in Section 52(54)(a)(1)(a) of the Securities Law, and Litigation Expenses that the office holder incurred in connection with a proceeding under Chapters H'3, H'4 or I'1 of the Securities Law; and

- any other event, occurrence or circumstance in respect of which we may lawfully indemnify an office holder.

The foregoing indemnification may be procured by us (a) retroactively and (b) as a commitment in advance to indemnify an office holder, provided that, in respect of the first bullet above, such commitment shall be limited to (A) such events that in the opinion of the Board of Directors are foreseeable in light of our actual operations at the time the undertaking to indemnify is provided, and (B) to the amounts or criterion that the Board of Directors deems reasonable under the circumstances, and further provided that such events and amounts or criterion are set forth in the undertaking to indemnify, and which shall in no event exceed, in the aggregate, the greater of: (i) 25% of our shareholder's equity at the time of the indemnification, or (ii) 25% of our shareholder's equity at the end of fiscal year of 2010.

We have undertaken to indemnify our directors and officers pursuant to applicable law. We have obtained directors' and officers' liability insurance for the benefit of our directors and officers. The Company currently has a directors and officers liability insurance policy limited to $100 million (the "Policy"), at an annual premium of approximately $386,888. Our internal audit committee, Board of Directors, and shareholders have approved the Company's "Side A" Difference in Conditions extension of the Policy, limited to an additional $25 million, which provides the directors and officers with personal asset protection in situations when other sources of insurance or indemnification fail or are not available (the "Extended Policy"). The Extended Policy portion is at an additional annual premium of approximately $54,112.

Limitations on Exemption, Insurance and Indemnification

The Israeli Companies Law provides that a company may not exempt or indemnify an office holder, or enter into an insurance contract, which would provide coverage for any monetary liability incurred as a result of any of the following:

- a breach by the office holder of his duty of loyalty unless, with respect to insurance coverage or indemnification, the office holder acted in good faith and had a reasonable basis to believe that the act would not prejudice the company;

- a breach by the office holder of his duty of care if the breach was done intentionally or recklessly (other than if solely done in negligence);

- any act or omission done with the intent to derive an illegal personal benefit; or

- a fine, civil fine or ransom levied on an Office Holder, or a financial sanction imposed upon an Office Holder under Israeli Law.

Required Approvals

In addition, under the Israeli Companies Law, any exemption of, indemnification of, or procurement of insurance coverage for, our office holders must be approved by our audit committee and our Board of Directors and, if the beneficiary is a director, by our shareholders. We have obtained such approvals for the procurement of liability insurance covering our officers and directors and for the grant of indemnification letters to our officers and directors.

Rights of Ordinary Shares

Our ordinary shares confer upon our shareholders the right to receive notices of, and to attend, shareholder meetings, the right to one vote per ordinary share at all shareholders' meetings for all purposes, and to share equally, on a per share basis, in such dividends as may be declared by our Board of Directors; and upon liquidation or dissolution, the right to participate in the distribution of any surplus assets of the Company legally available for distribution to shareholders after payment of all debts and other liabilities of the Company. All ordinary shares rank *pari passu* in all respects with each other. Our Board of Directors may, from time to time, make such calls as it may think fit upon a shareholder in respect of any sum unpaid in respect of shares held by such shareholder which is not payable at a fixed time, and each shareholder shall pay the amount of every call so made upon him (and of each installment thereof if the same is payable in installments).

Meetings of Shareholders

An annual general meeting of our shareholders shall be held once in every calendar year at such time and at such place either within or without the State of Israel as may be determined by our Board of Directors.

Our Board of Directors may, whenever it thinks fit, convene a special general meeting at such time and place, within or without the State of Israel, as may be determined by the Board of Directors. Special general meetings may also be convened upon shareholder request in accordance with the Israeli Companies Law and our articles of association.

The quorum required for a meeting of shareholders consists of at least two shareholders present in person or by proxy who hold or represent between them at least 25% of the outstanding voting shares, unless otherwise required by applicable rules. Although NASDAQ generally requires a quorum of 33-1/3%, we have an exception under the NASDAQ rules and follow the generally accepted business practice for companies in Israel, which have a quorum requirement of 25%. A meeting adjourned for lack of a quorum generally is adjourned to the same day in the following week at the same time and place or any time and place as the chairman may designate with the consent of a majority of the voting power represented at the meeting and voting on the matter adjourned. At such reconvened meeting the required quorum consists of any two members present in person or by proxy.

Mergers and Acquisitions

A merger of the Company shall require the approval of the holders of a majority of 75% of the voting power represented at the annual or special general meeting in person or by proxy or by written ballot, as shall be permitted, and voting thereon in accordance with the provisions of the Israeli Companies Law. Upon the request of a creditor of either party of the proposed merger, the court may delay or prevent the merger if it concludes that there exists a reasonable concern that as a result of the merger, the surviving company will be unable to satisfy the obligations of any of the parties to the merger. In addition, a merger may not be completed unless at least (i) 50 days have passed from the time that the requisite proposal for the merger has been filed by each party with the Israeli Registrar of Companies and (ii) 30 days have passed since the merger was approved by the shareholders of each party.

The Israeli Companies Law also provides that an acquisition of shares of a public company must be made by means of a tender offer if, as a result of the acquisition, the purchaser would become a 25% or greater shareholder of the company and there is no existing 25% or greater shareholder in the company. An acquisition of shares of a public company must be made by means of a tender offer if, as a result of the acquisition, the purchaser would become a 45% or greater shareholder of the company and there is no existing 45% or greater shareholder in the company. These requirements do not apply if the acquisition (i) occurs in the context of a private placement by the company that received shareholder approval, (ii) was from a 25% shareholder of the company and resulted in the acquirer becoming a 25% shareholder of the company or (iii) was from a 45% shareholder of the company and resulted in the acquirer becoming a 45% shareholder of the company. The tender offer must be extended to all shareholders, but the offeror is not required to purchase more than 5% of the company's outstanding shares, regardless of how many shares are tendered by shareholders. The tender offer may be consummated only if (i) at least 5% of the company's outstanding shares will be acquired by the offeror and (ii) the number of shares tendered in the offer exceeds the number of shares whose holders objected to the offer.

If as a result of an acquisition of shares the acquirer will hold more than 90% of a company's outstanding shares, the acquisition must be made by means of a tender offer for all of the outstanding shares. If as a result of a full tender offer the acquirer would own more than 95% of the outstanding shares, then all the shares that the acquirer offered to purchase will be transferred to it. The law provides for appraisal rights if any shareholder files a request in court within six months following the consummation of a full tender offer, but the acquirer is entitled to stipulate that tendering shareholders forfeit their appraisal rights. If as a result of a full tender offer the acquirer would own 95% or less of the outstanding shares, then the acquirer may not acquire shares that will cause his shareholding to exceed 90% of the outstanding shares. Shareholders may request an appraisal in connection with a tender offer for a period of six months following the consummation of the tender offer, but the purchaser is entitled to stipulate as a condition of such tender offer that any tendering shareholder renounce its appraisal rights.

Material Contracts

Nexidia Acquisition Agreement

On January 11, 2016, we entered into an Agreement and Plan of Merger to acquire Nexidia, a leading provider of advanced customer analytics. We acquired Nexidia for total consideration of approximately $135.0 million in cash. The acquisition allows us to offer a combined offering, featuring analytics capabilities with accuracy, scalability and performance, enabling organizations to expand their analytics usage in critical business use cases. Organizations will benefit from the combined offering, which features a best-in-class, analytics-based solution.

inContact Acquisition Agreement

On May 17, 2016, we entered into an Agreement and Plan of Merger (the "Merger Agreement") with inContact Inc. and Victory Merger Sub Inc., a wholly owned subsidiary of ours (the "Merger Sub"). On November 14, 2016, pursuant to the terms of the Merger Agreement, Merger Sub merged with and into inContact, with inContact surviving the merger as a wholly owned subsidiary of ours. At the effective time of the merger, each outstanding share of inContact common stock (the "inContact Shares") (other than (i) shares owned by inContact or us, (ii) for which inContact stockholders exercised appraisal rights under Delaware law, or (iii) outstanding restricted stock) was cancelled and converted into the right to receive $14.00, without interest. Also at the effective time of the merger, outstanding vested inContact RSUs and stock options were cancelled in exchange for the right to receive in cash, (a) in the case of RSUs, $14.00 for each inContact share subject to such vested RSU, less any required tax withholding, and (b) in the case of stock options, the excess, if any, of $14.00 over the applicable per share exercise price for each inContact share underlying a vested stock option, less any required tax withholding. Additionally, outstanding unvested inContact RSUs, stock options and restricted stock at the effective time of the merger were cancelled and converted into RSUs with ADSs to be received upon settlement, options to acquire ADSs and restricted ADSs, respectively, in each case with the number of ADSs subject to such award (and in the case of options, the exercise price) adjusted pursuant to an exchange ratio determined based upon the average closing price of ADSs for the ten trading days immediately preceding the closing date for the transaction. Other than the number of ADSs subject to such unvested equity awards (and in the case of options) the adjusted exercise price, the unvested equity awards remain subject to the same terms and conditions that the cancelled equity awards were subject to, including as to vesting and settlement.

Credit Agreement

On November 14, 2016, in connection with the consummation of the inContact acquisition, we and Nice Systems entered into a secured Credit Agreement with the lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent. The Credit Agreement provides for a term loan facility of $475 million and a revolving facility of $75 million. The Credit Agreement is guaranteed by most of our Israeli and U.S. material subsidiaries, including NICE Systems, and secured by substantially all assets of our and the guarantors assets, subject to certain customary exceptions.

Unless terminated earlier, loans outstanding under the term loan facility mature and commitments under the revolving facility expire on November 14, 2021. The term loan amortizes in equal quarterly installments in annual amounts (expressed as percentages of the loans made under the term loan facility on November 14, 2016 (the initial funding date of the term loan facility)) at the repayment rate of 1.25% during the period from March 2017 to December 2019 and 2.50% during the period from March 2020 to September 2021, with the remaining balance due on the final maturity date of the term loan facility.

We have the right to prepay borrowings under the Credit Agreement and to reduce the unutilized portion of the revolving credit facility, in each case, at any time without premium or penalty (except for Eurodollar breakage fees, if any). In January 2017, we used the net proceeds of the Notes offering described below to repay a principal amount of $260 million, which resulted in $5.3 million amortization of debt issuance costs. In addition, the contractual principal payments for the long term loan have changed and we will pay the entire remaining principal of $215 million on the final maturity date of the term loan facility. We are required to prepay borrowings under the term loan facility with all of the net cash proceeds of sales or dispositions of assets or other property, subject to certain reinvestment rights and other exceptions. The interest rates under the Credit Agreement are variable based on LIBOR or an alternate base rate at the time of the borrowing, plus a margin to be determined based on our leverage as measured by a ratio of consolidated total net indebtedness to consolidated EBITDA (the "Consolidated Total Net Leverage Ratio") and ranging from 1.25% to 2.00%, in the case of LIBOR rate loans, or 0.25% to 1.00%, in the case of base rate loans. A commitment fee will accrue on the average daily unused portion of the revolving facility at the rate ranging from 0.25% to 0.50%, depending on the Consolidated Total Net Leverage Ratio, and is initially set at 0.375% per annum.

The Credit Agreement contains customary covenants, which include, among others, limitations or restrictions on the incurrence of indebtedness, the incurrence of liens and entry into sales and leaseback transactions, mergers, transfers, leases, licenses, sublicenses or dispositions of any asset, including any Equity Interest (as defined in the Credit Agreement) owned by us or any of our subsidiaries, transactions with affiliates and certain transactions limiting the ability of subsidiaries to pay dividends, in each case, subject to certain exceptions. The Credit Agreement also includes a requirement, to be tested quarterly, that we maintain a Consolidated Total Net Leverage Ratio, as of the last day of any fiscal quarter ending on or after March 31, 2017 and on or prior to December 31, 2018, that does not exceed 3.00 to 1.00 and as of the last day of any fiscal quarter ending thereafter, does not exceed 2.50 to 1.00. For these ratios, consolidated EBITDA and consolidated interest expense are calculated in a manner defined in the Credit Agreement. The Credit Agreement also includes customary events of defaults.

Notes and Indenture

On January 18, 2017, NICE Systems issued $287.5 million aggregate principal amount of the Notes. The Notes are the general unsecured obligations of NICE Systems, guaranteed by us. The sale of the Notes generated net proceeds of approximately $260.1 million. The Notes were issued pursuant to an indenture (the "Indenture") among us, NICE Systems and U. S. Bank National Association, as trustee (the "trustee").

The Notes bear interest at a fixed rate of 1.25% per year, payable semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2017. The Notes will mature on January 15, 2024, unless earlier prepaid, redeemed or exchanged, and are not redeemable at NICE Systems' option prior to their maturity date, except in the event of certain tax law changes.

Subject to satisfaction of certain conditions and during certain periods, at the option of the holders the Notes are exchangeable for (at our election) (i) cash, (ii) ADSs or (iii) a combination thereof. The exchange rate was initially set at 12.0260 ADSs per $1,000 principal amount of Notes (equivalent to an initial exchange price of approximately $83.15 per ADS). The exchange rate is subject to adjustment in some events. In addition, following certain corporate events that occur prior to the maturity date or NICE Systems' delivery of a notice of tax redemption, in certain circumstances NICE Systems will increase the exchange rate for a holder who elects to exchange its Notes in connection with such a corporate event or tax redemption, as the case may be.

If we or NICE Systems undergo a fundamental change (as defined in the Indenture), holders may require NICE Systems to prepay for cash all or part of their Notes at a prepayment price equal to 100% of the principal amount of the Notes to be prepaid, plus accrued and unpaid interest, if any, to, but excluding, the fundamental change prepayment date.

The Indenture contains customary events of default. In the case of an event of default arising from certain events of bankruptcy, insolvency or reorganization, with respect to us, NICE Systems or any of our subsidiaries that is a significant subsidiary (as defined in the Indenture), all outstanding Notes will become due and payable immediately without further action or notice. If any other event of default, other than for the failure to file reports described below, occurs and is continuing, then the Trustee or the holders of at least 25% in principal amount of the then outstanding Notes may declare the Notes to be due and payable. The Indenture further provides that with respect to an event of default arising from the Company's failure to comply with the obligations to timely file any document or report that it is required to file with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as applicable, we may elect to pay additional interest on the Notes as the sole remedy for such event of default during the period indicated below. Additional interest will accrue on the Notes at a rate equal to (i) 0.25% per annum of the principal amount of the Notes outstanding for each day during the period beginning on, and including, the date on which such event of default first occurred and ending on the earlier of (x) the date on which such event of default is cured or validly waived and (y) the 90th day immediately following, and including, the date on which such event of default first occurred and (ii) if such event of default has not been cured or validly waived prior to the 91st day immediately following, and including, the date on which such event of default first occurred, 0.50% per annum of the principal amount of notes outstanding for each day during the period beginning on, and including, the 91st day immediately following, and including, the date on which such event of default first occurred and ending on the earlier of (x) the date on which the event of default is cured or validly waived and (y) the 180th day immediately following, and including, the date on which such event of default first occurred.

Exchange Controls

Holders of ADSs are able to convert dividends and liquidation distributions into freely repatriable non-Israeli currencies at the rate of exchange prevailing at the time of repatriation, pursuant to regulations issued under the Currency Control Law, 5738–1978, provided that Israeli income tax has been withheld by us with respect to amounts that are being repatriated to the extent applicable or an exemption has been obtained.

Our ADSs may be freely held and traded pursuant to the General Permit and the Currency Control Law. The ownership or voting of ADSs by non-residents of Israel, except with respect to citizens of countries that are in a state of war with Israel, are not restricted in any way by our memorandum of association or articles of association or by the laws of the State of Israel.

Taxation

The following is a discussion of Israeli and United States tax consequences material to our shareholders. The discussion is not intended, and should not be construed, as legal or professional tax advice and does not exhaust all possible tax considerations.

Holders of our ADSs should consult their own tax advisors as to the United States, Israeli or other tax consequences of the purchase, ownership and disposition of our ADSs, including, in particular, the effect of any foreign, state or local taxes.

Israeli Tax Considerations

The following is a summary of the principal tax laws applicable to companies in Israel, with special reference to their effect on us. The following also contains a discussion of the material Israeli tax consequences to purchasers of our ordinary shares or ADSs. This summary does not discuss all the aspects of Israeli tax law that may be relevant to a particular investor in light of his or her personal investment circumstances or to some types of investors subject to special treatment under Israeli law. To the extent that the discussion is based on new tax legislation which has not been subject to judicial or administrative interpretation, we cannot assure you that the views expressed in the discussion will be accepted by the appropriate tax authorities or the courts. The discussion is not intended, and should not be construed, as legal or professional tax advice and is not exhaustive of all possible tax considerations.

General Corporate Tax Structure

Generally, Israeli companies are subject to corporate tax on taxable income at the rate of 26.5% for the 2015 tax year and 25% for the 2016 tax year. Under an amendment enacted in December 2016 to the Israel Income Tax Ordinance of 5721-1961, or the Tax Ordinance, the corporate tax rate will decrease to 24% for 2017 and 23% for 2018 and thereafter. Israeli companies are generally subject to capital gains tax at the corporate tax rate. However, the effective tax rate payable by a company that derives income from a Preferred Enterprise (see below), may be considerably less.

We are permitted to measure our Israeli taxable income in U.S. dollars pursuant to regulations published by the Israeli Minister of Finance, which provide the conditions for doing so. We believe that we meet and will continue to meet, the necessary conditions and as such, we measure our results for tax purposes based on the U.S. dollar/NIS exchange rate on December 31 of the relevant tax year.

Tax Benefits Under the Law for the Encouragement of Capital Investments, 1959, as amended.

We derive and expect to continue to derive significant tax benefits in Israel relating to our "Preferred Enterprise" programs, pursuant to the Law for Encouragement of Capital Investments, 1959, or the Investments Law. To be eligible for these tax benefits, we must continue to meet certain conditions. In the event of a failure to comply with these conditions, the benefits may be canceled and we may be required to refund the amount of the benefits, in whole or in part, including interest and certain inflation adjustments. As of December 31, 2016, we believe that we are in compliance with all the conditions required by the law.

Income from sources other than the "Preferred Enterprises" are taxable at regular corporate tax rates.

Benefits under the Preferred Enterprise regime include:

- A reduced corporate tax rate for industrial enterprises, provided that more than 25% of their annual income was derived from export. In 2015 and 2016, the reduced tax rate was 16% for industrial facilities located in Israel (except development area A).
- The reduced tax rates were not contingent upon making a minimum qualifying investment in productive assets.
- A definition of "preferred income" was introduced into the Investments Law to include certain types of income generated by the Israeli production activity of a Preferred Enterprise.
- A reduced dividend withholding tax rate of 15% for the tax year 2013, and 20% for the tax year 2014 and thereafter applies to dividends paid from preferred income to both Israeli and non-Israeli investors, with an exemption from such withholding tax applying to dividends paid to an Israeli company.

In December 2016, the Israeli Knesset passed a number of changes to the Investments Law regimes. These changes were scheduled to come into effect beginning January 1, 2017, provided that regulations are promulgated by the Finance Ministry to implement the "Nexus Principles" based on OECD guidelines recently published as part of the Base Erosion and Profit Shifting (BEPS) project. The regulations were set to be finalized by March 31, 2017 and have been delayed. Accordingly, these changes have not come into effect yet and it is not clear when the new regulations will be finalized. Applicable benefits under the new regime will include:

- Introduction of a benefit regime for "Preferred Technology Enterprises", granting a 12% tax rate on income deriving from Intellectual Property, subject to a number of conditions being fulfilled, including a minimal amount or ratio of annual R&D expenditure and R&D employees, as well as having at least 25% of annual income derived from exports.
- A 12% capital gains tax rate on the sale of a preferred intangible asset to a foreign affiliated enterprise, provided that the asset was initially purchased from a foreign resident at an amount of NIS 200 Million or more.
- A withholding tax rate of 20% for dividends paid from Preferred Technology Enterprise income (with an exemption from such withholding tax applying to dividends paid to an Israeli company). Such rate may be reduced to 4% on dividends paid to a foreign resident company, subject to certain conditions regarding percentage of foreign ownership of the distributing entity.

Full details regarding our Preferred Enterprises may be found in Note 12(a)(1) of our Consolidated Financial Statements.

Tax Benefits and Grants for Research and Development

Israeli tax law allows, under specified conditions, a tax deduction for expenditures, including capital expenditures, for the year in which they are incurred. These expenses must relate to scientific research and development projects and must be approved by the relevant Israeli government ministry, determined by the field of research, and the research and development must be for the promotion of the company and carried out by or on behalf of the company seeking such deduction. However, the amount of such deductible expenses shall be reduced by the sum of any funds received through government grants for the finance of such scientific research and development projects. Expenditures not so approved are deductible over a three-year period.

Tax Benefits Under the Law for the Encouragement of Industry (Taxes), 1969

Under the Law for the Encouragement of Industry (Taxes), 1969 (the "Industry Encouragement Law"), Industrial Companies (as defined below) are entitled to the following tax benefits, among others:

- deductions over an eight-year period for purchases of know-how and patents;
- deductions over a three-year period of expenses involved with the issuance and listing of shares on a stock market;
- the right to elect, under specified conditions, to file a consolidated tax return with other related Israeli Industrial Companies; and
- accelerated depreciation rates on equipment and buildings.

Eligibility for benefits under the Industry Encouragement Law is not subject to receipt of prior approval from any governmental authority. Under the Industry Encouragement Law, an "industrial company" is defined as a company resident in Israel, at least 90% of the income of which, in any tax year, determined in Israeli currency, exclusive of income from government loans, capital gains, interest and dividends, is derived from an "Industrial Enterprise" owned by it. An "Industrial Enterprise" is defined as an enterprise whose major activity in a given tax year is industrial production activity. We believe that we currently qualify as an industrial company within the definition of the Industry Encouragement Law. No assurance can be given that we will continue to qualify as an industrial company or that the benefits described above will be available in the future.

Capital Gains Tax on Sales of Our Ordinary Shares

Israeli law generally imposes a capital gains tax on the sale of any capital assets by residents of Israel, as defined for Israeli tax purposes, and on the sale of assets located in Israel, including shares in Israeli companies, by both residents and non-residents of Israel, unless a specific exemption is available or unless a tax treaty between Israel and the shareholder's country of residence provides otherwise. The law distinguishes between real gain and inflationary surplus. The inflationary surplus is a portion of the total capital gain equivalent to the increase of the relevant asset's purchase price attributable to an increase in the Israeli consumer price index, or a foreign currency exchange rate, between the date of purchase and the date of sale. The real gain is the excess of the total capital gain over the inflationary surplus.

The following discussion refers to the sale of our ordinary shares. However, the same tax treatment would apply to the sale of our ADSs.

Taxation of Israeli Residents

As of January 1, 2012, the tax rate generally applicable to the capital gains derived from the sale of shares, whether listed on a stock market or not, is 25% for Israeli individuals, unless such shareholder is considered a "significant shareholder" at any time during the 12-month period preceding such sale (*i.e.*, such shareholder holds directly or indirectly, including jointly with others, at least 10% of any means of control in the company) in which case the tax rate will be 30%. Israeli companies are subject to the corporate tax rate on capital gains derived from the sale of listed shares. However, different tax rates may apply to dealers in securities and shareholders who acquired their shares prior to an initial public offering.

As of January 1, 2013, shareholders that are individuals who have taxable income that exceeds NIS 800,000 in a tax year (linked to the CPI each year) (NIS 803,520 in 2016), will be subject to an additional tax, referred to as Income Surtax, at the rate of 2% on their taxable income for such tax year which is in excess of such threshold. For this purpose taxable income will include taxable capital gains from the sale of our shares and taxable income from dividend distributions. Under an amendment enacted in December 2016 to the Tax Ordinance, for the tax year 2017 and thereafter the rate of High Income Tax will increase to 3% and will be applicable to annual income exceeding NIS 640,000 (linked to the CPI each year).

Taxation of Non-Israeli Residents

Non-Israeli residents are generally exempt from Israeli capital gains tax on any gains derived from the sale of shares publicly traded on the TASE provided such gains did not derive from a permanent establishment of such shareholders in Israel. Non-Israeli residents are also exempt from Israeli capital gains tax on any gains derived from the sale of shares of Israeli companies publicly traded on a recognized stock market outside of Israel, provided such shareholders did not acquire their shares prior to the issuer's initial public offering (in which case a partial exemption may be available), that the gains did not derive from a permanent establishment of such shareholders in Israel. However, non-Israeli corporations will not be entitled to such exemption if Israeli residents (i) have a controlling interest of more than 25% in such non-Israeli corporation, or (ii) are the beneficiaries of or are entitled to 25% or more of the revenues or profits of such non-Israeli corporation, whether directly or indirectly.

In addition, the sale, exchange or disposition of our ordinary shares by a shareholder who is a U.S. resident (for purposes of the U.S.-Israel Tax Treaty) and who holds ordinary shares as a capital asset is also exempt from Israeli capital gains tax under the U.S.-Israel Tax Treaty unless either (i) the shareholder holds, directly or indirectly, shares representing 10% or more of our voting power during any part of the 12-month period preceding such sale or (ii) the capital gains arising from such sale are attributable to a permanent establishment of the shareholder located in Israel. If the above conditions are not met, the U.S. resident would be subject to Israeli tax, to the extent applicable; however, under the U.S.-Israel Tax Treaty, the gain would be treated as foreign source income for United States foreign tax credit purposes and such U.S. resident would be permitted to claim a credit for such taxes against the United States federal income tax imposed on such sale, exchange or disposition, subject to the limitations under the United States federal income tax laws applicable to foreign tax credits.

Taxation of Dividends Paid on our Ordinary Shares

The following discussion refers to dividends paid on our ordinary shares. However, the same tax treatment would apply to dividends paid on our ADSs.

Taxation of Israeli Residents

Israeli resident individuals are generally subject to Israeli income tax on the receipt of dividends paid on our ordinary shares, other than bonus shares (share dividends) or stock dividends. As of January 1, 2012, the tax rate applicable to such dividends is 25% or 30% for a shareholder that is considered a significant shareholder at any time during the 12-month period preceding such distribution. Dividends paid out of profits sourced from ordinary income are subject to withholding tax at the rate of 25% or 30%. Dividends paid from income derived from our Approved and Privileged Enterprises are subject to withholding at the rate of 15%. Dividends paid as of January 1, 2014 from income derived from our Preferred Enterprises (as well as future earnings from our Preferred Technology Enterprises, if and as applicable) will be subject to withholding at the rate of 20%. We cannot assure you that we will designate the profits that are being distributed in a way that will reduce shareholders' tax liability.

All dividend distributions to Israeli resident corporations are not subject to a withholding tax.

For information with respect to the applicability of Income Surtax on distribution of dividends, please see "Capital Gains Tax on Sales of Our Ordinary Shares" and "Taxation of Israeli Residents" above in this Item 10.

Taxation of Non-Israeli Residents

Non-residents of Israel, both companies and individuals, are generally subject to Israeli income tax on the receipt of dividends paid on our ordinary shares, at the aforementioned rates applicable to Israeli residents, which tax will be withheld at source, unless a different rate is provided in a treaty between Israel and the shareholder's country of residence.

Under the U.S.-Israel Treaty, the maximum Israeli withholding tax on dividends paid by us is 25%. The U.S.-Israel Tax Treaty further provides for a 12.5% Israeli dividend withholding tax on dividends paid by an Israeli company to a United States corporation owning at least 10% or more of such Israeli company's issued voting power for, in general, the part of the tax year which precedes the date of payment of the dividend and the entire preceding tax year. The lower 12.5% rate applies only to dividends from income not derived from an Approved Enterprise (or Privileged Enterprise or Preferred Enterprise) in the applicable period and does not apply if the company has more than 25% of its gross income derived from certain types of passive income (if the conditions mentioned above are met, dividends from income of an Approved Enterprise (or Privileged Enterprise or Preferred Enterprise) are subject to a 15% withholding tax under the U.S.-Israel Tax Treaty). Residents of the United States generally will have withholding tax in Israel deducted at source. They may be entitled to a credit or deduction for United States federal income tax purposes in the amount of the taxes withheld, subject to detailed rules contained in United States tax legislation.

A non-resident of Israel who has dividend income derived from or accrued in Israel, from which tax was withheld at source, is generally exempt from the duty to file tax returns in Israel in respect of such income, provided such income was not derived from a business conducted in Israel by the taxpayer.

U.S. Federal Income Tax Considerations

The following is a summary of the material U.S. Federal income tax consequences that apply to U.S. holders (defined below) who hold ADSs as capital assets for tax purposes. This summary is based on the U.S. Internal Revenue Code of 1986, as amended (the "Code"), existing final, temporary and proposed regulations thereunder, judicial decisions and published positions of the Internal Revenue Service and the U.S.-Israel income tax treaty in effect as of the date of this annual report, all of which are subject to change at any time (including changes in interpretation), possibly with retroactive effect. It is also based in part on representations by JPMorgan Chase Bank, N.A., the depositary for our ADSs, and assumes that each obligation under the Deposit Agreement between us and JPMorgan Chase Bank, N.A. and any related agreement will be performed in accordance with its terms. This summary does not address all U.S. Federal income tax matters that may be relevant to a particular prospective holder or all tax considerations that may be relevant with respect to an investment in ADSs.

This summary does not address tax considerations applicable to a holder of an ADS that may be subject to special tax rules including, without limitation, the following:

- dealers or traders in securities, currencies or notional principal contracts;
- financial institutions;
- insurance companies;
- real estate investment trusts;
- banks;
- investors subject to the alternative minimum tax;
- tax-exempt organizations;
- regulated investment companies;
- investors that actually or constructively own 10 percent or more of our voting shares;
- investors that will hold the ADSs as part of a hedging or conversion transaction or as a position in a straddle or a part of a synthetic security or other integrated transaction for U.S. Federal income tax purposes;
- investors that are treated as partnerships or other pass through entities for U.S. Federal income tax purposes and persons who hold the ADSs through partnerships or other pass through entities;
- investors whose functional currency is not the U.S. dollar; and
- expatriates or former long-term residents of the United States.

This summary does not address the effect of any U.S. Federal taxation other than U.S. Federal income taxation. In addition, this summary does not include any discussion of state, local or foreign taxation or the indirect effects on the holders of equity interests in a holder of an ADS.

You are urged to consult your own tax advisor regarding the foreign and U.S. Federal, state and local and other tax consequences of an investment in ADSs.

For purposes of this summary, a "U.S. holder" is a beneficial owner of ADSs that is, for U.S. Federal income tax purposes:

- an individual who is a citizen or a resident of the United States;
- a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or any political subdivision thereof;
- an estate whose income is subject to U.S. Federal income tax regardless of its source; or
- a trust if:

    (a) a court within the United States is able to exercise primary supervision over administration of the trust; and

    (b) one or more United States persons have the authority to control all substantial decisions of the trust.

If an entity that is classified as a partnership for U.S. federal tax purposes holds ADSs, the U.S. federal income tax treatment of its partners will generally depend upon the status of the partners and the activities of the partnership. Entities that are classified as partnerships for U.S. federal tax purposes and persons holding ADSs through such entities should consult their own tax advisors.

In general, if you hold ADSs, you will be treated as the holder of the underlying shares represented by those ADSs for U.S. Federal income tax purposes. Accordingly, no gain or loss will be recognized if you exchange ADSs for the underlying shares represented by those ADSs.

U.S. Taxation of ADSs

Distributions

Subject to the discussion under "Passive Foreign Investment Companies" below, the gross amount of any distribution, including the amount of any Israeli taxes withheld from these distributions (see "Israeli Tax Considerations"), actually or constructively received by a U.S. holder with respect to ADSs will be taxable to the U.S. holder as a dividend to the extent of our current and accumulated earnings and profits as determined under U.S. Federal income tax principles. Distributions in excess of earnings and profits will be non-taxable to the U.S. holder to the extent of, and will be applied against and reduce, the U.S. holder's adjusted tax basis in the ADSs. Distributions in excess of earnings and profits and such adjusted tax basis will generally be taxable to the U.S. holder as capital gain from the sale or exchange of property. We do not maintain calculations of our earnings and profits under U.S. Federal income tax principles. If we do not report to a U.S. holder the portion of a distribution that exceeds earnings and profits, the distribution will generally be taxable as a dividend even if that distribution would otherwise be treated as a non-taxable return of capital or as capital gain under the rules described above. The amount of any distribution of property other than cash will be the fair market value of that property on the date of distribution. The U.S. holder will not, except as provided by Section 245 of the Code, be eligible for any dividends received deduction in respect of the dividend otherwise allowable to corporations.

Under the Code, certain dividends received by non-corporate U.S. holders will be subject to a maximum income tax rate of 20%. This reduced income tax rate is only applicable to dividends paid by a "qualified foreign corporation" that is not a "passive foreign investment company" and only with respect to shares held by a qualified U.S. holder (i.e., a non-corporate holder) for a minimum holding period (generally 61 days during the 121-day period beginning 60 days before the ex-dividend date). We should be considered a qualified foreign corporation because (i) we are eligible for the benefits of a comprehensive tax treaty between Israel and the U.S., which includes an exchange of information program, and (ii) the ADSs are readily tradable on an established securities market in the U.S. In addition, based on our current business plans, we do not expect to be classified as a "passive foreign investment company" (see "Passive Foreign Investment Companies" below). Accordingly, dividends paid by us to individual U.S. holders on shares held for the minimum holding period should be eligible for the reduced income tax rate. In addition to the income tax on dividends discussed above, certain non-corporate U.S. holders will also be subject to the 3.8% Medicare tax on dividends as discussed below under "Medicare Tax on Unearned Income".

The amount of any distribution paid in a currency other than U.S. dollars (a "foreign currency") including the amount of any withholding tax thereon, will be included in the gross income of a U.S. holder in an amount equal to the U.S. dollar value of the foreign currencies calculated by reference to the exchange rate in effect on the date of receipt, regardless of whether the foreign currencies are converted into U.S. dollars. If the foreign currencies are converted into U.S. dollars on the date of receipt, a U.S. holder generally should not be required to recognize foreign currency gain or loss in respect of the dividend. If the foreign currencies received in the distribution are not converted into U.S. dollars on the date of receipt, a U.S. holder will have a basis in the foreign currencies equal to its U.S. dollar value on the date of receipt. Any gain or loss on a subsequent conversion or other disposition of the foreign currencies will be treated as ordinary income or loss.

Dividends received by a U.S. holder with respect to ADSs generally will be treated as foreign source income for the purposes of calculating that holder's foreign tax credit limitation. Subject to certain conditions and limitations, any Israeli taxes withheld on dividends at the rate provided by the U.S.-Israel income tax treaty may be deducted from taxable income or credited against a U.S. holder's U.S. Federal income tax liability. The limitation on foreign taxes eligible for the U.S. foreign tax credit is calculated separately with respect to "passive" income and "general" income. The rules relating to foreign tax credits and the timing thereof are complex. U.S. holders should consult their own tax advisors regarding the availability of a foreign tax credit under their particular situation.

Sale or Other Disposition of ADSs

If a U.S. holder sells or otherwise disposes of its ADSs, gain or loss will be recognized for U.S. Federal income tax purposes in an amount equal to the difference between the amount realized on the sale or other disposition and such holder's adjusted tax basis in the ADSs. Subject to the discussion below under the heading "Passive Foreign Investment Companies," such gain or loss generally will be capital gain or loss and will be long-term capital gain or loss if the holder had held the ADSs for more than one year at the time of the sale or other disposition. Long-term capital gains realized by individual U.S. holders generally are subject to a lower marginal U.S. Federal income tax rate (currently up to 20%) than the marginal tax rate on ordinary income. In addition to the income tax on gains discussed above, certain non-corporate U.S. holders will also be subject to the 3.8% Medicare tax on net gains as discussed below under "Medicare Tax on Unearned Income." Under most circumstances, any gain that a holder recognizes on the sale or other disposition of ADSs will be U.S. source for purposes of the foreign tax credit limitation and any recognized losses will be allocated against U.S. source income.

If a U.S. holder receives foreign currency upon a sale or exchange of ADSs, gain or loss, if any, recognized on the subsequent sale, conversion or disposition of such foreign currency will be ordinary income or loss, and will generally be income or loss from sources within the United States for foreign tax credit limitation purposes. However, if such foreign currency is converted into U.S. dollars on the date received by the U.S. holder, the U.S. holder generally should not be required to recognize any gain or loss on such conversion.

A U.S. Holder who holds shares through an Israeli stockbroker or other Israeli intermediary may be subject to Israeli withholding tax on any capital gains recognized if the U.S. Holder does not obtain approval of an exemption from the Israeli Tax Authorities or claim any allowable refunds or reductions. U.S. Holders are advised that any Israeli tax paid under circumstances in which an exemption from (or a refund of or a reduction in) such tax was available will not give rise to a deduction or credit for foreign taxes paid for U.S. federal income tax purposes. If applicable, U.S. Holders are advised to consult their Israeli stockbroker or intermediary regarding the procedures for obtaining an exemption or reduction.

Medicare Tax on Unearned Income

Certain U.S. holders that are individuals, estates or trusts are required to pay an additional 3.8% tax on all or a portion of their "net investment income," which includes dividends and net gains from the sale or other dispositions of ADSs (other than ADSs held in a trade or business).

Passive Foreign Investment Companies

For U.S. Federal income tax purposes, we will be considered a passive foreign investment company ("PFIC") for any taxable year in which either 75% or more of our gross income is passive income, or at least 50% of the average value of all of our assets for the taxable year produce or are held for the production of passive income. For this purpose, passive income includes dividends, interest, royalties, rents, annuities and the excess of gain over losses from the disposition of assets which produce passive income. If we were determined to be a PFIC for U.S. Federal income tax purposes, highly complex rules would apply to U.S. holders owning ADSs.

Based on our estimated gross income, the average value of our gross assets and the nature of our business, we do not believe that we will be classified as a PFIC in the current taxable year. Our status in any taxable year will depend on our assets and activities in each year and because this is a factual determination made annually at the end of each taxable year, there can be no assurance that we will not be considered a PFIC for any future taxable year. If we were treated as a PFIC in any year during which a U.S. holder owns ADSs, certain adverse tax consequences could apply. Given our current business plans, however, we do not expect that we will be classified as a PFIC in future years.

You are urged to consult your own tax advisor regarding the possibility of us being classified as a PFIC and the potential tax consequences arising from the ownership and disposition (directly or indirectly) of an interest in a PFIC.

Backup Withholding and Information Reporting

Payments of dividends with respect to ADSs and the proceeds from the sale, retirement, or other disposition of ADSs made by a U.S. paying agent or other U.S. intermediary will be reported to the IRS and to the U.S. holder as may be required under applicable U.S. Treasury regulations. We, or an agent, a broker, or any paying agent, as the case may be, may be required to withhold tax (backup withholding), currently at the rate of 28%, if a non-corporate U.S. holder that is not otherwise exempt fails to provide an accurate taxpayer identification number and comply with other IRS requirements concerning information reporting. Certain U.S. holders (including, among others, corporations and tax-exempt organizations) are not subject to backup withholding. Any amount of backup withholding withheld may be used as a credit against your U.S. Federal income tax liability provided that the required information is timely furnished to the IRS. U.S. holders should consult their tax advisors as to their qualification for exemption from backup withholding and the procedure for obtaining an exemption.

Foreign Asset Reporting

Certain U.S. Holders who are individuals are required to report information relating to an interest in our ADSs on IRS Form 8938, subject to certain exceptions (including an exception for shares held in accounts maintained by financial institutions). U.S. Holders are encouraged to consult their tax advisors regarding their information reporting obligations, if any, with respect to their ownership and disposition of our ADSs.

Documents on Display

We are subject to certain of the information reporting requirements of the Securities and Exchange Act of 1934, as amended. As a "foreign private issuer" we are exempt from the rules and regulations under the Securities Exchange Act prescribing the furnishing and content of proxy statements, and our officers, directors and principal shareholders are exempt from the reporting and "short-swing" profit recovery provisions contained in Section 16 of the Securities Exchange Act, with respect to their purchase and sale of our shares. In addition, we are not required to file reports and financial statements with the SEC as frequently or as promptly as U.S. companies whose securities are registered under the Securities Exchange Act. NASDAQ rules generally require that companies send an annual report to shareholders prior to the annual general meeting, however we rely upon an exception under the NASDAQ rules and follow the generally accepted business practice for companies in Israel. Specifically, we file annual reports on Form 20-F, which contain financial statements audited by an independent accounting firm, electronically with the SEC and post a copy on our website. We also furnish to the SEC quarterly reports on Form 6-K containing unaudited financial information after the end of each of the first three quarters.

You may read and copy any document we file with the SEC at its public reference facilities at, 100 F Street, N.E., Washington, D.C. 20549 and at the SEC's regional offices at 500 West Madison Street, Suite 1400, Chicago, IL 60661-2511. You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Section of the SEC at 100 F Street, N.E., Washington, D.C. 20549. The SEC also maintains a web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address of this web site is http://www.sec.gov. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities. In addition, our ADSs are quoted on the NASDAQ Global Select Market, so our reports and other information can be inspected at the offices of the National Association of Securities Dealers, Inc. at 1735 K Street, N.W., Washington, D.C. 20006.

Item 11. Quantitative and Qualitative Disclosures About Market Risk.

General

Market risks relating to our operations result primarily from weak economic conditions in the markets in which we sell our products and changes in interest rates and exchange rates. To manage the volatility related to the latter exposure, we may enter into various derivative transactions. Our objective is to reduce, where it is deemed appropriate to do so, fluctuations in earnings and cash flows associated with changes in currency exchange rates. It is our policy and practice to use derivative financial instruments only to manage exposures. We do not use financial instruments for trading purposes and are not a party to any leveraged derivative.

Foreign Currency Risk

We conduct our business primarily in U.S. dollars but also in the currencies of the United Kingdom, the European Union, India and Israel as well as other currencies. Thus, we are exposed to foreign exchange movements, primarily in GBP, EUR, INR and NIS. We monitor foreign currency exposure and, from time to time, may use various instruments to preserve the value of sales transactions and commitments; however, this cannot assure our protection against risks of currency fluctuations. For more information regarding foreign currency related risks, please refer to Item 3, "Key Information—General Risks Relating to Our Business" of this annual report. We use currency forward contracts and option contracts in order to protect against the increase in value of forecasted non-dollar currency cash flows and to hedge future anticipated payments.

As of December 31, 2016, we had outstanding currency option and forward contracts to hedge payroll and facilities expenses, denominated in NIS and INR, in the total amount of approximately $110 million. The fair value of those contracts was approximately $0.1 million. These transactions were for a period of up to one year.

The following table details the balance sheet exposure (i.e., the difference between assets and liabilities) in our main foreign currencies, as of December 31, 2016, against the relevant functional currency.

	Functional currencies							
	(In U.S. dollars in millions)							
Foreign currencies	USD	GBP	EUR	CAD	MXN	AUD	BRL	Other currencies
USD	-	20.1	(0.3)	2.8	1.7	1.4	(1.8)	-
GBP	26.6	-	(0.0)	-	-	-	-	-
EUR	4.5	18.6	-	-	-	-	-	-
CAD	4.1	0.2	-	-	-	-	-	-
AUD	1.9	0.1	-	-	-	-	-	-
MXN	2.1	0.0	-	-	-	-	-	-
CHF	0.0	0.3	-	-	-	-	-	-
JPY	(0.2)	(0.0)	-	-	-	-	-	-
INR	(1.4)	-	-	-	-	-	-	-
SGD	(4.8)	0.2	-	-	-	(0.0)	-	-
HKD	(3.3)	-	-	-	-	-	-	-
ILS	(2.8)	(0.0)	-	-	-	-	-	-
Other currencies	(0.1)	0.1	-	-	-	0.0	-	(2.0)

The table below presents the fair value of firmly committed transactions for lease obligations denominated in currencies other than the functional currency:

	New Israeli Shekel	Other currencies	Total
	(In U.S. dollars in millions)		
Less than 1 year	7.07	0.04	7.11
1-3 years	13.52	-	13.52
3-5 years	13.52	-	13.52
Over 5 years	6.76	-	6.76
Total	40.87	0.04	40.91

Interest Rate Risk

In November 2016 we completed the acquisition of inContact, and utilized $475 million in debt financing with a variable interest rate toward payment of the consideration in the transaction.

As of December 31, 2016, the outstanding principal amount of the term debt was $475 million.

Our investments are exposed to market risk due to fluctuations in interest rates, which may affect our interest income, interest expense and the fair market value of our marketable securities portfolio.

Our marketable securities portfolio consists of investment-grade corporate debentures, U.S. Government agencies and U.S. treasuries. As of December 31, 2016, 98% of our portfolio was in such securities.

We invest in dollar deposits with U.S. banks, European banks, Israeli banks and money market funds. As of December 31, 2016, 2% of our portfolio was in such deposits. Since these investments are for short periods, interest income is sensitive to changes in interest rates.

The average duration of the securities portfolio, as of December 31, 2016, is 1.85 years. The securities in our marketable securities portfolio are rated generally as A- according to Standard and Poor's rating or A3, according to Moody's rating. Securities representing 5% of the marketable securities portfolio are rated as AAA; securities representing 35% of the marketable securities portfolio are rated as AA; securities representing 58% of the marketable securities portfolio are rated as A; and securities representing 2% of the marketable securities portfolio are rated below A- after being downgraded during the last two years.

The table below presents the fair value of marketable securities which are subject to risk of changes in interest rate, segregated by maturity dates:

	Amortized Cost					Estimated fair value				
	Up to 1 year	1-3 years	4-5 years	6-10 years	Total	Up to 1 year	1-3 years	4-5 years	6-10 years	Total
Corporate debentures	30.3	83.0	9.0	-	122.3	30.3	83	8.9	-	122.2
U.S. treasuries	-	-	-	7.0	7.0	-	-	-	6.8	6.8
U.S. government agencies	-	-	-	-	-	-	-	-	-	-
Total	30.3	83.0	9.0	7.0	129.3	30.3	83	8.9	6.8	129.0

Other risks and uncertainties that could affect actual results and outcomes are described in Item 3, "Key Information—Risk Factors" in this annual report.

Item 12. Description of Securities Other than Equity Securities.

American Depositary Shares and Receipts

Set forth below is a summary of certain provisions in relation to charges and other payments under the Deposit Agreement, as amended, among NICE, JPMorgan Chase Bank, N.A. as depositary (the "Depositary"), and the owners and holders from time to time of ADRs issued thereunder (the "Deposit Agreement"). This summary is not complete and is qualified in its entirety by the Deposit Agreement, a form of which has been filed as Exhibit 1 to the Registration Statement on Form F-6 (Registration No. 333-203623) filed with the SEC on April 24, 2015.

Charges of the Depositary

The depositary may charge each person to whom ADSs are issued, including, without limitation, issuances against deposits of shares, issuances in respect of share distributions, rights and other distributions, issuances pursuant to a stock dividend or stock split declared by us or issuances pursuant to a merger, exchange of securities or any other transaction or event affecting the ADSs or deposited securities, and each person surrendering ADSs for withdrawal of deposited securities or whose ADRs are cancelled or reduced for any other reason, $0.05 for each ADS issued, delivered, reduced, cancelled or surrendered, as the case may be. The depositary may sell (by public or private sale) sufficient securities and property received in respect of a share distribution, rights or other distribution prior to such deposit to pay such charge.

The following additional charges shall be incurred by the ADR holders, by any party depositing or withdrawing shares or by any party surrendering ADSs or to whom ADSs are issued (including, without limitation, issuance pursuant to a stock dividend or stock split declared by us or an exchange of stock regarding the ADSs or the deposited securities or a distribution of ADSs), whichever is applicable:

- a fee of $1.50 per ADR for transfers of certificated or direct registration ADRs;
- a fee of up to $0.05 per ADS for any cash distribution made pursuant to the deposit agreement;
- a fee of up to $0.05 per ADS per calendar year (or portion thereof) for services performed by the depositary in administering the ADRs (which fee may be charged on a periodic basis during each calendar year and shall be assessed against holders of ADRs as of the record date or record dates set by the depositary during each calendar year and shall be payable in the manner described in the next succeeding provision);
- a fee for the reimbursement of such fees, charges and expenses as are incurred by the depositary or any of its agents (including, without limitation, the custodian and expenses incurred on behalf of holders in connection with compliance with foreign exchange control regulations or any law or regulation relating to foreign investment) in connection with the servicing of the shares or other deposited securities, the sale of securities (including, without limitation, deposited securities), the delivery of deposited securities or otherwise in connection with the depositary's or its custodian's compliance with applicable law, rule or regulation (which fees and charges shall be assessed on a proportionate basis against holders as of the record date or dates set by the depositary and shall be payable at the sole discretion of the depositary by billing such holders or by deducting such charge from one or more cash dividends or other cash distributions);
- stock transfer or other taxes and other governmental charges;
- cable, telex and facsimile transmission and delivery charges incurred at the request of an ADR holder in connection with the deposit or delivery of shares;
- transfer or registration fees for the registration of transfer of deposited securities on any applicable register in connection with the deposit or withdrawal of deposited securities;
- in connection with the conversion of foreign currency into U.S. dollars, the fees, expenses and other charges charged by JPMorgan Chase Bank, N.A. or its agent (which may be a division, branch or affiliate) so appointed in connection with such conversion; and
- fees of any division, branch or affiliate of the depositary utilized by the depositary to direct, manage or execute any public or private sale of securities under the deposit agreement.

The depositary may generally refuse to provide services until it is reimbursed applicable amounts, including stock transfer or other taxes and other governmental charges, and is paid its fees for applicable services.

The fees and charges an ADR holder may be required to pay may vary over time and may be changed by us and by the depositary. Our ADR holders will receive prior notice of the increase in any such fees and charges.

We will pay all other charges and expenses of the depositary and any agent of the depositary (except the custodian) pursuant to agreements from time to time between us and the depositary. The charges described above may be amended from time to time by agreement between us and the depositary.

Fees paid by the Depositary

Our depositary has agreed to reimburse us for certain expenses we incur that are related to establishment and maintenance of the ADR program upon such terms and conditions as we and the depositary may agree from time to time. The depositary may make available to us a set amount or a portion of the depositary fees charged in respect of the ADR program or otherwise upon such terms and conditions as we and the depositary may agree from time to time.

From January 1, 2016 to December 31, 2016, NICE received from the depositary $411,154 as reimbursement for its expenses incurred in relation to the maintenance and administration of the ADR program.

PART II

Item 13. Defaults, Dividend Arrearages and Delinquencies.

None.

Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds.

None.

Item 15. Controls and Procedures.

Disclosure Controls and Procedures

An evaluation was performed under the supervision and with the participation of NICE's management, including its Chief Executive Officer and Chief Financial Officer, of the effectiveness of NICE's disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that NICE's disclosure controls and procedures were effective as of such date.

Management's Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting, as such term is defined in Rule 15d-15(f) under the Securities Exchange Act. Our internal control over our financial reporting system was designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements and even when determined to be effective can only provide reasonable assurance with respect to financial statements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2016. Our management based its assessment on criteria established in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on this assessment, our management has concluded that, as of December 31, 2016, our internal control over financial reporting is effective. Our assessment of and conclusion on the effectiveness of internal control over financial reporting did not include the internal controls of inContact, which we acquired in November 2016, and which is included in our 2016 consolidated financial statements. InContact Inc. constituted approximately 4.2% of our consolidated total assets as of December 31, 2016, and 1.2% attributed to the period from the date of acquisition, of our consolidated net income (excluding amortization of related acquired intangible assets) for the year then ended.

Attestation Report of the Independent Registered Public Accounting Firm

Our independent registered public accounting firm, Kost, Forer, Gabbay & Kasierer, a member of Ernst & Young Global independently assessed the effectiveness of our internal control over financial reporting and has issued an attestation report, which is included under Item 18 on page F-3 of this annual report.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the period covered by this annual report that have materially affected, or that are reasonably likely to materially affect, our internal control over financial reporting.

Item 16A. Audit Committee Financial Expert.

Our Board of Directors has determined that each of Dan Falk and Yocheved Dvir meets the definition of an audit committee financial expert, as defined in Item 407 of Regulation S-K, and is independent under the applicable regulations.

Item 16B. Code of Ethics.

We have adopted a Code of Ethics that applies to our principal executive and financial officers, and that also applies to all of our employees. The Code of Ethics is publicly available on our website at www.nice.com. Written copies are available upon request. If we make any substantive amendments to the Code of Ethics or grant any waiver from a provision of this code to our chief executive officer, principal financial officer or corporate controller, we will either disclose the nature of such amendment or waiver on our website or in our annual report on Form 20-F.

Item 16C. Principal Accountant Fees and Services.

Fees Paid to Independent Auditors

Fees billed or expected to be billed by Kost, Forer, Gabbay & Kasierer, a member of Ernst & Young Global, and other members of Ernst & Young Global for professional services for each of the last two fiscal years were as follows:

Services Rendered	2015 Fees	2016 Fees
Audit (1)	$ 676,865	$ 799,489
Audit-related (2)	$ 76,787	$ 560,123
Tax (3)	$ 146,645	$ 190,761
Total	**$ 900,297**	**$ 1,550,373**

(1) Audit fees are for audit services for each of the years shown in this table, including fees associated with the annual audit for 2016 (including audit in accordance with section 404 of the Sarbanes-Oxley Act) and certain procedures regarding our quarterly financial results submitted on Form 6-K, consultations concerning financial accounting and various accounting issues and performance of local statutory audits.

(2) Audit-related fees relate to assurance and associated services that traditionally are performed by the independent auditor, including: due diligence investigations and audit services provided in connection with other statutory or regulatory filings, especially related to acquisitions.

(3) Tax fees are for professional services rendered by our auditors for tax compliance, tax advice on actual or contemplated transactions, tax consulting associated with international transfer prices and global mobility of employees.

Policies and Procedures

Our audit committee has adopted a policy and procedures for the pre-approval of audit and non-audit services rendered by our external auditors, Kost, Forer, Gabbay & Kasierer, a member of Ernst & Young Global. The policy, which is designed to ensure that such services do not impair the independence of our auditors, requires pre-approval from the audit committee on an annual basis for the various audit and non-audit services that may be performed by our auditors. If a type of service, that is to be provided by our auditors, has not received such general pre-approval, it will require specific pre-approval by our audit committee. Any proposed services exceeding pre-approved cost levels or budgeted amounts will also require specific pre-approval by our audit committee. The policy prohibits retention of the independent auditors to perform the prohibited non-audit functions defined in Section 201 of the Sarbanes-Oxley Act of 2002 or the rules of the SEC, and also considers whether proposed services are compatible with the independence of the public auditors.

Item 16D. Exemptions from the Listing Standards for Audit Committees.

Not applicable.

Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers.

During 2016, we repurchased our ordinary shares as described in the table below.

Period	(a) Total number of shares purchased	(b) Average price paid per share	(c) Total number of shares purchased as part of publicly announced plans or programs	(d) Maximum number (or approximately dollar value) of shares that may yet be purchased under the plans or programs
	(In U.S. dollars, except share amounts)			
January 1 – January 31	175,541	56.95	175,541	45,206,380
February 1 - February 28	68,023	60.17	68,023	41,113,126
March 1 - March 31	156,128	62.42	156,128	31,367,278
April 1 - April 30	129,646	63.61	129,646	23,120,291
May 1 - May 31	-	-	-	23,120,291
June 1 - June 30	-	-	-	23,120,291
July 1 - July 31	-	-	-	23,120,291
August 1 - August 31	-	-	-	23,120,291
September 1 - September 30	54,851	66.22	54,851	19,488,236
October 1 - October 31	62,964	66.78	62,964	15,283,796
November 1 - November 30	20,269	66.04	20,269	13,945,268
December 1 - December 31	35,868	65.76	35,868	11,586,653
Total	703,290	62.02	703,290	

On each of February 5, 2014 and May 7, 2015, we announced that our Board of Directors authorized a program to repurchase up to $100 million of our issued and outstanding ordinary shares and ADRs. On January 15, 2017, the Company's Board of Directors authorized a program to repurchase up to $150 million of the Company's issued and outstanding ordinary shares and ADRs. Repurchases may be made from time to time in the open market or in privately negotiated transactions and will be in accordance with applicable securities laws and regulations. The timing and amount of the repurchase transactions will be determined by management and may depend on a variety of factors, including market conditions, alternative investment opportunities and other considerations.

These programs do not obligate us to acquire any particular amount of ordinary shares and ADRs and each program may be modified or discontinued at any time without prior notice.

Item 16F. Change in Registrant's Certifying Accountant.

None.

Item 16G. Corporate Governance.

We follow the Israeli Companies Law, the relevant provisions of which are summarized in this annual report, rather than comply with the NASDAQ requirements relating to: (i) the quorum for shareholder meetings (see Item 10, "Additional Information – Memorandum and Articles of Association – Meetings of Shareholders" in this annual report); (ii) shareholder approval with respect to issuance of securities under equity based compensation plans (see Item 10, "Additional Information – Memorandum and Articles of Association – Approval of Certain Transactions" and "Approval of Office Holder Compensation" in this annual report); and (iii) sending annual reports to shareholders (see Item 10, "Additional Information – Documents on Display" in this annual report).

Item 16H. Mine Safety Disclosure.

Not Applicable.

PART III

Item 17. Financial Statements.

Not Applicable.

Item 18. Financial Statements.

See pages F-1 through F-57 of this annual report attached hereto.

Item 19. Exhibits.

Exhibit No.	Description
1.1	Amended and Restated Memorandum of Association, as approved on December 21, 2006 (English translation) (filed as Exhibit 1.1 to NICE Ltd.'s Annual Report on Form 20-F filed with the SEC on June 13, 2007, and incorporated herein by reference).
1.2	Amended and Restated Articles of Association, as amended on December 21, 2016.
2.1	Form of Share Certificate (filed as Exhibit 4.1 to Amendment No. 1 to NICE Ltd.'s Registration Statement on Form F-1 (Registration No. 333-99640) filed with the SEC on December 29, 1995, and incorporated herein by reference).
2.2	Form of Deposit Agreement including Form of ADR Certificate (filed as Exhibit 1 to NICE Ltd.'s Registration Statement on Form F-6 (Registration No. 333-203623) filed with the SEC on April 24, 2015, and incorporated herein by reference).
4.1	NICE Ltd. 2003 Stock Option Plan, as amended (filed as Exhibit 4.4 to NICE Ltd.'s Annual Report on Form 20-F (File No. 000-27466) filed with the SEC on April 6, 2009, and incorporated herein by reference).
4.2	Actimize Ltd. 2003 Omnibus Stock Option and Restricted Stock Incentive Plan (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-145981) filed with the SEC on September 11, 2007, and incorporated herein by reference).
4.3	NICE Ltd. 2016 Share Incentive Plan (previously filed as Exhibit 4.3 to, and incorporated by reference from, NICE's Annual Report on Form 20-F filed with the SEC on March 23, 2016).
4.4	NICE Ltd. 2008 Share Incentive Plan, as amended (filed as Exhibit 99.1 to NICE's Immediate Report on Form 6-K filed with the SEC on May 28, 2015, and incorporated herein by reference).
4.5	e-Glue Software Technologies, Inc. 2004 Stock Option Plan, as amended (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-168100) filed with the SEC on July 14, 2010, and incorporated herein by reference).
4.6	Fizzback Group (Holdings) Limited Employee Share Option Scheme (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-177510) filed with the SEC on October 26, 2011, and incorporated herein by reference).
4.7	Merced Systems, Inc. 2001 Stock Plan (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-179408) filed with the SEC on February 7, 2012, and incorporated herein by reference).
4.8	Merced Systems, Inc. 2011 Stock Plan (filed as Exhibit 4.5 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-179408) filed with the SEC on February 7, 2012, and incorporated herein by reference).
4.9	The Causata Inc. Executive Share Option Scheme (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-191176) filed with the SEC on September 16, 2013, and incorporated herein by reference).
4.10	Causata Inc. 2010 Stock Plan (filed as Exhibit 4.5 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-191176) filed with the SEC on September 16, 2013, and incorporated herein by reference).
4.11	NICE Ltd.'s Executives & Directors Compensation Policy (filed as Annex A in Exhibit 99.1 of NICE's Immediate Report on Form 6-K filed with the SEC on June 1, 2015 and incorporated herein by reference).

4.12	InContact, Inc. 2008 Equity Incentive Plan (filed as Exhibit 4.4 to NICE Ltd.'s Registration Statement on Form S-8 (Registration No. 333-191176) filed with the SEC on November 15, 2016, and incorporated herein by reference).
4.13	Nexidia Inc. 2005 Stock Incentive Plan (filed as Exhibit 4.4 to NICE-Systems Ltd.'s Registration Statement on Form S-8 (Registration No. 333-191176) filed with the SEC on March 23, 2016, and incorporated herein by reference).
4.14	Nexidia Agreement and Plan of Merger, dated January 10, 2016.
4.15	Credit Agreement, dated November 14, 2016.
4.16	Indenture, dated January 18, 2017.
4.17	inContact Agreement and Plan of Merger, dated May 17, 2016.
8.1	List of significant subsidiaries.
12.1	Certification by the Chief Executive Officer of NICE Ltd., pursuant to Section 302 of the Sarbanes-Oxley Act 2002.
12.2	Certification by the Chief Financial Officer of NICE Ltd., pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
13.1	Certification by the Chief Executive Officer of NICE Ltd., pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
13.2	Certification by the Chief Financial Officer of NICE Ltd., pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
15.1	Consent of Kost, Forer, Gabbay & Kasierer, a member of Ernst & Young Global.
101	The following financial information from NICE Ltd.'s Annual Report on Form 20-F for the year ended December 31, 2016, formatted in XBRL (eXtensible Business Reporting Language): (i) Consolidated Balance Sheets at December 31, 2016 and 2015; (ii) Consolidated Statements of Income for the years ended December 31, 2016, 2015 and 2014; (iii) Statements of Changes in Shareholders' Equity and Comprehensive Income for the years ended December 31, 2016, 2015, and 2014; (iv) Consolidated Statements of Cash Flows for the years ended December 31, 2016, 2015, and 2014; and (v) Notes to Consolidated Financial Statements.

NICE LTD. AND ITS SUBSIDIARIES

CONSOLIDATED FINANCIAL STATEMENTS

AS OF DECEMBER 31, 2016

IN U.S. DOLLARS

INDEX

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of

NICE LTD.

We have audited the accompanying consolidated balance sheets of NICE Ltd. and its subsidiaries ("the Company") as of December 31, 2016 and 2015, and the related consolidated statements of income, comprehensive income, changes in shareholders' equity and cash flows for each of the three years in the period ended December 31, 2016. 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). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company and its subsidiaries as of December 31, 2016 and 2015, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2016, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2016, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework), and our report dated April 21, 2017 expressed an unqualified opinion thereon.

/s/ KOST, FORER, GABBAY & KASIERER
KOST FORER GABBAY & KASIERER
A Member of Ernst & Young Global

Tel-Aviv, Israel
April 21, 2017

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of

NICE LTD.

We have audited NICE Ltd.'s and its subsidiaries ("the Company") internal control over financial reporting as of December 31, 2016, based on criteria established in Internal Control–Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) ("the COSO criteria"). The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on internal control over financial reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

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Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management has excluded from its assessment of internal control over financial reporting as of December 31, 2016 the internal controls of inContact Inc., because its acquisition closed on November 14, 2016, which constituted approximately 4.2% of the Company's consolidated total assets as of December 31, 2016, and 1.2% for the period from the date of acquisition out of the Company's consolidated net income for the year then ended. Accordingly, our audit of internal control over financial reporting of the Company also did not include an evaluation of the internal control over financial reporting of inContact Inc.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2016, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of the Company as of December 31, 2016 and 2015, and the related consolidated statements of income, comprehensive income, changes in shareholders' equity and cash flows for each of the three years in the period ended December 31, 2016 and our report dated April 21, 2017 expressed an unqualified opinion thereon.

/s/ KOST, FORER, GABBAY & KASIERER
KOST FORER GABBAY & KASIERER
A Member of Ernst & Young Global

Tel-Aviv, Israel
April 21, 2017

CONSOLIDATED BALANCE SHEETS

U.S. dollars in thousands

	December 31,	
	2016	**2015**
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 157,026	$ 325,931
Short-term investments	30,287	99,195
Trade receivables (net of allowance for doubtful accounts of $ 7,499 and $ 5,315 at December 31, 2016 and 2015, respectively)	260,220	177,323
Prepaid expenses and other current assets	57,966	43,561
Current assets of discontinued operations	3,734	9,142
Total current assets	509,233	655,152
LONG-TERM ASSETS:		
Long-term investments	98,726	403,249
Other long-term assets	18,701	17,175
Property and equipment, net	87,678	40,593
Deferred tax assets	14,093	14,130
Other intangible assets, net	618,735	68,202
Goodwill	1,284,710	651,112
Total long-term assets	2,122,643	1,194,461
Total assets	$ 2,631,876	$ 1,849,613

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

CONSOLIDATED BALANCE SHEETS

U.S. dollars in thousands (except share and per share data)

	December 31,	
	2016	**2015**
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Current maturities of long term loan	$ 21,164	$ -
Trade payables	25,634	11,719
Deferred revenues and advances from customers	149,801	131,125
Accrued expenses and other liabilities	273,134	223,255
Current liabilities of discontinued operations	3,077	12,744
Total current liabilities	472,810	378,843
LONG-TERM LIABILITIES:		
Deferred revenues and advances from customers	22,710	20,220
Accrued severance pay	16,885	17,952
Deferred tax liabilities	146,952	15,040
Long-term loan	444,016	-
Other long-term liabilities	17,171	-
Long-term liabilities of discontinued operations	-	2,409
Total long-term liabilities	647,734	55,621
COMMITMENTS AND CONTINGENT LIABILITIES		
SHAREHOLDERS' EQUITY:		
Share capital-		
Ordinary shares of NIS 1 par value:		
Authorized: 125,000,000 shares at December 31, 2016 and 2015; Issued: 72,323,566 and 71,160,289 shares at December 31, 2016 and 2015, respectively; Outstanding: 59,988,783 and 59,526,506 shares at December 31, 2016 and 2015, respectively	18,280	17,977
Additional paid-in capital	1,317,539	1,234,206
Treasury shares at cost – 12,334,783 and 11,633,783 Ordinary shares at December 31, 2016 and 2015, respectively	(488,573)	(445,021)
Accumulated other comprehensive loss	(46,824)	(24,205)
Retained earnings	710,910	632,192
Total shareholders' equity	1,511,332	1,415,149
Total liabilities and shareholders' equity	$ 2,631,876	$ 1,849,613

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

CONSOLIDATED STATEMENTS OF INCOME

U.S. dollars in thousands (except share and per share data)

	Year ended December 31,		
	2016	**2015**	**2014**
Revenues:			
Products	$ 306,252	$ 317,900	$ 289,560
Services	709,290	608,967	582,435
Total revenues	1,015,542	926,867	871,995
Cost of revenues:			
Products	53,032	66,363	63,919
Services	284,701	237,219	239,592
Total cost of revenues	337,733	303,582	303,511
Gross profit	677,809	623,285	568,484
Operating expenses:			
Research and development, net	141,528	128,485	123,141
Selling and marketing	268,349	225,817	231,097
General and administrative	116,569	90,349	83,360
Amortization of acquired intangibles	17,187	12,528	19,157
Restructuring expenses	-	-	5,435
Total operating expenses	543,633	457,179	462,190
Operating income	134,176	166,106	106,294
Financial income and other, net	10,305	5,304	3,765
Income before taxes on income	144,481	171,410	110,059
Taxes on income	21,412	30,832	9,909
Net income from continuing operations	$ 123,069	$ 140,578	$ 100,150
Discontinued operations:			
Gain on disposal and income (loss) from operations	(8,235)	152,459	4,965
Taxes on income (tax benefit)	(2,086)	34,206	2,040
Net income (loss) on discontinued operations	(6,149)	118,253	2,925
Net income	$ 116,920	$ 258,831	$ 103,075
Basic earnings per share from continuing operations	$ 2.06	$ 2.36	$ 1.69
Basic earnings per share from discontinued operations	$ (0.10)	$ 1.99	$ 0.05
Basic earnings per share	$ 1.96	$ 4.35	$ 1.74
Diluted earnings per share from continuing operations	$ 2.02	$ 2.29	$ 1.64
Diluted earnings per share from discontinued operations	$ (0.10)	$ 1.93	$ 0.05
Diluted earnings per share	$ 1.92	$ 4.22	$ 1.69
Weighted average number of shares used in computing:			
Basic earnings per share	59,667	59,552	59,362
Diluted earnings per share	61,035	61,281	60,895

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

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

U.S. dollars in thousands (except share and per share data)

	Year ended December 31,		
	2016	**2015**	**2014**
Net income	$ 116,920	$ 258,831	$ 103,075
Other comprehensive income (loss), net of tax:			
Change in foreign currency translation adjustment	(24,801)	(14,602)	(17,972)
Available- for- sale investments:			
Change in net unrealized gains (losses)	5,102	(2,081)	259
Less - reclassification adjustment for net gains realized and included in net income	(3,388)	(32)	(16)
Net change (net of tax effect of $113, ($338) and $117)	1,714	(2,113)	243
Cash flow hedges:			
Change in unrealized gains	600	(954)	(6,770)
Less - reclassification adjustment for net gains realized and included in net income	(132)	4,010	1,552
Net change	468	3,056	(5,218)
Total other comprehensive loss	(22,619)	(13,659)	(22,947)
Comprehensive income	$ 94,301	$ 245,172	$ 80,128

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

STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY

U.S. dollars in thousands

	Share capital	Additional paid-in capital	Treasury shares	Accumulated other comprehensive loss	Retained earnings	Total shareholders' equity
Balance as of January 1, 2016	$ 17,977	$ 1,234,206	$ (445,021)	$ (24,205)	$ 632,192	$ 1,415,149
Exercise of share options	303	23,321	-	-	-	23,624
Equity awards assumed for acquisitions	-	11,675	-	-	-	11,675
Stock-based compensation	-	40,547	-	-	-	40,547
Excess tax benefit from share-based payment arrangements	-	7,868	-	-	-	7,868
Issuance of treasury shares under stock purchase plans, upon exercise of options and vesting of restricted stock units (2,290 ordinary shares)	-	(78)	78	-	-	-
Treasury shares purchased	-	-	(43,630)	-	-	(43,630)
Other comprehensive loss	-	-	-	(22,619)	-	(22,619)
Dividends paid ($ 0.64 per share)	-	-	-	-	(38,202)	(38,202)
Net income	-	-	-	-	116,920	116,920
Balance as of December 31, 2016	$ 18,280	$ 1,317,539	$ (488,573)	$ (46,824)	$ 710,910	$ 1,511,332

	Share capital	Additional paid-in capital	Treasury shares	Accumulated other comprehensive loss	Retained earnings	Total shareholders' equity
Balance as of January 1, 2015	$ 17,615	$ 1,171,424	$ (376,637)	$ (10,546)	$ 411,600	$ 1,213,456
Exercise of share options	362	26,736	-	-	-	27,098
Stock-based compensation	-	28,451	-	-	-	28,451
Excess tax benefit from share-based payment arrangements	-	7,595	-	-	-	7,595
Treasury shares purchased	-	-	(68,384)	-	-	(68,384)
Other comprehensive loss	-	-	-	(13,659)	-	(13,659)
Dividends paid ($ 0.64 per share)	-	-	-	-	(38,239)	(38,239)
Net income	-	-	-	-	258,831	258,831
Balance as of December 31, 2015	$ 17,977	$ 1,234,206	$ (445,021)	$ (24,205)	$ 632,192	$ 1,415,149

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

STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY

U.S. dollars in thousands

	Share capital	Additional paid-in capital	Treasury shares	Accumulated other comprehensive income (loss)	Retained earnings	Total shareholders' equity
Balance as of January 1, 2014	$ 17,212	$ 1,112,367	$ (283,851)	$ 12,401	$ 346,667	$ 1,204,796
Issuance of shares of ESPP	3	433	-	-	-	436
Exercise of share options	400	27,605	-	-	-	28,005
Stock-based compensation	-	29,814	-	-	-	29,814
Excess tax benefit from share-based payment arrangements	-	1,205	-	-	-	1,205
Treasury shares purchased	-	-	(92,786)	-	-	(92,786)
Other comprehensive loss	-	-	-	(22,947)	-	(22,947)
Dividends paid ($ 0.64 per share)	-	-	-	-	(38,142)	(38,142)
Net income	-	-	-	-	103,075	103,075
Balance as of December 31, 2014	$ 17,615	$ 1,171,424	$ (376,637)	$ (10,546)	$ 411,600	$ 1,213,456

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

CONSOLIDATED STATEMENTS OF CASH FLOWS

U.S. dollars in thousands

	Year ended December 31,		
	2016	**2015**	**2014**
Cash flows from operating activities:			
Net income	$ 116,920	$ 258,831	$ 103,075
Adjustments required to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	77,801	57,964	73,349
Stock-based compensation	40,547	28,451	29,814
Equity in losses of affiliated company	-	537	565
Revaluation of earn out liability	-	-	(4,002)
Excess tax benefit from share-based payment arrangements	(7,868)	(7,595)	(1,205)
Accrued severance pay, net	3	104	(207)
Amortization of premium and discount and accrued interest on marketable securities	2,441	2,799	2,071
Deferred taxes, net	(25,905)	10,576	(27,785)
Changes in operating assets and liabilities:			
Trade receivables, net	(31,784)	(56,363)	4,807
Prepaid expenses and other current assets	4,933	(1,482)	1,956
Trade payables	4,392	2,166	(13,781)
Accrued expenses and other liabilities	15,179	38,488	13,285
Deferred revenues	9,379	54,914	3,424
Long term liabilities	7,529	2,453	(2,966)
Loss (gain) on disposal of discontinued operations	9,148	(147,334)	-
Realized gain on marketable securities	(3,388)	(32)	(16)
Other	1,017	256	(115)
Net cash provided by operating activities	220,344	244,733	182,269
Cash flows from investing activities:			
Purchase of property and equipment	(27,278)	(16,596)	(16,722)
Purchase of investments	(47,221)	(287,593)	(143,688)
Proceeds from investments	449,880	92,542	153,141
Payments for business acquisitions, net of cash acquired	(1,156,249)	-	-
Investments in affiliates and other purchases	(1,500)	(1,500)	(748)
Capitalization of software development costs	(8,502)	(1,380)	(908)
Proceeds (repayment) from sale of discontinued operations	(9,148)	186,134	-
Net cash used in investing activities	(800,018)	(28,393)	(8,925)

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

CONSOLIDATED STATEMENTS OF CASH FLOWS

U.S. dollars in thousands

	Year ended December 31,		
	2016	**2015**	**2014**
Cash flows from financing activities:			
Proceeds from issuance of shares upon exercise of options and ESPP	23,525	27,532	29,526
Purchase of treasury shares	(43,630)	(68,384)	(94,267)
Dividends paid	(38,202)	(38,239)	(38,142)
Capital lease payments	(1,087)	-	-
Proceeds from issuance of debt, net of costs	464,841	-	-
Excess tax benefit from share-based payment arrangements	7,868	7,595	1,205
Earn out payments related to acquisitions	-	(297)	(158)
Net cash provided by (used in) financing activities	413,315	(71,793)	(101,836)
Effect of exchange rate changes on cash	(2,546)	(6,113)	(3,556)
Net change in cash and cash equivalents	(168,905)	138,434	67,952
Cash and cash equivalents at the beginning of the year	325,931	187,497	119,545
Cash and cash equivalents at the end of the year	$ 157,026	$ 325,931	$ 187,497
Supplemental disclosure of cash flows activities:			
Cash paid during the year for:			
Income taxes	$ 26,837	$ 53,646	$ 32,854
Interest	$ 2,425	$ 107	$ 116
Non-cash activities:			
Net change in accrued liability with respect to treasury shares	$ -	$ -	$ (1,481)
Net change in other receivables with respect to exercise of share options	$ (99)	$ 434	$ 1,085

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

U.S. dollars in thousands (except share and per share data)

NOTE 1:- GENERAL

a. General:

NICE Ltd. and its subsidiaries (the "Company") is a leading global software provider in omnichannel analytics and cloud solutions for the Customer Engagement and Financial Crime & Compliance markets.

The Company's mission is to empower organizations to make smart business decisions through deep human understanding.

The Company provides software solutions that help organizations understand their customers and employees and predict their intentions and their needs to create exceptional customer experiences, understand their workforce to drive greater efficiency and identify suspicious behavior to prevent financial crime and non-compliant activities.

The Company does this by providing customer engagement platforms, capturing interactions and transactions across multiple channels and sources and applying analytics to this data to provide real-time insight and uncover intent. The Company helps its customers improve their service and security by applying machine learning to cross-industry data and offering customers collective insights.The Company's solutions allow organizations to operationalize this insight and embed it within their workflows and daily business processes.

b. Acquisitions:

1) Acquisition of inContact:

On November 14, 2016, the Company completed the acquisition of all of the outstanding shares of inContact, Inc. ("inContact"), a leading provider of cloud contact center software and agent optimization tools, for a total consideration of $1,050,054. The acquisition will enable the Company to offer a fully integrated and complete cloud contact center where companies can interact with customers. The acquisition purpose is to provide the industry a fully integrated and complete cloud contact center solution suite.

Upon acquisition, inContact became a wholly-owned subsidiary of the Company. The acquisition was accounted for as a business combination. This method requires, among other things, that assets acquired and liabilities assumed in the business combination be recognized at their fair values as of the acquisition date.

The following table summarizes the components of the purchase consideration transferred:

Cash (*)	1,039,028
Assumed options and restricted shares (**)	11,026
Total purchase consideration	1,050,054

(*) Includes cash consideration for the redemption of inContact's convertible bonds in an amount of $139,438 and for inContact's outstanding vested options and restricted shares as of acquisition date which were cancelled and converted into an amount of $25,366 in cash.

(**) Pursuant to the merger agreement, all outstanding unvested inContact RSUs, options and restricted shares were cancelled and replaced with RSUs with ADSs to be received upon settlement, options to acquire ADSs and restricted ADSs, respectively with the same terms and conditions. Of the total estimated fair value of the replacement award, a portion was allocated to the purchase consideration and the remainder was allocated to future services and will be expensed over the remaining service period on an accelerated basis as a share-based compensation. The fair value of replacement award was determined using a Black-Scholes-Merton valuation model with thefollowing assumptions: expected life of 12-74 months, risk-free interest rate of 0.58%-1.22%, expected volatility of 50.94%-62.31% and no dividend yield.

U.S. dollars in thousands (except share and per share data)

NOTE 1:- GENERAL (cont.)

The following table summarizes the fair values of the assets acquired and liabilities assumed:

Cash	$ 37,136
Short term investments	26,714
Trade receivables	40,667
Other receivables and prepaid expenses	10,235
Property and equipment	28,554
Identified intangibles	538,000
Goodwill	559,372
Total assets acquired	1,240,678
Trade payables	(16,337)
Accrued expenses and other liabilities	(22,802)
Deferred revenue	(3,967)
Deferred tax liabilities, net	(147,518)
Total liabilities assumed	(190,624)
Net assets acquired	$ 1,050,054

The following table presents details of the identified intangible assets acquired as of the date of the acquisition:

	Fair value	Estimated useful life (in years)
Trademarks	$ 36,400	2-8
Technology	353,700	4-8
Customer relationships	147,900	5-7
Total	$ 538,000	

Goodwill generated from this business combination is primarily attributable to synergies between the Company's and inContact's respective products and services. The goodwill is not deductible for income tax purposes.

inContact Inc. constituted approximately 4.2% of the Company’s consolidated total assets as of December 31, 2016, and 1.2% attributed to the period from the date of acquisition of the Company’s consolidated net income (excluding amortization of related acquired intangible assets) for the year then ended,.

The following table presents the unaudited pro forma financial information for the years ended December 31, 2016 and 2015, as if the acquisition occurred on January 1, 2015:

	Year ended December 31	
	2016	2015
Revenue	$ 1,237,329	$ 1,142,018
Net income	$ 31,195	$ 139,123

U.S. dollars in thousands (except share and per share data)

NOTE 1:- GENERAL (cont.)

The unaudited pro forma financial information for the years ended December 31, 2016 and 2015 has been calculated after adjusting the Company's results and those of inContact to reflect the business combination accounting effects resulting from this acquisition as if the acquisition occurred as of January 1, 2015, including: (i) acquisition related transaction costs; (ii) amortization expense from acquired intangible assets; (iii) post acquisition share-based compensation expense; (iv) debt financing costs incurred for the issuance of a loan received as part of the acquisition financing; and (v) the associated tax effect of these unaudited pro forma adjustments. The pro forma financial information is for informational purposes only and is not indicative of the results of operations that would have been achieved if the acquisition had taken place at the beginning of 2015.

The fair value of assets acquired and liabilities assumed from the acquisition of inContact was based on a preliminary valuation and the Company's estimates and assumptions are subject to changes within the measurement period. In accordance with ASU 2015-16, measurement period adjustments determined to be material will be recognized in the period in which the Company determines the amounts, including the effect on earnings of any amounts it would have recorded in previous periods if the accounting had been completed at the acquisition date.

2) Acquisition of Nexidia:

On March 22, 2016, the Company completed the acquisition of Nexidia Inc. ("Nexidia"), a provider of advanced customer analytics. The Company acquired Nexidia for a total consideration of $135,150. The acquisition of Nexidia will allow the Company to offer a combined offering, featuring analytics capabilities with accuracy, scalability and performance, enabling organizations to expand their analytics usage in critical business use cases.

Upon acquisition, Nexidia became a wholly-owned subsidiary of the Company. The acquisition was accounted for as a business combination. This method requires, among other things, that assets acquired and liabilities assumed in the business combination be recognized at their fair values as of the acquisition date.

The following table summarizes the components of the purchase consideration transferred:

Cash	$	134,501
Assumed options		649
Total Purchase consideration	$	135,150

U.S. dollars in thousands (except share and per share data)

NOTE 1:- GENERAL (cont.)

The following table summarizes the fair values of the assets acquired and liabilities assumed:

Cash (net of loan payoff amount)	$ 1,879
Trade receivables	8,300
Other receivables and prepaid expenses	4,892
Property and equipment	2,774
Identified intangibles	63,400
Goodwill	75,647
Total assets acquired	156,892
Trade payables	(1,556)
Accrued expenses and other liabilities	(6,371)
Deferred revenue	(9,341)
Deferred tax liabilities, net	(4,474)
Total liabilities assumed	(21,742)
Net assets acquired	$ 135,150

The following table presents details of the identified intangible assets acquired as of the date of the acquisition:

	Fair value	Estimated useful lives (in years)
Trademarks	$ 7,500	12
Technology	17,400	5
Customer backlog	10,900	1
Customer relationships	27,600	6
Total intangible assets	$ 63,400	

Goodwill generated from this business combination is primarily attributable to synergies between the Company's and Nexidia's respective products and services. The goodwill is not deductible for income tax purposes.

The results of Nexidia operations have been included in the consolidated statements of income since March 22, 2016. Pro forma results of operations related to this acquisition have not been prepared because they are not material to the Company's consolidated statements of income.

NOTE 1:- GENERAL (cont.)

3) Acquisition of VPI:

On March 11, 2016, the Company completed the acquisition of Voiceprint International, Inc. ("VPI"), a provider of workforce optimization software and services for enterprises, contact centers, first responders and trading floors. The Company acquired VPI for total consideration of $21,720 in cash.

Upon acquisition, VPI became a wholly-owned subsidiary of the Company. The acquisition was accounted for as a business combination. This method requires, among other things, that assets acquired and liabilities assumed in a business combination be recognized at their fair values as of the acquisition date. The Company recorded customer relationships and goodwill in amount of $8,500 and $16,873, respectively. The estimated useful life of the customer relationships is 6 years.

Goodwill generated from this business combination is attributed to synergies between the Company's and VPI's respective products and services. The goodwill is not deductible for income tax purposes.

The results of VPI operations have been included in the consolidated financial statements since March 11, 2016. Pro forma results of operations related to this acquisition have not been prepared because they are not material to the Company`s consolidated statement of income.

4) Acquisitions related costs:

During 2016 acquisition related costs amounted to $9,348 and were included in general and administrative expenses. During 2015 and 2014, the Company did not record any acquisition related costs.

c. Discontinued operations

During 2015, the Company divested its Physical Security as well as its Cyber and Intelligence operations, which were a major part of the Security Solutions segment, to allow it to focus on its core markets as part of the execution of its long-term strategy.

In July 2015 the Company completed the sale of the Cyber and Intelligence operation to Elbit Systems for a total consideration of $151,583, comprised of $111,583 in cash and $40,000 earn out based on future business performance.

The Cyber and Intelligence operation offers solutions which provide law enforcement agencies, intelligence organizations and signal intelligence agencies with tools for generating intelligence from communications. The sale resulted in a capital gain of $101,847, which was presented as part of the net income on discontinued operations in the consolidated statements of income for the year ended December 31, 2015.

On September 18, 2015, the Company completed the sale of the Physical Security operation to Battery Ventures for a total consideration of $92,475, comprised of $74,551 in cash, note receivable of $2,924 and up to $15,000 earn out based on future business performance. The Physical Security operation provides video surveillance technologies and capabilities to security-aware organizations.

U.S. dollars in thousands (except share and per share data)

NOTE 1:- GENERAL (Cont.)

The sale resulted in a gain of $45,487, which was presented as part of the net income on discontinued operations in the consolidated statements of income for the year ended December 31, 2015. The carrying amount used in determining the gain on disposal of the operations included goodwill in the amount of $35,554. The amount of goodwill that was included in that carrying amount was based on the relative fair values of the disposed operations and the portion of the operation that was retained within the segment.

Following the divestiture of one of the discontinued operations, the buyer made certain demands and allegations, claiming indemnification pursuant to the sale agreement with the Company. The Company denied all demands and allegations made by the buyer. During 2016, the parties reached a settlement agreement which resulted in a reduction of the gain on disposal of discontinued operations recorded in discontinued operations. Refer to Note 11c for further details.

Following the sale, Physical Security's and Intelligence's results of operations and statement of financial position balances are disclosed as a discontinued operation, including the resulting gain from sales. All prior periods' comparable results of operation, assets and liabilities have been retroactively included in discontinued operations.

The results of the discontinued operations including prior periods' comparable results, assets and liabilities which have been retroactively included in discontinued operations as separate line items in the statements of income and balance sheets are presented below:

	Year ended December 31,		
	2016	(*) 2015	2014
Revenue	$ -	$ 68,672	$ 139,644
Cost of sales	-	26,956	72,073
Operating expenses	850	36,307	62,041
Operating income (Loss)	(850)	5,409	5,530
Other income (expenses), net	1,763	(284)	(565)
Gain (loss) on disposal of the discontinued operations	(9,148)	147,334	-
Income (loss) before taxes on income	(8,235)	152,459	4,965
Taxes on income (tax benefit)	(2,086)	34,206	2,040
Net income (loss) on discontinued operations	$ (6,149)	$ 118,253	$ 2,925

(*) Represent the results of the discontinued operations until their disposal.

Depreciation expense totaled $0, $724 and $1,058 for the years 2016, 2015 and 2014, respectively.

Amortization expense totaled $0, $4,362 and $1,804 for the years 2016, 2015 and 2014, respectively.

U.S. dollars in thousands (except share and per share data)

NOTE 1:- GENERAL (cont.)

The major classes of assets and liabilities that were classified as discontinued operations were:

	Year ended December 31,	
	2016	2015
Trade receivables	-	5,224
Prepaid expenses and other current assets	3,734	3,893
Other classes of assets	-	25
Total assets of discontinued operations	3,734	9,142
Accrued expenses and other liabilities	3,077	12,698
Other classes of liabilities	-	2,455
Total liabilities of discontinued operations	3,077	15,153

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES

The consolidated financial statements were prepared in accordance with United States Generally Accepted Accounting Principles ("U.S. GAAP").

a. Use of estimates:

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates, judgments and assumptions. The Company's management believes that the estimates, judgments and assumptions used are reasonable based upon information available at the time they are made. These estimates, judgments and assumptions can affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the dates of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

b. Financial statements in United States dollars:

The currency of the primary economic environment in which the operations of NICE and certain subsidiaries are conducted is the U.S. dollar ("dollar"); thus, the dollar is the functional currency of NICE and certain subsidiaries.

NICE and certain subsidiaries' transactions and balances denominated in dollars are presented at their original amounts. Non-dollar transactions and balances have been remeasured to dollars in accordance with ASC 830, "Foreign Currency Matters". All transaction gains and losses from remeasurement of monetary balance sheet items denominated in non-dollar currencies are reflected in the statements of income as financial income or expenses, as appropriate.

For those subsidiaries whose functional currency has been determined to be a non-dollar currency, assets and liabilities are translated at year-end exchange rates and statement of income items are translated at average exchange rates prevailing during the year. Such translation adjustments are recorded as a separate component of accumulated other comprehensive income (loss) in shareholders' equity.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

c. Principles of consolidation:

Intercompany transactions and balances have been eliminated upon consolidation.

d. Cash equivalents:

Cash equivalents are short-term unrestricted highly liquid investments that are readily convertible into cash, with original maturities of three months or less at acquisition.

e. Marketable securities:

The Company accounts for investments in debt securities in accordance with ASC 320, "Investments - Debt and Equity Securities". Management determines the appropriate classification of its investments in debt securities at the time of purchase and re-evaluates such determinations at each balance sheet date.

Marketable securities classified as "available-for-sale" are carried at fair value, based on quoted market prices. Unrealized gains and losses are reported in a separate component of shareholders' equity in accumulated other comprehensive income (loss). Gains and losses are recognized when realized, on a specific identification basis, in the Company's consolidated statements of income.

The Company's securities are reviewed for impairment in accordance with ASC 320-10-35. If such assets are considered to be impaired, the impairment charge is recognized in earnings when a decline in the fair value of its investments below the cost basis is judged to be other-than-temporary. Factors considered in making such a determination include the duration and severity of the impairment, the reason for the decline in value, the potential recovery period and the Company's intent to sell, including whether it is more likely than not that the Company will be required to sell the investment before recovery of cost basis. For securities with an unrealized loss that the Company intends to sell, or it is more likely than not that the Company will be required to sell before recovery of their amortized cost basis, the entire difference between amortized cost and fair value is recognized in earnings. For securities that do not meet these criteria, the amount of impairment recognized in earnings is limited to the amount related to credit losses, while declines in fair value related to other factors are recognized in accumulated other comprehensive income (loss).

f. Property and equipment, net:

Property and equipment are stated at cost, net of accumulated depreciation.

Depreciation is calculated using the straight-line method over the estimated useful lives of the assets, at the following annual rates:

	%
Computers and peripheral equipment	20-33
Office furniture and equipment	7 - 20
Internal use software	33

Leasehold improvements are amortized by the straight-line method over the term of the lease or the estimated useful life of the improvements, whichever is shorter.

U.S. dollars in thousands (except share and per share data)

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

g. Internal use software costs:

The Company capitalizes costs related to its cloud computing services for internal-use incurred during the application development stage. Costs incurred in the process of software production are charged to expenses as incurred. Certain software development costs are capitalized under ASC350-40, Internal-Use Software and are included in property and equipment, net in the consolidated balance sheets. Capitalization of such costs begins when the preliminary project stage is complete and ceases at the point in which the project is substantially complete and is ready for its intended purpose.

h. Other intangible assets, net:

Intangible assets are amortized over their estimated useful lives using the straight-line method, at the following weighted average annual rates:

	%
Core technology	13
Customer relationships and distribution network	16
Trademarks	12
Customer backlog	100

i. Impairment of long-lived assets:

The Company's long-lived assets and identifiable intangibles that are subject to amortization are reviewed for impairment in accordance with ASC 360, "Property, Plant, and Equipment", whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Impairment indicators include any significant changes in the manner of the Company's use of the assets and significant negative industry or economic trends.

Upon determination that the carrying value of a long-lived asset may not be recoverable based upon a comparison of aggregate undiscounted projected future cash flows to the carrying amount of the asset, an impairment charge is recorded for the excess of the carrying amount over fair value. In 2016, 2015 and 2014, no impairment charge was recognized.

j. Goodwill:

Goodwill represents the excess of the purchase price in a business combination over the fair value of the net tangible and intangible assets acquired. Under ASC 350, "Intangible - Goodwill and Other," ("ASC 350") goodwill is not amortized, but rather is subject to an annual impairment test.

ASC 350 requires goodwill to be tested for impairment at the reporting unit level at least annually or between annual tests in certain circumstances, and written down when impaired. Goodwill is tested for impairment by comparing the fair value of the reporting unit with its carrying value.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

ASC 350 allows an entity to first assess qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test. If the qualitative assessment does not result in a more likely than not indication of impairment, no further impairment testing is required. If it does result in a more likely than not indication of impairment, the two-step impairment test is performed. Alternatively, ASC 350 permits an entity to bypass the qualitative assessment for any reporting unit and proceed directly to performing the first step of the goodwill impairment test.

During the fourth quarter of each of the years presented the Company performed a qualitative assessment for its reporting units and concluded that the qualitative assessment did not result in a more likely than not indication of impairment, and therefore no further impairment testing was required. Accordingly, during the years 2016, 2015 and 2014, no impairment charge was recognized.

k. Revenue recognition:

The Company generates revenues from sales of software products and services, which include SaaS and network connectivity, hosting, support and maintenance, implementation, configuration, project management, consulting, training, as well as hardware sales. The Company sells its products directly through its sales force and indirectly through a global network of distributors, system integrators and strategic partners, all of whom are considered end-users.

The basis for the Company's software revenue recognition is substantially governed by the accounting guidance contained in ASC 985-605, "Software-Revenue Recognition". Revenues from sales of software products are recognized when persuasive evidence of an agreement exists, delivery of the product has occurred, the fee is fixed or determinable and collectability is probable. In transactions where a customer's contractual terms include a provision for customer acceptance, revenues are recognized either when such acceptance has been obtained or as the acceptance provision has lapsed.

For multiple element arrangements within the scope of software revenue recognition guidance, revenues are allocated to the different elements in the arrangement under the "residual method" when Vendor Specific Objective Evidence ("VSOE") of fair value exists for all undelivered elements and no VSOE exists for the delivered elements. Under the residual method, the Company defers revenue for the fair value of its undelivered elements and recognizes revenue for the remainder of the arrangement fee attributable to the elements initially delivered in the arrangement when the basic criteria in ASC 985-605 have been met. Any discount in the arrangement is allocated to the delivered element. Revenues from maintenance and professional services are recognized ratably over the contractual period and as services are performed, respectively.

For arrangements that contain both software and non-software components that function together to deliver the products' essential functionality, the Company allocates revenue to each element based on its relative selling price. In such circumstances, the accounting principles establish a hierarchy to determine the selling price to be used for allocating revenue to deliverables. The selling price for a deliverable is based on its VSOE, if available, third party evidence ("TPE"), if VSOE is not available, or best estimated selling price ("BESP"), if neither VSOE nor TPE are available. The Company establishes VSOE of fair value using the price charged for a deliverable when sold separately . When VSOE cannot be established, the Company attempts to establish fair value of each element based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, the Company's go-to-market strategy differs from that of its peers and the Company's offerings contain a significant level of differentiation such that the comparable pricing of products with similar functionality cannot be obtained. Furthermore, the Company is unable to reliably determine what similar competitor products' selling prices are on a standalone basis. Therefore, the Company is typically not able to determine TPE. The BESP price is established considering several external and internal factors including, but not limited to, historical sales, pricing practices and geographies in which the Company offers its products. The determination of the BESP is subject to discretion.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

The Company's policy for establishing VSOE of fair value of maintenance services is based on the price charged when the maintenance is renewed separately. Establishment of VSOE of fair value of professional services is based on the price charged when these services are sold separately.

Revenues from fixed price contracts that require significant customization, integration and installation are recognized based on ASC 605-35, "Construction-Type and Production-Type Contracts", using the percentage-of-completion method of accounting based on the ratio of costs related to contract performance incurred to date to the total estimated amount of such costs. The amount of revenue recognized is based on the total fees under the arrangement and the percentage of completion achieved. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are first determined, in the amount of the estimated loss on the entire contact.

The Company's SaaS offerings provide customers access to certain of its software within a cloud-based IT environment on a subscription basis, and may also include network connectivity services over Company's network or through third party network connectivity providers on a usage basis. Because such offerings do not grant customers the right to take possession of the software, the Company considers these arrangements to be service contracts which are not within the scope of ASC 985-605. In addition, the Company also derives revenue from professional services included in implementing or improving a customer's cloud software solutions experience. Revenues for SaaS offerings are recognized ratably over the contract term or based on actual usage, commencing with the date the service is made available to customers and all other revenue recognition criteria have been satisfied. Revenue from the network connectivity usage is derived based on customer specific rate plans and call usage and is recognized in the period the call is initiated. Upfront fees related to professional services that are not considered to have standalone value are deferred and recognized over the estimated life of the customer.

To assess the probability of collection for revenue recognition, the Company has a credit policy that determines the credit limit that reflects an amount that is deemed probably collectible for each customer. These credit limits are reviewed and revised periodically on the basis of new customer financial statements information, credit insurance data and payment performance.

The Company maintains a provision for product returns which is estimated based on the Company's past experience and is deducted from revenues.

Deferred revenues and advances from customers include payments received from customers, for which revenue has not yet been recognized.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

l. Research and development costs:

Research and development costs (net of grants) incurred in the process of software production are charged to expenses as incurred.

m. Income taxes:

The Company accounts for income taxes in accordance with ASC 740, "Income Taxes". This topic prescribes the use of the liability method whereby deferred tax asset and liability account balances are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. The Company provides a valuation allowance, if necessary, to reduce deferred tax assets to the amount that is more likely than not to be realized.

The Company implements a two-step approach to recognize and measure uncertain tax positions. The first step is to evaluate the tax position taken or expected to be taken in a tax return by determining if the weight of available evidence indicates that it is more likely than not that, on an evaluation of the technical merits, the tax position will be sustained on audit, including resolution of any related appeals or litigation processes. The second step is to measure the tax benefit as the largest amount that is more than 50% (cumulative basis) likely to be realized upon ultimate settlement.

The Company classifies interest and penalties on income taxes (which includes uncertain tax positions) as taxes on income. The deferred tax assets and liabilities are classified to non-current assets and liabilities, respectively.

n. Non-royalty grants:

Non-royalty bearing grants from the Government of Israel and the European Union for funding research and development projects are recognized at the time the Company is entitled to such grants on the basis of the related costs incurred and recorded as a deduction from research and development expenses.

o. Concentrations of credit risk:

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash and cash equivalents, trade receivables, marketable securities and foreign currency derivative contracts.

The Company's cash and cash equivalents are invested in deposits mainly in dollars with major international banks. Deposits in the U.S. may be in excess of insured limits and are not insured in other jurisdictions. Generally, these deposits may be redeemed upon demand and therefore bear minimal risk.

The Company's trade receivables are derived from sales to customers located primarily in North America, EMEA and APAC. The Company performs ongoing credit evaluations of its customers and insures certain of its receivables with a credit insurance company. A general allowance for doubtful accounts is provided, based on the length of time the receivables are past due.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

The Company's marketable securities include investment in corporate debentures and U.S. Treasuries. The Company's investment policy limits the amount that the Company may invest in any one type of investment or issuer, thereby reducing credit risk concentrations.

The Company entered into forward contracts, and option contracts intended to protect cash flows resulting from payroll and facilities related expenses against the volatility in value of forecasted non-dollar currency. The derivative instruments hedge a portion of the Company's non-dollar currency exposure. See Note 10.

p. Severance pay:

The Company's liability for severance pay for its Israeli employees is calculated pursuant to Israel's Severance Pay Law based on the most recent monthly salary of the employees multiplied by the number of years of employment as of the balance sheet date. Employees are entitled to one month's salary for each year of employment, or a portion thereof. The Company's liability is fully provided by monthly deposits with insurance policies and severance pay funds and by an accrual.

The deposited funds include profits (losses) accumulated up to the balance sheet date. The deposited funds may be withdrawn only upon the fulfillment of the obligation pursuant to Israel's Severance Pay Law or labor agreements. The value of the deposited funds is based on the cash surrendered value of these policies.

The Company's agreements with employees in Israel, who joined the Company since May 1, 2009, are in accordance with Section 14 of the Severance Pay Law, 1963, whereas, the Company's contributions for severance pay shall be instead of its severance liability. Upon contribution of the full amount of the employee's monthly salary, and release of the policy to the employee, no additional calculations shall be conducted between the parties regarding the matter of severance pay and no additional payments shall be made by the Company to the employee. Further, the related obligation and amounts deposited on behalf of such obligation are not stated on the balance sheet, as they are legally released from obligation to employees once the deposit amounts have been paid.

The Company also has other liabilities for severance pay in other jurisdictions.

Severance pay expense for 2016, 2015 and 2014 amounted to $9,970, $8,936 and $11,229, respectively.

The Company has a 401(K) defined contribution plan covering certain employees in the U.S. All eligible employees may elect to contribute up to 6%-8% of their eligible compensation, but generally not greater than annual payment of $18 in 2016 and 2015, and $17.5 in 2014 (for certain employees over 50 years of age the maximum annual contribution is $24 per year in 2016 and 2015, and $23 in 2014) of their total annual compensation to the plan through salary deferrals, subject to IRS limits. The Company matches 50% of employee contributions to the plan up to a limit of 6-8% of their eligible compensation. In the years 2016, 2015 and 2014, the Company recorded an expense for matching contributions in the amount of $3,930, $4,310 and $3,922, respectively.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

q. Basic and diluted net earnings per share:

Basic net earnings per share are computed based on the weighted average number of ordinary shares outstanding during each year. Diluted net earnings per share are computed based on the weighted average number of ordinary shares outstanding during each year plus dilutive potential equivalent ordinary shares considered outstanding during the year, in accordance with ASC 260, "Earnings per Share".

The weighted average number of shares related to outstanding anti-dilutive options excluded from the calculations of diluted net earnings per share was 398,544, 561,621 and 743,100 for the years 2016, 2015 and 2014, respectively.

r. Accounting for stock-based compensation:

The Company accounts for stock-based compensation in accordance with ASC 718, "Compensation - Stock Compensation" ("ASC 718"), which requires the measurement and recognition of compensation expense based on estimated fair values for all share-based payment awards made to employees and directors. ASC 718 requires companies to estimate the fair value of equity-based payment awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as an expense over the requisite service periods in the Company's consolidated statement of income.

The Company recognizes compensation expenses for the value of its awards, which have graded vesting, based on the accelerated attribution method over the requisite service period of each of the awards, net of estimated forfeitures. Estimated forfeitures are based on actual historical pre-vesting forfeitures.

The Company estimates the fair value of stock options granted using the Black-Scholes-Merton option-pricing model, which requires a number of assumptions: the expected volatility is based upon actual historical stock price movements; the expected term of options granted is based upon historical experience and represents the period of time that options granted are expected to be outstanding; the risk-free interest rate is based on the yield from U.S. Federal Reserve zero-coupon bonds with an equivalent term; and the expected dividend rate (an annualized dividend yield) is based on the per share dividend declared by the Company's Board of Directors. For information on the Company's dividend payments, see Note 13e.

The Company measures the fair value of restricted stock based on the market value of the underlying shares at the date of grant.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

s. Fair value of financial instruments:

The Company applies ASC 820, "Fair Value Measurements and Disclosures" ("ASC 820"). Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date.

In determining fair value, the Company uses various valuation approaches. ASC 820 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The hierarchy is broken down into three levels based on the inputs as follows:

- Level 1 - Valuations based on quoted prices in active markets for identical assets that the Company has the ability to access. Valuation adjustments and block discounts are not applied to Level 1 instruments. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these products does not entail a significant degree of judgment.

- Level 2 - Valuations based on one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.

- Level 3 - Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of observable inputs can vary from investment to investment and is affected by a wide variety of factors, including, for example, the type of investment, the liquidity of markets and other characteristics particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment and the investments are categorized as Level 3.

The Company's marketable securities and foreign currency derivative contracts are classified within Level 2 (see Notes 3 and 10).

The carrying amounts of cash and cash equivalents, short-term bank deposits, trade receivables and trade payables, approximate their fair value due to the immediate or short-term maturities of these financial instruments. The carrying amount of the long term loan approximates its fair value due to the fact the loan bears variable interest rate.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

t. Legal contingencies:

The Company is currently involved in various claims and legal proceedings. The Company reviews the status of each matter and assesses its potential financial exposure. If the potential loss from any claim or legal proceeding is considered probable and the amount can be reasonably estimated, the Company accrues a liability for the estimated loss.

u. Advertising expenses:

Advertising expenses are charged to expense as incurred. Advertising expenses for the years 2016, 2015 and 2014 were $9,693, $7,986 and $ 7,827, respectively.

v. Treasury shares:

The Company repurchases its ordinary shares from time to time on the open market or in other transactions and holds such shares as treasury shares. The Company presents the cost to repurchase treasury stock as a reduction of shareholders' equity. The Company reissues treasury shares under the stock purchase plan, upon exercise of options and upon vesting of restricted stock units. Reissuance of treasury shares is accounted for in accordance with ASC No. 505-30 whereby gains are credited to additional paid-in capital and losses are charged to additional paid-in capital to the extent that previous net gains are included therein; otherwise to retained earnings.

w. Business Combination:

The Company applies the provisions of ASC 805, “Business Combination” and allocates the fair value of purchase consideration to the tangible assets acquired, liabilities assumed and intangible assets acquired based on their estimated fair values. The excess of the fair value of purchase consideration over the fair values of these identifiable assets and liabilities is recorded as goodwill. When determining the fair values of assets acquired and liabilities assumed, management makes significant estimates and assumptions, especially with respect to intangible assets. Significant estimates in valuing certain intangible assets include, but are not limited to future expected cash flows from customer relationships, acquired technology and acquired trademarks from a market participant perspective, useful lives and discount rates. Management’s estimates of fair value are based upon assumptions believed to be reasonable, but which are inherently uncertain and unpredictable and, as a result, actual results may differ from estimates.

x. Comprehensive income:

The Company accounts for comprehensive income in accordance with ASC No. 220, "Comprehensive Income". Comprehensive income generally represents all changes in shareholders' equity during the period except those resulting from investments by, or distributions to, shareholders. The Company determined that its items of other comprehensive income relate to gains and losses on hedging derivative instruments and unrealized gains and losses on available for sale marketable securities and changes in foreign currency translation adjustments.

U.S. dollars in thousands (except share and per share data)

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

The following tables show the components of accumulated other comprehensive income, net of taxes, as of December 31, 2016 and 2015:

	Year ended December 31, 2016			
	Unrealized gains (losses) on marketable securities	Unrealized gains (losses) on cash flow hedges	Foreign currency translation adjustment	Total
Beginning balance	$ (1,930)	$ (569)	$ (21,706)	$ (24,205)
Other comprehensive income (loss) before reclassifications	5,102	600	(24,801)	(19,099)
Amounts reclassified from accumulated other comprehensive income	(3,388)	(132)	-	(3,520)
Net current-period other comprehensive income (loss)	1,714	468	(24,801)	(22,619)
Ending balance	$ (216)	$ (101)	$ (46,508)	$ (46,824)

	Year ended December 31, 2015			
	Unrealized gains (losses) on marketable securities	Unrealized gains (losses) on cash flow hedges	Foreign currency translation adjustment	Total
Beginning balance	$ 183	$ (3,625)	$ (7,104)	$ (10,546)
Other comprehensive income (loss) before reclassifications	(2,081)	(954)	(14,602)	(17,637)
Amounts reclassified from accumulated other comprehensive income	(32)	4,010	-	3,978
Net current-period other comprehensive income (loss)	(2,113)	3,056	(14,602)	(13,659)
Ending balance	$ (1,930)	$ (569)	$ (21,706)	$ (24,205)

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

y. Recently issued accounting standards:

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2014-09 (ASU 2014-09) "Revenue from Contracts with Customers (Topic 606)". ASU 2014-09 supersedes the revenue recognition requirements in "Revenue Recognition (Topic 605)", and requires entities to recognize revenue when it transfers promised goods or services 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. As currently issued and amended, ASU 2014-09 is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period, though early adoption is permitted for annual reporting periods beginning after December 15, 2016.
In March 2016, the FASB issued "Revenue from Contracts with Customers (Topic 606) - Principal versus Agent Considerations (Reporting revenue gross versus net)" (ASU 2016-08), which clarifies gross versus net revenue reporting when another party is involved in the transaction. In April 2016, the FASB issued "Identifying Performance Obligations and Licensing" (ASU 2016-10) which amends the revenue guidance on identifying performance obligations and accounting for licenses of intellectual property. The new revenue standard may be applied using either of the following transition methods: (1) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (2) a modified retrospective approach with the cumulative effect of initially adopting the standard recognized at the date of adoption (which includes additional footnote disclosures). The guidance in ASU 2016-08 and 2016-10 is effective upon the adoption of ASU 2014-09.

The Company will adopt the standard in the first quarter of 2018 and has not yet selected a transition method The Company is currently evaluating the effect that the updated standard will have on its consolidated financial statements and related disclosures. While the Company is continuing to assess all potential impacts of the new standard, the Company currently believes the impacts relate to arrangements that include term-based software licenses, allocation of transaction price to each performance obligation on a relative standalone selling price and capitalization of costs related to obtaining customer contracts.

In January 2016, the FASB issued ASU No. 2016-01, Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities ("ASU 2016-01"), which updates certain aspects of recognition, measurement, presentation and disclosure of financial instruments. ASU 2016-01 will be effective for the Company in the first quarter of 2019. The Company is currently evaluating the effect that this guidance will have on its consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02, "Leases" ("ASU 2016-02"). The updated standard aims to increase transparency and comparability among organizations by requiring lessees to recognize lease assets and lease liabilities on the balance sheet and requiring disclosure of key information about leasing arrangements. This update is effective for annual periods beginning after December 15, 2018, and interim periods within those annual periods; early adoption is permitted and modified retrospective application is required. The Company is currently evaluating the impact of adopting ASU 2016-02 on its consolidated financial statements.

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

In March 2016, the FASB issued ASU 2016-05, “Derivatives and Hedging (Topic 815): Effect of Derivative Contract Novations on Existing Hedge Accounting Relationships” (“ASU 2016-05”), which clarifies that a change in the counter party to a derivative instrument designated as a hedging instrument does not require designation of that hedging relationship, provided that all other hedge accounting criteria are met. The guidance in ASU 2016-05 is effective for annual periods beginning after December 15, 2016; early adoption is permitted as of the beginning of an interim period on a modified retrospective basis. The Company expects no material impact on its consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-09, Compensation – Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting (“ASU 2016-09”), which simplified certain aspects of the accounting for share-based payment transactions, including income taxes, classification of awards and classification in the statement of cash flows. ASU 2016-09 will be effective for the Company in the first quarter of 2017. The Company will apply this guidance using a modified retrospective transition method and expect to record a total cumulative-effect adjustment in retained earnings as of January 1, 2017 for the revision of the forfeiture fair value and excess tax benefits that have not previously been recognized in an amount of approximately $6 million.

In August 2016, the FASB issued ASU 2016-15, "Statement of Cash Flows (Topic 230), Classification of Certain Cash Receipts and Cash Payments." The guidance addresses the classification of cash flow related to (1) debt prepayment or extinguishment costs, (2) settlement of zero-coupon debt instruments or other debt instruments with coupon rates that are insignificant in relation to the effective interest rate of the borrowing, (3) contingent consideration payments made after a business combination, (4) proceeds from the settlement of insurance claims, (5) proceeds from the settlement of corporate-owned life insurance, including bank-owned life insurance, (6) distributions received from equity method investees and (7) beneficial interests in securitization transactions. The guidance also clarifies how the predominance principle should be applied when cash receipts and cash payments have aspects of more than one class of cash flows. The guidance will generally be applied retrospectively and is effective for financial statements issued for annual reporting periods beginning after December 15, 2017. Early application is permitted. The Company is currently evaluating the impact of this standard on its consolidated statement of cash flows.

In October 2016, the FASB issued Accounting Standards Update No. 2016-16, Income Taxes (Topic 740): Intra-Entity Transfers Other than Inventory (ASU 2016-16), which requires companies to recognize the income-tax consequences of an intra-entity transfer of an asset other than inventory. ASU 2016-16 will be effective for the Company in the first quarter of 2018, with the option to adopt it in the first quarter of 2017. The Company is currently evaluating the effect that this guidance will have on its consolidated financial statements.

In January 2017, the FASB issued ASU 2017-04 "Intangibles - Goodwill and Other (Topic 350): Simplifying the Accounting for Goodwill Impairment" (ASU 2017-04). ASU 2017-04 eliminates Step 2 of the goodwill impairment test, which requires the calculation of the implied fair value of goodwill by assigning the fair value of a reporting unit to all of its assets and liabilities as if that reporting unit had been acquired in a business combination. Instead, an entity will compare 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. ASU 2017-04 is effective for annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. The Company is currently evaluating the effect that this guidance will have on its consolidated financial statements.

U.S. dollars in thousands (except share and per share data)

NOTE 2:- SIGNIFICANT ACCOUNTING POLICIES (Cont.)

In January 2017, the FASB issued ASU 2017-01 "Business Combinations (Topic 805): Clarifying the Definition of a Business" (ASU 2017-04), which provides a more robust framework to use in determining when a set of assets and activities is a business. Because the current definition of a business is interpreted broadly and can be difficult to apply, stakeholders indicated that analyzing transactions is inefficient and costly and that the definition does not permit the use of reasonable judgment. ASU 2017-04 provides more consistency in applying the guidance, reduces the costs of application, and makes the definition of a business more operable. This update is effective for annual and interim periods beginning after December 15, 2018. The Company expects no material impact on its consolidated financial statements.

NOTE 3:- SHORT-TERM AND LONG-TERM INVESTMENTS

Short-term and long-term investments include marketable securities in the amount of $129,013 and $462,298 as of December 31, 2016 and 2015, respectively and short-term bank deposits in the amounts of $0 and $40,146 as of December 31, 2016 and 2015, respectively.

The following table summarizes amortized costs, gross unrealized gains and losses and estimated fair values of available-for-sale marketable securities as of December 31, 2016 and 2015:

	Amortized cost		Gross unrealized gains		Gross unrealized losses		Estimated fair value	
	December 31,		December 31,		December 31,		December 31,	
	2016	2015	2016	2015	2016	2015	2016	2015
Level 2:								
Corporate debentures	$ 122,335	$ 452,556	$ 91	$ 267	$ 225	$ 2,338	$ 122,201	$ 450,485
U.S. Agencies	-	4,999	-	3		2	-	5,000
U.S. Treasuries	7,008	7,010	-	-	196	197	6,812	6,813
	$ 129,343	$ 464,565	$ 91	$ 270	$ 421	$ 2,537	$ 129,013	$ 462,298

The scheduled maturities of available-for-sale marketable securities as of December 31, 2016 were as follows:

	Amortized cost	Estimated fair value
Due within one year	30,292	30,287
Due after one year through five years	99,051	98,726
	129,343	129,013

U.S. dollars in thousands (except share and per share data)

NOTE 3:- SHORT-TERM AND LONG-TERM INVESTMENTS (Cont.)

Investments with continuous unrealized losses for less than 12 months and 12 months or greater and their related fair values as of December 31, 2016 and 2015 were as indicated in the following tables:

	December 31, 2016					
	Investments with continuous unrealized losses for less than 12 months		Investments with continuous unrealized losses for 12 months or greater		Total Investments with continuous unrealized losses	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
Corporate debentures	$ 19,444	$ (137)	$ 56,799	$ (88)	$ 76,243	$ (225)
U.S. treasuries	-	-	6,812	(196)	6,812	(196)
	$ 19,444	$ (137)	$ 63,611	$ (284)	$ 83,055	$ (421)

	December 31, 2015					
	Investments with continuous unrealized losses for less than 12 months		Investments with continuous unrealized losses for 12 months or greater		Total Investments with continuous unrealized losses	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
Corporate debentures	$ 242,545	$ (1,750)	$ 113,581	$ (588)	$ 356,126	$ (2,338)
U.S. agencies	1,997	(3)	-	-	1,997	(3)
U.S. treasuries	-	-	6,813	(196)	6,813	(196)
	$ 244,542	$ (1,753)	$ 120,394	$ (784)	$ 364,936	$ (2,537)

NOTE 4:- PREPAID EXPENSES AND OTHER CURRENT ASSETS

	December 31,	
	2016	2015
Government authorities	$ 23,312	$ 21,821
Interest receivable	804	2,597
Prepaid expenses	24,863	11,157
Inventories	4,716	6,198
Other	4,271	1,788
	$ 57,966	$ 43,561

U.S. dollars in thousands (except share and per share data)

NOTE 5:- OTHER LONG-TERM ASSETS

	December 31,	
	2016	2015
Severance pay fund	$ 14,701	$ 15,857
Long-term deposits	3,000	1,318
Investments in affiliate	1,000	-
	$ 18,701	$ 17,175

NOTE 6:- PROPERTY AND EQUIPMENT, NET

	December 31,	
	2016	2015
Cost:		
Computers and peripheral equipment	$ 181,738	$ 118,326
Internal use software	9,882	1,380
Office furniture and equipment	13,982	8,537
Leasehold improvements	48,573	29,106
	254,175	157,349
Accumulated depreciation:		
Computers and peripheral equipment	139,066	95,056
Office furniture and equipment	7,847	6,372
Leasehold improvements	19,584	15,328
	166,497	116,756
Depreciated cost	$ 87,678	$ 40,593

Depreciation expense totaled $18,422, $15,575 and $17,688 for the years 2016, 2015 and 2014, respectively.

The Company recorded a reduction of $10,941 and $9,615 to the cost and accumulated depreciation of fully depreciated equipment and leasehold improvements no longer in use for the years ended December 31, 2016 and 2015, respectively.

U.S. dollars in thousands (except share and per share data)

NOTE 7:- OTHER INTANGIBLE ASSETS, NET

a. Definite-lived other intangible assets:

	December 31,	
	2016	2015
Original amounts:		
Core technology	$ 623,274	$ 263,883
Customer relationships and distribution network	372,438	182,768
Trademarks	55,745	12,252
	1,051,457	458,903
Accumulated amortization:		
Core technology	238,898	216,586
Customer relationships and distribution network	181,123	161,863
Trademarks	12,701	12,252
	432,722	390,701
Other intangible assets, net	$ 618,735	$ 68,202

b. Amortization expense amounted to $58,968, $40,055 and $50,738 for the years ended December 31, 2016, 2015 and 2014, respectively.

c. The Company recorded a reduction of $9,677 and 9,981 to the original amounts and accumulated amortization of fully amortized other intangible assets for the years ended December 31, 2016 and 2015, respectively.

d. Estimated amortization expense:

For the year ended December 31,	
2017	114,377
2018	93,357
2019	90,687
2020	86,680
2021 and thereafter	233,634
	$ 618,735

U.S. dollars in thousands (except share and per share data)

NOTE 8:- GOODWILL

Following the Company's acquisitions in 2016, as described in Note 1b, and the disposal of certain Security Solutions segment operations, as described in Note 1c, the changes in the carrying amount of goodwill allocated to reportable segments for the years ended December 31, 2016 and 2015 are as follows:

	Year ended December 31, 2016		
	Customer Engagement	Financial Crime and Compliance	Total
As of January 1, 2016	$ 384,808	$ 266,304	$ 651,112
Acquisitions (*)	651,892	-	651,892
Functional currency translation adjustments	(14,502)	(3,792)	(18,294)
As of December 31, 2016	$ 1,022,198	$ 262,512	$ 1,284,710

(*) including a goodwill balance of $559,372 related to the acquisition of inContact.

	Year ended December 31, 2015		
	Customer Engagement	Financial Crime and Compliance	Total
As of January 1, 2015	$ 392,228	$ 267,429	$ 659,657
Functional currency translation adjustments	(7,420)	(1,125)	(8,545)
As of December 31, 2015	$ 384,808	$ 266,304	$ 651,112

NOTE 9:- ACCRUED EXPENSES AND OTHER LIABILITIES

	December 31,	
	2016	2015
Employees and payroll accruals	$ 118,599	$ 109,995
Accrued expenses	86,236	61,958
Government authorities	67,218	50,001
Other	1,081	1,301
	$ 273,134	$ 223,255

U.S. dollars in thousands (except share and per share data)

NOTE 10:- DERIVATIVE INSTRUMENTS

The Company's risk management strategy includes the use of derivative financial instruments to reduce the volatility of earnings and cash flows associated with changes in foreign currency exchange rates.

ASC 815, "Derivatives and Hedging" ("ASC 815"), requires the Company to recognize all of its derivative instruments as either assets or liabilities on the balance sheet at fair value. The accounting for changes in the fair value (i.e., gains or losses) of a derivative instrument depends on whether it has been designated and qualifies as part of a hedging relationship and further, on the type of hedging relationship. For those derivative instruments that are designated and qualify as hedging instruments, a company must designate the hedging instrument, based upon the exposure being hedged, as a fair value hedge, cash flow hedge or a hedge of a net investment in a foreign operation.

For derivative instruments that are designated and qualify as a cash flow hedge (i.e., hedging the exposure to variability in expected future cash flows that is attributable to a particular risk), the effective portion of the gain or loss on the derivative instrument is reported as a component of accumulated other comprehensive income (loss) and reclassified into earnings in the line item associated with the hedged transaction in the period or periods during which the hedged transaction affects earnings. The remaining gain or loss on the derivative instrument in excess of the cumulative change in the present value of future cash flows of the hedged item representing the ineffective portion of the derivative, if any, is recognized in financial income (expense) in the period of change.

The Company entered into option and forward contracts to hedge a portion of anticipated New Israeli Shekel ("NIS") and Indian Rupee (INR) payroll and benefit payments as well as facilities related payments. These derivative instruments are designated as cash flow hedges, as defined by ASC 815 and accordingly are measured in fair value. These transactions are effective and, as a result, gain or loss on the derivative instruments are reported as a component of accumulated other comprehensive income (loss) and reclassified as payroll expenses or finance expenses, respectively, at the time that the hedged income/expense is recorded.

	Notional amount		Fair value	
	December 31,		December 31,	
	2016	2015	2016	2015
Level 2:				
Option contracts to hedge payroll expenses ILS	$ 43,600	$ 110,000	$ 107	$ (566)
Option contracts to hedge payroll expenses INR	12,000	-	4	-
Option contracts to hedge facilities expenses ILS	-	5,018	-	1
Forward contracts to hedge payroll expenses ILS	52,000	-	(212)	-
Forward contracts to hedge facility expenses ILS	2,549	-	10	-
	$ 110,149	$ 115,018	$ (91)	$ (565)

U.S. dollars in thousands (except share and per share data)

NOTE 10:- DERIVATIVE INSTRUMENTS (Cont.)

The Company currently hedges its exposure to the variability in future cash flows for a maximum period of one year. As of December 31, 2016, the Company expects to reclassify all of its unrealized gains and losses from accumulated other comprehensive income to earnings during the next twelve months.

The fair value of the Company's outstanding derivative instruments at December 31, 2016 and 2015 is summarized below:

		Fair value of derivative instruments	
		December 31,	
	Balance sheet line item	2016	2015
Derivative assets:			
Foreign exchange option contracts	Other receivables and prepaid expenses	$ 111	$ 1
Foreign exchange forward contracts	Other receivables and prepaid expenses	10	-
Derivative liabilities:			
Foreign exchange option contracts	Accrued expenses and other liabilities	$ -	$ (566)
Foreign exchange forward contracts	Accrued expenses and other liabilities	(212)	-

The effect of derivative instruments in cash flow hedging relationship on income and other comprehensive income for the years ended December 31, 2016, 2015 and 2014 is summarized below:

	Amount of gain (loss) recognized in OCI on derivative (effective portion)		
	Year ended December 31,		
	2016	2015	2014
Derivatives in foreign exchange cash flow hedging relationships:			
Foreign exchange forward contracts	$ 202	-	-
Foreign exchange option contracts	$ (802)	$ 954	$ 6,770
	$ (600)	$ 954	$ 6,770

U.S. dollars in thousands (except share and per share data)

NOTE 10:- DERIVATIVE INSTRUMENTS (Cont.)

Derivatives in foreign exchange cash flow hedging relationships:

	Statements of income line item	Amount of gain (loss) reclassified from OCI into income (expenses) (effective portion) Year ended December 31, 2016	2015	2014
Option contracts	Cost of revenues, operating expenses and discontinued operations	$ (132)	$ 4,010	$ 1,552
		$ (132)	$ 4,010	$ 1,552

NOTE 11:- COMMITMENTS AND CONTINGENT LIABILITIES

a. Lease commitments:

The Company leases office space, office equipment and various motor vehicles under operating leases.

1. The Company's office space and office equipment are rented under several operating leases.

Future minimum lease commitments under non-cancelable operating leases for the years ended December 31, were as follows:

2017	$ 22,340
2018	20,670
2019	18,167
2020	17,350
2021	14,612
2022 and thereafter	46,840
	$ 139,979

Rent expenses for the years 2016, 2015 and 2014 were approximately $ 23,669, $15,880 and $ 18,594, respectively.

On October 30, 2015, the Company entered into an agreement to rent new office space in Hoboken NJ, USA. Consequently, in November 2016**,** the Company ceased using its offices in Paramus, NJ and Manhattan, NY, USA prior to their original contractual termination date. The Company intends to sub-lease its two former facilities in New Jersey and New York during the remainder of the respective lease terms. As a result, the Company recorded an exit activity liability as of December 31, 2016 and recognized rent expenses in the year then ended in the amount of $6,457, which are included in the disclosed information above.

NOTE 11:- COMMITMENTS AND CONTINGENT LIABILITIES (Cont.)

2. The Company leases its motor vehicles under cancelable operating lease agreements.

The minimum payment under these operating leases, upon cancellation of these lease agreements was $ 654 as of December 31, 2016.

Lease expenses for motor vehicles for the years 2016, 2015 and 2014 were $ 2,747, $ 5,103 and $ 3,774, respectively.

b. Other commitments:

The Company is obligated under certain agreements with its suppliers to purchase licenses and hosting services. These non-cancelable obligations as of December 31, 2016 and 2015 were $ 22,207 and $ 18,148, respectively.

c. Legal proceedings:

1. Dispute under Sale Agreement:

Following the divestiture of one of the Company business units, the buyer of such business unit made certain demands and allegations, claiming indemnification pursuant to the sale agreement between the Company and such buyer. The Company has denied all demands and allegations made by the buyer. The parties have reached and executed a settlement agreement on December 25, 2016 in accordance with the mechanism set in the sale agreement regarding such matters, which its outcome is recorded within discontinued operations. This dispute is no longer pending.

2. Disputes and litigations inherited following the acquisition of inContact:

In May 2009, inContact was served in a lawsuit titled California College, Inc., et al., v. UCN, Inc., et al. In the lawsuit, California College alleges that (1) inContact made fraudulent and/or negligent misrepresentations in connection with the sale of its services with those of Insidesales.com, Inc., another defendant in the lawsuit, (2) inContact breached its service contract with California College and an alleged oral contract between the parties by failing to deliver contracted services and product and failing to abide by implied covenants of good faith and fair dealing, and (3) inContact's conduct interfered with prospective economic business relations of California College with respect to enrolling students. California College filed an amended complaint that has been answered by Insidesales.com and inContact. California College originally sought damages in excess of $20.0 million. Insidesales.com and inContact filed cross- claims against one another, which they subsequently agreed to dismiss with prejudice. In October 2011, California College reached a settlement with Insidesales.com, the terms of which have not been disclosed and remain confidential. In June of 2013, California College amended its damages claim to $14.4 million, of which approximately $5.0 million was alleged to be pre- judgment interest. On September 10, 2013, the court issued an order on inContact's Motion for Partial Summary Judgment. The court determined that factual disputes exist as to several of the claims, but dismissed California College's cause of action for intentional interference with prospective economic relations and the claim for prejudgment interest. Dismissing the claim for prejudgment interest effectively reduced the claim for damages to approximately $9.2 million. At this stage we are unable to evaluate the probability of a favorable or unfavorable outcome in this litigation.

NOTE 11:- COMMITMENTS AND CONTINGENT LIABILITIES (Cont.)

3. From time to time the Company or its subsidiaries may be involved in legal proceedings and/or litigation arising in the ordinary course of business. While the outcome of these matters cannot be predicted with certainty, the Company does not believe it will have a material effect on its consolidated financial position, results of operations, or cash flows.

NOTE 12:- TAXES ON INCOME

a. Israeli taxation:

1. Corporate tax:

Commencing 2012, NICE and its Israeli subsidiary elected the Preferred Enterprise regime to apply under the Law for the Encouragement of Capital Investment (the "Investment Law"). The election is irrevocable. Under the Preferred Enterprise Regime, from 2014 through 2016, the Company's entire preferred income is subject to the tax rate of 16%. Subject to the Ministry of Finance's promulgation of regulations for implementation of the new Preferred Technology Enterprise benefits regime, which was set for March 31, 2017 and has been delayed, we expect that we will qualify as a Preferred Technology Enterprise and accordingly be eligible for a tax rate of 12% on our preferred technology income, as to be defined in such regulations.

Income not eligible for Preferred Enterprise benefits is taxed at the regular corporate tax rate, which was 25% in 2016 and 26.5% in 2015 and 2014. Under an Amendment to the Income Tax Ordinance enacted in December 2016 the regular corporate tax rate will be reduced to 24% in 2017 and 23% in 2018 and thereafter.

Prior to 2012, most of the Company's and its Israeli subsidiary's income was exempt from tax or subject to reduced tax rates under the Investment Law. Upon distribution of exempt income, the distributing company was subject to reduced corporate tax rates ordinarily applicable to such income under the Investment Law. Income subjected to a reduced tax rate under the Investment Law including the Preferred Enterprise Regime will be freely distributable as dividends, subject to a 15%-20% withholding tax (or lower, under an applicable tax treaty). However, upon the distribution of a dividend from Preferred Income to an Israeli company, no withholding tax will be imposed.

Pursuant to a temporary tax relief initiated by the Israeli government, a company that elected by November 11, 2013 to pay a reduced corporate tax rate as set forth in the temporary tax relief with respect to undistributed exempt income generated under the Investment Law accumulated by the company until December 31, 2011 is entitled to distribute a dividend from such income without being required to pay additional corporate tax with respect to such dividend. A company that has so elected must make certain qualified investments in Israel over five-year period. A company that has elected to apply the temporary tax relief cannot withdraw from its election. The election did not require the actual distribution of these previously tax-exempted earnings.

NOTE 12:- TAXES ON INCOME (Cont.)

In September 2013, the Company made the election and duly released all of NICE and its Israeli subsidiary's tax-exempted income through 2011 related to their various pre 2012 programs under the Investment Law. As a result of the election and the related settlement of a routine multi-year tax audit, the Company recorded an expense of $19,200 and paid an amount of approximately $32,000. The Company has also committed to make certain investments in "industrial projects" (as defined in the Law) no later than December 31, 2017. The Company believes that this commitment has already been fulfilled during 2013 as part of its existing investment plans. Further to the election, NICE no longer has a tax liability upon future distributions of its tax-exempted earnings, while the Israeli subsidiary may have a tax liability upon future distributions only with respect to its 2012 tax-exempted earnings.

2. Foreign Exchange Regulations:

Under the Foreign Exchange Regulations, NICE and its Israeli subsidiary calculate their tax liability in U.S. Dollars according to certain orders. The tax liability, as calculated in U.S. Dollars is translated into New Israeli Shekels according to the exchange rate as of December 31st of each year.

3. Tax benefits under the Israeli Law for the Encouragement of Industry (Taxation), 1969:

NICE and its Israeli subsidiary believe they currently qualify as an "Industrial Company" as defined by the above law and, as such, is entitled to certain tax benefits including accelerated depreciation, deduction of public offering expenses in three equal annual installments and amortization of cost of purchased know-how and patents for tax purposes over 8 years.

b. Income taxes on non-Israeli subsidiaries:

Non-Israeli subsidiaries are taxed according to the tax laws in their respective country of residence. The Company's consolidated tax rate depends on the geographical mix of where its profits are earned. Primarily, in 2016, the Company's U.S. subsidiaries are subject to federal and state income taxes of approximately 39% and its subsidiaries in the U.K. are subject to corporation tax at a rate of 20%. Neither Israeli income taxes, foreign withholding taxes nor deferred income taxes were provided in relation to undistributed earnings of the Company's foreign subsidiaries. This is because the Company has the intent and ability to reinvest these earnings indefinitely in the foreign subsidiaries and therefore those earnings are continually redeployed in those jurisdictions. As of December 31, 2016, the amount of undistributed earnings of non-Israeli subsidiaries, which is considered indefinitely reinvested, was $ 333,500 with a corresponding unrecognized deferred tax liability of $ 55,767. If these earnings were distributed to Israel in the form of dividends or otherwise, the Company would be subject to additional Israeli income taxes (subject to an adjustment for foreign tax credits) and foreign withholding taxes.

U.S. dollars in thousands (except share and per share data)

NOTE 12:- TAXES ON INCOME (Cont.)

c. Net operating loss carryforward:

As of December 31, 2016, certain subsidiaries had tax loss carry-forwards totaling approximately $273,100 which can be carried forward and offset against taxable income with expiration dates ranging from 2017 and onwards. Approximately $66,200 of these carry-forward tax losses have no expiration date. The balance expires between 2017 and 2036.

Utilization of U.S. net operating losses may be subject to substantial annual limitation due to the "change in ownership" provisions of the Internal Revenue Code of 1986 and similar state provisions. The annual limitation may result in the expiration of net operating losses increasing taxes before utilization.

d. Deferred tax assets and liabilities:

Deferred taxes reflect the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts recorded for tax purposes. Significant components of the Company's deferred tax assets and liabilities are as follows:

	December 31,	
	2016	2015
Deferred tax assets:		
Net operating losses carryforward and tax credits	$ 86,490	$ 16,809
Share based payments	17,299	8,958
Research and development costs	4,246	3,562
Reserves, allowances and other	4,260	5,574
Deferred tax assets before valuation allowance	112,295	34,903
Valuation allowance	(8,839)	(7,347)
Deferred tax assets	103,456	27,556
Deferred tax liabilities:		
Acquired intangibles	(231,645)	(28,164)
Acquired deferred revenue	(4,670)	(302)
Deferred tax liabilities	(236,315)	(28,466)
Deferred tax liabilities, net	$ (132,859)	$ (910)

	December 31,	
	2016	2015
Deferred tax assets	$ 14,093	$ 14,130
Deferred tax liabilities	(146,952)	(15,040)
Deferred tax liabilities, net	$ (132,859)	$ (910)

U.S. dollars in thousands (except share and per share data)

NOTE 12:- TAXES ON INCOME (Cont.)

The Company has provided valuation allowances in respect of certain deferred tax assets resulting from tax loss carry forwards and other reserves and allowances due to uncertainty concerning their realization.

e. A reconciliation of the Company's effective tax rate to the statutory tax rate in Israel is as follows:

	Year ended December 31,		
	2016	2015	2014
Income before taxes on income, as reported in the consolidated statements of income	$ 144,481	$ 171,410	$ 110,059
Statutory tax rate in Israel	25.0%	26.5%	26.5%
Preferred Enterprise benefits (*)	(8.9)%	(6.1)%	(4.1)%
Changes in valuation allowance	1.0%	(0.4)%	(2.2)%
Earnings taxed under foreign law	(7.7)%	(4.0)%	(4.8)%
Tax settlements and other adjustments	5.8%	1.1%	(7.0)%
Other	(0.4)%	0.9%	0.6%
Effective tax rate	14.8%	18.0%	9.0%

(*) The effect of the benefit resulting from the "Preferred Enterprise" status on net earnings per ordinary share is as follows:

	Year ended December 31,		
	2016	2015	2014
Basic	$ 0.22	$ 0.18	$ 0.08
Diluted	$ 0.21	$ 0.17	$ 0.07

f. Income before taxes on income is comprised as follows:

	Year ended December 31,		
	2016	2015	2014
Domestic	$ 131,111	$ 122,952	$ 67,192
Foreign	13,370	48,458	42,867
	$ 144,481	$ 171,410	$ 110,059

U.S. dollars in thousands (except share and per share data)

NOTE 12:- TAXES ON INCOME (Cont.)

g. Taxes on income are comprised as follows:

	Year ended December 31,		
	2016	2015	2014
Current	$ 47,318	$ 23,978	$ 37,694
Deferred	(25,906)	6,854	(27,785)
	$ 21,412	$ 30,832	$ 9,909
Domestic	$ 28,097	$ 24,812	$ 2,337
Foreign	(6,685)	6,020	7,572
	$ 21,412	$ 30,832	$ 9,909

Of which:

	Year ended December 31,		
	2016	2015	2014
Domestic taxes:			
Current	$ 27,932	$ 14,860	$ 16,351
Deferred	165	9,952	(14,014)
	$ 28,097	$ 24,812	$ 2,337
Foreign taxes:			
Current	$ 19,386	$ 9,118	$ 21,343
Deferred	(26,071)	(3,098)	(13,771)
	$ (6,685)	$ 6,020	$ 7,572
Taxes on income	$ 21,412	$ 30,832	$ 9,909

U.S. dollars in thousands (except share and per share data)

NOTE 12:- TAXES ON INCOME (Cont.)

h. Uncertain tax positions:

A reconciliation of the beginning and ending balances of the total amounts of unrecognized tax benefits is as follows:

	December 31,	
	2016	2015
Uncertain tax positions, beginning of year	$ 18,236	$ 18,561
Increases in tax positions for prior years	2,147	110
Increases in tax positions for current year	9,926	5,085
Settlements	(1,331)	(2,173)
Expiry of the statute of limitations	(2,319)	(3,347)
Uncertain tax positions, end of year	$ 26,659	$ 18,236

All the Company's unrecognized tax benefits would, if recognized, reduce the Company's annual effective tax rate. The Company has decreased accrued interest of $206 related to uncertain tax positions as of December 31, 2016.

During 2016, prior tax years in the US and the United Kingdom were closed by way of the expiration of the statute of limitations and settlements reached with those tax authorities through routine tax audits. The Company is currently in the process of routine Israeli income tax audits for the tax years 2013 through 2015. As of December 31, 2016, the Company or its subsidiaries are still subject to U.S. federal income tax audits for the tax years of 2013 through 2016 and to other income tax audits for the tax years of 2011 through 2016.

NOTE 13:- SHAREHOLDERS' EQUITY

a. The ordinary shares of the Company are traded on the Tel-Aviv Stock Exchange and its American Depositary Shares, each representing one fully paid ordinary share, par value NIS 1.00 per share of the Company (the "ADS's") are traded on NASDAQ.

b. Share option plans:

2016 Share Incentive Plan

In February 2016, the Company adopted the 2016 Share Incentive Plan ("the 2016 Plan"), to provide incentives to employees, directors, consultants and/or contractors by rewarding performance and encouraging behavior that will improve our profitability. Under the 2016 Plan, the Company's employees, directors, consultants and/or contractors may be granted any equity-related award, including any type of an option to acquire our ordinary shares and/or share appreciation right and/or share and/or restricted share and/or restricted share unit and/or other share unit and/or other share-based award and/or other right or benefit under the Plan, including any such equity related award that is a performance based award (each an “Award”).

NOTE 13:- SHAREHOLDERS' EQUITY (Cont.)

Generally, under the terms of the 2016 Plan, 25% of the restricted share units and par value options granted become vested on each of the four consecutive annual anniversaries following the date of grant. Specifically with respect to options (other than options granted at an exercise price equal to their nominal value), unless determined otherwise by the Administrator, 25% of an Award granted becomes exercisable on the first anniversary of the date of grant and 6.25% becomes exercisable once every quarter during the subsequent three years. Certain executive officers are entitled to acceleration of vesting of awards in the event of a change of control, subject to certain conditions. Awards with a vesting period expire six years after the date of grant. Options that are performance-based shall expire seven years following the date of grant. The 2016 Plan provides that the number of shares that may be subject to Awards granted under the 2016 Plan shall be an amount per calendar year, equal to 3.5% of our issued and outstanding share capital as of December 31 of the preceding calendar year. Such amount is reset for each calendar year. Awards are non-transferable except by will or the laws of descent and distribution.

Options would be granted at an exercise price equal to the average of the closing prices of one American Depositary Receipts or ADR, as quoted on the NASDAQ market, during the 30 consecutive calendar days preceding the date of grant, unless determined otherwise by the administrator of the 2016 Plan (including in some cases options granted with an exercise price equal to the nominal value of an ordinary share).

Our Board of Directors also adopted an addendum to the 2016 Plan for Awards granted to grantees who are residents of Israel (the “Addendum”) and resolved to elect the “Capital Gains Route” (as defined in Section 102(b)(2) of the Tax Ordinance for the grant of Awards to Israeli grantees. The U.S. addendum of the 2015 Plan provides only for non-qualified stock options for purposes of U.S. tax laws.

During 2016, we granted 1,144,953 options and restricted share units under the 2016 Plan (which constituted 1.58% of our issued and outstanding share capital as of December 31, 2016).

2008 Share Incentive Plan

In June 2008, the Company adopted the 2008 Share Incentive Plan ("the 2008 Plan"), to provide incentives to employees, directors, consultants and/or contractors by rewarding performance and encouraging behavior that will improve the Company's profitability. Under the 2008 Plan, the Company's employees, directors, consultants and/or contractors may be granted any equity-related award, including any type of an option to acquire the Company's ordinary shares and/or share appreciation right and/or share and/or restricted share and/or restricted share unit and/or other share unit and/or other share-based award and/or other right or benefit under the 2008 Plan (each an "Award").

Generally, under the terms of the 2008 Plan, 25% of an Award granted becomes exercisable on the first anniversary of the date of grant and 6.25% becomes exercisable once every quarter during the subsequent three years. Specifically with respect to restricted share units and options granted with an exercise price equal to the nominal value of an ordinary share ("par value options"), unless determined otherwise by the Board of Directors, 25% of the restricted share units granted and par value options granted become vested on each of the four consecutive annual anniversaries following the date of grant. Awards with a vesting period expire six years after the date of grant. Pursuant to a resolution of the Company's Board of Directors dated February 4, 2014, options that are performance-based and are granted during calendar year 2014 and thereafter, shall expire seven years following the date of grant. The 2008 Plan provides that the maximum number of shares that may be subject to Awards granted under the 2008 Plan shall be an amount per calendar year, equal to 3.5% of the Company's issued and outstanding share capital as of December 31 of the preceding calendar year. Such amount is reset for each calendar year.

U.S. dollars in thousands (except share and per share data)

NOTE 13:- SHAREHOLDERS' EQUITY (Cont.)

In December 2010, the Company amended the 2008 Plan, such that options are granted at an exercise price equal to the average of the closing prices of one ordinary share, as quoted on the NASDAQ market, during the 30 consecutive calendar days preceding the date of grant, unless determined otherwise by the administrator of the 2008 Plan (including in some cases par value options). Prior to the amendment of the 2008 Plan that occurred in 2010, the options to acquire ordinary shares were granted at an exercise price of not less than the fair market value of the ordinary shares on the date of the grant, subject to certain exceptions which could be determined by the Company's Board of Directors, including in some cases par value options. Further, when the Company distributes cash dividends, the exercise price for each option outstanding, for certain employees, prior to the distribution is reduced by an amount equal to the gross amount of the dividend per share distributed, provided that the exercise price shall not be reduced below the nominal value of the ordinary shares of the Company.

Pursuant to the terms of the acquisitions of Actimize Ltd., e-Glue Software Technologies Inc., Fizzback, Merced Causata, Nexidia and inContact, the Company assumed or replaced unvested options, Restricted Stock Awards ("RSAs") and Restricted Stock Units ("RSUs") and converted them or replaced them with NICE options, RSAs and RSUs, as applicable, based on an agreed exchange ratio. Each assumed or replaced option, RSA and RSU is subject to the same terms and conditions, including vesting, exercisability and expiration, as originally applied to any such option, RSA and RSU immediately prior to the acquisition.

The fair value of the Company's stock options granted to employees and directors for the years ended December 31, 2016, 2015 and 2014 was estimated using the following assumptions:

	2016	2015	2014
Expected volatility	22.13%-62.31%	23.02%-27.55%	27.47%-28.08%
Weighted average volatility	32.67%	25.17%	27.72%
Risk free interest rate	0.58%-2.04%	0.76%-1.18%	0.8%-1.2%
Expected dividend	0%-1.00%	0%-1.29%	0%-1.61%
Expected term (in years)	3.5	3.5	3.4

U.S. dollars in thousands (except share and per share data)

NOTE 13:- SHAREHOLDERS' EQUITY (Cont.)

A summary of the Company's stock options activity and related information for the year ended December 31, 2016, is as follows:

	Number of options	Weighted-average exercise price	Weighted-average remaining contractual term (in years)	Aggregate intrinsic value
Outstanding at January 1, 2016	2,751,584	24.59	4.19	90,058
Granted	450,288	10.69		
Assumed	265,223	38.96		
Exercised	(920,660)	25.59		
Forfeited	(229,780)	17.35		
Cancelled	(42,991)	24.42		
Outstanding at December 31, 2016	2,273,664	23.61	4.46	102,652
Exercisable at December 31, 2016	745,147	28.10	3.17	30,295

The weighted-average grant-date fair value of options granted during the years 2016, 2015 and 2014 was $51.64, $32.58 and $19.69, respectively.

The total intrinsic value of options exercised during the years 2016, 2015 and 2014 was $35,664, $40,519 and $35,028, respectively.

The options outstanding under the Company's stock option plans as of December 31, 2016 have been separated into ranges of exercise price as follows:

Ranges of exercise price	Options outstanding as of December 31, 2016	Weighted average remaining contractual term (Years)	Weighted average exercise price $	Options exercisable as of December 31, 2016	Weighted average exercise price of options exercisable $
$ 0.26	1,033,833	4.37	0.26	245,658	0.26
$ 0.69	2,204	2.92	0.69	2,204	0.69
$ 6.72-10.05	11,716	7.35	7.09	5,912	7.31
$ 11.40-15.32	10,415	2.06	13.93	10,415	13.93
$ 17.72-17.72	1,337	4.24	17.72	1,337	17.72
$ 27.57-40.87	682,460	3.97	37.49	325,344	35.93
$ 41.44-57.26	398,669	5.35	47.60	64,277	49.28
$ 64.06-67.10	133,030	5.03	64.66	90,000	64.53
	2,273,664	4.46	23.61	745,147	28.10

U.S. dollars in thousands (except share and per share data)

NOTE 13:- SHAREHOLDERS' EQUITY (Cont.)

A summary of the Company's Restricted Stock Awards ("RSA") and the Company's Restricted Stock Units ("RSU") activities and related information for the year ended December 31, 2016, is as follows:

	Number of RSU & RSA(*)
Outstanding at January 1, 2016	753,205
Granted	868,375
Assumed	231,374
Vested	(244,907)
Forfeited	(109,404)
Outstanding at December 31, 2016	1,498,643

(*) NIS 1 par value which represents approximately $0.26

As of December 31, 2016, there was approximately $89,679 of unrecognized compensation expense related to non-vested stock options and restricted stock awards, expected to be recognized over a period of up to four years.

The total equity-based compensation expense related to all of the Company's equity-based awards, recognized for the years ended December 31, 2016, 2015 and 2014, was comprised as follows:

	Year ended December 31,		
	2016	2015	2014
Cost of revenues	$ 7,878	$ 3,712	$ 4,472
Research and development, net	5,676	2,161	2,483
Selling and marketing	16,403	11,266	12,361
General and administrative	10,590	10,521	9,224
Total stock-based compensation expenses	$ 40,547	$ 27,660	$ 28,540

c. Employee Stock Purchase Plan:

Under the Employee Stock Purchase Plan ("ESPP") Eligible employee were entitled to between 2% to 10% of their earnings being withheld (under certain limitations) for the purposes of purchasing ordinary shares. Under the ESPP, the price of ordinary shares purchased was equal to 95% of the fair market value of the ordinary shares.

Pursuant to a resolution of the Company's Board of Directors, the Company's Employee Stock Purchase Plan has been terminated, and is no longer in effect as of January 1, 2014.

During 2014 employees purchased 11,196 shares at average prices of $38.91 per share.

NOTE 13:- SHAREHOLDERS' EQUITY (Cont.)

d. Treasury shares:

On February 15, 2011, November 2, 2011, October 31, 2012, February 4, 2014 and June 1, 2015 the Company's Board of Directors authorized a program to repurchase up to $100,000 at each time (total of up to $500,000) of the Company's issued and outstanding ordinary shares and ADRs. On January 10, 2017 the Company announced that the Board of Directors authorized a program to repurchase up to $150,000 at each time of the Company's issued and outstanding ordinary shares and ADRs. Repurchases may be made from time to time in the open market or in privately negotiated transactions and will be in accordance with applicable securities laws and regulations. The timing and amount of the repurchase transactions will be determined by management and may depend on a variety of factors, including market conditions, alternative investment opportunities and other considerations. The programs do not obligate the Company to acquire any particular amount of ordinary shares and ADRs and the program may be modified or discontinued at any time without prior notice.

e. Dividends:

On February 13, 2013, the Company announced that the Board of Directors had approved a dividend policy under which the Company intended to pay quarterly cash dividends to holders of its ordinary shares and ADRs subject to declaration by the Board. Under Israeli law, dividends may be paid only out of total accumulated retained profits and other surplus (as defined in the law) as of the most recent financial statements or as accrued over a period of the last two years, whichever is higher, provided that there is no reasonable concern that the dividend distribution will prevent the Company from meeting its existing and foreseeable obligations as they come due. Dividends are generally declared and paid in U.S. dollars, although the Company may pay such dividends in Israeli currency.

The total amount of annual dividend declared and paid in 2016 and 2015 was $0.64 per share. Subsequent to the balance sheet date, the Company declared and paid an additional dividend of $0.16 per share in respect of the fourth quarter of 2016.

NOTE 14:- CREDIT AGREEMENT

In connection with financing the acquisition of inContact (refer to Note 1b) which closed on November 14, 2016, the Company entered into a Credit Agreement with certain lenders, according to which the following credit facilities were issued: 1) a long term loan of $475 million, and 2) a revolving credit loan of up to $75 million.

U.S. dollars in thousands (except share and per share data)

NOTE 14:- CREDIT AGREEMENT (cont.)

Long term loan

As of December 31, 2016, the contractual principal payments for the long term loan (including current maturities) are as follows:

2017	$	23,750
2018		23,750
2019		23,750
2020		47,500
2021		356,250
Total	$	475,000

(*) In January 2017, the Company prepaid a principal amount of $260 million which resulted in $5.3 million amortization of debt issuance costs In addition, the contractual principal payments for the long term loan have changed and the Company will pay the entire remaining principal of $215 million on the final maturity date of the term loan facility. Refer to Note 17 for further details.

The long term loan bears interest through maturity at a variable rate based upon, at the Company's option every interest period, either (a) the LIBOR rate for Eurocurrency borrowing or (b) an Alternate Base Rate ("ABR"), which is the highest of (i) the administrative agent's prime rate, (ii) one-half of 1.00% in excess of the overnight U.S. Federal Funds rate, and (iii) 1.00% in excess of the one-month LIBOR), plus in each case, an applicable margin. The applicable margin for Eurocurrency loans ranges, based on the applicable total net leverage ratio, from 1.25% to 2.00% per annum and the applicable margin for ABR loans ranges, based on the applicable total net leverage ratio, from 0.25% to 1.00% per annum.

Debt issuance costs of $10,158 attributable to the long term loan are amortized as interest expense over the contractual term of the loan using the effective interest rate.

The following table sets forth the component of the liability as of December 31, 2016:

Liability:		
Principal	$	475,000
Less: Debt issuance costs, net of amortization		(9,820)
Net carrying amount	$	465,180

The following table sets forth interest expense recognized related to the liability for the year ended December 31, 2016:

Amortization of debt issuance costs	$	338
Interest expense		1,266
Total interest expense recognized	$	1,604
Effective interest rate		2.84%

U.S. dollars in thousands (except share and per share data)

NOTE 14:- CREDIT AGREEMENT (cont.)

Revolving credit loan

Pursuant to the Credit Agreement, the Company has also been granted a revolving credit facility that entitles the Company to borrow up to $75 million through December 2021 with interest payable on the borrowed amount set at the same terms as the term loan, as well as a quarterly commitment fee on unfunded amounts ranging from 0.25% to 0.5%, subject to the achievement of certain leverage levels. As of December 31, 2016, no amounts had been funded.

The Credit Agreement contains a number of covenants and restrictions that among other things, and subject to certain agreed upon exceptions, require the Company and its subsidiaries to satisfy certain financial covenants and restricts the ability of the Company and its subsidiaries to incur liens, incur additional indebtedness, make loans and investments, engage in mergers and acquisitions, engage in asset sales, declare dividends or redeem or repurchase capital stock, prepay, redeem or purchase subordinated debt and amend or otherwise alter debt agreements, in each case, subject to certain agreed upon exceptions. A failure to comply with these covenants could permit the lenders under the Credit Agreement to declare all amounts borrowed under the Credit Agreement, together with accrued interest and fees, to be immediately due and payable. As of December 31, 2016, the Company was in compliance with all covenants and requirements outlined in the Credit Agreement**.**

NOTE 15:- REPORTABLE SEGMENTS AND GEOGRAPHICAL INFORMATION

a. Reportable segments:

ASC 280, Segment Reporting, establishes standards for reporting information about operating segments. Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing performance. The Company's chief operating decision maker is its Chief Executive Officer.

During 2015, the Company divested its Physical Security as well as its Cyber and Intelligence operations, which were a major part of the Security Solutions segment, to allow it to focus on its core markets as part of the execution of its long-term strategy. Following this divestiture, the Company operates in the following operation-based segments: Customer Engagement provide data driven insights that enable businesses to deliver consistent and personalized experience to customers, and Financial Crime and Compliance provide real time and cross-channel fraud prevention, anti-money laundering, brokerage compliance and enterprise-wide case management.

	Year ended December 31, 2016			
	Customer Engagement (1) (2)	Financial Crime and Compliance	Not allocated	Total
Revenues	$ 754,398	$ 261,144	$ -	$ 1,015,542
Operating income	$ 202,893	$ 89,990	$ (158,707)	$ 134,176

U.S. dollars in thousands (except share and per share data)

NOTE 15:- REPORTABLE SEGMENTS AND GEOGRAPHICAL INFORMATION (Cont.)

	Year ended December 31, 2015			
	Customer Engagement (1)	Financial Crime and Compliance	Not allocated	Total
Revenues	$ 688,060	$ 238,807	$ -	$ 926,867
Operating income	$ 206,994	$ 73,131	$ (114,019)	$ 166,106

	Year ended December 31, 2014			
	Customer Engagement (1)	Financial Crime and Compliance	Not allocated	Total
Revenues	$ 674,797	$ 197,198	$ -	$ 871,995
Operating income	$ 151,051	$ 46,878	$ (91,635)	$ 106,294

(1) Includes the results of a certain operation (formerly part of the Security Solutions segment), which was retained following the above mentioned divestiture and integrated within the Customer Engagement operating segment.

(2) Includes the results of Nexidia, VPI and inContact, which were acquired in 2016 and are being integrated within the Customer Engagement segment.

The following presents long-lived assets of December 31, 2016 and 2015, based on operational segments:

	December 31,	
	2016	2015
Customer Engagement	$ 68,935	$ 24,707
Financial Crime and Compliance	13,192	11,013
Non-allocated	5,551	4,873
	$ 87,678	$ 40,593

U.S. dollars in thousands (except share and per share data)

NOTE 15:- REPORTABLE SEGMENTS AND GEOGRAPHICAL INFORMATION (Cont.)

b. Geographical information:

Total revenues from external customers on the basis of the Company's geographical areas are as follows:

	Year ended December 31,		
	2016	2015	2014
Americas, principally the US	$ 720,520	$ 630,096	$ 591,147
EMEA (*)	189,223	192,640	184,092
Israel	4,295	4,231	5,092
Asia Pacific	101,504	99,900	91,664
	$ 1,015,542	$ 926,867	$ 871,995

The following presents long-lived assets of December 31, 2016 and 2015, based on geographical areas:

	December 31,	
	2016	2015
Americas, principally the US	$ 49,175	$ 10,385
EMEA (*)	3,398	4,458
Israel	28,237	22,193
Asia Pacific	6,868	3,557
	$ 87,678	$ 40,593

(*) Includes Europe, the Middle East (excluding Israel) and Africa.

NOTE 16:- SELECTED STATEMENTS OF INCOME DATA

a. Research and development expenses, net:

	Year ended December 31,		
	2016	2015	2014
Total costs	$ 151,698	$ 132,039	$ 125,952
Less - grants and participations	(1,668)	(2,174)	(2,455)
Less - capitalization of software development costs	(8,502)	(1,380)	(356)
	$ 141,528	$ 128,485	$ 123,141

U.S. dollars in thousands (except share and per share data)

NOTE 16:- SELECTED STATEMENTS OF INCOME DATA (Cont.)

b. Financial income and other, net:

	Year ended December 31,		
	2016	2015	2014
Financial income:			
Interest and amortization/accretion of premium/discount on marketable securities	$ 5,607	$ 6,844	$ 5,268
Exchange rates differences	3,961	-	-
Realized gain on marketable securities	3,388	32	16
Interest	953	430	349
	13,909	7,306	5,633
Financial expenses:			
Interest	(2,199)	(66)	(73)
Exchange rates differences	-	(731)	(685)
Other	(925)	(780)	(1,107)
	(3,124)	(1,577)	(1,865)
Other expenses, net	(480)	(425)	(3)
	$ 10,305	$ 5,304	$ 3,765

c. Net earnings per share:

The following table sets forth the computation of basic and diluted net earnings per share:

1. Numerator:

	Year ended December 31,		
	2016	2015	2014
Net income from continuing operations available to ordinary shareholders	$ 123,069	$ 140,578	$ 100,150
Net income from discontinued operations available to ordinary shareholders	(6,149)	118,253	2,925
Net income to ordinary shareholders	$ 116,920	$ 258,831	$ 103,075

NOTE 16:- SELECTED STATEMENTS OF INCOME DATA (Cont.)

2. Denominator (in thousands):

	Year ended December 31,		
	2016	2015	2014
Denominator for basic net earnings per share -			
Weighted average number of shares	59,667	59,552	59,362
Effect of dilutive securities:			
Add - employee stock options and RSU	1,368	1,729	1,533
Denominator for diluted net earnings per share - adjusted weighted average shares	61,035	61,281	60,895

NOTE 17:- SUBSEQUENT EVENTS

a) Dividend:

In accordance with the adoption of a dividend policy announced on February 13, 2013, as described on Note 13e, in February 2017 the Company announced a declaration of a cash dividend of $0.16 per share for the fourth quarter of 2016, which was paid on March 15, 2017.

On January 10, 2017, the Company announced its capital return strategy to optimize the Company's long term growth profile. Therefore the Board of Directors authorized a new enlarged share repurchase program of $150 million and the elimination of the dividend policy beginning in the first quarter of 2017.

b) Notes and Indenture:

In January 2017, the Company issued $287,500 aggregate principal amount of Exchangeable Senior Notes due 2024 (the "Notes"). The Notes will bear interest at a fixed rate of 1.25% per year, payable semiannually in arrears on January 15 and July 15 of each year, beginning on July 15, 2017. Subject to satisfaction of certain conditions and during certain periods, the Notes will be exchangeable at the option of holders for (i) cash, (ii) ADSs or (iii) a combination thereof, at the Company's election. The exchange rate will initially be 12.0260 ADSs per $1,000 principal amount of Notes (equivalent to an initial exchange price of approximately $83.15 per ADS).

In connection with the pricing of the Notes, the Company has entered into privately negotiated exchangeable note hedge transactions with some of the initial purchasers and/or their respective affiliates (the "option counterparties"). Subject to customary anti-dilution adjustments substantially similar to those applicable to the Notes, the exchangeable note hedge transactions cover the same number of ADSs that will initially underlie the Notes. The note hedge transactions are expected generally to reduce potential dilution to the ADSs and/or offset potential cash payments the Company is required to make in excess of the principal amount, in each case, upon any exchange of the Exchangeable Notes. Concurrently with the Company's entry into the exchangeable note hedge transactions, the Company has entered into warrant transactions with the option counterparties relating to the same number of ADSs, with a strike price of $101.82 per ADS, subject to customary anti-dilution adjustments.

The Company proceeds from the offering of the Exchangeable Notes were $280,400, after deducting the underwriters' fees and offering expenses. The Company used $20,300 of the net proceeds of the offering to pay the cost of the exchangeable note hedge transactions (such cost net of the proceeds received by the Company upon issuance of the warrants by the Company). The remaining net proceeds of the offering were used to repay a portion of the outstanding long-term loan as described in Note 14.

SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

NICE LTD.

By: /s/ Barak Eilam
Barak Eilam
Chief Executive Officer

Date: April 21, 2017

Exhibit 1.2

As amended and restated
on December 21, 2016

THE COMPANIES LAW, 5759-1999

A COMPANY LIMITED BY SHARES

AMENDED AND RESTATED

ARTICLES OF ASSOCIATION

OF

NICE LTD.

נייס בע"מ

1. Definitions; Interpretation

(a) "Companies Law" - the Israeli Companies Law, 5759-1999 as the same shall be amended from time to time, or any other law which shall replace that Law, together with any amendments and regulations thereto.

(b) "Companies Ordinance" - those sections of the Israeli Companies Ordinance [New Version] 5743-1983 that shall remain in force after the date of the coming into force of the Companies Law, as the same shall be amended from time to time.

(c) Unless the subject or the context otherwise requires: words and expressions defined in the Companies Law and in the Companies Ordinance, as the case may be, shall have the same meanings herein; words and expressions importing the singular shall include the plural and vice versa; words and expressions importing the masculine gender shall include the feminine gender; and words and expressions importing persons shall include bodies corporate.

(d) The captions in these Articles are for convenience only and shall not be deemed a part hereof or affect the construction of any provision hereof.

2. Object and Purpose of the Company

The object and the purpose of the Company are as set forth in Section 2 of the Memorandum of Association of the Company.

3. Limitation of Liability

The liability of the shareholders of the Company is limited as set forth in Section 3 of the Memorandum of Association of the Company.

SHARE CAPITAL

4. Share Capital

The share capital of the Company is one hundred and twenty five million New Israeli Shekels (NIS 125,000,000) divided into one hundred and twenty five million (125,000,000) Ordinary Shares of nominal value of NIS 1.00 each ("Ordinary Shares").

5. Increase of Share Capital

(a) The Company may, from time to time, by resolution of the shareholders, whether or not all the shares then authorized have been issued, resolve to increase its share capital by the creation of new shares. Any such increase shall be in such amount and shall be divided into shares of such nominal amounts, and such shares shall confer such rights and preferences, and shall be subject to such restrictions, as such resolution shall provide.

(b) Except to the extent otherwise provided in such resolution, such new shares shall be subject to all the provisions applicable to the shares of the original share capital.

6. The Rights of Ordinary Shares

The Ordinary Shares confer upon the holders thereof all rights accruing to a shareholder of the Company, as provided in these Articles, including, *inter alia*, the right to receive notices of (in the manner proscribed in Articles 20 and 50 of these Articles), and to attend, shareholder meetings of the shareholders; for each share held - the right to one vote at all shareholders' meetings for all purposes, and to share equally, on a per share basis, in such dividends as may be declared by the Board of Directors in accordance with the terms of these Articles and the Companies Law; and upon liquidation or dissolution, the right to participate in the distribution of any surplus assets of the Company legally available for distribution to shareholders after payment of all debts and other liabilities of the Company, in accordance with the terms of these Articles and the law. All Ordinary Shares rank *pari passu* in all respects with each other.

7. Special Rights; Modifications of Rights

(a) Subject to the provisions of any law, the Company may, from time to time, by resolution of the shareholders, provide for shares with such preferred or deferred rights or rights of redemption or other special rights and/or such restrictions, whether in regard to dividends, voting, repayment of share capital or otherwise, as may be stipulated in such resolution.

(b) (i) If at any time the share capital is divided into different classes of shares, the rights attached to any class, unless otherwise provided by these Articles, may be modified or abrogated by the Company, by a shareholder resolution, subject to the consent of the holders of a majority of the voting power of such class by written consent or at a separate General Meeting of the holders of the shares of such class.

(ii) The provisions of these Articles relating to General Meetings shall, mutatis mutandis, apply to any separate General Meeting of the holders of the shares of a particular class.

(iii) Unless otherwise provided by these Articles, the enlargement of an existing class of shares, or the issuance of additional shares thereof, shall not be deemed, for purposes of this Article 7(b), to modify or abrogate the rights attached to the previously issued shares of such class or of any other class.

8. Consolidation, Subdivision, Cancellation and Reduction of Share Capital

(a) The Company may (subject, however, to the provisions of Article 7(b) hereof and to applicable law), from time to time, by resolution of the Company's shareholders:

(i) consolidate and divide all or any of its issued or unissued share capital into shares of larger nominal value than its existing shares,

(ii) subdivide its shares (issued or unissued) or any of them, into shares of smaller nominal value than is fixed by these Articles (subject to the provisions of the Companies Law), and the shareholders resolution whereby any share is subdivided may determine that, as among the holders of the shares resulting from such subdivision, one or more of the shares may, as compared with the others, have any such preferred or deferred rights or rights of redemption or other special rights, or be subject to any such restrictions, as the Company has power to attach to unissued or new shares.

(iii) cancel any shares which, at the date of the adoption of such resolution, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled, or

(iv) reduce its share capital in any manner, and with and subject to any incident authorized, and consent required, by law.

(b) With respect to any consolidation of issued shares into shares of larger nominal value, and with respect to any other action which may result in fractional shares, the Board of Directors may settle any difficulty which may arise with regard thereto, as it deems fit, including, *inter alia*, resort to one or more of the following actions:

(i) determine, as to the holder of shares so consolidated, which issued shares shall be consolidated into each share of larger nominal value;

(ii) allot, in contemplation of or subsequent to such consolidation or other action, such shares or fractional shares sufficient to preclude or remove fractional share holdings;

(iii) redeem, in the case of redeemable preference shares, and subject to applicable law, such shares or fractional shares sufficient to preclude or remove fractional share holdings;

(iv) cause the transfer of fractional shares by certain shareholders of the Company to other shareholders thereof so as to most expediently preclude or remove any fractional shareholdings, and cause the transferees to pay the transferors the fair value of fractional shares so transferred, and the Board of Directors is hereby authorized to act as agent for the transferors and transferees with power of substitution for purposes of implementing the provisions of this sub-Article 8(b)(iv).

(c) The notice of a General Meeting with respect to the adoption of a resolution under Article 8(a) above, shall specify the actions to be adopted by the Board of Directors under Article 8(b) above.

SHARES

9. Issuance of Share Certificates; Replacement of Lost Certificates

(a) Share certificates of issued shares shall, if issued, be issued under the seal or the rubber stamp of the Company or the Company printed name, and shall bear the signatures of two Directors, or of one Director and of the Secretary of the Company, or of any other person or persons authorized thereto by the Board of Directors.

(b) Each shareholder, registered in the Register of Shareholders (as defined in the Companies law), shall be entitled to one numbered certificate for all the shares of any class registered in his name, or if the Board of Directors so approves, to several certificates, each for one or more of such shares, in the form as shall be determined by the Board of Directors and according to the law.

(c) A share certificate registered in the names of two or more persons shall be delivered to the person first named in the Register of Shareholders in respect of such co-ownership.

(d) If a share certificate is defaced, lost or destroyed, it may be replaced, provided that the original certificate is presented to and destroyed by the Board of Directors or it is proved to the satisfaction of the Board of Directors that the certificate has been lost or destroyed, and upon payment of such fee, and upon the furnishing of such evidence of ownership and such indemnity or security, as the Board of Directors may think fit.

10. Allotment of Shares

The unissued shares shall be under the control of the Board of Directors, who shall have the power to allot shares or otherwise dispose of them to such persons, on such terms and conditions (including *inter alia* terms relating to calls as set forth in Article 11(f) hereof), and either at par or at a premium, and at such times, as the Board of Directors may think fit, and the power to grant to any person the option to acquire from the Company any shares, either at par or at a premium, during such time and for such consideration as the Board of Directors may think fit.

11. Calls on Shares; Forfeiture and Surrender

(a) The Board of Directors may, from time to time, make such calls as it may think fit upon a shareholder in respect of any sum unpaid in respect of shares held by such shareholder which is not, by the terms of allotment thereof or otherwise, payable at a fixed time, and each shareholder shall pay the amount of every call so made upon him (and of each installment thereof if the same is payable in installments), to the person(s) and at the time(s) and place(s) designated by the Board of Directors, as any such time(s) may be thereafter extended and/or such person(s) or place(s) changed. Unless otherwise stipulated in the resolution of the Board of Directors (and in the notice hereafter referred to), each payment in response to a call shall be deemed to constitute a pro rata payment on account of all shares in respect of which such call was made.

(b) Notice of any call shall be given in writing to the shareholder(s) in question not less than fourteen (14) days prior to the time of payment, specifying the time and place of payment, and designating the person to whom such payment shall be made, provided, however, that before the time for any such payment, the Board of Directors may, by notice in writing to such shareholder(s), revoke such call in whole or in part, extend such time, or alter such person and/or place. In the event of a call payable in installments, only one notice thereof need be given.

(c) If, by the terms of allotment of any share or otherwise, any amount is made payable at any fixed time, every such amount shall be payable at such time as if it were a call duly made by the Board of Directors and of which due notice had been given, and all the provisions herein contained with respect to such calls shall apply to each such amount.

(d) The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof and all interest payable thereon.

(e) Any amount unpaid in respect of a call shall bear interest from the date on which it is payable until actual payment thereof, at such rate (not exceeding the then prevailing debitory rate charged by leading commercial banks in Israel), and at such time(s) as the Board of Directors may prescribe.

(f) Upon the allotment of shares, the Board of Directors may provide for differences among the allottees of such shares as to the amount of calls and/or the times of payment thereof.

(g) If any shareholder fails to pay any amount payable in respect of a call, or interest thereon as provided for herein, on or before the day fixed for payment of the same, the Company, by resolution of the Board of Directors, may at any time thereafter, so long as the said amount or interest remains unpaid, forfeit all or any of the shares in respect of which said call had been made. Any expense incurred by the Company in attempting to collect any such amount or interest, including, inter alia, attorneys' fees and costs of suit, shall be added to, and shall, for all purposes (including the accrual of interest thereon), constitute a part of the amount payable to the Company in respect of such call.

(h) Upon the adoption of a resolution of forfeiture, the Board of Directors shall cause notice thereof to be given to such shareholder, which notice shall state that, in the event of the failure to pay the entire amount so payable within a period stipulated in the notice (which period shall not be less than fourteen (14) days and which may be extended by the Board of Directors), such shares shall be ipso facto forfeited, provided, however, that, prior to the expiration of such period, the Board of Directors may nullify such resolution of forfeiture, but no such nullification shall stop the Board of Directors from adopting a further resolution of forfeiture in respect of the non-payment of the same amount.

(i) Whenever shares are forfeited as herein provided, all dividends theretofore declared in respect thereof and not actually paid shall be deemed to have been forfeited at the same time.

(j) The Company, by resolution of the Board of Directors, may accept the voluntary surrender of any share.

(k) Any share forfeited or surrendered as provided herein shall become the property of the Company, and the same, subject to the provisions of these Articles, may be sold, re-allotted or otherwise disposed of as the Board of Directors thinks fit.

(l) Any shareholder whose shares have been forfeited or surrendered shall cease to be a shareholder in respect of the forfeited or surrendered shares, but shall, notwithstanding, be liable to pay, and shall forthwith pay, to the Company, all calls, interest and expenses owing upon or in respect of such shares at the time of forfeiture or surrender, together with interest thereon from the time of forfeiture or surrender until actual payment, at the rate prescribed in Article 11(e) above, and the Board of Directors, in its discretion, may enforce the payment of such moneys, or any part thereof, but shall not be under any obligation to do so. In the event of such forfeiture or surrender, the Company, by resolution of the Board of Directors, may accelerate the date(s) of payment of any or all amounts then owing by the shareholder in question (but not yet due) in respect of all shares owned by such shareholder, solely or jointly with another, and in respect of any other matter or transaction whatsoever.

(m) The Board of Directors may at any time, before any share so forfeited or surrendered shall have been sold, re-allotted or otherwise disposed of, nullify the forfeiture or surrender on such conditions as it thinks fit, but no such nullification shall stop the Board of Directors from re-exercising its powers of forfeiture pursuant to this Article 11.

(n) Except to the extent the same may be waived or subordinated in writing and to the extent permitted by applicable law, the Company shall have a first and paramount lien upon all the shares registered in the name of each shareholder (without regard to any equitable or other claim or interest in such shares on the part of any other person), and upon the proceeds of the sale thereof, for his debts, liabilities and engagements arising from any cause whatsoever, solely or jointly with another, to or with the Company, whether the period for the payment, fulfillment or discharge thereof shall have actually arrived or not. Such lien shall extend to all dividends from time to time declared in respect of such share. Unless otherwise provided, the registration by the Company of a transfer of shares shall be deemed to be a waiver on the part of the Company of the lien (if any) existing on such shares immediately prior to such transfer.

(o) The Board of Directors may cause the Company to sell any shares subject to such lien when any such debt, liability or engagement has matured, in such manner as the Board of Directors may think fit, but no such sale shall be made unless such debt, liability or engagement has not been satisfied within fourteen (14) days after written notice of the intention to sell shall have been served on such shareholder, his executors or administrators.

(p) The net proceeds of any such sale, after payment of the costs thereof, shall be applied in or toward satisfaction of the debts, liabilities or engagements of such shareholder (whether or not the same have matured), or any specific part of the same (as the Company may determine), and the residue (if any) shall be paid to the shareholder, his executors, administrators or assigns.

TRANSFER OF SHARES

12. Effectiveness and Registration

No transfer of shares shall be registered in the Register of Shareholders unless a proper instrument of transfer (in form and substance satisfactory to the Secretary of the Company) has been submitted to the Company, together with such other evidence of title as the Board of Directors may reasonably require. Until the transferee has been registered in the Register of Shareholders in respect of the shares so transferred, the Company may continue to regard the transferor as the owner thereof.

TRANSMISSION OF SHARES

13. Decedents' Shares

(a) In case of a share registered in the names of two or more holders established by law, the Company may recognize the survivor(s) as the sole owner(s) thereof unless and until the provisions of Article 13(b) have been effectively invoked.

(b) Any person becoming entitled to a share in consequence of the death of any person, upon producing evidence of the grant of probate or letters of administration or declaration of succession (or such other evidence as the Board of Directors may reasonably deem sufficient that he sustains the character in respect of which he proposes to act under this Article or of his title), shall be registered as a shareholder in respect of such share, or may, subject to the regulations as to transfer herein contained, transfer such share.

14. Receivers and Liquidators

(a) The Company may recognize the receiver, liquidator or similar official of any corporate shareholder in winding-up or dissolution, or the receiver, trustee or similar official in bankruptcy or in connection with the reorganization of any shareholder, as being entitled to the shares registered in the name of such shareholder.

(b) The receiver, liquidator or similar official of a corporate shareholder in winding-up or dissolution, or the receiver, trustee or similar official in bankruptcy or in connection with the reorganization of any shareholder, upon producing such evidence as the Board of Directors may deem sufficient that he sustains the character in respect of which he proposes to act under this Article or of his title, shall with the consent of the Board of Directors (which the Board of Directors may grant or refuse in its absolute discretion), be registered as a shareholder in respect of such shares in the Register of Shareholders, or may, subject to the regulations as to transfer herein contained, transfer such shares.

RECORD DATE WITH RESPECT TO OWNERSHIP OF SHARES

15. Record Date for General Meetings

The shareholders entitled to receive notice of, to participate in and to vote thereon at a General Meeting, or to express consent to or dissent from any corporate action in writing, shall be the shareholders on the date set in the resolution of the Board of Directors to convene the General Meeting, provided that, such date shall not be earlier than forty (40) days prior to the date of the General Meeting and not later than four (4) days prior to the date of such General Meeting, or different periods as shall be permitted by law. A determination of shareholders of record with respect to a General Meeting shall apply to any adjournment of such meeting.

16. Record Date for Distribution of Dividends

The shareholders entitled to receive dividends shall be the shareholders on the date upon which it was resolved to distribute the dividend or at such later date as shall be provided in the resolution in question.

GENERAL MEETINGS

17. General Meetings

(a) An Annual General Meeting shall be held once in every calendar year at such time (within a period of not more than fifteen (15) months after the last preceding Annual General Meeting) and at such place either within or without the State of Israel as may be determined by the Board of Directors.

(b) All General Meetings other than Annual General Meetings shall be called "**Special General Meetings**." The Board of Directors may, whenever it thinks fit, convene a Special General Meeting at such time and place, within or without the State of Israel, as may be determined by the Board of Directors. Special General Meetings may also be convened upon requisition in accordance with the Companies Law.

18. Shareholder Proposals

(a) A shareholder (including two or more shareholders that are acting in concert, a "**Proposing Shareholder**") holding one percent or more of the outstanding voting rights in the Company may request, subject to Section 66(b) of the Companies Law, that the Board of Directors include a proposal on the agenda of a General Meeting to be held in the future, provided that the Proposing Shareholder gives timely notice of such request in writing (a "**Proposal Request**") to the Secretary of the Company and the Proposal Request complies with all the requirements of this Article 18, these Articles and applicable law and stock exchange rules. To be considered timely, a Proposal Request must be delivered, either in person or by certified mail, postage prepaid, and received at the principal executive office of the Company, by the applicable deadline under the Companies Law.

(b) The Proposal Request shall set forth (i) the name, business address, telephone number and fax number or email address of the Proposing Shareholder (or each member of the group constituting the Proposing Shareholder, as the case may be) and, if an entity, the name(s) of the person(s) that controls or manages such entity, (ii) the number of Ordinary Shares held by the Proposing Shareholder, directly or indirectly, and, if any of such Ordinary Shares are held indirectly, an explanation of how they are held and by whom, and, if such Proposing Shareholder is not the holder of record of any such Ordinary Shares, a written statement from the holder of record or authorized bank, broker, depository or other nominee, as the case may be, indicating the number of Ordinary Shares the Proposing Shareholder is entitled to vote as of a date that no more than ten (10) days prior to the date of delivery of the Proposal Request, (iii) any agreements, arrangements, understandings or relationships between the Proposing Shareholder and any other person with respect to any securities of the Company or the subject matter of the Proposal Request, (iv) the Proposing Shareholder's purpose in making the Proposal Request, (v) the complete text in the English language of the resolution that the Proposing Shareholder proposes to be voted upon at the General Meeting and, if the Proposing Shareholder wishes to have a statement in support of the Proposing Shareholder's proposal included in the Company's proxy statement, a copy of such statement, which shall be in the English language and shall not exceed 500 words, (vi) a statement of whether the Proposing Shareholder has a personal interest in the proposal and, if so, a description in reasonable detail of such personal interest, and (vii) if the proposal of the Proposing Shareholder is to nominate a candidate for election to the Board of Directors, (A) a declaration signed by the nominee and the other information required under Section 224B of the Companies Law, (B) to the extent not otherwise provided in the Request Proposal, the information in respect of the nominee as would be provided in response to the disclosure requirements of Item 6A (*directors and senior management*), Item 6E (*share ownership*) and Item 7B (*related party transactions*) of Form 20-F of the U.S. Securities and Exchange Commission, (C) a representation of whether the nominee meets the objective criteria for an independent director of the Company under the listing rules of the NASDAQ Stock Market (or such other stock exchange on which the Ordinary Shares are then listed) and if not, then an explanation of why not, and (D) a statement signed by the nominee that he consents to be named in the Company's notices and proxy materials relating to the General Meeting and, if elected, to serve on the Board of Directors. In addition, the Proposing Shareholder shall promptly provide any other information reasonably requested by the Company. The Company shall be entitled to publish information provided by a Proposing Shareholder pursuant to Article 18, and the Proposing Shareholder shall be responsible for the accuracy thereof. The parenthetical regulation headings contained in this Article 18(b) are for convenience only and shall not be deemed a part hereof or used to limit the scope of disclosure required by this Article 18(b). References in this Article 18(b) to particular laws, regulations or rules shall be deemed to apply to such amended or successor laws, regulations or rules as shall be in effect from time to time.

(c) A Proposing Shareholder holding five percent or more of the outstanding voting rights in the Company (or five percent or more of the outstanding share capital and one percent or more of the voting rights in the Company) may request, subject to Section 63(b)(2) of the Companies Law, that the Board of Directors convene a Special General Meeting, provided that the request complies with all the applicable requirements of a "Proposal Request" set forth in Article 18(b), these Articles and applicable law and stock exchange rules.

19. Powers of the General Meeting

Subject to the provisions of the Companies Law and of these Articles, the resolutions in respect to the following matters shall be adopted by the General Meeting:

(a) Amendments to the Articles, as set forth in Section 20 of the Companies Law.

(b) Exercise of the authorities of the Board of Directors in accordance with the provisions of Section 52(a) of the Companies Law.

(c) Appointment of the outside auditor(s) of the Company, the determination of its/their terms of engagement with the Company and termination of its/their engagement with the Company, all in accordance with the provisions of Sections 154-167 of the Companies Law.

(d) Appointment of independent ("external") Directors in accordance with the provisions of Section 239 of the Companies Law ("**External Directors**") (to the extent External Directors are required to be elected under applicable law or until such date the Board of Directors elects to adopt the exemption under applicable law (if any) enabling the Company not to have External Directors serve on the Board of Directors of the Company).

(e) Approval of actions and transactions that require the approval of the General Meeting pursuant to Sections 255 and 268-275 of the Companies Law.

(f) An increase and a decrease of the authorized share capital of the Company, pursuant to Sections 286 and 287 of the Companies Law.

(g) A merger, as set forth in Section 320(a) of the Companies Law.

20. Notice of General Meetings

(a) Not less than twenty-one (21) days' prior notice shall be given of every General Meeting (the "Notice"). The Notice shall be published in two (2) newspapers in Israel and as shall be required by law or rules and regulations of the stock exchanges on which the Company's shares are listed. The Notice shall specify the place, date and hour of the General Meeting, its agenda, a summary of proposed resolutions and the procedure for voting in such General Meeting by proxy statement and any other matter as shall be required by law. Notices shall not be sent to each of the shareholders registered in the Company's Register of Shareholders.

(b) The validity of any resolutions carried at a General Meeting shall not be affected if the Company, by oversight, has not sent a notice of the convening of the meeting, or has sent an incomplete or incorrect notice regarding the convening of the meeting or its agenda, or has not served a notice as aforesaid or has delayed in sending or delivering the said notice.

PROCEEDINGS AT GENERAL MEETINGS

21. Quorum

(a) Two or more shareholders (not in default in payment of any sum referred to in Article 26(a) hereof), present in person or by proxy or by written ballot, as shall be permitted, and holding shares conferring in the aggregate twenty-five percent (25%) or more of the voting power of the Company, shall constitute a quorum at General Meetings.

(b) If within half an hour from the time appointed for the meeting a quorum is not present, if convened upon requisition under sections 63, 64 or 65 of the Companies Law, the meeting shall be dissolved, but in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or to such day and at such time and place as specified in the Notice of such meeting or as the Chairman may determine with the consent of the holders of a majority of the voting power represented at the meeting in person or by proxy or by written ballot, as shall be permitted, and voting on the question of adjournment. At such adjourned meeting, any two (2) shareholders (not in default as aforesaid) present in person or by proxy or by written ballot, as shall be permitted, shall constitute a quorum.

(c) No business shall be transacted at a General Meeting, or at any adjournment thereof, unless the requisite quorum is present when the meeting proceeds to business.

22. Chairman

Any member of the Board of Directors shall preside as Chairman at any General Meeting of the Company. If there is no such member, or if at any meeting such member is not present within fifteen (15) minutes after the time fixed for holding the meeting or is unwilling to act as Chairman, the shareholders present shall choose someone of their member to be Chairman. The office of Chairman shall not, by itself, entitle the holder thereof to vote at any General Meeting nor shall it entitle such holder to a second or casting vote (without derogating, however, from the rights of such Chairman to vote as a shareholder or proxy of a shareholder if, in fact, he is also a shareholder or such proxy).

23. Adoption of Resolutions at General Meetings

(a) Unless otherwise specifically provided in these Articles or under any applicable law, all resolutions submitted to the shareholders shall be deemed adopted if approved by the holders of a simple majority of the voting power represented at the meeting in person or by proxy or by written ballot, as shall be permitted, and voting thereon.

(b) Every question submitted to a General Meeting shall be decided by a count of votes.

(c) A declaration by the Chairman of the meeting that a resolution has been carried unanimously, or carried by a particular majority, or lost, and an entry to that effect in the minute book of the Company, shall be prima facie evidence of the fact without proof of the number or proportion of the votes recorded in favor of or against such resolution.

24. Power to Adjourn

(a) The Chairman of a General Meeting, in which the required quorum is present, may resolve to adjourn the meeting, for no more than thirty(30) days, to such time and place as shall be determined but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting as originally called.

(b) It shall not be necessary to give any notice of an adjournment under Article 24(a), unless the meeting is adjourned for more than twenty-one (21) days in which event notice thereof shall be given in the manner required for the meeting as originally called.

25. Voting Power

Subject to any provision hereof conferring special rights as to voting, or restricting the right to vote, every shareholder shall have one vote for each share held by him of record, on every resolution.

26. Voting Rights

(a) The shareholders entitled to vote at a General Meeting shall be the shareholders listed in the Company's Register of Shareholders on the record date, as specified in Article 15.

(b) A company or other corporate body being a shareholder of the Company may, by resolution of its directors or any other managing body thereof, authorize any person to be its representative at any meeting of the Company. Any person so authorized shall be entitled to exercise on behalf of such shareholder all the power which the latter could have exercised if it were an individual shareholder. Upon the request of the Chairman of the meeting, written evidence of such authorization (in form acceptable to the Chairman) shall be delivered to him.

(c) Any shareholder entitled to vote may vote either personally or by proxy (who need not be a shareholder of the Company), or, if the shareholder is a company or other corporate body, by a representative authorized pursuant to Article 26(b) or by a written ballot, as permitted by law and according to these Articles.

(d) If two or more persons are registered as joint holders of any share, the vote of the senior who tenders a vote, in person or by proxy or by written ballot, as shall be permitted, shall be accepted to the exclusion of the vote(s) of the other joint holder(s); and for this purpose seniority shall be determined by the order in which the names stand in the Register of Shareholders.

(e) No shareholders shall be entitled to vote at any General Meeting (or be counted as a part of the quorum thereat), unless all calls and other sums then payable by him in respect of his shares in the Company have been paid.

(f) The Board of Directors may determine, in its discretion, the matters that may be voted upon a written ballot to the Company (without attendance in person or by proxy), as shall be permitted, at a General Meeting, in addition to the matters listed in Section 87(c) of the Companies law.

PROXIES

27. Instrument of Appointment

(a) The instrument appointing a proxy shall be in writing and shall be in any usual or common form or in such other form as may be approved by the Board of Directors. It shall be duly signed by the appointor or, if such appointor is a company or other corporate body, under its common seal or stamp or the hand of its duly authorized agent(s) or attorney(s).

(b) The instrument appointing a proxy (and the power of attorney or other authority, if any, under which such instrument has been signed) shall be delivered to the Company (at its Registered Office, or at its principal place of business or at the offices of its transfer agent or at such other place as the Board of Directors may specify) not less than forty-eight (48) hours (or such shorter period as may be determined by the Board of Directors) before the time fixed for the meeting at which the person named in the instrument proposes to vote.

28. Effect of Death of Appointor or Revocation of Appointment

A vote cast pursuant to an instrument appointing a proxy shall be valid notwithstanding the previous death of the appointing shareholder (or of his attorney-in-fact, if any, who signed such instrument), or the revocation of the appointment or the transfer of the share in respect of which the vote is cast, provided no written notification of such death, revocation or transfer shall have been received by the Company or by the Chairman of the meeting before such vote is cast, and provided, further, that the appointing shareholder, if present in person at said meeting, may revoke the appointment by means of a writing, oral notification to the Chairman, or otherwise.

BOARD OF DIRECTORS

29. Powers of Board of Directors

(a) The Board of Directors shall have all powers vested in it according to the Companies Law and these Articles, shall have any and all authorities not vested in any other organ of the Company according to the Companies Law and these Articles, shall be authorized to determine the policy of the Company, shall supervise the performance and actions of the General Manager, and, without derogating form the above, shall have all the following powers:

(i) determine the Company's plans of action, the principles of their financing and the order of priority among them;

(ii) examine the financial status of the Company, and set the frame of credit that the Company shall be entitle to acquire;

(iii) determine the organizational structure of the Company and its compensation policies;

(iv) may resolve to issue series of debentures;

(v) shall be responsible for the preparation and approval of the financial statements of the Company, as set forth in Section 171 of the Companies Law;

(vi) report to the Annual General Meeting of the status of the Company's affairs and of their financial outcomes, as set forth in Section 173 of the Companies Law.

(vii) appoint the General Manager and may terminate such appointment, in accordance with Section 250 of the Companies Law;

(viii) resolve in the matters on actions and transactions that require its approval according to Sections 255 and 268-275 of the Companies Law and of the provisions of these Articles;

(ix) issue shares and convertible securities up to the total amount of the authorized share capital of the Company, in accordance with Section 288 of the Companies Law;

(x) decide on a "distribution" as set forth in Sections 307-308 of the Companies Law;

(xi) express its opinion on a special tender offer, as set forth in Section 329 of the Companies Law;

(b) The powers of the Board of Directors described in Articles 29(a)(i)-29(a)(xi) above shall not be delegated to the General Manager(s) of the Company.

30. Exercise of Powers of Directors

(a) A meeting of the Board of Directors at which a quorum is present shall be competent to exercise all the authorities, powers and discretion vested in or exercisable by the Board of Directors.

(b) A resolution proposed at any meeting of the Board of Directors shall be deemed adopted if approved by a simple majority of the Directors then in office who are lawfully entitled to participate in the meeting and vote thereon and present when such resolution is put to a vote and voting thereon.

(c) A resolution may be adopted by the Board of Directors without convening a meeting if all Directors then in office and lawfully entitled to vote thereon (as conclusively determined by the Chairman of the Audit Committee, and in the absence of such determination - by the Chairman of the Board of Directors) have given their consent (in any manner whatsoever) not to convene a meeting. Such a resolution shall be adopted if approved by a simple majority of the Directors entitled to vote thereon (as determined as aforesaid). The Chairman of the Board shall sign any resolutions so adopted, including the decision to adopt said resolutions without a meeting.

31. Delegation of Powers

The Board of Directors may, subject to the provisions of the Companies Law, delegate its powers to committees, each consisting of two or more persons (all of whose members must be Directors), and it may from time to time revoke such delegation or alter the composition of any such committee. Until decided otherwise by the Board of Directors under applicable law, any such Committee authorized to exercise the powers of the Board of Directors shall include at least one (1) External Director. Any Committee so formed (in these Articles referred to as a "Committee of the Board of Directors"), shall, in the exercise of the powers so delegated, conform to any regulations imposed on it by the Board of Directors. The meetings and proceedings of any such Committee of the Board of Directors shall, mutatis mutandis, be governed by the provisions herein contained for regulating the meetings of the Board of Directors, so far as not superseded by the Companies Law or any regulations adopted by the Board of Directors under this Article. Unless otherwise expressly provided by the Board of Directors in delegating powers to a Committee of the Board of Directors, such Committee shall not be empowered to further delegate such powers.

32. Number of Directors; Board Composition

(a) Until otherwise determined by resolution of the Company's shareholders, the Board of Directors shall consist of not less than three (3) nor more than thirteen (13) Directors (including at least two (2) External Directors, unless the Board of Directors decides to adopt the exemption under applicable law (if any) enabling the Company not to have External Directors serve on the Board of Directors of the Company).

(b) If the Company does not have a shareholder that "holds" 25% or more of its issued and outstanding share capital, then a majority of the Directors shall be "independent directors", as such terms are defined from time to time by the Companies Law and the regulations promulgated thereunder. If the Company has a shareholder that holds 25% or more of its issued and outstanding share capital, then at least one third (1/3) of the Directors shall be "independent directors". Any failure to satisfy the requirement of this Article 32(b) shall be corrected no later than the next Annual General Meeting following such failure; until such time, any such failure shall not affect the authority of the Board of Directors. In the event that such failure shall not have been corrected at such Annual General Meeting, then the Directors will not be entitled to act except in an emergency, and they may fill vacant positions on the Board of Directors pursuant to Article 34(a) herein or call a General Meeting of the Company for the purpose of electing or removing Directors to satisfy the requirement of this Article 32(b).

33. Election and Removal of Directors

Directors shall be elected at the Annual General Meeting by the vote of the holders of a simple majority of the voting power represented at such meeting in person or by proxy or by written ballot, as shall be permitted, and voting on the election of directors. The Directors so elected shall hold office until the next Annual General Meeting. The holders of a simple majority of the voting power represented at the Annual General Meeting and voting thereon shall be entitled to remove any Director(s) from office, to elect directors in place of the Director(s) so removed or to fill any vacancy, however created, on the Board of Directors. Notwithstanding anything to the contrary herein, the term of a Director may commence as of a date later than the date of the shareholder resolution electing said Director, if so specified in said shareholder resolution.

34. Continuing Directors in the Event of Vacancies

(a) Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from an enlargement of the Board, may be filled by a vote of a majority of the Directors then in office, even if less than quorum. A Director elected to fill a vacancy shall be elected to hold office until the next annual General Meeting.

(b) If the position of one or more Directors is vacated, the continuing Directors shall be entitled to act in every matter so long as their number is not less than the statutory minimum number required at the time. If, at any time, their number decreases below said statutory minimum number, they will not be entitled to act except in an emergency, and they may fill vacant positions on the Board of Directors pursuant to Article 34(a) herein or call a General Meeting of the Company for the purpose of electing Directors to fill any vacancies.

35. Vacation of Office

(a) The office of a Director shall be vacated, ipso facto, upon the occurrence of any of the following: (i) such Director's death, (ii) such Director is convicted of a crime as described in Section 232 of the Companies Law, (iii) such Director is removed by a court or law in accordance with Section 233 or 247 of the Companies Law, (iv) such Director becomes legally incompetent, (v) if such Director is an individual, such Director is declared bankrupt, (vi) if such Director is a corporate entity, upon its winding-up, liquidation, whether voluntary or involuntary or (vii) upon a resolution of the Company's shareholders pursuant to Article 33(a) above.

(b) The office of a Director shall be vacated by his written resignation. Such resignation shall become effective on the date fixed therein, or upon the delivery thereof to the Company, whichever is later.

36. Remuneration of Directors

Each Director shall be paid remuneration by the Company for his services as Director as such remuneration shall have been approved pursuant to the provisions of the Companies Law.

37. No Alternate Directors

A Director may not appoint an alternate for himself.

PROCEEDINGS OF THE BOARD OF DIRECTORS

38. Meetings

(a) The Board of Directors may meet and adjourn its meetings according to the Company's needs but at least once in every three (3) months, and otherwise regulate such meetings and proceedings as the Directors think fit. Meetings of the Board of Directors may be held telephonically or by any other means of communication provided that each Director participating in such meeting can hear and be heard by all other Directors participating in such meeting.

(b) Any two Directors may at any time convene a meeting of the Board of Directors. Notice (oral or written) shall be given of any meeting a reasonable time in advance. The failure to give notice to a Director in the manner required hereby may be waived by such Director. Upon the unanimous approval of the Directors, a meeting of the Board of Directors can be convened without any prior notice. In urgent situations, a meeting of the Board of Directors can be convened without any prior notice with the consent of a majority of the Directors, including a majority of those who are lawfully entitled to participate in and vote at such meeting (as conclusively determined by the Chairman of the Audit Committee, and in the absence of such determination - by the Chairman of the Board of Directors). The notice of a meeting shall include the agenda of the meeting.

39. Quorum

A quorum at a meeting of the Board of Directors shall be constituted by the presence, in person or by any other means of communication by which the Directors may hear each other simultaneously, of a majority of the Directors then in office who are lawfully entitled to participate in the meeting and vote thereon (as conclusively determined by the Chairman of the Board of Directors). No business shall be transacted at a meeting of the Board of Directors unless the requisite quorum is present as aforesaid when the meeting proceeds to business.

40. Chairman of the Board of Directors

The Board of Directors shall from time to time elect one of its members to be the Chairman of the Board of Directors, and it may from time to time remove such Chairman from office and appoint another in its place. The Chairman of the Board of Directors shall preside at every meeting of the Board of Directors, but if there is no such Chairman, or if at any meeting he is not present within fifteen (15) minutes of the time fixed for the meeting, or if he is unwilling to take the chair, the Directors present shall choose one of their number to be the chairman of such meeting.

The General Manager of the Company shall not serve as the Chairman of the Board of Directors, and the Chairman of the Board of Directors shall not be granted authorities of the General Manager, unless such appointment, or grant, as the case may be, is approved by the shareholders in a General Meeting in accordance with Section 121(c) of the Companies Law. The office of Chairman shall not entitle the holder to a second or casting vote.

41. Validity of Acts Despite Defects

Subject to the provisions of the Companies Law, all acts done bona fide at any meeting of the Board of Directors, or of a Committee of the Board of Directors, or by any person(s) acting as Director(s), shall, notwithstanding that it may afterwards be discovered that there was some defect in the appointment of the participants in such meetings or any of them or any person(s) acting as aforesaid, or that they or any of them were disqualified, be as valid as if there were no such defect or disqualification.

GENERAL MANAGER

42. General Manager

(a) The Board of Directors shall appoint from time to time one or more persons as General Manager(s) of the Company.

(b) The General Manager shall be responsible for the day-to-day management of the affairs of the Company within the framework of the policies determined by the Board of Directors from time to time and subject to the discretion of the Board of Directors.

(c) The General Manager shall have full managerial and operational authority to carry out all the activities which the Company may carry on by law and under these Articles and which have not been vested by law or by these Articles in any other organ of the Company. The General Manager shall be subject to the supervision of the Board of Directors.

(d) The General Manager may, subject to the provisions of the Companies Law, from time to time, appoint a Secretary to the Company, as well as officers, agents, employees and independent contractors, as the General Manager may think fit, and may terminate the service of any such person. The General Manager may, subject to the provisions of the Companies Law, determine the powers and duties, as well as the salaries and emoluments, of all such persons.

MINUTES

43. Minutes

(a) Minutes of each General Meeting and of each meeting of the Board of Directors shall be recorded and duly entered in books provided for that purpose. The minutes of each meeting of the Board of Directors shall, in all events, set forth the names of the persons present at the meeting and all resolutions adopted thereat.

(b) Any minutes as aforesaid, if purporting to be signed by the chairman of the meeting or by the chairman of the next succeeding meeting, shall constitute prima facie evidence of the matters recorded therein.

(c) Subject to the provisions of the Companies Law, each shareholder shall have the right to inspect the minutes of the General Meetings.

DIVIDENDS

44. Declaration of Dividends

Subject to the Companies Law, the Board of Directors may from time to time declare, and cause the Company to pay dividends out of the profits of the Company. Subject to the Companies Law, the Board of Directors shall determine the time for payment of such dividends and the record date for determining the shareholders entitled thereto.

45. Amount Payable by Way of Dividends

(a) Subject to the rights of the holders of shares with special rights as to dividends, if any, any dividend paid by the Company shall be allocated among the shareholders entitled thereto in proportion to the nominal value of their respective holdings of the shares in respect of which such dividend is being paid.

(b) Shares which are fully paid up or which are credited as fully or partly paid within any period which in respect thereof dividends are paid shall entitle the holders thereof to a dividend in proportion to the amount paid up or credited as paid up in respect of the nominal value of such shares and to the date of payment thereof (pro rata temporis).

46. Interest

No dividend shall carry interest as against the Company.

47. Unclaimed Dividends

All unclaimed dividends payable in respect of a share may be invested or otherwise made use of by the Board of Directors for the benefit of the Company until claimed. The payment by the Directors of any unclaimed dividend into a separate account shall not constitute the Company a trustee in respect thereof, and any dividend unclaimed after a period of seven (7) years from the date of declaration of such dividend unclaimed after a like period from the date the same were payable, shall be forfeited and shall revert to the Company, provided, however, that the Board of Directors may, at its discretion, cause the Company to pay any such dividend, or any part thereof, to a person who would have been entitled thereto had the same not reverted to the Company.

ACCOUNTS

48. Auditors

The outside auditor(s) of the Company shall be appointed by resolution of the Company's shareholders at the General Meeting and shall serve until its/their re-election, removal or replacement by subsequent resolution, provided that each term of service shall not extend beyond the third Annual Meeting after the Annual Meeting at which such auditor was appointed. The authorities, rights and duties of the outside auditor(s) of the Company, shall be regulated by applicable law. The Board of Directors shall have the power and authority to fix the remuneration of the auditor(s).

RIGHTS OF SIGNATURE

49. Rights of Signature

The Board of Directors shall be entitled to authorize any person or persons (who need not be Directors) to act and sign on behalf of the Company, and the acts and signature of such person(s) on behalf of the Company shall bind the Company insofar as such person(s) acted and signed within the scope of his or their authority.

NOTICES

50. Notices

Without derogating from the provisions of Article 20:

(a) In the event the Company elects to send any written notice or other document to any of its shareholders such notice may be served either personally or by sending it by prepaid registered mail (airmail if sent to a place outside Israel) addressed to such shareholder at his address as described in the Register of Shareholders or such other address as he may have designated in writing for the receipt of notices and other documents. In the event a shareholder elects to send the Company any written notice or other document such notice may be served by tendering the same in person to the Secretary or the General Manager of the Company at the principal office of the Company or by sending it by prepaid registered mail (airmail if posted outside Israel) to the Company at its Registered Address. Any such notice or other document shall be deemed to have been served forty-eight (48) hours after it has been posted (seven (7) business days if sent internationally), or when actually received by the addressee if sooner than two days or seven days, as the case may be, after it has been posted, or when actually tendered in person, to such shareholder (or to the Secretary or the General Manager), provided, however, that notice may be sent by cablegram, telex, telecopier (facsimile) or other electronic means (to an address provided to the Company by any shareholder) and confirmed by registered mail as aforesaid, and such notice shall be deemed to have been given twenty-four (24) hours after such cablegram, telex, telecopy or other electronic communication has been sent (provided, that electronic confirmation of the successful sending of such notice was received) or when actually received by such shareholder (or by the Company), whichever is earlier. If a notice is, in fact, received by the addressee, it shall be deemed to have been duly served, when received, notwithstanding that it was defectively addressed or failed, in some respect, to comply with the provisions of this Article 50(a).

(b) All notices to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register of Shareholders, and any notice so given shall be sufficient notice to the holders of such share.

(c) Any shareholder whose address is not described in the Register of Shareholders, and who shall not have designated in writing an address for the receipt of notices, shall not be entitled to receive any notice from the Company.

INSURANCE AND INDEMNITY

51. Indemnity and Insurance

(a) Indemnification

(i) Subject to the provisions of the Companies Law, including the receipt of all approvals as required therein or under any applicable law, the Company may indemnify an Office Holder with respect to any liability or expense for which indemnification may be provided under the Companies Law, including the following liabilities and expenses, provided that such liabilities or expenses were imposed upon or incurred by such Office Holder in such Office Holder's capacity as an Office Holder of the Company:

(1) a monetary liability imposed on or incurred by an Office Holder pursuant to a judgment in favor of another person, including a judgment imposed on such Office Holder in a settlement or in an arbitration decision that was approved by a court of law; the term "person" in this Article 51 shall include, without limitation, a natural person, firm, partnership, joint venture, trust, company, corporation, limited liability entity, unincorporated organization, estate, government, municipality, or any political, governmental, regulatory or similar agency or body;

(2) reasonable Litigation Expenses (as defined below), expended by the Office Holder as a result of an investigation or proceeding instituted against him by a competent authority, provided that such investigation or proceeding concluded without the filing of an indictment against him and either (A) concluded without the imposition of any financial liability in lieu of criminal proceedings or (B) concluded with the imposition of a financial liability in lieu of criminal proceedings but relates to a criminal offense that does not require proof of criminal intent (*mens rea)* or in connection with a financial sanction. In this Article, "conclusion of a proceeding without filing an indictment" in a matter in which a criminal investigation has been instigated and "financial liability in lieu of a criminal proceeding," shall have the meaning as ascribed under the Companies Law. The term "Litigation Expenses" in this Article 51, shall include, without limitation, attorneys' fees and all other costs, expenses and obligations paid or incurred by an Office Holder in connection with investigating, defending, being a witness or participating in (including on appeal), or preparing to defend, be a witness or participate in any claim or proceeding relating to any matter for which indemnification hereunder may be provided;

(3) reasonable Litigation Expenses, which the Office Holder incurred or with which the Office Holder was charged by a court of law, in a proceeding brought against the Office Holder, by the Company, on its behalf or by another person, or in a criminal prosecution in which the Office Holder was acquitted, or in a criminal prosecution in which the Office Holder was convicted of an offense that does not require proof of criminal intent *(mens rea)*;

(4) a payment which the Office Holder is obligated to make to an injured party as set forth in Section 52(54)(a)(1)(a) of the Securities Law, 5728-1968, as amended (the "Securities Law"), and Litigation Expenses that the Office Holder incurred in connection with a proceeding under Chapters H'3, H'4 or I'1 of the Securities Law; and

(5) any other event, occurrence or circumstance in respect of which the Company may lawfully indemnify an Office Holder.

(ii) The foregoing indemnification may be procured by the Company (a) retroactively and (b) as a commitment in advance to indemnify an Office Holder, provided that, in respect of Article 51(a)(i)(1), such commitment shall be limited to (A) such events that in the opinion of the Board of Directors are foreseeable in light of the Company's actual operations at the time the undertaking to indemnify is provided, and (B) to the amounts or criterion that the Board of Directors deems reasonable under the circumstances, and further provided that such events and amounts or criterion are set forth in the undertaking to indemnify, and which shall in no event exceed, in the aggregate, the greater of: (i) twenty five percent (25%) of the Company's shareholder's equity at the time of the indemnification, or (ii) twenty five percent (25%) of the Company's shareholder's equity at the end of fiscal year of 2010.

(b) Insurance

(i) Subject to the provisions of the Companies Law, including the receipt of all approvals as required therein or under any applicable law, the Company may enter into an agreement to insure an Office Holder for any responsibility or liability that may be imposed on such Office Holder in connection with an act performed by such Office Holder in such Office Holder's capacity as an Office Holder of the Company, with respect to each of the following:

(1) violation of the duty of care of the Office Holder towards the Company or towards another person;

(2) breach of the duty of loyalty towards the Company, provided that the Office Holder acted in good faith and with reasonable grounds to assume that the such action would not prejudice the benefit of the Company;

(3) a financial obligation imposed on the Office Holder for the benefit of another person;

(4) a payment which the Office Holder is obligated to make to an injured party as set forth in Section 52(54)(a)(1)(a) of the Securities Law and Litigation Expenses that the Office Holder incurred in connection with a proceeding under Chapters H'3, H'4 or I'1 of the Securities Law; and

(5) any other event, occurrence or circumstance in respect of which the Company may lawfully insure an Office Holder.

(ii) Articles 51(a) and 51(b)(i) shall not apply under any of the following circumstances:

(1) a breach of an Office Holder's duty of loyalty, except as specified in Article 51(b)(i)(2);

(2) a reckless or intentional violation of an Office Holder's duty of care (other than if solely done in negligence);

(3) an action intended to reap a personal gain illegally; and

(4) a fine, civil fine or ransom levied on an Office Holder, or a financial sanction imposed upon an Office Holder under Israeli Law.

(iii) The Company may procure insurance for or indemnify any person who is not an Office Holder, including without limitation, any employee, agent, consultant or contractor, provided, however, that any such insurance or indemnification is in accordance with the provisions of these Articles and the Companies Law.

(c) Any amendment to the Companies Law, the Securities Law or any other applicable law adversely affecting the right of any Office Holder to be indemnified or insured pursuant to this Article 51 shall be prospective in effect, and shall not affect the Company's obligation or ability to indemnify or insure an Office Holder for any act or omission occurring prior to such amendment, unless otherwise provided by the Companies Law, the Securities Law or such other applicable law.

MERGER

52. Merger

A merger (as defined in the Companies Law) of the Company shall require the approval of the holders of a majority of seventy five percent (75%) of the voting power represented at the General Meeting in person or by proxy or by written ballot, as shall be permitted, and voting thereon in accordance with the provisions of the Companies Law.

WINDING UP

53. Winding Up

If the Company be wound up, then, subject to applicable law, after satisfaction of the Company's liabilities to creditors, the Company's liquidation proceeds shall be distributed to the shareholders of the Company in proportion to the nominal value of their respective holdings of the shares in respect of which such distribution is being made. A voluntary winding up of the Company shall require the approval of the holders of a majority of at least seventy five percent (75%) of the voting power represented at a General Meeting in person or by proxy or by written ballot, as shall be permitted, and voting thereon.

AMENDMENT OF THESE ARTICLES

54. Any amendment of these Articles shall require the approval of the holders of a simple majority of the voting power represented at the General Meeting in person or by proxy or by written ballot, as shall be permitted, and voting thereon.

Exhibit 4.14

EXECUTION VERSION

AGREEMENT AND PLAN OF MERGER

by and among

NICE SYSTEMS, INC.,

DIAG ACQUISITION CORP.,

NEXIDIA INC.

and

SHAREHOLDER REPRESENTATIVE SERVICES LLC

Dated as of January 10, 2016

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AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER, dated as of January 10, 2016 (this "Agreement"), is by and among NICE Systems, Inc., a Delaware corporation (the "Parent"), Diag Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of the Parent ("Merger Sub"), Nexidia Inc., a Delaware corporation (the "Company"), and Shareholder Representative Services LLC, a Colorado limited liability company, solely in its capacity as the Securityholder Representative hereunder.

RECITALS

WHEREAS, the Board of Directors of the Company has (i) determined that the merger of Merger Sub with and into the Company (the "Merger") and the other transactions contemplated hereby are advisable and fair to, and in the best interests of, the holders of the Company's common stock (the holders thereof, the "Stockholders") and the holders of the Company's preferred stock (the holders thereof, the "Preferred Stockholders," and the Preferred Stockholders together with the Stockholders, the "Holders"), (ii) approved and declared advisable the Merger upon the terms and subject to the conditions set forth in this Agreement pursuant to the General Corporation Law of the State of Delaware ("Delaware Law") and (iii) resolved to recommend that the Holders approve and adopt this Agreement and approve each of the transactions contemplated hereby, including the Merger;

WHEREAS, promptly following the execution and delivery of this Agreement, the Company will deliver to the Parent and Merger Sub, in substantially the form attached hereto as Exhibit A, (i) written consents of certain Stockholders and Preferred Stockholders (the "Stockholder Written Consent"), and (ii) written consents of certain holders of Senior Preferred Stock (the "Preferred Stockholder Written Consent," and together with the Stockholder Written Consent, the "Written Consents"), which shall together be sufficient to approve and adopt this Agreement and approve each of the transactions contemplated hereby, including the Merger, in accordance with the Constituent Documents and Delaware Law;

WHEREAS, concurrent with the execution and delivery hereof, the Company has delivered to the Parent Joinder Agreements (as defined below) duly executed by Holders and Warrantholders to whom, together with the holders of Common Stock and Cashed-Out Options, in excess of 98.0% of the Gross Merger Consideration is attributable hereunder;

WHEREAS, in connection with the transactions contemplated hereby, certain key employees of the Company have entered into employment arrangements to be effective at Closing in form and substance reasonably satisfactory to the Parent (the "Employment Arrangements"); and

WHEREAS, the Parent, Merger Sub and the Company desire to make certain representations, warranties, covenants and agreements in connection with the Merger and also to prescribe various conditions to the Merger.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged and agreed, and intending to be legally bound hereby, the parties hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Certain Defined Terms. For purposes of this Agreement:

"Action" means any claim, action, suit, formal inquiry, proceeding, audit, investigation, reissue, reexamination, interference, opposition, cancellation or Internet domain name dispute resolution by or before any Governmental Authority, or any other arbitration, mediation or similar proceeding.

"Adjustment Escrow Amount" means $2,000,000.

"Adjustment Escrow Fund" means the Adjustment Escrow Amount deposited with the Escrow Agent, as such amount may be increased or decreased as provided in this Agreement and the Escrow Agreement, including any remaining interest or other amounts earned thereon.

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

"Aggregate Exercise Price" means the aggregate cash exercise price payable upon the exercise in full of (i) all In-the-Money Options and (ii) the Warrants.

"Aggregate Liquidation Preference" means, with respect to shares of Preferred Stock that have been converted as of the Effective Time into the right to receive the portion of the Merger Consideration, if any, to which the Holder of such share of Preferred Stock is entitled pursuant to Section 2.7(a), the sum of (i) the product of (a) the Series C Liquidation Preference and (b) the number of Shares of Series C Preferred Stock, (ii) the product of (a) the Series D Liquidation Preference and (b) the number of Shares of Series D Preferred Stock, (iii) the product of (a) the Series E Liquidation Preference and (b) the number of Shares of Series E Preferred Stock, (iv) the product of (a) the Series F Liquidation Preference and (b) the number of Shares of Series F Preferred Stock, and (v) the product of (a) the Series G Liquidation Preference and (b) the number of Shares of Series G Preferred Stock.

"Ancillary Agreements" means the Escrow Agreement, the Stockholder Written Consents, the Preferred Stockholder Written Consents, the Disclosure Schedules, and all other agreements, documents, certificates and instruments required to be delivered by any party pursuant to this Agreement.

"Business Day" means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York or Israel.

"Capital Leases" means the capital leases of the Company determined in accordance with GAAP.

"Cash" means cash (including cash on hand and cash in bank accounts), cash equivalents and freely marketable securities held by the Company or any Subsidiary, determined in accordance with GAAP.

"CFIUS" shall mean the Committee on Foreign Investment in the United States.

"CFIUS Approval" shall mean CFIUS's completion of a review, and any investigation, as needed, of the transactions contemplated by this Agreement, and (i) a determination by CFIUS that the transactions contemplated by this Agreement do not constitute a "covered transaction", (ii) a determination by CFIUS that there are no unresolved national security issues with respect to the transactions contemplated by this Agreement, or (iii) the President of the United States shall not have acted pursuant to Section 721 of the Defense Production Act of 1950, as amended, to suspend or prohibit the consummation of the transactions contemplated by this Agreement, and the applicable period of time for the President of the United States to take such action shall have expired.

"Closing Merger Consideration" means (i) the Enterprise Value, plus (ii) the Aggregate Exercise Price, plus or minus (iii) the amount of the Estimated Cash less the Estimated Indebtedness for borrowed money (with a positive amount being added to the Enterprise Value and a negative amount being deducted from the Enterprise Value), minus (iv) the amount by which the Estimated Net Working Capital falls short of the Target Net Working Capital, minus (v) the Estimated Transaction Expenses, minus (vi) the Indemnity Escrow Amount, minus (vii) the Adjustment Escrow Amount, minus (viii) the Expense Fund. For the avoidance of doubt, in the event the Estimated Net Working Capital exceeds the Target Net Working Capital, there shall be no positive adjustment to the Closing Merger Consideration.

"Code" means the Internal Revenue Code of 1986, as amended.

"Common Stock" means the common stock, par value $0.0001, of the Company.

"Company Holder Approval" means the delivery of Written Consents sufficient to approve and adopt this Agreement and approve each of the transactions contemplated hereby, including the Merger, by (i) the Holders of a majority of the outstanding Shares of Common Stock and the outstanding Shares of Preferred Stock, voting as a single class on an as-converted basis, and (ii) the Holders of 66-2/3% of the outstanding Shares of Senior Preferred Stock, voting together as a single class on an as-converted basis.

"Constituent Documents" means the Fifth Amended and Restated Certificate of Incorporation of the Company, dated as of August 22, 2012, as thereafter amended (the "Charter"), the Fifth Amended and Restated Stockholders Agreement dated as of August 22, 2012 as thereafter amended, by and among the Company and certain Holders, and the Company's bylaws.

"Contract" means any legally binding contract, agreement, arrangement or understanding, whether written or oral and whether express or implied.

"control," including the terms "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, as trustee or executor, as general partner or managing member, by Contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person.

"delivered" or "made available" means, with respect to any statement in Article III of this Agreement to the effect that any such information, document or other material has been "delivered" to the Parent or its Representatives, that such information, document or material was (i) available for review by the Parent or its Representatives in the virtual data room set up by the Company at rrdvenue.com in connection with this Agreement or (ii) otherwise actually delivered to the Parent or any of its Representatives, in each case at least one Business Day prior to the date hereof.

"Encumbrance" means any charge, claim, limitation, condition, equitable interest,mortgage, lien, license on Intellectual Property, option, pledge, security interest, easement, encroachment, right of first refusal of or relating to use, quiet enjoyment, voting, transfer, receipt of income or exercise of any other attribute of ownership.

"Enterprise Value" means $135,000,000.

"Escrow Agent" means JPMorgan Chase Bank, N.A., or its successor under the Escrow Agreement.

"Escrow Agreement" means the Escrow Agreement to be entered into by the Parent, the Securityholder Representative and the Escrow Agent, substantially in the form of Exhibit B.

"Exchange Ratio" means the quotient of (a) the Gross Per Common Share Merger Consideration divided by (b) the average closing price of NICE Ordinary Shares on the Nasdaq Stock Market in the five Business Days immediately preceding the Closing Date.

"Expense Fund" means a dollar amount equal to $150,000.

"Fraud" means a willful and knowing misrepresentation made with the specific intent to deceive.

"Fully Diluted Share Number" means (i) the aggregate number of Shares of Common Stock, Series A Preferred Stock, Series B Preferred Stock and Senior Preferred Stock (other than Cancelled Shares and, with respect to the Series A Preferred Stock, Series B Preferred Stock and Senior Preferred Stock, on an as-converted basis) outstanding as of immediately prior to the Effective Time, plus (ii) the aggregate number of Shares issuable upon the exercise in full of all Options (whether vested or unvested) outstanding as of immediately prior to the Effective Time (other than any Out-of-the-Money Options that will be cancelled in accordance with the last sentence of Section 2.9(a)), plus (iii) the aggregate number of Shares issuable upon the exercise in full of the Warrants. For the avoidance of doubt, the Fully Diluted Share Number shall not include any equity awards issued by the Company at the Parent's request pursuant to Section 2.9(e).

"GAAP" means United States generally accepted accounting principles and practices as in effect on the date hereof.

"Governmental Authority" means any United States or non-United States federal, national, supranational, state, provincial, local or similar government, governmental, regulatory or administrative authority, branch, agency or commission or any court, tribunal, or arbitral or judicial body (including any grand jury).

"Gross Merger Consideration" means (i) the Enterprise Value, plus (ii) the Aggregate Exercise Price, plus or minus (iii) the amount of the Estimated Cash less the Estimated Indebtedness for borrowed money (with a positive amount being added to the Enterprise Value and a negative amount being deducted from the Enterprise Value), minus (iv) the amount by which the Estimated Net Working Capital falls short of the Target Net Working Capital, minus (v) the Estimated Transaction Expenses. For the avoidance of doubt, in the event the Estimated Net Working Capital exceeds the Target Net Working Capital, there shall be no positive adjustment to the Gross Merger Consideration.

"Gross Per Common Share Merger Consideration" means (i) the Gross Merger Consideration minus (ii) the Aggregate Liquidation Preference divided by (iii) the Fully Diluted Share Number.

"In-the-Money Option" means an Option having a per share Common Stock exercise price less than the Gross Per Common Share Merger Consideration.

"Indebtedness" means, with respect to the Company, as of 11:59 p.m. Eastern time on the date immediately preceding the Closing Date and without duplication, (i) all indebtedness for borrowed money (including the current portion thereof) or incurred in substitution or exchange for indebtedness for borrowed money, together with all prepayment premiums, penalties and accrued interest thereon and other costs, fees and expenses payable in connection therewith, (ii) all liabilities under any reimbursement obligation relating to a letter of credit, bankers' acceptance or note purchase facility, (iii) all liabilities evidenced by a bond, debenture, surety bond, mortgage, debt security or similar instrument or any option, warrant or other right to acquire debt securities of the Company, (iv) all indebtedness under derivatives, swap or exchange agreements, together with all prepayment premiums, penalties and accrued interest thereon, and in each such case all breakage costs, unwind costs, fees, termination costs (including any off balance sheet loan and capital gain termination fees), redemption costs, expenses and other charges with respect to any of the foregoing, (v) all indebtedness or liabilities secured by any security interest on any property or assets of the Company, (vi) all liabilities under securitization or receivables factoring arrangements or transactions, (vii) all liabilities and obligations (including accrued interest) under a lease agreement that would be required to be capitalized pursuant to GAAP, including any breakage costs, prepayment penalties or fees or other similar amounts payable in connection with any capitalized leases, only, with respect to any breakage costs, to the extent that such breakage costs are required to be paid at Closing, (viii) all liabilities and obligations for the deferred purchase price of property or services, whether contingent or absolute, and including, without limitation, any conditional sale, title retention agreement, earn-outs or transaction, retention or similar bonuses payable in connection therewith, (ix) all liabilities of any third-party of the types described above that are guaranteed by the Company, any other agreement to maintain any financial statement condition of any other Person and obligations under any letter of credit arrangement (whether or not drawn), and (x) any unpaid management fees.

"Indemnity Escrow Amount" means $9,600,000.

"Indemnity Escrow Fund" means the Indemnity Escrow Amount deposited with the Escrow Agent, as such sum may be increased or decreased as provided in this Agreement and the Escrow Agreement, including any remaining interest or other amounts earned thereon.

"Intellectual Property" means all United States and foreign intellectual property, including (i) trademarks, service marks, trade names, URLs, social media user names, Internet domain names, slogans, logos, trade dresses and other source indicators, and all applications and registrations for all of the foregoing, including all extensions, modifications and renewals thereof, together with all goodwill related to the foregoing; (ii) works of authorship, copyrights and copyrightable works (including Products, advertising and promotional material, Software and Websites), including all translations, adaptations, derivations, and combinations thereof and all registrations and applications for all of the foregoing, including all renewals, extensions, restorations and reversions thereof; (iii) patents and patent applications, including all divisions, continuations, continuations-in-part, renewals, extensions, reexams and reissues thereof; (iv) trade secrets, know how, inventions, discoveries, processes, formulae, techniques, technical data, designs, drawings, specifications, customer and supplier lists, databases, pricing and cost information, business and marketing plans and proposals and other proprietary and confidential information; (v) all recordings, disclosures, foreign counterparts, and other legal protections and rights related to the items described in any of clauses (i) through (iv); (vi) all other proprietary rights; and (vii) all copies and tangible embodiments of any of the foregoing, in each instance in whatever form or medium.

"Joinder Agreement" means a joinder and indemnification agreement in the form attached hereto as Exhibit C, pursuant to which, among other things, the Securityholder executing such agreement agrees to be bound by the provisions of this Agreement, including the escrow and indemnification provisions set forth herein.

"knowledge," means, with respect to the Company, the actual knowledge of John Willcutts, Thomas Allgood, Jon Ezrine, Larry Skowronek, John May, Mark Reich and Gordon Edwards, as well as the knowledge such Persons would have in the usual and customary course of performance of their duties.

"Law" means any statute, law, ordinance, regulation, rule, code, executive order, or any injunction, judgment, decree or order in which the party in question is a named party, in each case of any Governmental Authority.

"Leased Real Property" means all real property leased, subleased or licensed to the Company or any of its Subsidiaries or which the Company or any of its Subsidiaries otherwise has a right or option to use or occupy, together with all structures, facilities, fixtures, systems, improvements and items of property previously or hereafter located thereon, or attached or appurtenant thereto, and all easements, rights and appurtenances relating to the foregoing.

"Material Adverse Effect" means any event, change, circumstance, occurrence, effect or state of facts that (i) is or would reasonably be expected to be materially adverse to the business, condition (financial or otherwise), assets, liabilities, operations or results of operations of the Company and its Subsidiaries, taken as a whole, or (ii) materially impairs the ability of the Company to consummate, or prevents or materially delays, the Merger or any of the other transactions contemplated by this Agreement or would reasonably be expected to do so; provided, however, that in the case of clause (i) only, Material Adverse Effect shall not include any event, change, circumstance, occurrence, effect or state of facts to the extent resulting from or arising out of (A) changes in the general economy or changes generally affecting the industries in which the Company operates or the financial, debt, credit or securities markets in the United States or elsewhere, (B) political conditions, acts of war, acts of terrorism or natural disasters or other force majeure events, or (C) the announcement or pendency of the transactions contemplated by this Agreement, except to the extent that any event, change, circumstance, occurrence, effect or state of facts resulting from or arising out of the matters described in clauses (A) and (B) is disproportionately adverse to the Company and its Subsidiaries, taken as a whole, as compared to other companies that operate in the industries in which the Company operates.

"Merger Consideration" means (i) the Closing Merger Consideration, subject to adjustment in accordance with Section 2.13, plus (ii) any amounts paid to the Securityholders out of the Indemnity Escrow Fund, plus (iii) any amounts paid to the Securityholders out of the Adjustment Escrow Fund, plus (iv) any amounts paid to the Securityholders out of the Expense Fund.

"Net Working Capital" means, as of 11:59 p.m. Eastern time on the date immediately prior to the Closing Date, an amount equal to: (x) current assets (excluding Cash), minus (y) current liabilities and Capital Leases. The calculation of the Net Working Capital shall be made in accordance with GAAP consistent with the accounting policies applied in the Financial Statements and in the event of any inconsistency between GAAP and the other accounting policies applied by the Company in the Financial Statements, GAAP shall prevail. Notwithstanding the foregoing, the following shall apply to the calculation of the Net Working Capital:

(1) Net Working Capital shall exclude Transaction Expenses;

(2) Any unclaimed, available or pending R&D tax credits through Closing which are collectible by the Parent through the end of 2016 shall be deemed current assets;

(3) Deferred revenue amount in excess of $22,000,000 will be included as a current liability at its full value;

(4) Deferred revenues, up to a maximum balance amount of $22,000,000, will be included as a current liability at cost of delivery value. Cost of delivery will be calculated by applying a fixed percentage (based on the average cost of goods sold in the preceding 12 months) to the total amount of the deferred revenue balance. Based on the information available as of the date hereof, the parties estimate cost of delivery to be 29%;

(5) All compensation costs (including amongst other bonuses and commissions), and outstanding obligations to employees and pensions to be properly accrued as part of liabilities;

(6) Deferred commissions will be included as part of current assets for the purpose of calculating Net Working Capital at an amount that will not exceed the deferred commissions accrual included in the current liabilities portion of the Balance Sheet;

(7) An amount equal to $700,000, representing the Company's contribution toward severance payments to be made after Closing by the Surviving Corporation to certain Company employees to be identified by Parent or the Surviving Corporation, will be included as a current liability; and

(8) Current liabilities shall be calculated without duplication of any current liabilities amounts already included as Indebtedness for borrowed money.

"NICE Ordinary Shares" means the ordinary shares, par value one New Israeli Shekel per share, of NICE-Systems Ltd., the parent company of Parent.

"Option" means each outstanding right to purchase a single share of Common Stock issued under the Option Plan for a fixed exercise price per share of Common Stock.

"Option Plan" means the Nexidia Inc. 2005 Stock Incentive Plan, as amended andrestated July 5, 2006, as amended and restated October 13, 2010, as amended and restated February 2, 2011, as amended and restated May, 2013, as amended and restated August 12, 2014, and may be as amended from time to time.

"Out-of-the-Money Option" means an Option having a per share Common Stock exercise price equal to or greater than the Gross Per Common Share Merger Consideration.

"Owned Intellectual Property" means all Intellectual Property owned, purported to be owned or exclusively licensed by the Company or any of its Subsidiaries.

"Participating Securityholder" means each holder of Common Stock (with respect only to the Common Stock held by such holder unless such holder has executed a Joinder Agreement), each holder of Series A Preferred Stock, each holder of Series B Preferred Stock, each holder of Cashed-Out Options, each Warrantholder and each other Securityholder that has executed and delivered a Joinder Agreement to the Company and the Parent.

"Permitted Encumbrances" means (i) statutory liens for Taxes that are not yet due and payable; (ii) statutory liens in favor of carriers, warehousemen, mechanics and materialmen, to secure claims for labor, materials or supplies and other like liens; (iii) with respect to Company securities, any restrictions on transfer imposed by applicable federal and state securities laws; and (iv) such imperfections of title and encumbrances (other than imperfections of title to, or encumbrances on, Intellectual Property), if any, which are not material in character, amount or extent, and which do not detract from the value, or interfere with the present use, of the property subject thereto or affected thereby.

"Person" means an individual, corporation, partnership, limited liability company, limited liability partnership, syndicate, person, trust, association, organization or other entity, including any Governmental Authority, and including any successor, by merger or otherwise, of any of the foregoing.

"Post-Closing Tax Period" means a Tax period beginning after the Closing Date.

"Pre-Closing Tax Period" means a Tax period ending on or before the Closing Date.

"Preferred Stock" means the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock and Series G Preferred Stock.

"Pro Rata Percentage" means, with respect to any Participating Securityholder, a ratio (expressed as a percentage) equal to (i) the amount of Gross Merger Consideration payable to such Participating Securityholder divided by (ii) (A) the Gross Merger Consideration minus (B) the Aggregate Exercise Price, in each case, payable to all Participating Securityholders.

"Products" means any and all Websites, Software, Systems, products or service offerings owned or operated by the Company and its Subsidiaries: (a) sold, licensed or made available to the Company's customers or users (and any and all updates and modifications with respect thereto under development) on or prior to the date hereof and (b) under development by the Company on or prior to the date hereof and scheduled for release within six months after the date of this Agreement.

"Registered" means issued, registered, renewed or the subject of a pending application.

"Related Party," with respect to any specified Person, means: (i) any Affiliate of such specified Person; (ii) any Person who serves as a director, executive officer, partner, member or in a similar capacity of such specified Person; (iii) any immediate family member of such Person or of a Person described in clause (ii); or (iv) any other Person who holds, individually or together with any Affiliate of such other Person and any member(s) of such Person's immediate family, more than 5% of the outstanding voting equity or ownership interests of such specified Person.

"Representatives" means, with respect to any Person, the officers, directors, principals, employees, agents, auditors, advisors, bankers and other representatives of such Person.

"Return" means any return, declaration, report, election, claim for refund, statement, information statement or return and other document filed or required to be filed with a Governmental Authority, or maintained or required to be maintained, with respect to Taxes, including any related or supporting schedule, statement, information or attachment thereto and including any amendment thereof or supplement thereto.

"Securityholders" means the holders of Preferred Stock, Common Stock, Options and Warrants.

"Senior Preferred Stock" means the issued and outstanding Shares of Series F Preferred Stock and Series G Preferred Stock.

"Series A Preferred Stock" means the Series A Preferred Stock, par value $0.0001 per share, of the Company.

"Series B Preferred Stock" means the Series B Preferred Stock, par value $0.0001 per share, of the Company.

"Series C Liquidation Preference" means $3.5349, plus accrued but unpaid dividends per share of Series C Preferred Stock.

"Series C Preferred Stock" means the Series C Preferred Stock, par value $0.0001 per share, of the Company.

"Series D Liquidation Preference" means $3.5366, plus accrued but unpaid dividends per share of Series D Preferred Stock.

"Series D Preferred Stock" means the Series D Preferred Stock, par value $0.0001 per share, of the Company.

"Series E Liquidation Preference" means $7.93, plus accrued but unpaid dividends per share of Series F Preferred Stock.

"Series E Preferred Stock" means the Series E Preferred Stock, par value $0.0001 per share, of the Company.

"Series F Liquidation Preference" means $2.6447, plus accrued but unpaid dividends per share of Series F Preferred Stock.

"Series F Preferred Stock" means the Series F Preferred Stock, par value $0.0001 per share, of the Company.

"Series G Liquidation Preference" means $5.2894, plus accrued but unpaid dividends per share of Series G Preferred Stock.

"Series G Preferred Stock" means the Series G Preferred Stock, par value $0.0001 per share, of the Company.

"Software" means any and all computer programs, software (in object and source code), firmware, middleware, applications, APIs, web widgets, code and related algorithms, models and methodologies, files, documentation and all other tangible embodiments thereof.

"Subsidiary" means, with respect to any Person, any other Person controlled by such first Person, directly or indirectly, through one or more intermediaries.

"Systems" means servers, hardware systems, databases, circuits, networks, data processing, account management, inventory management, and other computer, communications and telecommunications assets and equipment.

"Target Net Working Capital" means $0.

"Taxes" means: (i) all federal, state, local, foreign and other income, net income, gross income, gross receipts, estimated, add-on minimum, sales, use, ad valorem, transfer, franchise, profits, registration, license, lease, service, service use, withholding, payroll, employment, unemployment, social security, welfare, workers' compensation, disability, excise, severance, stamp, occupation, premium, property, windfall profits, customs, duties, levies, tariff, impost, escheat or other taxes, fees, assessments or charges of any kind whatsoever (including any amounts resulting from the failure to file any Return) imposed by a Governmental Authority, together with any interest and any penalties, additions to tax or additional amounts with respect thereto; (ii) any liability for payment of amounts described in clause (i) whether as a result of transferee liability, of being a member of an affiliated, consolidated, combined or unitary group for any period or otherwise through operation of law; and (iii) any liability for the payment of amounts described in clauses (i) or (ii) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person.

"Transaction Expenses" means the aggregate amount of any and all fees and expenses incurred by or on behalf of, or paid or to be paid directly by, the Company, any of its Subsidiaries or any Person that the Company or any Subsidiary pays or reimburses or is otherwise legally obligated to pay or reimburse, in connection with the negotiation, preparation or execution of this Agreement or the Ancillary Agreements or the performance or consummation of the transactions contemplated hereby or thereby, including (i) all fees and expenses of counsel, advisors, consultants, investment bankers, accountants, auditors and any other experts in connection with the transactions contemplated hereby; (ii) any fees and expenses associated with obtaining necessary or appropriate waivers, consents, or approvals of any Governmental Authority or third parties on behalf of the Company in connection with the transactions contemplated hereby; (iii) any fees or expenses associated with satisfying any closing deliverables, including, without limitation, obtaining the release and termination of any Encumbrances, amounts payable in connection with the termination of any employment agreement, and any fees or expenses incurred in obtaining any consents or waivers; (iv) all brokers', finders' or similar fees in connection with the transactions contemplated hereby based on arrangements made by or on behalf of the Company or any of its Affiliates; (v) the amount of any change of control, severance, retention, transaction or similar bonus or other amount arising as a result of or in connection with this Agreement or the Ancillary Agreements (excluding, for the avoidance of doubt, any such amounts that may become payable in connection with actions taken by, or agreements entered into with, the Parent); (vi) the employer portion of any payroll taxes associated with any of the foregoing; (vii) any Transfer Taxes; and (viii) 50% of the fees of the Escrow Agent and Paying Agent.

"Warrantholders" means any holder of Warrants.

"Warrants" mean the (i) warrants to purchase up to 148,000 Series G Preferred Stock issued February 13, 2013 and (ii) warrants to purchase up to 60,000 Series G Preferred Stock issued September 30, 2013.

"Websites" means all Internet websites, including content, text, graphics, images, audio, video, data, databases, Software owned or licensed by the Company and used in the operation of and maintenance thereof, and all documentation, ASP, HTML, DHTML, SHTML, and XML files, cgi and other scripts, subscriber data, archives, and server and traffic logs and all other tangible embodiments related to any of the foregoing.

Section 1.2 Table of Definitions. The following terms have the meanings set forth in the Sections referenced below:

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Disclosure Schedules	Article III
Dissenting Shares	2.8
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Preliminary Closing Statement	2.12(a)
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Stockholders	Recitals
Straddle Period	5.11(a)
Surviving Corporation	2.1
Third Party Claim	7.4(a)
Transfer Taxes	5.11(f)
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ARTICLE II
THE MERGER

Section 2.1 The Merger. Upon the terms and subject to the conditions of this Agreement, at the Effective Time and in accordance with Delaware Law, Merger Sub shall be merged with and into the Company pursuant to which (a) the separate corporate existence of Merger Sub shall cease, (b) the Company shall be the surviving corporation in the Merger (the "Surviving Corporation") and shall continue its corporate existence under the laws of the State of Delaware as a wholly owned Subsidiary of the Parent and (c) all of the properties, rights, privileges, powers and franchises of the Company will vest in the Surviving Corporation, and all of the debts, liabilities, obligations and duties of the Company will become the debts, liabilities, obligations and duties of the Surviving Corporation.

Section 2.2 Closing; Effective Time.

(a) The closing of the Merger (the "Closing") shall take place at the offices of Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166, at 10:00 a.m., New York time, on the second Business Day (other than Friday) following the satisfaction or, to the extent permitted by applicable Law, waiver of all conditions to the obligations of the parties set forth in Article VI (other than such conditions as may, by their terms, only be satisfied at the Closing or on the Closing Date), or at such other place or at such other time or on such other date as the parties mutually may agree in writing. The day on which the Closing takes place is referred to as the "Closing Date."

(b) As soon as practicable on the Closing Date, the parties shall cause a certificate of merger to be executed and filed with the Secretary of State of the State of Delaware (the "Certificate of Merger") in accordance with the relevant provisions of Delaware Law. The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, or at such other time as the parties shall agree and as shall be specified in the Certificate of Merger. The date and time when the Merger shall become effective is herein referred to as the "Effective Time."

Section 2.3 Effects of the Merger. The Merger shall have the effects provided for in this Agreement and in the applicable provisions of Delaware Law.

Section 2.4 Certificate of Incorporation and Bylaws.

(a) At the Effective Time, the certificate of incorporation of the Company shall be amended and restated in its entirety to contain the provisions of the certificate of incorporation of Merger Sub as in effect immediately prior to the Effective Time (except that the legal name of the Surviving Corporation shall remain "Nexidia Inc."), and, as so amended and restated, shall be the certificate of incorporation of the Surviving Corporation until thereafter amended in accordance with its terms and as provided by applicable Law.

(b) At the Effective Time, and without any further action on the part of the Company or the Merger Sub, the bylaws of the Company shall be amended and restated in their entirety to contain the provisions of the bylaws of Merger Sub as in effect immediately prior to the Effective Time, and, as so amended and restated, shall be the bylaws of the Surviving Corporation until thereafter amended in accordance with its terms and as provided by applicable Law.

Section 2.5 Directors; Officers. From and after the Effective Time, (a) the directors of Merger Sub serving immediately prior to the Effective Time shall be the directors of the Surviving Corporation until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be, and (b) the officers of Merger Sub serving immediately prior to the Effective Time shall be the officers of the Surviving Corporation until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be.

Section 2.6 Subsequent Actions. If, at any time after the Effective Time, the Surviving Corporation shall consider or be advised that any deeds, bills of sale, assignments, assurances or any other actions or things are necessary or desirable to vest, perfect or confirm of record or otherwise in the Surviving Corporation its right, title or interest in, to or under any of the rights, properties or assets of either the Company or Merger Sub acquired or to be acquired by the Surviving Corporation as a result of or in connection with the Merger or otherwise to carry out this Agreement, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name of and on behalf of either the Company or Merger Sub, all such deeds, bills of sale, assignments and assurances and to take and do, in the name and on behalf of each of such corporations or otherwise, all such other actions and things as may be necessary or desirable to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in the Surviving Corporation or otherwise to carry out this Agreement.

Section 2.7 Conversion of Shares. At the Effective Time, by virtue of the Merger and without any further action on the part of the Parent, Merger Sub, the Company or any holder of any shares of Common Stock or Preferred Stock (collectively, the "Shares") or any shares of capital stock of Merger Sub:

(a) With respect to the Shares issued and outstanding immediately prior to the Effective Time, other than any Cancelled Shares and any Dissenting Shares:

(i) each Share of Series A Preferred Stock, in accordance with Section C.2(a)(viii) of Article FIFTH of the Charter, shall be converted into the right to receive the Gross Per Common Share Merger Consideration, in cash, without interest;

(ii) each Share of Series B Preferred Stock, in accordance with Section C.2(a)(viii) of Article FIFTH of the Charter, shall be converted into the right to receive the Gross Per Common Share Merger Consideration, in cash, without interest;

(iii) each Share of Series C Preferred Stock shall be converted into the right to receive the Series C Liquidation Preference, in cash, without interest;

(iv) each Share of Series D Preferred Stock shall be converted into the right to receive the Series D Liquidation Preference, in cash, without interest;

(v) each Share of Series E Preferred Stock shall be converted into the right to receive the Series E Liquidation Preference, in cash, without interest;

(vi) each Share of Series F Preferred Stock shall be converted into the right to receive the Series F Liquidation Preference plus the Gross Per Common Share Merger Consideration, in cash, without interest;

(vii) each Share of Series G Preferred Stock shall be converted into the right to receive the Series G Liquidation Preference plus the Gross Per Common Share Merger Consideration, in cash, without interest; and

(viii) each Share of Common Stock shall be converted into the right to receive the Gross Per Common Share Merger Consideration, in cash, without interest, in each case, less any amounts that must be contributed by Participating Securityholders in respect of such Shares into the Indemnity Escrow Fund, Adjustment Escrow Fund or Expense Fund; provided any amounts contributed to the Indemnity Escrow Fund, Adjustment Escrow Fund or Expense Fund will be released at the respective times and subject to the contingencies specified in this Agreement and the Escrow Agreement (the aggregate amount of consideration payable in respect of the Shares, the "Aggregate Share Consideration");

(b) Each Share that is owned by the Parent or Merger Sub immediately prior to the Effective Time shall automatically be cancelled and retired and shall cease to exist, and no cash or other consideration shall be delivered or deliverable in exchange therefor;

(c) Each Share that is held in the treasury of the Company or owned by the Company or any of its wholly owned Subsidiaries immediately prior to the Effective Time shall automatically be cancelled and retired and shall cease to exist, and no cash or other consideration shall be delivered or deliverable in exchange therefore (the Shares described in Section 2.7(b) and this Section 2.7(c), "Cancelled Shares"); and

(d) Each share of common stock, par value $0.001 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into one fully paid share of common stock, par value $0.001 per share, of the Surviving Corporation.

Section 2.8 Dissenting Shares. Notwithstanding anything in this Agreement to the contrary, Shares (other than Cancelled Shares) outstanding immediately prior to the Effective Time and held by a Holder who has not voted in favor of the Merger or consented thereto in writing and who has properly demanded appraisal for such Shares in accordance with Section 262 of Delaware Law, if such Section provides for appraisal rights for such Shares in the Merger ("Dissenting Shares"), shall not be converted into or be exchangeable for the right to receive a portion of the Merger Consideration unless and until such Holder fails to perfect or withdraws or otherwise loses his right to appraisal and payment under Delaware Law. If, after the Effective Time, any such Holder fails to perfect or withdraws or loses his right to appraisal, such Dissenting Shares shall thereupon be treated as if they had been converted as of the Effective Time into the right to receive the portion of the Merger Consideration, if any, to which such Holder is entitled pursuant to Section 2.7(a), without interest. The Company shall give the Parent (a) prompt notice of any demands received by the Company for appraisal of Shares, attempted written withdrawals of such demands, and any other instruments served pursuant to Delaware Law and received by the Company relating to Holders' rights to appraisal with respect to the Merger and (b) the opportunity to direct all negotiations and proceedings with respect to any exercise of such appraisal rights under Delaware Law; provided, however, that any settlement of any such negotiations or proceedings shall be handled as settlement of a Third Party Claim pursuant to the procedures set forth in Section 7.4. The Company shall not, except with the prior written consent of the Parent, voluntarily make any payment with respect to any demands for payment of fair value for capital stock of the Company, offer to settle or settle any such demands or approve any withdrawal of any such demands.

Section 2.9 Options; Warrants.

(a) At the Effective Time, each In-the-Money Option that is issued and outstanding and vested as of immediately prior to the Effective Time (the "Cashed-Out Options") shall be cancelled, and in consideration of such cancellation, the Surviving Corporation shall pay as promptly as practicable to such holder an amount in cash equal to the product of (i) the number of Shares for which such Option is exercisable and (ii) the excess of the Gross Per Common Share Merger Consideration over the per Share exercise price of such Option, less any amounts that must be contributed in respect of such Option into the Indemnity Escrow Fund, Adjustment Escrow Fund or Expense Fund, as provided in this Agreement and the Escrow Agreement, as applicable, which contributed amounts will be released at the respective times and subject to the contingencies specified herein and therein (the aggregate consideration to be paid to the holders of Options, subject to adjustment in accordance with Section 2.13, the "Aggregate Option Consideration"). The amounts described in this Section 2.9(a) shall be deemed to have been paid in full satisfaction of all rights pertaining to such Options. At the Effective Time, each Out-of-the-Money Option (whether vested or unvested) as of immediately prior to the Effective Time shall be cancelled without consideration payable therefor and shall be of no further force and effect.

(b) At the Effective Time, each In-the-Money Option issued and outstanding that is unvested as of immediately prior to the Effective Time shall be converted into an option to purchase, on the same terms and conditions (including applicable vesting requirements) applicable to such Option under the applicable Option Plan and award agreement in effect immediately prior to the Effective Time, (i) that number of NICE Ordinary Shares, rounded down to the nearest whole share, equal to the product determined by multiplying (A) the total number of shares of Common Stock subject to such Option immediately prior to the Effective Time by (B) the Exchange Ratio, and (ii) at a per-share exercise price, rounded up to the nearest whole cent, equal to the quotient determined by dividing (A) the exercise price per share at which such Option was exercisable immediately prior to the Effective Time by (B) the Exchange Ratio.

(c) The Warrants shall, as of the Effective Time, be cancelled, terminated and converted into the right to receive, and the Paying Agent shall pay to the former Warrantholders in respect of each Warrant an amount in cash equal to the product of (i) the excess, if any, of the Gross Per Common Share Merger Consideration over the exercise price of the Warrant and (ii) the number of Shares of Common Stock previously subject to the Warrant, less any amounts that must be contributed in respect of the Warrant into the Indemnity Escrow Fund, Adjustment Escrow Fund or Expense Fund, as provided in this Agreement and the Escrow Agreement, as applicable, which contributed amounts will be released at the respective times and subject to the contingencies specified herein and therein (subject to adjustment in accordance with Section 2.13, the "Aggregate Warrant Consideration"). As of the Effective Time, the Warrants shall no longer be outstanding and shall automatically terminate and cease to exist and the Warrantholders shall cease to have any rights with respect to the Warrants, except the right to receive a portion of the Aggregate Warrant Consideration, if any.

(d) Prior to the Effective Time, the Company shall take all actions necessary to ensure that (i) the Warrants shall terminate as of the Effective Time and (ii) after the Effective Time, neither the Company nor any of its Subsidiaries is bound by any Option, Warrant or other equity-based right that would entitle any Person, other than the Parent or its Affiliates, to beneficially own, or receive any payments in respect of, any capital stock of the Company, the Surviving Corporation or any of their Subsidiaries other than as otherwise provided in this Section 2.9.

(e) Prior to the Effective Time, the Company shall grant equity awards to certain employees of the Company pursuant to the Option Plan on such terms and conditions as specified by Parent. Such awards shall be converted into equity awards of NICE-Systems Ltd. as of the Effective Time substantially in accordance with the terms provided for in Section 2.9(b) with respect to the conversion of unvested In-the-Money Options into NICE Ordinary Shares.

Section 2.10 Payment for Shares and Options.

(a) Prior to the Effective Time, the Parent shall designate and appoint, a bank or trust company reasonably acceptable to the Company to act as paying agent in connection with the Merger (the "Paying Agent") pursuant to a paying agent agreement providing for, among other things, the matters set forth in this Section 2.10 and otherwise reasonably satisfactory to the Company. Immediately following the Effective Time, the Parent shall, or shall cause the Surviving Corporation to, deposit with the Paying Agent, for the benefit of the Holders, cash in an amount equal to the Aggregate Share Consideration (which shall not include amounts in respect of the Indemnity Escrow Amount, Adjustment Escrow Amount or Expense Fund), by wire transfer of immediately available funds to such account or accounts as may be designated in writing by the Paying Agent at least two Business Days prior to the Closing Date. Such cash shall be invested as directed by the Parent or the Surviving Corporation, as the case may be, pending payment thereof by the Paying Agent to the Holders. Earnings from such investments shall be the sole and exclusive property of the Parent or the Surviving Corporation, as the case may be, and no part thereof shall accrue to the benefit of Holders.

(b) As promptly as practicable after the Effective Time, the Surviving Corporation shall cause the Paying Agent to mail to each holder of record of a certificate or certificates that, immediately prior to the Effective Time, evidenced outstanding Shares (the "Certificates") and whose Shares were converted with the right to receive the consideration described in Section 2.7(a) (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon proper delivery of the Certificates to the Paying Agent and shall be in such form and have such other provisions as the Parent may specify) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for payment therefor. Upon surrender of a Certificate for cancellation to the Paying Agent or such other agent or agents as may be appointed by the Parent, together with such letter of transmittal duly executed, the holder of such Certificate shall be entitled to receive in exchange therefor (as promptly as practicable) (A) the consideration into which such Shares were converted pursuant to Section 2.7(a) multiplied by (B) the number of Shares of Common Stock and or Preferred Stock formerly represented by such Certificate (less any amounts that must be contributed in respect of such Shares into the Indemnity Escrow Fund, Adjustment Escrow Amount or Expense Fund in accordance with such Person's Pro Rata Percentage as provided in this Agreement and the Escrow Agreement, as applicable), without interest, and all such Certificates shall, upon such surrender, be cancelled. Each such Holder shall also be entitled to any amounts that may be payable in respect of the Shares formerly represented by such Certificate from the Indemnity Escrow Fund, Adjustment Escrow Amount or the Expense Fund as provided in this Agreement and the Escrow Agreement, as applicable, at the respective times and subject to the contingencies specified herein and therein. If payment in respect of any Certificate is to be made to a Person other than the Person in whose name such Certificate is registered, it shall be a condition of payment that the Certificate so surrendered shall be properly endorsed or shall otherwise be in proper form for transfer, that the signatures on such Certificate or any related stock power shall be properly guaranteed and that the Person requesting such payment shall have established to the satisfaction of the Parent and the Paying Agent that any transfer and other Taxes required by reason of such payment to a Person other than the registered holder of such Certificate have been paid or are not applicable. Until surrendered in accordance with the provisions of this Section 2.10, any Certificate (other than Certificates representing Cancelled Shares or Dissenting Shares) shall be deemed, at any time after the Effective Time, to represent only the right to receive the portion of the Merger Consideration payable with respect thereto, in cash, without interest, as contemplated herein.

(c) At the Effective Time, the stock transfer books of the Company shall be closed and there shall be no further registration of transfers of any shares of capital stock thereafter on the records of the Company. If, after the Effective Time, a Certificate (other than one representing Cancelled Shares or Dissenting Shares) is presented to the Surviving Corporation, it shall be cancelled and exchanged as provided in this Section 2.10.

(d) All consideration paid upon conversion of the Shares in accordance with the terms of this Article II, and all cash deposited with the Escrow Agent pursuant to this Article II shall be deemed to have been paid in full satisfaction of all rights pertaining to such Shares. From and after the Effective Time, the holders of Certificates shall cease to have any rights with respect to Shares represented thereby, except as otherwise provided herein or by applicable Law.

(e) If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the holder thereof, the Surviving Corporation shall pay or cause to be paid in exchange for such lost, stolen or destroyed Certificate the relevant portion of the Merger Consideration payable in respect thereof pursuant to Section 2.10(b) for Shares represented thereby; provided, however, that the Surviving Corporation or the Paying Agent may, in their discretion, require the delivery of a satisfactory indemnity.

(f) At any time following the date that is six months after the Effective Time, the Parent shall be entitled to require the Paying Agent to deliver to Parent any funds (including any interest or other income received with respect thereto), or any Certificates or other documents relating to the Merger in its possession, and thereafter such holders shall be entitled to look to the Parent only as general creditors thereof with respect to any portion of the Merger Consideration payable upon due surrender of their Certificates, without interest; provided that any such portion of the Merger Consideration payable from the Indemnity Escrow Fund, Adjustment Escrow Amount or Expense Fund shall be held and distributed to the Person(s) entitled thereto in accordance with the terms of this Agreement and the Escrow Agreement, as applicable, at the respective times and subject to the contingencies specified herein and therein. Notwithstanding anything to the contrary in this Section 2.10, to the fullest extent permitted by applicable Law, none of the Paying Agent, the Parent or the Surviving Corporation shall be liable to any holder of a Certificate for any amount properly delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

(g) All cash payments to be made under this Section 2.10 shall be made by wire transfer of immediately available funds to an account designated by the holder of the Shares, as the case may be, except as otherwise agreed by the payor and payee. Wire instructions shall be provided to the Paying Agent and the Surviving Corporation at least two Business Days prior to the applicable payment date.

(h) As promptly as practicable after the Effective Time but in any event no later than the payment date for the first full payroll cycle following the Closing, the Surviving Corporation shall, in exchange for each vested In-the-Money Option, make the payment in respect of each such Option to which each holder thereof is entitled as specified in Section 2.9(a) utilizing the Company's payroll system (or, with respect to Options granted to individuals who were never employees of the Company, its accounts payable system).

(i) The Paying Agent shall, upon receipt of a letter of transmittal, in form and substances reasonably satisfactory to Parent and the Paying Agent and an original copy of the Warrant or other documentation evidencing a Warrant, pay to each Warrantholder the portion of the Aggregate Warrant Consideration to which it is entitled pursuant to Section 2.9(b).

Section 2.11 Other Closing Payments.

(a) On the Closing Date, the Parent shall deposit or cause to be deposited:

(i) with the Escrow Agent (A) for deposit into the Indemnity Escrow Fund, the Indemnity Escrow Amount, and (B) for deposit into the Adjustment Escrow Fund, the Adjustment Escrow Amount (it being understood that the Indemnity Escrow Amount and Adjustment Escrow Amount will be withheld from amounts otherwise payable to the Participating Securityholders according to their respective Pro Rata Percentages);

(ii) with the Securityholder Representative, the Expense Fund (it being understood that the Expense Fund will be withheld from amounts otherwise payable to the Participating Securityholders according to their respective Pro Rata Percentages);

(iii) with the Company, the Aggregate Option Consideration (which shall not include amounts in respect of the Indemnity Escrow Amount, Adjustment Escrow Amount or Expense Fund) for payment by the Surviving Corporation as set forth in Section 2.10(h);

(iv) with the Paying Agent, the Aggregate Warrant Consideration (which shall not include amounts in respect of the Indemnity Escrow Amount, Adjustment Escrow Amount or Expense Fund);

(v) on behalf of the Company, the amount payable to each counterparty or holder of Indebtedness for borrowed money in order to fully discharge such Indebtedness and terminate all applicable obligations and liabilities of the Company and any of its Affiliates related thereto, as specified in the Debt Payoff Letters and in accordance with this Agreement; and

(vi) on behalf of the Company and subject to receipt of customary invoices, the amount payable to each Person who is owed a portion of the Estimated Transaction Expenses, as specified in the Preliminary Closing Statement.

(b) All payments hereunder shall be made by wire transfer of immediately available funds in United States dollars to such account as may be designated to the payor by the payee at least two Business Days prior to the applicable payment date.

Section 2.12 Closing Estimates; Calculation of Merger Consideration.

(a) At least five Business Days prior to the anticipated Closing Date, the Company shall prepare, or cause to be prepared, and deliver to the Parent a written statement (the "Preliminary Closing Statement") that shall include and set forth (i) a good-faith estimate of (A) Cash (the "Estimated Cash"), (B) Indebtedness for borrowed money (the "Estimated Indebtedness"), (C) Net Working Capital (the "Estimated Net Working Capital"), and (D) all Transaction Expenses that are accrued or due and remain unpaid (the "Estimated Transaction Expenses") (with each of Estimated Cash, Estimated Indebtedness, Estimated Net Working Capital and Estimated Transaction Expenses determined as of 11:59 p.m. on the date immediately preceding the Closing Date and, except for Estimated Transaction Expenses, without giving effect to the transactions contemplated herein) and (ii) on the basis of the foregoing, a calculation of the Closing Merger Consideration, the Aggregate Share Consideration, the Aggregate Option Consideration and the Aggregate Warrant Consideration. Estimated Cash, Estimated Indebtedness and Estimated Net Working Capital shall be calculated in the same manner and using the same methodologies, processes, policies and principles as set forth in the definition thereof and utilized in the preparation of the Financial Statements (such methodologies, processes, policies and principles, the "Applicable Accounting Principles"). All such estimates shall be subject to the Parent's approval, which shall not be unreasonably withheld, and shall control solely for purposes of determining the amounts payable at the Closing pursuant to Sections 2.10(a) and 2.11 and shall not limit or otherwise affect the Parent's remedies under this Agreement or otherwise, or constitute an acknowledgement by the Parent of the accuracy of the amounts reflected thereof.

(b) Contemporaneously with the delivery of the Preliminary Closing Statement, the Company shall prepare, or cause to be prepared, and deliver to the Parent a written calculation of the consideration to be received by each Securityholder pursuant to the terms of this Agreement and the transactions contemplated hereby and each Participating Securityholder's Pro Rata Percentage (the "Consideration Schedule"). The parties understand and agree that the Gross Per Common Share Merger Consideration has been calculated based upon the accuracy of the representations and warranties set forth in Section 3.4 and that, in the event the number of outstanding Shares or the number of outstanding Options, Warrants or other stock equivalents is greater or less than the amounts specifically set forth in Section 3.4 (including as a result of (i) any inaccuracy in the representations and warranties set forth in Section 3.4 or any inaccuracy in Section 3.4 of the Disclosure Schedules, (ii) the issuance or expiration after the date of this Agreement of options, warrants or other rights to purchase Shares, or (iii) any stock split, reverse stock split, stock dividend, including any dividend or distribution of securities convertible into stock or any stock equivalent of the Company, recapitalization, reclassification or other like change occurring after the date of this Agreement) the Gross Per Common Share Merger Consideration shall be appropriately adjusted. Notwithstanding anything to the contrary in this Agreement, in no event shall the sum of the payments due and payable pursuant to this Article II exceed the Enterprise Value. In no event will the Parent or Merger Sub have any obligation or liability to any party hereto in the event the sum of the payments due and payable pursuant to this Article II exceed the Enterprise Value. In calculating the Gross Per Common Share Merger Consideration payable under this Article II, the Parent shall be entitled to rely conclusively on the representations and warranties contained in Section 3.4 regarding the capital structure of the Company and the Consideration Schedule and in the event of any inconsistency between such representations and warranties and the Consideration Schedule, on the Consideration Schedule. Section 2.13 Post-Closing Adjustment of Closing Merger Consideration.

(a) Within 90 days after the Closing Date, the Parent shall prepare and deliver to the Securityholder Representative (on behalf of the Securityholders) a written statement (the "Final Closing Statement") that shall include and set forth (i) a calculation of the actual (A) Cash (the "Closing Cash"), (B) Indebtedness for borrowed money (the "Closing Indebtedness"), (C) Net Working Capital (the "Closing Net Working Capital"), and (D) Transaction Expenses (the "Closing Transaction Expenses") (with each of Closing Net Working Capital and Closing Transaction Expenses determined as of 11:59 p.m. on the date immediately preceding the Closing Date and, except for Closing Transaction Expenses, without giving effect to the transactions contemplated herein) and (ii) on the basis of the foregoing, a calculation of the Closing Merger Consideration, the Aggregate Share Consideration, the Aggregate Option Consideration and the Aggregate Warrant Consideration. Closing Cash, Closing Indebtedness and Closing Net Working Capital shall be calculated on a basis consistent with the Applicable Accounting Principles. Within five Business Days of the delivery by the Parent of the Final Closing Statement, the Parent and the Securityholder Representative shall deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to deliver to the Participating Securityholders the excess, if any, of (x) the Adjustment Escrow Fund over (y) the amount of the Adjustment Escrow Fund the Parent would be entitled to receive if no Notice of Disagreement was timely delivered.

(b) The Final Closing Statement shall become final and binding at the end of the 30th day following delivery thereof, unless prior to the end of such period, the Securityholder Representative delivers to the Parent written notice of its disagreement (a "Notice of Disagreement") specifying the nature and amount of any dispute as to the Closing Cash, Closing Indebtedness, Closing Net Working Capital or Closing Transaction Expenses, as set forth in the Final Closing Statement. The Securityholder Representative shall be deemed to have agreed with all items and amounts of Closing Cash, Closing Indebtedness, Closing Net Working Capital or Closing Transaction Expenses not specifically referenced in the Notice of Disagreement, and such items and amounts shall not be subject to review in accordance with Section 2.13(c). Any Notice of Disagreement may reference only disagreements based on mathematical errors or based on amounts of the Closing Cash, Closing Indebtedness, Closing Net Working Capital or Closing Transaction Expenses as reflected on the Final Closing Statement not being calculated in accordance with Section 2.12 or the Applicable Accounting Principles, as applicable.

(c) During the 30 day period following delivery of a Notice of Disagreement by the Securityholder Representative to the Parent, the Securityholder Representative and the Parent in good faith shall seek to resolve in writing any differences that they may have with respect to the computation of the Closing Cash, Closing Indebtedness, Closing Net Working Capital or Closing Transaction Expenses as specified therein. Any disputed items resolved in writing between the Securityholder Representative and the Parent within such 30 day period shall be final and binding with respect to such items, and if the Securityholder Representative and the Parent agree in writing on the resolution of each disputed item specified by the Securityholder Representative in the Notice of Disagreement and the amount of the Closing Cash, Closing Indebtedness, Closing Net Working Capital and Closing Transaction Expenses, the amounts so determined shall be final and binding on the parties for all purposes hereunder. If the Securityholder Representative and the Parent have not resolved all such differences by the end of such 30 day period, the Securityholder Representative and the Parent shall submit, in writing, to Ernst & Young US LLP (the "Independent Accounting Firm"), their briefs detailing their views as to the correct nature and amount of each item remaining in dispute and the amounts of the Closing Cash, Closing Indebtedness, Closing Net Working Capital and Closing Transaction Expenses, and the Independent Accounting Firm shall make a written determination as to each such disputed item and the amount of the Closing Cash, Closing Indebtedness, Closing Net Working Capital and Closing Transaction Expenses, which determination shall be final and binding on the parties for all purposes hereunder. The Independent Accounting Firm shall consider only those items and amounts in the Securityholder Representative's and the Parent's respective calculations of the Closing Cash, Closing Indebtedness, Closing Net Working Capital and Closing Transaction Expenses that are identified as being items and amounts to which the Securityholder Representative and the Parent have been unable to agree. In resolving any disputed item, the Independent Accounting Firm may not assign a value to any item greater than the greatest value for such item claimed by either party or less than the smallest value for such item claimed by either party. The Securityholder Representative and the Parent shall use their commercially reasonable efforts to cause the Independent Accounting Firm to render a written decision resolving the matters submitted to it within 30 days following the submission thereof. Judgment may be entered upon the written determination of the Independent Accounting Firm in accordance with Section 9.10. In acting under this Agreement, the Independent Accounting Firm will be entitled to the privileges and immunities of an arbitrator.

(d) The costs of any dispute resolution pursuant to Section 2.13(c), including the fees and expenses of the Independent Accounting Firm and of any enforcement of the determination thereof, shall be borne by the Securityholder Representative (on behalf of the Securityholders) and the Parent in inverse proportion as they may prevail on the matters resolved by the Independent Accounting Firm, which proportionate allocation shall be calculated on an aggregate basis based on the relative dollar values of the amounts in dispute and shall be determined by the Independent Accounting Firm at the time the determination of such firm is rendered on the merits of the matters submitted. The fees and disbursements of the Representatives of each party incurred in connection with the preparation or review of the Final Closing Statement and preparation or review of any Notice of Disagreement, as applicable, shall be borne by such party.

(e) The Company shall, during the period prior to the Closing Date, and the Parent, during the period from and after the date of delivery of the Final Closing Statement through the resolution of any adjustment to the Closing Merger Consideration contemplated by this Section 2.13, shall cause the Surviving Corporation to, afford the Parent or the Securityholder Representative, as the case may be, and their respective Representatives reasonable access, during normal business hours and upon reasonable prior notice, to the personnel, books and records of the Company or the Surviving Corporation, as the case may be, and its Subsidiaries and to any other information reasonably requested for purposes of preparing and reviewing the calculations contemplated by this Section 2.13. Each party shall authorize its accountants to disclose work papers generated by such accountants in connection with preparing and reviewing the calculations of Cash, Indebtedness, Net Working Capital and Transaction Expenses as specified in this Section 2.13; provided that such accountants shall not be obligated to make any work papers available except in accordance with such accountants' disclosure procedures and then only after the non-client party has signed a customary agreement relating to access to such work papers in form and substance acceptable to such accountants.

(f) The Closing Merger Consideration shall be adjusted, upwards or downwards, as follows:

(i) For the purposes of this Agreement, the "Net Adjustment Amount" means an amount, which may be positive or negative, equal to (A) the difference between (x) the Closing Cash less the Closing Indebtedness for borrowed money, in each case, as finally determined pursuant to this Section 2.13 and (y) the Estimated Cash less the Estimated Indebtedness for borrowed money, plus (B) the Closing Net Working Capital, as finally determined pursuant to this Section 2.13 minus the Estimated Net Working Capital (provided in no event shall the amount of any positive adjustment in respect of the Closing Net Working Capital be in excess of the amount of the deduction in respect of Estimated Net Working Capital made to the Closing Merger Consideration), plus (C) the Estimated Transaction Expenses minus the Closing Transaction Expenses as finally determined pursuant to this Section 2.13;

(ii) If the Net Adjustment Amount is positive, the Closing Merger Consideration shall be adjusted upwards in an amount equal to the Net Adjustment Amount. In such event, the Parent shall pay the Net Adjustment Amount to (A) the Paying Agent for delivery to the holders of Common Stock and Senior Preferred Stock (other than holders of any Dissenting Shares); (B) the Surviving Corporation for delivery to the holders of Options through the Surviving Corporation's payroll system; (C) the Paying Agent for delivery to the Warrantholders; and (D) the Parent shall deliver written instructions to the Escrow Agent and Securityholder Representative directing the Escrow Agent to pay all funds in the Adjustment Escrow Fund to the Participating Securityholders. Payment of amounts to the Securityholders entitled to receive the Net Adjustment Amount shall be made pro rata based upon the portion of the aggregate Gross Per Common Share Merger Consideration attributable to such Securityholders.

(iii) If the Net Adjustment Amount is negative (in which case the "Net Adjustment Amount" for purposes of this clause (iii) shall be deemed to be equal to the absolute value of such amount), the Closing Merger Consideration shall be adjusted downwards in an amount equal to the Net Adjustment Amount. In such event, the Parent shall deliver written notice to the Escrow Agent and the Securityholder Representative specifying the Net Adjustment Amount, and the Escrow Agent shall pay to the Parent out of the Adjustment Escrow Fund in accordance with the terms of the Escrow Agreement, the Net Adjustment Amount. In the event the Adjustment Escrow Fund is insufficient to pay the entire Net Adjustment Amount, the Parent may in its discretion deliver a written notice to the Escrow Agent and the Securityholder Representative specifying the amount of such deficiency, and the Escrow Agent shall pay such amount out of the Indemnity Escrow Fund to the Parent in accordance with the terms of the Escrow Agreement; provided, that the Participating Securityholders (A) shall promptly restore the Indemnity Escrow Fund to the extent any funds are so paid and (B) shall remain liable in the event the Indemnity Escrow Fund is insufficient to cover such amount. No failure on the part of the Parent to deliver a notice as specified in the immediately preceding sentence shall relieve the Participating Securityholders of the obligation to pay the amount of the Net Adjustment Amount to the Parent. In the event the amount of funds in the Adjustment Escrow Fund exceeds the Net Adjustment Amount, then the Escrow Agent, after paying the Net Adjustment Amount to the Parent as provided herein, shall pay any remaining amounts in the Adjustment Escrow Fund to the Participating Securityholders in accordance with their respective Pro Rata Percentages.

(g) Payments in respect of Section 2.13(f) shall be made within seven Business Days of final determination of the Net Adjustment Amount pursuant to the provisions of this Section 2.13 by wire transfer of immediately available funds to such account or accounts as may be designated in writing by the party entitled to such payment at least two Business Days prior to such payment date, subject to any requirements of the Escrow Agent.

Section 2.14 Withholding Rights. Notwithstanding anything to the contrary contained in this Agreement, each of the Parent, the Surviving Corporation and the Paying Agent shall be entitled to deduct and withhold from any consideration otherwise payable to any Person pursuant to this Agreement such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of applicable Tax Law. Such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the applicable Person in respect to which such deduction and withholding was made.

Section 2.15 Securityholder Representative.

(a) Immediately upon the approval of this Agreement by the Company Holder Approval, each Holder shall be deemed to have consented to the appointment of Shareholder Representative Services LLC as the representative, agent and attorney-in-fact of the Securityholders (the "Securityholder Representative"), with full power of substitution to act on behalf of the Securityholders to the extent and in the manner set forth in this Agreement, the Escrow Agreement and any agreements ancillary to the foregoing. To the fullest extent permitted by Law, all decisions, actions, consents and instructions by the Securityholder Representative shall be binding upon the Securityholders and no such Person shall have the right to object to, dissent from, protest or otherwise contest any such decision, action, consent or instruction. The Parent and Merger Sub shall be entitled to conclusively rely on any decision, action, consent or instruction of the Securityholder Representative as being the decision, action, consent or instruction of the Securityholders, and, to the fullest extent permitted by Law, the Parent and Merger Sub are hereby relieved from any liability to any Person for acts done by them in accordance with any such decision, act, consent or instruction.

(b) The Securityholder Representative may resign at any time, and may be removed for any reason or no reason by the vote or written consent of the Securityholders holding a majority of the aggregate Fully Diluted Share Number as of the Effective Time (the "Majority Holders"). In the event of the death, incapacity, resignation or removal of the Securityholder Representative, a new Securityholder Representative shall be appointed by the vote or written consent of the Majority Holders. Notice of such vote or a copy of the written consent appointing such new Securityholder Representative shall be sent to the Parent and, after the Effective Time, to the Surviving Corporation, such appointment to be effective upon the later of the date indicated in such consent or the date such consent is received by the Parent and, after the Effective Time, the Surviving Corporation; provided that until such notice is received, the Parent, Merger Sub and the Surviving Corporation, as applicable, shall be entitled to conclusively rely on the decisions, actions, consents and instructions of the prior Securityholder Representative as described in Section 2.15(a).

(c) The Securityholder Representative shall not be liable to the Securityholders for actions taken or omitted in connection with this Agreement, the Escrow Agreement or any agreements ancillary to the foregoing, except to the extent such actions shall have been determined by a court of competent jurisdiction to have constituted gross negligence, willful misconduct, or fraud. The Securityholders shall severally, but not jointly (based on each Securityholder's Pro Rata Percentage), indemnify, defend and hold harmless the Securityholder Representative from and against any and all losses, liabilities, claims, penalties, fines, forfeitures, actions, damages, fees, costs and expenses, including reasonable attorneys' fees (including the fees and expenses of counsel and experts and their staffs and all expense of document location, duplication and shipment) and disbursements (collectively, "Representative Losses"), arising out of and in connection with its activities as Securityholder Representative under this Agreement, the Escrow Agreement or otherwise, in each case as such Representative Losses are suffered or incurred; provided, that in the event that any such Representative Loss is adjudicated to have been directly caused by the gross negligence, fraud, or willful misconduct of the Securityholder Representative, the Securityholder Representative will reimburse the Securityholders the amount of such indemnified Representative Loss to the extent attributable to such gross negligence, fraud, or willful misconduct. If not paid directly to the Securityholder Representative by the Securityholders, any such Representative Losses may be recovered by the Securityholder Representative (i) first from the funds in the Expense Fund and (ii) after the exhaustion of the amounts in the Expense Fund, from the amounts in the Indemnity Escrow Fund, but only at such time as such amounts in the Indemnity Escrow Fund are otherwise distributable to the Securityholders pursuant to the terms hereof and the Escrow Agreement because all claims for indemnification hereunder against such amounts have been fully resolved, in accordance with written instructions delivered by the Securityholder Representative to the Escrow Agent; provided that while this Section 2.15(c) allows the Securityholder Representative to be paid from the Expense Fund and the Indemnity Escrow Fund, this does not relieve the Securityholders from their obligation to promptly pay such Representative Losses as such Representative Losses are suffered or incurred, nor does it prevent the Securityholder Representative from seeking any remedies available to it at law or otherwise. In no event will the Securityholder Representative be required to advance its own funds on behalf of the Securityholders or otherwise. The Securityholders acknowledge and agree that the foregoing indemnities will survive the resignation or removal of the Securityholder Representative or the termination of this Agreement.

(d) The approval of this Agreement by the Company Holder Approval shall also be deemed to constitute approval of all arrangements relating to the transactions contemplated hereby and to the provisions hereof binding upon the Securityholders, including the covenants and agreements included in Section 7.2.

(e) The Expense Fund will be controlled by the Securityholder Representative solely for payment of the Representative Losses incurred by the Securityholder Representative in connection with this Agreement, the Escrow Agreement and any agreements ancillary to the foregoing. The Securityholder Representative will retain the Expense Fund during such period as any portion of the Indemnity Escrow Fund is held by the Escrow Agent and for such further period where the services of the Securityholder Representative are required pursuant to the provisions of this Agreement, the Escrow Agreement and any agreements ancillary to the foregoing, and the Securityholder Representative shall have sole discretion regarding the use such funds to pay the fees and expenses incurred by the Securityholder Representative in the performance of its duties (as determined in its sole discretion); provided, however following such period and with the consent of the Securityholder Representative, the remaining amounts in the Expense Fund will be distributed to the Paying Agent for further distribution to the Participating Securityholders (in accordance with their respective Pro Rata Percentages). The Securityholders will not receive any interest or earnings on the Expense Fund and irrevocably transfer and assign to the Securityholder Representative any ownership right that they may otherwise have had in any such interest or earnings. The Securityholder Representative will not be liable for any loss of principal of the Expense Fund other than as a result of its fraud or willful misconduct. The Securityholder Representative will hold these funds separate from its corporate funds, will not use these funds for its operating expenses or any other corporate purposes and will not voluntarily make these funds available to its creditors in the event of bankruptcy. For tax purposes, the Expense Fund will be treated as having been received and voluntarily set aside by the Securityholders at the time of Closing.

ARTICLE III
REPRESENTATIONS AND WARRANTIES
OF THE COMPANY

Except as set forth in the corresponding sections or subsections of the Disclosure Schedules attached hereto (collectively, the "Disclosure Schedules") (each of which shall qualify only the specifically identified sections or subsections hereof to which such Disclosure Schedule relates and shall not qualify any other provision of this Agreement (unless the relevance to any other provision of this Agreement is reasonably apparent on its face)), the Company hereby represents and warrants to the Parent and Merger Sub: Section 3.1 Organization and Qualification.

(a) Each of the Company and its Subsidiaries is (i) a corporation duly organized, validly existing and in good standing (for jurisdictions which recognize such concept) under the laws of the jurisdiction of its incorporation as set forth in Section 3.1(a) of the Disclosure Schedules, and has full corporate power and authority to own, lease and operate its properties and to carry on its business as now conducted and as currently proposed to be conducted and (ii) duly qualified or licensed as a foreign corporation to do business, and is in good standing, in each jurisdiction where the character of the properties and assets occupied, owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary, except for any such failures to be so qualified or licensed and in good standing that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect.

(b) The Company has heretofore delivered or made available to the Parent a complete and correct copy of the certificate of incorporation and bylaws or equivalent organizational documents, each as amended to date, of the Company and each of its Subsidiaries. Such certificates of incorporation, bylaws or equivalent organizational documents are in full force and effect. Neither the Company nor any of its Subsidiaries is in violation of any of the provisions of its certificate of incorporation, bylaws or equivalent organizational documents. The transfer books and minute books of each of the Company and its Subsidiaries that have been made available for inspection by the Parent prior to the date hereof are true and complete in all material respects.

Section 3.2 Authority.

(a) The Company has full corporate power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it will be a party and, subject to obtaining the Company Holder Approval, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Company of this Agreement and each of the Ancillary Agreements to which the Company will be party and the consummation by the Company of the transactions contemplated hereby and thereby have been duly and validly authorized by the Board of Directors of the Company. Except for obtaining Company Holder Approval, no other corporate proceedings on the part of the Company are necessary to authorize the execution, delivery or performance of this Agreement or any such Ancillary Agreement or to consummate the transactions contemplated hereby and thereby. When obtained, the Company Holder Approval will be sufficient to satisfy any approval requirements of Delaware Law with respect to this Agreement and the transactions contemplated hereby. This Agreement has been, and upon their execution each of the Ancillary Agreements to which the Company will be a party will have been, duly executed and delivered by the Company and, assuming due execution and delivery by each of the other parties hereto and thereto, this Agreement constitutes, and upon their execution each of the Ancillary Agreements to which the Company will be a party will constitute, the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, subject to the effect of (i) applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws relating to the rights of creditors generally and (ii) rules of Law and equity governing specific performance, injunctive relief and other equitable remedies.

(b) The Board of Directors of the Company, at a meeting duly called and held at which all directors of the Company were present, duly and unanimously adopted resolutions (i) determining that the terms of this Agreement, the Merger and the other transactions contemplated hereby are fair to, and in the best interests of, the Holders, (ii) approving and declaring advisable this Agreement and the transactions contemplated hereby, including the Merger, (iii) directing that this Agreement be submitted to the Holders for adoption and approval and (iv) resolving to recommend that the Holders vote in favor of the adoption and approval of this Agreement and the transactions contemplated hereby, including the Merger, which resolutions have not been subsequently rescinded, modified or withdrawn in any way.

Section 3.3 No Conflict; Required Filings and Consents.

(a) Upon obtaining the approvals contemplated in Section 3.3(b) below, the execution, delivery and performance by the Company of this Agreement and each of the Ancillary Agreements to which the Company will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not (i) conflict with or violate the certificate of incorporation or bylaws or equivalent organizational documents of the Company or any of its Subsidiaries; (ii) conflict with or violate any Law applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries is bound or affected (other than a Law of any Governmental Authority located in the State of Israel which may be triggered solely by reason of Parent's (as opposed to any other party's) participation in the transaction); or (iii) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under, require any consent of any Person pursuant to, give to others any right of termination, amendment, modification, acceleration or cancellation of, allow the imposition of any fees or penalties, require the offering or making of any payment or redemption, give rise to any increased, guaranteed, accelerated or additional rights or entitlements of any Person, or result in the creation of any Encumbrance on any property, asset or right of the Company or any of its Subsidiaries pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other Contract to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries or any of their respective properties, assets or rights are bound or affected, except in the case of clause (iii) for such matters which (x) are disclosed in Section 3.3(a) of the Disclosure Schedules, or (y) would not be material to the Company or any Subsidiary.

(b) Neither the Company nor any of its Subsidiaries is required to file, seek or obtain any notice, authorization, approval, order, permit or consent of or with any Governmental Authority in connection with the execution, delivery and performance by the Company of this Agreement and each of the Ancillary Agreements to which the Company will be a party or the consummation of the transactions contemplated hereby or thereby or in order to prevent the termination of any right, privilege, license or qualification of the Company or any of its Subsidiaries, except for (i) any filings required to be made under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), (ii) the CFIUS Approval, (iii) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, (iv) such filings as may be required by any applicable federal or state securities or "blue sky" laws, and (v) any notice, authorization, approval, order, permit or consent that may be required by or to be made with any Governmental Authority located in the State of Israel solely by reason of Parent's (as opposed to any other party's) participation in the transaction.

(c) Except for Section 262 of Delaware Law, no "fair price," "interested shareholder," "business combination" or similar provision of any state takeover Law is, or at the Effective Time will be, applicable to the transactions contemplated by this Agreement or the Ancillary Agreements.

Section 3.4 Capitalization.

(a) The authorized capital stock of the Company consists of 30,000,000 Shares of Common Stock and 20,906,013 Shares of Preferred Stock, of which 3,989,890 Shares of Common Stock are issued and outstanding, and 20,840,798 Shares of Preferred Stock are issued and outstanding as follows: (i) 824,800 Shares are designated as Series A Preferred stock, all of which are issued outstanding, (ii) 2,338,711 Shares are designated as Series B Preferred stock, all of which are issued and outstanding, (iii) 2,616,758 Shares are designated as Series C Preferred stock, all of which are issued and outstanding, (iv) 1,795,832 Shares are designated as Series D Preferred stock, of which 1,764,430 are issued and outstanding, (v) 378,166 Shares are designated as Series E Preferred stock, all of which are issued and outstanding, (vi) 8,933,607 Shares are designated as Series F Preferred stock, all of which are issued and outstanding, and (vii) 4,018,139 Shares are designated as Series G Preferred stock, of which 3,984,327 are issued and outstanding. In addition, 5,764,556 Shares of Common Stock were reserved for issuance of Options, Options to purchase 2,628,955 Shares of Common Stock are issued and outstanding (with a weighted average exercise price equal to $0.4772), and 208,000 Shares of Series G Preferred Stock are issuable upon the exercise in full of the Warrants (which Warrants have a weighted average exercise price of $2.6447). Section 3.4(a)(i) of the Disclosure Schedules sets forth a complete and accurate list of all record and beneficial owners of the issued and outstanding capital stock of the Company, indicating the respective number and series of Shares held. Section 3.4(a)(ii) of the Disclosure Schedules sets forth, for each Subsidiary of the Company, the amount of its authorized capital stock or other equity or ownership interests, the amount of its outstanding capital stock or other equity or ownership interests and the record and beneficial holders of its outstanding capital stock or other equity or ownership interests.

(b) Section 3.4(b)(i) of the Disclosure Schedules sets forth a list of each Option, including the name and address of record of the holder of such Option, date of grant, expiration date, exercise price, number of Shares of Common Stock subject thereto and the vesting schedule thereof. All Options were issued under the Option Plan. The Company has furnished to the Parent true and complete copies of the Option Plan and the forms of all stock option agreements evidencing Options. Section 3.4(b)(ii) of the Disclosure Schedules sets forth the names and addresses of record of all Persons holding any Warrant, together with the number of Warrants thus held, the number of Shares under the Warrant, and the relevant exercise price(s), vesting date(s) and number of Warrants vesting on each such date, and expiration date(s) thereof, as applicable.

(c) Except for the Shares and except as set forth in Section 3.4(a) and (b) of the Disclosure Schedules, neither the Company nor any of its Subsidiaries has issued or agreed to issue any: (i) share of capital stock or other equity or ownership interest; (ii) option, warrant or interest convertible into or exchangeable or exercisable for the purchase of shares of capital stock or other equity or ownership interests; (iii) stock appreciation right, phantom stock, interest in the ownership or earnings of the Company or any of its Subsidiaries or other equity equivalent or equity-based award or right; or (iv) bond, debenture or other indebtedness having the right to vote or convertible or exchangeable for securities having the right to vote.

(d) Each outstanding share of capital stock or other equity or ownership interest of the Company and each of its Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and in the case of its Subsidiaries, except as set forth in Section 3.4(d)(1) of the Disclosure Schedules each such share or other equity or ownership interest is owned by the Company or another Subsidiary, free and clear of any Encumbrance. All of the aforesaid shares or other equity or ownership interests have been offered, sold and delivered by the Company or a Subsidiary in material compliance with all applicable federal and state securities laws. Except as set forth in Section 3.4(d)(2) of the Disclosure Schedules and except for rights granted to the Parent and Merger Sub under this Agreement, there are no outstanding obligations of the Company or any of its Subsidiaries, in each case, to issue, sell or transfer or repurchase, redeem or otherwise acquire, or that relate to the holding, voting or disposition of, or that restrict the transfer of, the issued or unissued capital stock or other equity or ownership interests of the Company or any of its Subsidiaries. No shares of capital stock or other equity or ownership interests of the Company or any of its Subsidiaries have been issued in violation of any rights, agreements, arrangements or commitments under any provision of applicable Law, the certificate of incorporation or bylaws or equivalent organizational documents of the Company or any of its Subsidiaries or any Contract to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound.

(e) The Consideration Schedule sets forth a complete and accurate list of all consideration due or otherwise payable to any Securityholder or any other current or former holder of any capital stock of the Company with respect to their Common Stock, Preferred Stock, Options and/or Warrants pursuant to this Agreement or the transactions contemplated hereby, including the Merger.

Section 3.5 Equity Interests. Except for the Subsidiaries listed in Section 3.4(a)(ii) of the Disclosure Schedules, neither the Company nor any of its Subsidiaries directly or indirectly owns any equity, partnership, membership or similar interest in, or any interest convertible into, exercisable for the purchase of or exchangeable for any such equity, partnership, membership or similar interest, or is under any current or prospective obligation to form or participate in, or make any loan, capital contribution or other investment in, any Person.

Section 3.6 Financial Statements; No Undisclosed Liabilities; Projections.

(a) True and complete copies of the audited consolidated balance sheet of the Company and its Subsidiaries as at December 31, 2014 and December 31, 2013, and the related consolidated statements of loss and comprehensive losses, consolidated statement of stockholders' deficit, and consolidated statement of cash flows of the Company and its Subsidiaries, together with all related notes and schedules thereto, accompanied by the reports thereon of the Company's independent auditors (collectively referred to as the "Financial Statements") and the unaudited consolidated balance sheet of the Company and its Subsidiaries as at September 30, 2015 and November 30, 2015, and the related consolidated statements of losses, statement of cash flows of the Company and its Subsidiaries (collectively referred to as the "Interim Financial Statements"), are attached hereto as Section 3.6(a) of the Disclosure Schedules. Each of the Financial Statements and the Interim Financial Statements (i) are correct and complete in all material respects and have been prepared in accordance with the books and records of the Company and its Subsidiaries; (ii) have been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated (except as may be indicated in the notes thereto); and (iii) fairly present, in all material respects, the consolidated financial position, results of operations and cash flows of the Company and its Subsidiaries as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein and subject, in the case of the Interim Financial Statements, (x) to normal and recurring year-end audit adjustments, which are not, individually or in the aggregate, material, or (y) as set forth in Section 3.6(a) of the Disclosure Schedules.

(b) Except as and to the extent adequately accrued or reserved against in the unaudited consolidated balance sheet of the Company and its Subsidiaries as at November 30, 2015 (the "Balance Sheet"), neither the Company nor any of its Subsidiaries has any material liability or obligation of any nature, whether accrued, absolute, contingent or otherwise, whether or not required by GAAP to be reflected in a consolidated balance sheet of the Company and its Subsidiaries, except for (x) liabilities and obligations incurred in the ordinary course of business consistent with past practice since the date of the Balance Sheet, or (y) as set forth in Section 3.6(b) of the Disclosure Schedules. The Company and its Subsidiaries do not have, and will not have at Closing, any Indebtedness, other than Indebtedness for borrowed money and Capital Leases which shall be included in the calculation of the Merger Consideration.

(c) The 2016 revenue and booking projections relating to the Company delivered to the Parent on November 30, 2015 and December 1, 2015 (the "Financial Projections") constitute a good faith reasonable estimate by the Company of the information purported to be shown therein. The Financial Projections are based on the current beliefs, expectations and assumptions of the Company and the Company is not aware of any information that would lead the Company to believe that the Financial Projections are misleading in any material respect.

Section 3.7 Absence of Certain Changes or Events. Except as set forth in Section 3.7 of the Disclosure Schedules, since June 30, 2015: (a) the Company and its Subsidiaries have conducted their businesses only in the ordinary course consistent with past practice; (b) there has not been any event, change, circumstance, occurrence, effect or state of facts, individually or in the aggregate, that has had or is reasonably likely to have a Material Adverse Effect; (c) neither the Company nor any of its Subsidiaries has suffered any loss, damage, destruction or other casualty affecting any of its material properties or assets, whether or not covered by insurance; and (d) none of the Company or any of its Subsidiaries has taken any action that, if taken after the date of this Agreement, would constitute a breach of any of the covenants set forth in Section 5.1(a), (b), (c), (d), (e), (f), (g)(i), (g)(ii), (j)(i), (j)(ii), (k), (l), (m), or (o).

Section 3.8 Compliance with Law; Permits.

(a) Each of the Company and its Subsidiaries is and has been in compliance in all material respects with all Laws applicable to it. Except as set forth in Section 3.8(a) of the Disclosure Schedules, none of the Company or any of its Subsidiaries has received during the past five years any notice, order, complaint or other written communication from any Governmental Authority that the Company or any of its Subsidiaries is not in compliance in all material respects with any Law applicable to it.

(b) Each of the Company and its Subsidiaries is in possession of all permits, licenses, franchises, approvals, certificates, consents, waivers, concessions, exemptions, orders, registrations, notices or other authorizations of any Governmental Authority necessary for each of the Company and its Subsidiaries to own, lease and operate its properties and to carry on its business in all material respects as currently conducted (the "Permits"). Each of the Company and its Subsidiaries is and has been in compliance in all material respects with all such Permits. To the Company's knowledge, no suspension, cancellation, modification, revocation or nonrenewal of any Permit is pending or threatened. To the Company's knowledge, the Company and its Subsidiaries will continue to have the use and benefit of all Permits following consummation of the transactions contemplated hereby, except where any failure to have such Permits would not, individually or in the aggregate, be material to the Company and its Subsidiaries, taken as a whole. No Permit is held in the name of any employee, officer, director, stockholder, agent or otherwise on behalf of the Company or any of its Subsidiaries.

(c) Neither the Company nor any of its Subsidiaries, nor any of their respective directors, executives, representatives, agents or employees (i) has used or is using any corporate funds for any illegal contributions, gifts, entertainment or other unlawful expenses relating to political activity, (ii) has used or is using any corporate funds for any direct or indirect unlawful payments to any foreign or domestic governmental officials or employees or any employees of a foreign or domestic government-owned entity, (iii) has violated or is violating any provision of the Foreign Corrupt Practices Act of 1977 or any other anticorruption Law applicable to the Company or any of its Subsidiaries, (iv) has made, offered, authorized or promised any payment, rebate, payoff, influence payment, contribution, gift, bribe, rebate, kickback, or any other thing of value to any government official or employee, political party or official, or candidate, regardless of form, to obtain favorable treatment in obtaining or retaining business or to pay for favorable treatment already secured, (v) has established or maintained, or is maintaining, any fund of corporate monies or other properties for the purpose of supplying finds for any of the purposes described in the foregoing clause (iv), (vi) has made any bribe, unlawful rebate, payoff, influence payment, kickback or other similar payment of any nature, or (vii) has violated or is violating any Law applicable to the Company relating to performance of contracts for a Governmental Authority, including but not limited to the Federal Acquisition Regulations System at Title 48 of the Code of Regulations and the Defense Priorities and Allocations Systems at Part 700 of Title 15 of the Code of Regulations.

(d) Neither the Company nor any director, officer, agent, employee or Affiliate of the Company acting or purporting to act on behalf of the Company: (i) is, or is owned or controlled by, a person or entity subject to the sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or included on the List of Specially Designated Nationals and Blocked Persons, Denied Persons List, Entities List, Debarred Parties List, Excluded Parties List and Terrorism Exclusion List, or any similar Law; or (ii) has engaged in any unauthorized transaction directly or indirectly with any such Person or has otherwise been in breach of any such sanctions, restrictions or any similar foreign or state Law.

Section 3.9 Litigation. Except as set forth in Section 3.9 of the Disclosure Schedules, there is no Action pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries, or any material property or asset of the Company or any of its Subsidiaries, or any of the officers of the Company or any of its Subsidiaries in regards to their actions as such. There is no Action pending or, to the Company's knowledge, threatened seeking to prevent, hinder, modify, delay or challenge the transactions contemplated by this Agreement or the Ancillary Agreements to which the Company is a party. There is no outstanding order, writ, judgment, injunction, decree, determination or award of, or pending or, to the Company's knowledge, threatened investigation by, any Governmental Authority relating to the Company, any of its Subsidiaries, any of their respective properties or assets, any of their respective officers or directors in regards to their actions as such, or the transactions contemplated by this Agreement or the Ancillary Agreements. Except as set forth in Section 3.9 of the Disclosure Schedules, there is no Action by the Company or any of its Subsidiaries pending or which the Company or any of its Subsidiaries has commenced definitive preparations to initiate, against any other Person.

Section 3.10 Employee Benefit Plans.

(a) Section 3.10(a)(i) of the Disclosure Schedules lists all employee benefit plans (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), including multiemployer plans within the meaning of Section 3(37) of ERISA) and all bonus, stock option, stock purchase, stock appreciation, incentive, deferred compensation, retirement, supplemental retirement, severance, change in control, golden parachute, vacation, cafeteria, dependent care, medical care, employee assistance, education or tuition assistance, fringe and all other employee benefit or other compensatory plans, programs, agreements, policies, arrangements, consulting agreements, employment agreements and Contracts or funds containing provisions relating to notice periods prior to termination, severance, or acceleration of any equity awards, whether or not subject to ERISA, formal or informal, written or oral, (i) for the benefit of, or relating to, any present or former employee, director, independent contractor or individual consultant of the Company, which is or has been entered into, contributed to, established by, participated in or maintained by the Company or any of its "ERISA Affiliates" (defined as any trade or business (whether or not incorporated) which is a member of a controlled group or which is under common control with the Company within the meaning of Section 414 of the Code) or (ii) under which the Company or any of its ERISA Affiliates has any liability, whether or not such plan is terminated (together, the "Employee Plans"). Each Employee Plan has complied in form and been operated in all material respects with all applicable Laws.

(b) True, correct and complete copies of the current version of each item described in Section 3.10(a) and, if applicable, the current summary plan description, the most recent determination letter, the most recent actuarial report, related trusts, the current insurance or group annuity contracts and each other funding arrangement relating to any such item, as well as all amendments, modifications or supplements thereto, have been delivered or made available to the Parent.

(c) There are no Actions pending with respect to any Employee Plan (other than routine claims for benefits) or, to the knowledge of the Company, threatened or anticipated with respect to any Employee Plan and, to the knowledge of the Company, no facts or circumstances exist that would reasonably be expected to give rise to any such Actions. The Company and its ERISA Affiliates have performed in all material respects all obligations required to be performed by them under each Employee Plan and are not in default under or violation of, and have no knowledge of any default or violation by any other Person with respect to, any of the Employee Plans. All contributions required to be made to any Employee Plan pursuant to Section 412 of the Code, the terms of the Employee Plan or any collective bargaining agreement, or otherwise have been made on or before their due dates and a reasonable amount has been accrued for contributions to each Employee Plan for the current plan years. To the knowledge of the Company, no event has occurred and no condition exists that would subject the Company, either directly or by reason of its affiliation with any ERISA Affiliate, to any Tax, fine, Encumbrance, penalty or other liability imposed by ERISA or Section 4975 of the Code.

(d) The Company has no direct or contingent liability with respect to any plan subject to Title IV of ERISA or Section 412 of the Code.

(e) No Employee Plan or other written or oral agreement exists that obligates the Company to provide health care coverage, medical, surgical, hospitalization, death or similar benefits (whether or not insured) to any current or former employee or individual consultant of the Company following such current or former employee's or individual consultant's termination of employment or consultancy with the Company, other than as required by Section 4980B of the Code. Each Employee Plan has been operated and administered in all material respects with the requirements of The Patient Protection and Affordable Care Act (Public Law Number 111-148) and the Health Care and Education Reconciliation Act of 2010 (Public Law Number 111-152), in each case as amended, to the extent applicable. No Employee Plan is funded through a "welfare benefit fund" as defined in Section 419 of the Code.

(f) Each compensation arrangement between the Company and a service provider and each Employee Plan that is subject to Code Section 409A is and has been in operational and documentary compliance in all material respects with the applicable requirements of Code Section 409A and all applicable U.S. Department of Labor, Internal Revenue Service and Treasury Department guidance issued thereunder. Each equity award that has been granted to any current or former service provider is exempt from Code Section 409A.

(g) Except as set forth in Section 3.10(g) of the Disclosure Schedule, no Employee Plan exists that, as a result of the execution of this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby (whether alone or in connection with any other events), could (i) result in severance pay or any increase in severance pay upon any termination of employment or (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of the Employee Plans or otherwise.

(h) Each Employee Plan may be amended or terminated without liability to the Company, other than liability for accrued benefits through the date of the amendment or termination and administrative costs of amending or terminating the Employee Plan.

(i) All workers' compensation benefits pursuant to any Employee Plan paid or payable to any current or former employee, director or other service provider of or to the Company are fully insured by a third party insurance carrier.

(j) There are no Employee Plans and there are no other Contracts, plans or arrangements (written or otherwise) covering any current or former employee, director, officer, stockholder or independent contractor of the Company that, individually or collectively, could give rise to the payment of any amount or benefit that would not be deductible pursuant to the terms of Section 280G of the Code.

(k) Each Person who performs or renders (or has performed or rendered) services to or for the Company has been, and is, properly classified by the Company as an employee or independent contractor under applicable Law. All Persons classified as independent contractors of the Company or its Subsidiaries satisfy and have at all times satisfied the requirements of applicable Law to be so classified. The Company has fully and accurately reported such Persons' compensation on IRS Forms 1099 or similar forms when required to do so. Neither the Company nor any of its Subsidiaries has and has ever had any obligations to provide benefits with respect to such Persons under any Employee Plan or otherwise. The Company does not employ, and has not employed, any "leased employees" as defined in Section 414(n) of the Code.

Section 3.11 Labor and Employment Matters.

(a) Section 3.11(a)(1) of the Disclosure Schedules identifies: (i) all directors and officers of the Company and its Subsidiaries and their respective titles; (ii) all employees and consultants employed or engaged by the Company or its Subsidiaries; and (iii) for each individual identified in clause (i) or (ii), such Person's annual base salary and bonus opportunity for 2013 and 2014, current job title and date of hire. To the Company's knowledge, all persons listed on Section 3.11(a)(1) of the Disclosure Schedules are lawfully authorized to work in the United States according to United States immigration Laws. Section 3.11(a)(2) of the Disclosure Schedules sets forth a true complete and accurate list, as of the most recent regular payroll date preceding the date of this Agreement, of all accrued vacation time for all employees of the Company or its Subsidiaries and the value of all such accrued vacation time based on each such employees' compensation level then in effect as of the date of this Agreement. Except as set forth in Section 3.11(a)(3) of the Disclosure Schedules, the Company and its Subsidiaries have not promised verbally or in writing to increase the compensation of any employee or consultant or provide any new compensation (including base salaries, bonus amounts or equity awards).

(b) Except as set forth on Section 3.11(b) of the Disclosure Schedules, there are no Contracts providing for a notice period prior to termination, acceleration benefits or severance benefits between the Company, on the one hand, and any current or former Holder, Affiliate, officer, director, employee, consultant, labor organization or other representative of any of the Company's employees, on the other hand, nor is any such Contract presently being negotiated.

(c) Neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining Contract that pertains to employees of the Company or any of its Subsidiaries. To the knowledge of the Company, there are no, and during the past five years have been no, organizing activities or collective bargaining arrangements that could affect the Company or any of its Subsidiaries pending or under discussion with any labor organization or group of employees or independent contractors of the Company or any of its Subsidiaries. There is no, and during the past five years there has been no, labor dispute, employment-related grievance, strike, controversy, slowdown, work stoppage or lockout pending or, to the knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries, nor is there any basis for any of the foregoing.

(d) The Company and its Subsidiaries have complied in all material respects with all applicable Laws, Contracts and policies respecting employment, including discrimination or harassment in employment, terms and conditions of employment, termination of employment, wages, overtime classification, hours, occupational safety and health, employee whistle-blowing, immigration, employee privacy, employment practices and classification of employees, consultants and independent contractors, including the obligations of the U.S. Worker Adjustment and Retraining Notification Act of 1988, as amended and any similar state or local Law, and all other notification and bargaining obligations arising under Law or otherwise. Neither the Company nor any of its Subsidiaries is engaged in any unfair labor practice, as defined in the National Labor Relations Act or other applicable Laws. No unfair labor practice or labor charge or complaint is pending or, to the knowledge of the Company, threatened with respect to the Company or any of its Subsidiaries before the National Labor Relations Board, the Equal Employment Opportunity Commission or any other Governmental Authority. None of the Company's or its Subsidiaries' employment policies or practices are currently being audited or investigated by any Governmental Authority or court. Neither the Company nor any of its Subsidiaries is liable for any severance pay or other payments to any employee or former employee arising from the termination of employment, nor will the Company or any Subsidiary have any liability under any benefit or severance policy, practice, Contract, plan, program or Law which exists or arises, or may be deemed to exist or arise, as a result of or in connection with the transactions contemplated hereunder or as a result of the termination by the Company or any Subsidiary of any persons employed by the Company or any Subsidiary on or prior to the Effective Time.

(e) Neither the Company nor any of its Subsidiaries is a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Authority relating to employees or employment practices. None of the Company, any of its Subsidiaries or any of its or their executive officers has received within the past five years any notice of intent by any Governmental Authority responsible for the enforcement of labor or employment laws to conduct an investigation relating to the Company or any of its Subsidiaries and, to the knowledge of the Company, no such investigation is in progress.

(f) All amounts owed by the Company or any Subsidiary to any current or former employee or consultant has been timely paid in accordance with applicable Law or is properly reflected in the Financial Statements.

(g) To the knowledge of the Company, no current employee or officer of the Company or any of its Subsidiaries intends, or is expected, to terminate his employment relationship with such entity following the consummation of the transactions contemplated hereby.

Section 3.12 Title to, Sufficiency and Condition of Assets.

(a) The Company and its Subsidiaries have good and valid title to or a valid leasehold interest in all of their assets, including all of the assets reflected on the Balance Sheet or acquired in the ordinary course of business since the date of the Balance Sheet, except those sold or otherwise disposed of for fair value since the date of the Balance Sheet in the ordinary course of business consistent with past practice. The assets owned or leased by the Company and its Subsidiaries constitute all of the assets necessary for the Company and its Subsidiaries to carry on their respective businesses as currently conducted. Except as set forth in Section 3.12(a) of the Disclosure Schedules, none of the assets owned or leased by the Company or any of its Subsidiaries is subject to any Encumbrance, other than Permitted Encumbrances.

(b) All tangible assets owned or leased by the Company or its Subsidiaries have been maintained in all material respects in accordance with generally accepted industry practice, are in all material respects in good operating condition and repair, ordinary wear and tear excepted, and are adequate for the uses to which they are being put.

Section 3.13 Real Property.

(a) Neither the Company nor any of its Subsidiaries owns or has owned in the past 10 years any real property. Section 3.13(a) of the Disclosure Schedules sets forth a true and complete list of all Leased Real Property, including the address of such property and lessor (if applicable). Each of the Company and its Subsidiaries has good and marketable leasehold title to all Leased Real Property, in each case, free and clear of all Encumbrances except Permitted Encumbrances. To the Company's knowledge, no parcel of Leased Real Property is subject to any governmental decree or order to be sold or is being condemned, expropriated or otherwise taken by any public authority with or without payment of compensation therefore, nor, to the knowledge of the Company, has any such condemnation, expropriation or taking been proposed. All leases of Leased Real Property and all amendments and modifications thereto are in full force and effect, and there exists no payment default or other material default under any such lease by the Company, any of its Subsidiaries or, to the Company's knowledge, any other party thereto, nor any event which, with notice or lapse of time or both, would constitute a default thereunder by the Company, any of its Subsidiaries or, to the Company's knowledge, any other party thereto.

(b) There are no contractual or legal restrictions that preclude or restrict the ability to use any Leased Real Property by the Company or any of its Subsidiaries for the current use of such Leased Real Property. To the knowledge of the Company, there are no latent defects or adverse physical conditions affecting the Leased Real Property in any material respect.

Section 3.14 Intellectual Property.

(a) Section 3.14(a)(1) of the Disclosure Schedules sets forth a true and complete list of all Registered and material unregistered Intellectual Property, in each case owned or exclusively licensed by the Company or its Subsidiaries (each identified as a patent, trademark, copyright or domain name and indicating the applicable jurisdiction and registration number (or application number), if applicable). Section 3.14(a)(2) of the Disclosure Schedules sets forth a true and complete list of all Products.

(b) All Intellectual Property set forth in Section 3.14(a) of the Disclosure Schedules is valid, subsisting and enforceable, and, except as set forth in Section 3.14(a) of the Disclosure Schedules, is not subject to any filings, fees or other actions falling due within 90 days after the Closing Date. Except as set forth in Section 3.14(b) of the Disclosure Schedules, no Owned Intellectual Property has expired, been abandoned or adjudicated invalid or is the subject of an outstanding order, judgment, stipulation or decree adversely affecting the Company or its Subsidiary's use thereof.

(c) Except as set forth in Section 3.14(c) of the Disclosure Schedules, (i) the Company solely and exclusively owns, free and clear of all Encumbrances and interests of third parties, the Owned Intellectual Property, (ii) the Company has the valid right to use, free and clear of all Encumbrances, all other Intellectual Property used by or in the conduct of the Company's business as currently conducted, including all Intellectual Property rights that are embodied in or that protect any Products and all MetaBuilders used by the Company or its Subsidiaries in the conduct of their business, (iii) all Owned Intellectual Property is fully assignable by the Company to any Person, without payment to a third party, consent of any Person or other condition or restriction, and (iv) no royalties, honoraria or other fees are payable by the Company to any third parties with respect to any Products or any Owned Intellectual Property that is used in the conduct of the Company's business. The items required to be set forth in Section 3.14(a)(1) and 3.14(a)(2) of the Disclosure Schedules, together with the Intellectual Property licensed under the Material Contracts listed in Section 3.17(a)(ix) of the Disclosure Schedules constitute all the material Intellectual Property and Products necessary to conduct the business of the Company as currently conducted or currently contemplated to be conducted.

(d) The Company has taken commercially reasonable actions to maintain, police and protect its Intellectual Property and the ownership, validity, scope and value of its Intellectual Property, including any Intellectual Property embodied in or covering any of the Products. All employees, contractors or consultants of the Company who have contributed to the creation, invention or development of any Owned Intellectual Property have signed written agreements ensuring that all such Intellectual Property are owned exclusively by the Company. The Company has taken commercially reasonable actions to ensure that the trade secret status and confidentiality of its trade secrets and of any of its other proprietary information has been maintained, and has disclosed such trade secrets and of its other proprietary information only pursuant to written confidentiality agreements (true and complete copies of which have been delivered or made available to the Parent). To the knowledge of the Company, no trade secrets of the Company have been disclosed to or accessed by any other third party without such agreement in place between the Company and such third party.

(e) The conduct of the Company's business as currently conducted and the use or exploitation of the Owned Intellectual Property and Products, have not infringed, misappropriated, violated or diluted, and do not infringe, misappropriate, violate or dilute ("Infringe"), any Intellectual Property of any Person or any Person's rights. To the knowledge of the Company, the Intellectual Property of the Company is not being Infringed by any Person. There is no Action pending or outstanding, or, to the knowledge of the Company, threatened or imminent, that seeks to limit or challenge or that concerns the ownership, use, validity, scope, registrability or enforceability of any Owned Intellectual Property or any Products, and the Company has received no written notice of the same, and, to the knowledge of the Company, there is no valid basis for the same. The Company has the right to bring Actions for Infringement of all Owned Intellectual Property or any Products.

(f) All Software, Systems and Websites owned or used by the Company, including all Products, (i) are free from any material defect, bug, virus, or programming, design or documentation error or other malfunction; (ii) are fully functional and operate and run in a reasonable and efficient business manner for their intended use and for the operation of the business as currently conducted or currently contemplated to be conducted by the Company; and (iii) conform in all material respects to the specifications and purposes thereof. There has not been any malfunction with respect to any of the Systems since January 1, 2010 that has not been remedied or replaced in all material respects. The Company owns or has rights to access and use all Systems used to process, store, maintain and operate data and information used in connection with the business as currently conducted or currently contemplated to be conducted, including systems to operate payroll, accounting, billing and receivables, payables, inventory, asset tracking, customer service and human resources functions. The Company has taken reasonable steps in accordance with industry standards to secure the Systems from unauthorized access or use by any Person, and to maintain the continued, uninterrupted and error-free operation of the Systems. The use by the Company of the data in connection with the business as currently conducted does not Infringe the rights of any Person or otherwise violate any laws or regulation.

(g) None of the Software owned or used by the Company, whether embedded in the Products or otherwise, uses, incorporates, interacts with, is a derivative of or has embedded in it any Software that (i) is subject to an "open source," "copyleft" or other similar type of license (including any GNU General Public License, Library General Public License, Lesser General Public License, Mozilla License, Berkeley Software Distribution License, Open Source Initiative License, MIT, Apache, Public Domain licenses and the like) (any such license being referred to herein as an "Open Source License") that would subject any proprietary source code of the Company to the terms of such Open Source License or (ii) would otherwise require the public distribution, contribution, licensing or public disclosure of such proprietary source code or impose limitations on the Company's or any Subsidiary's right to require payments in connection therewith.

(h) Except as set forth in Section 3.14(h) of the Disclosure Schedules, no Products and no Owned Intellectual Property are subject to any agreement with any third party pursuant to which the Company has, or could be required to deposit into escrow the source code of such Products or Owned Intellectual Property or pursuant to which access to the source code of such Products or Owned Intellectual Property is or would be granted to a third party. To the knowledge of the Company, there has been no unauthorized disclosure of any of the Company's proprietary source code.

(i) No other Person has an exclusive right or license to use any Products or any Owned Intellectual Property. Except as set forth in Section 3.14(i) of the Disclosure Schedules, the consummation of the transactions contemplated by this Agreement will not result in the material loss or impairment or other material modification of, or payment of any material additional amounts with respect to, the Company's rights under any agreement relating to the Owned Intellectual Property or Intellectual Property used by the Company in the conduct of its business as currently conducted or any Products.

(j) (i) The Company complies, in all material respects, with all relevant Laws and regulations relating to Intellectual Property (including the U.S. Digital Millennium Copyright Act and any applicable foreign equivalents), and (ii) the Company has operated its business to obtain, maintain and maximize all applicable protections under the "safe harbors" of 47 U.S.C. § 230 and 17 U.S.C. § 512. The Company responds promptly to all complaints received by the Company relating to Intellectual Property Infringements, other violations of the Law, and other inappropriate conduct occurring on, through or in connection with its Products and the other Software, Systems and Websites used by the Company.

(k) Except as set forth in Section 3.14(k) of the Disclosure Schedules, none of the Owned Intellectual Property or the Company's or its Subsidiary's Products was developed with another Person (including any Governmental Authority, university or customer) in a manner that would limit or restrict the Company's or its Subsidiaries' ability to exploit such Owned Intellectual Property and Products or give rights to any other Person with respect to such Owned Intellectual Property and Products. The Company and its Subsidiaries do not have any claims pending or threatened, nor are they aware of facts or circumstances that may result in a claim of the Company or any Subsidiary, against any Person with respect to Intellectual Property matters.

Section 3.15 Taxes.

(a) Each of the Company and its Subsidiaries has timely filed (or has had timely filed on its behalf) with the appropriate Governmental Authorities all Returns required to be filed by it (taking into account for this purpose any valid extensions), and such Returns are true, correct and complete in all material respects.

(b) Each of the Company and its Subsidiaries has timely paid all material Taxes that have become due and payable by it. The reserve for Tax liability (not to include any reserve for deferred Taxes established to reflect timing differences between book and Tax income) reflected in the Interim Financial Statements is sufficient as of its date for the payment of any accrued and unpaid Taxes of the Company and its Subsidiaries. All Taxes of the Company and its Subsidiaries accrued following the end of the most recent period covered by the Interim Financial Statements have been accrued in the ordinary course of business and do not exceed comparable amounts incurred in similar periods in prior years (taking into account any changes in the Company's and its Subsidiaries' operating results).

(c) Each of the Company and its Subsidiaries has withheld or collected all material Taxes that it has been required to withhold or collect and, to the extent required when due, has timely paid such Taxes to the proper Governmental Authority.

(d) No claim has been made by any Governmental Authority in a jurisdiction where the Company or any of its Subsidiaries does not file Returns that the Company or a Subsidiary is or may be subject to taxation by, or required to file any Return in, that jurisdiction. Each of the Company and its Subsidiaries is and has at all times been resident for Tax purposes solely in its jurisdiction of incorporation or formation.

(e) The statutes of limitations with respect to all income Tax Returns of the Company and its Subsidiaries through the tax year ended December 31, 2011 have expired. There are in effect no waivers of applicable statutes of limitations with respect to any Taxes owed by the Company or any of its Subsidiaries for any year.

(f) Except as set forth in Section 3.15(f) of the Disclosure Schedules, none of the Company or any of its Subsidiaries is a party to any Action by any Governmental Authority in respect of any Tax, nor does the Company or its Subsidiaries have knowledge of any pending or threatened Action by any Governmental Authority in respect of any Tax.

(g) Except as set forth in Section 3.15(g) of the Disclosure Schedules, no Returns are currently the subject of an audit. All Tax deficiencies asserted or Tax assessments made against the Company or any of its Subsidiaries as a result of any examinations by any Governmental Authority have been fully paid, and no rationale underlying a claim for Taxes has been asserted previously by any Governmental Authority that reasonably could be expected to be asserted in any other period. None of the Company or any of its Subsidiaries is a party to or bound by any closing agreement or offer in compromise with respect to any Taxes with any Governmental Authority.

(h) There are no liens for Taxes on the assets of the Company or any of its Subsidiaries other than liens for Taxes not yet past due or for Taxes the validity of which is being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP.

(i) None of the Company or any of its Subsidiaries is a party to any Contract providing for the allocation, indemnification or sharing of Taxes, nor is a party to or bound by any offer in compromise, closing agreement, gain recognition agreement, private letter ruling or other written agreement with any Governmental Authority with respect to Taxes.

(j) None of the Company or any of its Subsidiaries has been a member of an affiliated group of corporations, within the meaning of Section 1504 of the Code, or a member of a combined, consolidated or unitary group for state, local or non-U.S. Tax purposes (other than a group the common parent of which was the Company). None of the Company or any of its Subsidiaries has any liability for Taxes of any Person under Treasury Regulations Section 1.1502-6 or any corresponding provision of state, local or non-U.S. Law (other than the Company and its Subsidiaries), as transferee or successor, by contract or otherwise.

(k) None of the Company or any of its Subsidiaries will be required to include a material item of income in, or exclude a material item of deduction from (other than any limitation on the utilization of net operating losses, capital losses, built-in losses, tax credits or similar items of the Company or of its Subsidiaries under Sections 269, 382, 383, 384 or 1502 of the Code and the Treasury Regulations thereunder and comparable provisions of state, local or non-U.S. Law), taxable income for any taxable period (or portion thereof) ending after the Closing Date, in each case, as a result of an action taken on or prior to the Closing Date, including by virtue of a change in method of accounting under Section 481 of the Code (or any similar provision of state, local or non-U.S. law) made on or prior to the Closing Date, a "closing agreement" as described in Section 7121 of the Code (or any similar provision of state, local or non-U.S. law) entered into on or prior to the Closing Date, an installment sale or open transaction effected on or prior to the Closing Date, a prepaid amount received on or prior to the Closing Date or an election pursuant to Section 108(i) of the Code (or any similar provision of state, local or non-U.S. law) made prior to the Closing Date.

(l) None of the Company or any of its Subsidiaries has engaged in any "reportable transaction" for purposes of Treasury Regulations Section 1.6011-4(b) or Section 6111 of the Code or any analogous provisions of state, local or non-U.S. law. Each of the Company and its Subsidiaries has disclosed on its U.S. federal Returns all positions taken therein that could give rise to a substantial understatement of U.S. federal income Tax within the meaning of Section 6662 of the Code.

(m) The Company and each of its Subsidiaries are in compliance in all material respects with all applicable transfer pricing laws and regulations, including the execution and maintenance of contemporaneous documentation substantiating the transfer pricing practices and methodology of the Company and its Subsidiaries. All related party transactions involving the Company or any of its Subsidiaries are at arm's length in compliance with Section 482 of the Code, the Treasury Regulations promulgated thereunder, and any similar provision of state, local or non-U.S. law.

(n) Neither the Company nor any Company Subsidiary has constituted a "distributing corporation" or a "controlled corporation" in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code in the two (2) years prior to the date of this Agreement.

(o) Each of the Company and its Subsidiaries is treated as a corporation for U.S. federal income tax purposes.

Section 3.16 Environmental Matters.

(a) Each of the Company and its Subsidiaries is and has been in material compliance with all applicable Environmental Laws. None of the Company, any of its Subsidiaries or any of its or their executive officers has received during the past five years, nor, to the knowledge of the Company, is there any basis for, any notice, request for information, communication or complaint from a Governmental Authority or other Person alleging that the Company or any of its Subsidiaries has any liability under any Environmental Law or is not in compliance with any Environmental Law.

(b) To the Company's knowledge, no Hazardous Substances are or have been present, and there is and has been no Release or threatened Release of Hazardous Substances nor any remediation or corrective action of any kind relating thereto, on, in, at or under any properties with respect to which the Company or any of its Subsidiaries may be liable.

(c) There is no pending or, to the knowledge of the Company, threatened investigation by any Governmental Authority, nor any pending or, to the knowledge of the Company, threatened Action with respect to the Company or any of its Subsidiaries relating to Hazardous Substances or otherwise under any Environmental Law.

(d) The Company and its Subsidiaries have provided to the Parent all permits, audits and other reports pertaining to compliance with Environmental Law and all "Phase I," "Phase II" or other environmental reports in their possession or control with respect to the Leased Real Property.

(e) For purposes of this Agreement:

(i) "Environmental Laws" means: any Laws of any Governmental Authority relating to (A) Releases or threatened Releases of Hazardous Substances or materials containing Hazardous Substances; (B) the manufacture, handling, transport, use, treatment, storage or disposal of Hazardous Substances or materials containing Hazardous Substances; or (C) pollution or protection of the environment, health, safety or natural resources.

(ii) "Hazardous Substances" means: (A) those substances defined in or regulated under the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Clean Water Act, the Safe Drinking Water Act, the Atomic Energy Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act and the Clean Air Act, and their state counterparts, as each may be amended from time to time, and all regulations thereunder; (B) petroleum and petroleum products, including crude oil and any fractions thereof; (C) natural gas, synthetic gas, and any mixtures thereof; (D) lead, polychlorinated biphenyls, asbestos and radon; (E) any other pollutant or contaminant; and (F) any substance, material or waste regulated by any Governmental Authority pursuant to any Environmental Law.

(iii) "Release" has the meaning set forth in Section 101(22) of CERCLA (42 U.S.C. § 9601(22)), but not subject to the exceptions in Subsections (A) and (D) of 42 U.S.C. § 9601(22).

Section 3.17 Material Contracts.

(a) Except as set forth in Section 3.17(a) of the Disclosure Schedules, neither the Company nor any of its Subsidiaries is a party to or is bound by any Contract of the following nature (such Contracts as are required to be set forth in Section 3.17(a) of the Disclosure Schedules being "Material Contracts"):

(i) any broker, distributor, dealer, manufacturer's representative, franchise, agency, continuing sales or purchase, sales promotion, market research, marketing, consulting or advertising Contract;

(ii) any Contract relating to or evidencing any Indebtedness;

(iii) any Contract pursuant to which the Company or any of its Subsidiaries has provided funds to or made any loan, capital contribution or other investment in, or assumed any liability or obligation of, any Person, including take-or-pay contracts or keepwell agreements;

(iv) any Contract with any Governmental Authority, or in which a Government Authority is the end-user or the ultimate customer as set forth in the Contract;

(v) any Contract with any Related Party of the Company or any of its Subsidiaries (other than employment or consulting arrangements or employee benefit plans);

(vi) any employment or consulting Contract or any severance, retention, or similar Contract, in each case, that results in any obligation of the Company to make any payment following either the consummation of the transactions contemplated hereby, termination of employment (or the relevant relationship) or both and any labor or collective bargaining Contracts (if any);

(vii) any Contract that limits, or purports to limit, the ability of the Company or any of its Subsidiaries to compete in any line of business or with any Person or in any geographic area or during any period of time, or that restricts the right of the Company and its Subsidiaries to sell to or purchase from any Person or to hire any Person, or that grants the other party or any third person "most favored nation" status or any type of special discount rights;

(viii) any Contract with a customer that involves future revenue over the next 12 months in excess of $200,000 that requires a consent to (or otherwise contains a provision relating to a "change of control") the transactions contemplated by this Agreement or the Ancillary Agreements to which the Company is a party;

(ix) any Contract (A) relating in whole or in part to any license of Intellectual Property to the Company (excluding any (I) immaterial "shrink wrap", terms of use or similar generally available commercial end-user license to software that is not redistributed with or used in the development or provision of the Products and (II) confidentiality, secrecy or non-disclosure agreement entered into in the ordinary course of business) or (B) that relates to any sale, transfer, release or other disposition of any Intellectual Property or source code;

(x) any joint venture or partnership, merger, asset or stock purchase or divestiture Contract relating to the Company or any of its Subsidiaries (excluding any Contract on the Company's standard form granting any Option or other award under the Option Plan);

(xi) any Contract for the purchase of any debt or equity security or other ownership interest of any Person, or for the issuance of any debt or equity security or other ownership interest, or the conversion of any obligation, instrument or security into debt or equity securities or other ownership interests of, the Company or any of its Subsidiaries (excluding any Contract on the Company's standard form granting any Option or other award under the Option Plan);

(xii) any Contract relating to settlement of any administrative or judicial proceedings within the past five years;

(xiii) any Contract with a current customer, from which customer the Company expects to receive in excess of $150,000 of revenue over the next 12 months, that may be terminated by the customer for convenience; and

(xiv) any other Contract, whether or not made in the ordinary course of business that (A) involves a future or potential receivable in excess of $150,000 on an annual basis over the next 12 months, or (B) involves a potential payable of greater than $75,000 over the remaining term.

(b) Each Material Contract is a legal, valid, binding and enforceable agreement and is in full force and effect, subject to the effect of (i) applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws now and hereunder in effect relating to the rights of creditors generally and (ii) rules of Law and equity governing specific performance, injunctive relief and other equitable remedies. Except as set forth in Section 3.17(b) of the Disclosure Schedules, none of the Company or any of its Subsidiaries or, to the knowledge of the Company, any other party is in breach or violation of, or (with or without notice or lapse of time or both) default under, any Material Contract, nor has the Company or any of its Subsidiaries received any written claim of any such breach, violation or default. The Company has delivered or made available to the Parent true and complete copies of all Material Contracts, including any amendments thereto.

Section 3.18 Affiliate Interests and Transactions.

(a) No Related Party of the Company or any of its Subsidiaries: (i) to the knowledge of the Company, owns or has owned, directly or indirectly, any equity or other financial or voting interest in any competitor, supplier, licensor, lessor, distributor, independent contractor or customer of the Company or any of its Subsidiaries or their business (other than solely by virtue of such Person's ownership of less than 5% of the outstanding stock of publicly traded companies); (ii) owns or has owned, directly or indirectly, or has or has had any interest in any property (real or personal, tangible or intangible) that the Company or any of its Subsidiaries uses or has used in or pertaining to the business of the Company or any of its Subsidiaries; or (iii) has or has had any business dealings or a financial interest in any transaction with the Company or any of its Subsidiaries or involving any assets or property of the Company or any of its Subsidiaries.

(b) Except for this Agreement, there are no Contracts by and between the Company or any of its Subsidiaries, on the one hand, and any Related Party of the Company or any its Subsidiaries, on the other hand, pursuant to which such Related Party provides or receives any information, assets, properties, support or other services to or from the Company or any of its Subsidiaries (including Contracts relating to billing, financial, tax, accounting, data processing, human resources, administration, legal services, information technology and other corporate overhead matters).

(c) There are no outstanding notes payable to, accounts receivable from or advances by the Company or any of its Subsidiaries to, and neither the Company nor any of its Subsidiaries is otherwise a debtor or creditor of, nor has any liability to, any Related Party of the Company or any of its Subsidiaries, in each case other than for services rendered to the Company or any its Subsidiaries by such Related Party in his or her capacity as an employee of the Company or any its Subsidiaries.

Section 3.19 Insurance. Section 3.19 of the Disclosure Schedules sets forth a true and complete list of all casualty, directors and officers liability, general liability, product liability and all other types of insurance policies maintained with respect to the Company or any of its Subsidiaries, together with the carriers and liability limits for each such policy. All such policies are in full force and effect and no application therefor included a material misstatement or omission. The Company has not received written notice of, nor to the knowledge of the Company is there threatened, any cancellation, termination, reduction of coverage or material premium increases with respect to any such policy. The consummation of the transactions contemplated by this Agreement and the Ancillary Agreements to which the Company is a party will not cause a cancellation or reduction in the coverage of such policies.

Section 3.20 Brokers. Except for Spurrier Capital Partners, LLC, the fees and expenses of which will constitute Transaction Expenses and be paid at Closing, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of the Company or any of its Affiliates.

Section 3.21 Privacy and Security.

(a) The Company complies, in all material respects, with all applicable Laws, reputable industry practice, standards, self-governing rules and policies and their own published, posted and internal agreements and policies (which are in conformance with reputable industry practice) ("Privacy Laws") with respect to: (i) personally identifiable information (including name, address, telephone number, electronic mail address, social security number, bank account number or credit card number), sensitive personal information and any special categories of personal information regulated thereunder or covered thereby ("Personal Information") (including such Personal Information of visitors who use the Company's Websites); (ii) non-personally identifiable information (including such Personal Information of visitors who use the Company's Websites); (iii) spyware and adware; (iv) the procurement or placement of advertising from or with Persons and Websites; (v) the use of Internet searches associated with or using particular words or terms; and (vi) the sending of solicited or unsolicited electronic mail messages.

(b) The Company posts policies with respect to the matters set forth in Section 3.21(a) on its Websites in conformance with Privacy Laws. The Company's privacy policy discloses how the Company uses, collects, or receives any Personal Information or sensitive non-personally identifiable information and the Company is in compliance in all material respects with the terms of its published privacy policy. Except as set forth on Section 3.21(b) of the Disclosure Schedules, the Company and its Subsidiaries do not use, collect, or receive any Personal Information or sensitive non-personally identifiable information and do not become aware of the identity or location of, or identify or locate, any particular Person as a result of any receipt of such Personal Information and no Personal Information that is collected by the Company or its Subsidiaries is used or transferred by the Company and its Subsidiaries in a manner to which the individual to which such Personal Information relates has not given the Company or its Subsidiaries his or her consent.

(c) (i) To the knowledge of the Company, the customers, suppliers and other Persons with which the Company has contractual relationships have not breached any agreements or any Privacy Laws pertaining to Personal Information and to non-personally identifiable information (including Privacy Laws regarding spyware and adware), (ii) the Company does not serve advertisements into advertising inventory created by downloadable Software that launches without a user's express activation, and (iii) the Company has not received (and does not have knowledge of) any consumer complaints relative to Software downloads that resulted in the installation of any of the Company's tracking technologies.

(d) Except for disclosures of information required by Law or specifically authorized by the provider of the Personal Information, the Company and its Subsidiaries do not sell, rent or otherwise make available to third parties any Personal Information and no claims have been asserted or, to the knowledge of the Company, threatened with respect to the Company's or its Subsidiaries' receipt, collection, use, storage, processing, disclosure or disposal of Personal Information. The Company has not received (and does not have knowledge of) any complaints from any consumer or any Governmental Authority with respect to privacy and security.

(e) The Company and its Subsidiaries take commercially reasonable steps to protect the operation, confidentiality, integrity and security of its Software, Systems and Websites and all information and transactions stored or contained therein or transmitted thereby against any unauthorized or improper use, access, transmittal, interruption, modification or corruption, and there have been no breaches of same. Without limiting the generality of the foregoing, the Company (i) uses adequate-strength encryption technology of at least 128-bit and (ii) has implemented a comprehensive security plan that (A) identifies internal and external risks to the security of the Company's confidential information and Personal Information and (B) implements, monitors and improves adequate and effective safeguards to control those risks.

(f) All technology and computer systems and infrastructure, including software, hardware, middleware, servers, workstations, routers, and all other information technology software or equipment relating to the transmission, storage, maintenance, organization, presentation, generation, processing, analysis or other use of data and information whether or not in electronic format, used by or for the Company and its Subsidiaries (collectively, "Company IT Systems") are in good working condition to effectively perform all information technology operations necessary to conduct the business of the Company and its Subsidiaries in all material respects and provide sufficient redundancy and speed to meet industry standards relating to high availability. The Company and its Subsidiaries have taken all commercially reasonable steps in accordance with industry standards to secure such Company IT Systems from unauthorized access or use by any Person, and to ensure the continued, uninterrupted and error-free operation of the Company IT Systems. Such Company IT Systems are adequate in all respects for their intended use and are in good working condition (normal wear and tear excepted), and are free of all viruses, worms, malware, trojan horses and other known contaminants and do not contain any bugs, errors or problems of a nature that would disrupt their operation or have an adverse and material impact on the operation of such Company IT Systems. There has not been any major malfunction with respect to any of such Company IT Systems in the last five years preceding the date hereof that has not been remedied or replaced in all material respects. The Company and its Subsidiaries have in place a commercially reasonable and prudent disaster recovery program, including the regular back-up and prompt recovery of the data and information necessary and material to the conduct of the business of the Company and its Subsidiaries (including such data and information that is stored in the ordinary course) without material disruption to, or material interruption in, the conduct of their business. The Company IT Systems are and have been sufficient to satisfy all obligations under customer contracts with respect to privacy and security matters, data protection, availability, redundancy and disaster recovery, including any service level agreements set forth therein.

Section 3.22 Customers and Suppliers.

(a) Section 3.22(a)(i) of the Disclosure Schedules sets forth a true and complete list of (i) the names of all customers of the Company and its Subsidiaries (A) that is one of the top 50 customers based on sales during the 12 month period ended November 30, 2015, (B) which the company invoiced or recognized revenue in amount exceeding $75,000 during the same period, or (C) that is committed to receive the Company's Products and/or services with a value equal to or in excess of $150,000 during the 12 months after the date hereof, (ii) the amount for which each such customer was invoiced during such period and (iii) the percentage of the consolidated total sales of the Company and its Subsidiaries represented by sales to each such customer during such period. Neither the Company nor any of its Subsidiaries has received any written or, to the Company's knowledge, oral notice that any of such customers (x) has ceased or substantially reduced, or will cease or substantially reduce, use of products or services of the Company or its Subsidiaries, or (y) has sought, or is seeking, to reduce the price it will pay for the products or services of the Company or its Subsidiaries. Each of the Company and, to the Company's knowledge, each other party to any Contract with any such customer is in compliance with the terms thereof and the Company has not received any written notice, and does not otherwise have knowledge of any breach or potential breach, on the part of the Company or, to the Company's knowledge, any other party to any Contract with any such customer.

(b) Section 3.22(b) of the Disclosure Schedules sets forth a true and complete list of (i) all suppliers of the Company and its Subsidiaries from which the Company or a Subsidiary ordered products or services that is one of the top 10 suppliers based on invoices during for the 12 month period ended November 30, 2015 and (ii) the amount for which each such supplier invoiced the Company or such Subsidiary during such period. Neither the Company nor any of its Subsidiaries has received any written or, to the Company's knowledge, oral notice that there has been any material adverse change in the price of such supplies or services provided by any such supplier, or that any such supplier will not continue to sell supplies or services to the Company and its Subsidiaries on terms and conditions substantially the same as those used in its current sales to the Company and its Subsidiaries, subject to general and customary price increases. Each of the Company and, to the Company's knowledge, each other party to any Contract with any such supplier is in compliance with the terms thereof and the Company has not received any written or, to the Company's knowledge, oral notice, and does not otherwise have knowledge of any breach or potential breach, on the part of the Company or, to the Company's knowledge, any other party to any Contract with any such supplier.

Section 3.23 Disclosure. None of the information included in the information statement relating to action by Written Consent to be obtained in connection with this Agreement (such information statement, together with all amendments and supplements thereto, in the form mailed or delivered to Holders, the "Information Statement") will, at the date delivered to such Holders and at the date of such meeting or consent, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which made, not misleading. The Information Statement, insofar as it relates to a solicitation of written consents from Holders for approval of this Agreement and the transactions contemplated hereby, will comply as to form with the provisions of the Constituent Documents and Delaware Law.

Section 3.24 Banks; Power of Attorney. Section 3.24 of the Disclosure Schedules sets forth a complete and correct list of the names and locations of all banks in which the Company or any Subsidiary has accounts or safe deposit boxes and the names of all persons authorized to draw thereon or to have access thereto. Except as set forth in Section 3.24 of the Disclosure Schedules, no person holds a power of attorney to act on behalf of the Company or any Subsidiary.

Section 3.25 No Other Representations and Warranties. Except for the representations and warranties contained in this Agreement (including the related portions of the Disclosure Schedules) and the Ancillary Agreements, neither the Company nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Company.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES
OF THE PARENT AND MERGER SUB

The Parent and Merger Sub hereby represent and warrant to the Company:

Section 4.1 Organization. Each of the Parent and Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of Delaware and has full corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted.

Section 4.2 Authority. Each of the Parent and Merger Sub has full corporate power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it will be a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Parent and Merger Sub of this Agreement and each of the Ancillary Agreements to which it will be a party and the consummation by the Parent and Merger Sub of the transactions contemplated hereby and thereby have been duly and validly authorized by the Boards of Directors of the Parent and Merger Sub and by the Parent as the sole stockholder of Merger Sub. No other corporate proceedings on the part of the Parent or Merger Sub are necessary to authorize this Agreement or any Ancillary Agreement or to consummate the transactions contemplated hereby or thereby. This Agreement has been, and upon their execution each of the Ancillary Agreements to which the Parent or Merger Sub will be a party will have been, duly executed and delivered by the Parent and Merger Sub, as applicable, and, assuming due execution and delivery by each of the other parties hereto and thereto, this Agreement constitutes, and upon their execution each of the Ancillary Agreements to which the Parent or Merger Sub will be a party will constitute, the legal, valid and binding obligations of the Parent and Merger Sub, as applicable, enforceable against the Parent and Merger Sub, as applicable, in accordance with their respective terms.

Section 4.3 No Conflict; Required Filings and Consents.

(a) The execution, delivery and performance by each of the Parent and Merger Sub of this Agreement and each of the Ancillary Agreements to which it will be a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not:

(i) conflict with or violate the certificate of incorporation or bylaws of the Parent or Merger Sub;

(ii) conflict with or violate any Law applicable to the Parent or Merger Sub; or

(iii) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other Contract to which the Parent or Merger Sub is a party.

(b) Neither the Parent nor Merger Sub is required to file, seek or obtain any notice, authorization, approval, order, permit or consent of or with any Governmental Authority in connection with the execution, delivery and performance by the Parent and Merger Sub of this Agreement and each of the Ancillary Agreements to which it will be party or the consummation of the transactions contemplated hereby or thereby, except for (i) any filings required to be made under the HSR Act, (ii) the CFIUS Approval, (iii) filing of the Certificate of Merger with the Secretary of State of the State of Delaware, and (iv) such filings as may be required by any applicable federal or state securities or "blue sky" laws.

Section 4.4 Financing. The Parent at the Closing will have sufficient funds to permit the Parent or Merger Sub to consummate the transactions contemplated by this Agreement and the Ancillary Agreements, including the Merger.

Section 4.5 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of the Parent or its Affiliates.

Section 4.6 Representations and Warranties. Parent and Merger Sub acknowledge and agree that (a) Parent and Merger Sub have relied only on those representations and warranties that are expressly set forth in this Agreement (and the related portions of the Disclosure Schedules) and the Ancillary Agreements, and (b) neither the Company nor any other Person has made any representation or warranty with respect to the Company, its businesses, assets or operations, or this Agreement, except as expressly set forth in this Agreement (and the related portions of the Disclosure Schedules) and the Ancillary Agreements.

ARTICLE V
COVENANTS

Section 5.1 Conduct of Business Prior to the Closing. Between the date of this Agreement and the Closing Date, unless the Parent shall otherwise agree in writing, except for actions expressly contemplated by this Agreement, the business of the Company and its Subsidiaries shall be conducted only in the ordinary course of business consistent with past practice; and the Company shall, and shall cause each of its Subsidiaries to use commercially reasonable efforts to (i) preserve substantially intact the business organization and assets of the Company and its Subsidiaries; (ii) keep available the services of the current officers, employees and consultants of the Company and its Subsidiaries; (iii) preserve the current relationships of the Company and its Subsidiaries with customers, suppliers and other Persons with which the Company or any of its Subsidiaries has significant business relations; and (iv) keep and maintain the assets and properties of the Company and its Subsidiaries in good repair and normal operating condition, wear and tear excepted. By way of amplification and not limitation, between the date of this Agreement and the Closing Date, neither the Company nor any of its Subsidiaries shall do, or propose to do, directly or indirectly, any of the following, in each case except as consented to in writing by the Parent or as set forth on Section 5.1 of the Disclosure Schedules:

(a) amend or otherwise change its certificate of incorporation or bylaws or equivalent organizational documents;

(b) issue, sell, pledge, dispose of or otherwise subject to any Encumbrance (i) any shares of capital stock of the Company or any of its Subsidiaries, or any options, warrants, convertible securities or other rights of any kind to acquire any such shares, or any other ownership interest in the Company or any of its Subsidiaries or (ii) any properties or assets of the Company or any of its Subsidiaries, other than sales or transfers of inventory and Products in the ordinary course of business consistent with past practice (other than (A) issuances of Common Stock upon conversion of Preferred Stock and (B) issuances of Common Stock or Preferred Stock upon the exercise of Options or Warrants, in each case outstanding on the date hereof);

(c) declare, set aside, make or pay any non-cash dividend or other distribution on or with respect to any of its capital stock or other equity or ownership interest;

(d) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any of its capital stock or other equity or ownership interest or make any other change with respect to its capital structure (other than upon the cashless exercise of Options outstanding on the date hereof);

(e) acquire any corporation, partnership, limited liability company, other business organization or division thereof or any material amount of assets, or enter into any joint venture, strategic alliance, exclusive dealing, noncompetition or similar contract or arrangement;

(f) except for the Merger, adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Company or any of its Subsidiaries, or otherwise alter the Company's or a Subsidiary's corporate structure;

(g) incur any Indebtedness or issue any debt securities or assume, guarantee or endorse, or otherwise become responsible for, the obligations of any Person, or make any loans or advances; provided, that in no event shall the Company or any of its Subsidiaries (i) incur, assume or guarantee any long-term indebtedness for borrowed money, (ii) make any optional repayment of any indebtedness for borrowed money or (iii) enter into any lease agreement that would be required to be capitalized pursuant to GAAP;

(h) amend, waive, modify or consent to the termination of any Material Contract, or amend, waive, modify or consent to the termination of the Company's or any of its Subsidiaries' rights thereunder, or enter into any Material Contract other than in the ordinary course of business consistent with past practice;

(i) authorize, or make any commitment with respect to, any single capital expenditure that is in excess of $35,000 or capital expenditures that are, in the aggregate, in excess of $250,000 for the Company and its Subsidiaries taken as a whole, other than, (x) upon notice to Parent prior to or promptly following taking such action, with respect to hardware necessary for the provision of services to customers in the ordinary course of business consistent with past practice or (y) as otherwise set forth in the capital expenditure budget attached hereto in Section 5.1(i) of the Disclosure Schedules, or fail to make capital expenditures in the ordinary course of business consistent with past practices;

(j) (i) increase the compensation payable or to become payable to its directors, officers, employees, independent contractors or consultants; (ii) grant any new bonus, severance or termination payment to, or pay, loan or advance any amount to, any present or former director, officer, employee, independent contractor or consultant of the Company or any of its Subsidiaries; (iii) establish, adopt, enter into or amend any Employee Plan or any plan, agreement, program, policy, trust, fund or other arrangement that would be an Employee Plan if it were in existence as of the date of this Agreement; (iv) forgive or discharge in whole or in part any outstanding loans or advances to any present or former employee, independent contractor or consultant of the Company or any of its Subsidiaries; or (v) hire any Person as an employee, independent contractor or consultant of the Company or any of its Subsidiaries or terminate any employee, independent contractor or consultant of the Company or any of its Subsidiaries.

(k) enter into any Contract with any Related Party of the Company or any of its Subsidiaries;

(l) make any change in any method of accounting or accounting practice or policy, except as required by GAAP;

(m) make, revoke or modify any Tax election, make any agreement or settlement with any Governmental Authority regarding Taxes, file any amended Return, enter into any closing agreement, surrender any right to claim a refund of Taxes, consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment relating to the Company or any of its Subsidiaries or file any Return that is not consistent with the past practice of the Company and its Subsidiaries in filing the same type of Return;

(n) pay, discharge or satisfy any claim, liability or obligation (absolute, accrued, asserted or unasserted, contingent or otherwise) in an amount exceeding $10,000, or cancel, compromise, waive or release any right or claim other than in the ordinary course of business consistent with past practice;

(o) (i) permit the lapse of any right relating to Intellectual Property or any other material intangible asset used in the business of the Company or any of its Subsidiaries or (ii) enter into any Contract or other transaction relating to Intellectual Property, other than the entry into licensing arrangements with customers in the ordinary course of business consistent with past practice;

(p) accelerate the collection of or discount any accounts receivable, delay the payment of accounts payable or defer expenses, reduce inventories or otherwise increase cash on hand, except in the ordinary course of business consistent with past practice;

(q) commence or settle any Action, in each case other than for the routine collection of accounts receivable; or

(r) announce an intention, enter into any formal or informal agreement, or otherwise make a commitment to do any of the foregoing.

Section 5.2 Access to Information. From the date hereof until the Closing Date, the Company and its Subsidiaries, upon reasonable prior notice, shall afford the Parent and its Representatives reasonable access (including for inspection and copying) at all reasonable times to the Representatives, properties, offices, plants and other facilities, books and records of the Company and each of its Subsidiaries, and shall furnish the Parent with such financial, operating and other data and information as the Parent may reasonably request.

Section 5.3 Exclusivity.

(a) From and after the date of this Agreement until the Closing Date (or the earlier termination of this Agreement), the Company and its Subsidiaries shall not, directly or indirectly through any officer, director, employee, Representative, Securityholder or agent of the Company or its Subsidiaries or otherwise: (i) solicit, initiate, or encourage any inquiries or proposals that constitute, or would reasonably be expected to lead to, a proposal or offer for a merger, consolidation, share exchange, business combination, sale or license of all or any part of its assets (other than immaterial assets and inventory in the ordinary course of business consistent with past practice), sale of shares of capital stock or similar transactions involving the Company or any of its Subsidiaries other than the transactions contemplated by this Agreement (any of the foregoing inquiries or proposals, an "Acquisition Proposal"); (ii) engage or participate in negotiations or discussions concerning, or provide any non-public information to any Person or entity relating to, any Acquisition Proposal.

(b) The Company shall notify the Parent and Merger Sub as promptly as possible (and no later than 24 hours) after receipt by the Company (or its advisors) of any Acquisition Proposal or any request for nonpublic information in connection with an Acquisition Proposal or for access to the properties, books or records of the Company by any Person or entity that informs the Company (or its advisors) that it is considering making, or has made, an Acquisition Proposal. Such notice shall be made in writing and shall indicate in reasonable detail the identity of the offeror and the terms and conditions of such proposal, inquiry or contact, each to the extent then known by the Company.

Section 5.4 Company Holder Approval. Immediately following (and in any event within one hour, and prior to any public announcement, of) the execution and delivery of this Agreement, the Company shall distribute the Written Consents for the purpose of obtaining the Company Holder Approval, and the Company shall deliver evidence of the receipt of such Company Holder Approval to the Parent.

Section 5.5 Information Statement. As promptly as reasonably practicable following the execution and delivery of this Agreement, the Company shall mail to Holders that did not execute and deliver the Written Consent as set forth in Section 5.4, and to all Holders who are entitled to appraisal rights, the Information Statement which shall constitute the notice required by Section 228 of Delaware Law and Section 262 of Delaware Law. The Company shall promptly advise the Parent in writing if at any time prior to the Effective Time the Company obtains knowledge of any facts that might make it necessary or appropriate to amend or supplement the Information Statement in order to make the statements contained therein not misleading. The Company will provide copies of drafts of the Information Statement to the Parent and will mail the Information Statement to Holders only after the Parent and its legal counsel shall have approved and agreed to the content of the disclosure of the Information Statement, which approval and agreement shall not be unreasonably withheld, conditioned or delayed.

Section 5.6 Notification of Certain Matters. The Company shall give prompt written notice to the Parent of (i) the occurrence of any change, condition or event, the occurrence of which would cause the condition set forth Section 6.3(a) to not be satisfied if such change, condition or event occurred immediately prior to the Closing, (ii) the occurrence of any change, condition or event that has had or is reasonably likely to have a Material Adverse Effect, (iii) any failure of the Company or any of its Subsidiaries to perform any obligation or agreement or comply with any covenant or condition required by this Agreement or any Ancillary Agreement to which the Company is a party, which such failure would cause the condition set forth in Section 6.3(b) to not be satisfied if such failure occurred immediately prior to the Closing, (iv) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements, or (v) any Action pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries relating to the transactions contemplated by this Agreement or the Ancillary Agreements; provided however, that the Company's unintentional failure to give notice under this Section 5.6 shall not be deemed to be a breach of covenant under this Section 5.6. From time to time prior to the Closing, the Company shall have the right (but not the obligation) to supplement or amend the Disclosure Schedules hereto with respect to any matter hereafter arising or of which it becomes aware after the date hereof (each, a "Schedule Supplement"). Any disclosure in any such Schedule Supplement shall not be deemed to have cured any inaccuracy in or breach of any representation or warranty contained in this Agreement, including for purposes of the indemnification or termination rights contained in this Agreement or of determining whether or not the conditions set forth in Section 6.3(a) have been satisfied.

Section 5.7 Takeover Statutes. If any state takeover statute or similar Law shall become applicable to the transactions contemplated by this Agreement or the Ancillary Agreements, the Company and its Board of Directors shall grant such approvals and take such commercially reasonable actions as are necessary so that the transactions contemplated hereby or thereby may be consummated as promptly as practicable on the terms contemplated hereby or thereby and otherwise act to eliminate the effects of such statute or regulation on the transactions contemplated hereby or thereby.

Section 5.8 Confidentiality. Each of the Parent, Merger Sub and the Company shall hold, and shall cause its Representatives to hold, in confidence all documents and information furnished to it by or on behalf of any other party to this Agreement in connection with the transactions contemplated hereby pursuant to the terms of the confidentiality agreement dated as of April 16, 2015 between NICE-Systems Ltd. and the Company (the "Confidentiality Agreement"), which shall continue in full force and effect until the Closing Date. If for any reason this Agreement is terminated prior to the Closing Date, the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms.

Section 5.9 Commercially Reasonable Efforts; Further Assurances.

(a) Each of the parties (other than the Securityholder Representative) shall use all commercially reasonable efforts to take, or cause to be taken, all appropriate action to do, or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements to which it is a party as promptly as practicable, including to (i) obtain from Governmental Authorities and other Persons all consents, approvals, authorizations, qualifications and orders as are necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements, (ii) promptly make all necessary filings, and thereafter make any other required submissions, with respect to this Agreement required under the HSR Act or under applicable Law (to the extent such filings have not already been made prior to the date hereof) and (iii) have vacated, lifted, reversed or overturned any order, decree, ruling, judgment, injunction or other action (whether temporary, preliminary or permanent) that is in effect and that enjoins, restrains, conditions, makes illegal or otherwise restricts or prohibits the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements. In furtherance and not in limitation of the foregoing, the Company shall permit the Parent reasonably to participate in the defense and settlement of any claim, suit or cause of action filed after the date of this Agreement relating to this Agreement, the Merger or the other transactions contemplated hereby, and the Company shall not settle or compromise any such claim, suit or cause of action without the Parent's written consent (which shall not be unreasonably withheld, conditioned or delayed).

(b) The Company shall, and shall cause its Subsidiaries to, use commercially reasonable efforts to give promptly such notice to third parties and obtain such third party consents and estoppel certificates as the Parent may in its reasonable discretion deem necessary or desirable in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. The Parent shall cooperate with and assist the Company in giving such notices and obtaining such consents and estoppel certificates; provided, however, that the Parent shall have no obligation to give any guarantee or other consideration of any nature in connection with any such notice, consent or estoppel certificate or consent to any change in the terms of any agreement or arrangement that the Parent in its reasonable discretion may deem adverse to the interests of the Parent or the Company or any of its Subsidiaries.

(c) The Parent, Merger Sub and the Company, pursuant to Section 721 of the Defense Production Act of 1950, as amended, have prepared and filed with CFIUS a draft joint voluntary notice and a formal joint voluntary notice in connection with the transactions contemplated hereby. Parent, Merger Sub and the Company shall each use respective commercially reasonable efforts to: (i) promptly inform the other parties of any material communication received from or provided to CFIUS; (ii) permit the other parties to review in advance and provide comments on any communication to be submitted to CFIUS; (iii) provide the other parties with the opportunity to attend and participate in any meetings or conferences with CFIUS; (iv) respond to all inquiries received from CFIUS or any member of CFIUS for additional information or documentation within the time period permitted by CFIUS or the relevant CFIUS member agency; and (v) assist and cooperate with each other to obtain CFIUS Approval as promptly as reasonably practicable.

(d) Notwithstanding anything herein to the contrary, the Parent shall not be required by this Section 5.9 to take or agree to undertake any action, including entering into any consent decree, hold separate order or other arrangement, that would (i) require the divestiture of any assets of the Parent, the Company or any of their respective Affiliates or (ii) limit the Parent's freedom of action with respect to, or its ability to consolidate and control, the Company and its Subsidiaries or any of their assets or businesses or any of the Parent's or its Affiliates' other assets or businesses.

Section 5.10 Public Announcements. The Company shall, and shall cause its Affiliates and the Securityholders to, obtain the prior approval of the Parent before issuing any press release or making any other public disclosure with respect to this Agreement or the transactions contemplated hereby and shall not issue any such press release or make any such public disclosure prior to such consultation and approval (except as may be required by Law, in which event the Company shall consult in good faith with the Parent before issuing any such press release or making any such public disclosure). Nothing in this Agreement shall prevent the Parent from making any public disclosure or press release, including any disclosure or release required by Law, the SEC or of any applicable securities exchange; provided that in the event any press release of the Parent includes statements attributed to the Company, the Parent shall provide the Company with the ability to review and approve such statements prior to issuance thereof, such approval not to be unreasonably withheld.

Section 5.11 Tax Matters.

(a) Apportionment. For the sole purpose of appropriately apportioning any Taxes relating to a period that includes (but does not end on) the Closing Date (a "Straddle Period"), the Parent shall, to the extent permitted by applicable Law, elect with the relevant Governmental Authority to treat for all purposes the Closing Date as the last day of a Tax period of the Company and its Subsidiaries. In the case where applicable Law does not permit the Company and its Subsidiaries to treat the Closing Date as the last day of a Tax period, then for purposes of this Agreement, the portion of such Tax that is attributable to the Company and its Subsidiaries for the part of such Tax period that ends on the Closing Date shall be (i) in the case of a Tax that is not transaction-based, the total amount of such Tax for the full Tax period that includes the Closing Date multiplied by a fraction, the numerator of which is the number of days from the beginning of such Tax period to and including the Closing Date and the denominator of which is the total number of days in such full Tax period, and (ii) in the case of transaction-based Taxes, including any based on net income, the Tax that would be due with respect to such partial period, if such partial period were a full Tax period based on an interim closing of the books. For the avoidance of doubt, any exemption, deduction, credit or other item that is calculated on an annual basis shall be allocated to the portion of the Straddle Period in the same manner as that set forth in clause (i) above.

(b) Tax Refunds. Any Tax refunds that are received by the Surviving Corporation or any of its Subsidiaries after the Closing that relate to a Pre-Closing Tax Period or the portion of a Straddle Period ending on the Closing Date shall be for the account of the former holders of Common Stock, Senior Preferred Stock, In-the-Money Options and Warrants, except to the extent that such Tax refunds are included in the calculation of Net Working Capital. The Surviving Corporation shall pay over to such former holders the amount of any such refund within 30 days after receipt thereof.

(c) Contests. For purposes of this Agreement, a "Contest" is any audit, court proceeding or other dispute with respect to any Tax matter that affects the Company or any of its Subsidiaries. Unless the Parent has previously received written notice from the Securityholder Representative of the existence of such Contest, the Parent shall give written notice to the Securityholder Representative of the existence of any Contest relating to a Tax matter that is the responsibility of the Participating Securityholders under Section 7.2(f) within 14 days from the receipt by the Parent of any written notice of such Contest, but no failure to give such notice shall relieve the Participating Securityholders of any liability hereunder, except to the extent that the Participating Securityholders are materially prejudiced by such failure to give timely notice. The Parent, on the one hand, and the Securityholder Representative, on behalf of the Participating Securityholders, on the other hand, agree to cooperate with the other and the other's representatives in a prompt and timely manner in connection with any Contest. Such cooperation shall include, but not be limited to, making available to the other party (at the other party's request), during normal business hours, all books, records, Returns, documents, files, other information (including, without limitation working papers and schedules), officers or employees (without substantial interruption of employment) or other relevant information reasonably necessary or useful in connection with any Contest requiring any such books, records and files. The Securityholder Representative shall, at its election and at the expense of the Securityholders, have the right to represent the Company's and its Subsidiaries' interests in any Contest relating to a Tax matter relating to a Pre-Closing Tax Period, to employ counsel of its choice at the Securityholders' expense and to control the conduct of such Contest, including settlement or other disposition thereof; provided, however, that the Parent shall have the right to consult with the Securityholder Representative regarding any such Contest that may affect the Company or any of its Subsidiaries for any Post-Closing Tax Period at the Parent's own expense and provided, further, that any settlement or other disposition of any such Contest may only be with the prior written consent of the Parent, which consent shall not be unreasonably withheld, conditioned or delayed. The Parent shall have the right to control the conduct of any Contest with respect to any Tax matter relating to a Post-Closing Tax Period. The parties shall jointly control, each at its own expense, the conduct of any Contest relating to a Straddle Period; provided, however, that in the event that such Contest affects only one of the parties, such party shall have the right to control the conduct of such Contest.

(d) Maintenance of Tax Books and Records. After the Closing Date, the Company and its Subsidiaries shall (i) retain all books and records with respect to Tax matters pertinent to the Company relating to any Tax period beginning before the Closing Date until the sixth anniversary of the Closing Date, and (ii) give the Securityholder Representative reasonable notice prior to transferring, destroying or discarding any such books and records and, if the Securityholder Representative so requests, the Company shall allow the Securityholder Representative, at the expense of the Securityholders, to take possession of such books and records rather than transferring, destroying or discarding any such books and records.

(e) Indemnification under Article VII. To the extent that any provision of this Section 5.11 conflicts with any provision of Article VII, the provision contained in this Section 5.11 shall control.

(f) All transfer, documentary, sales, use, stamp, registration and other such Taxes, and all conveyance fees, recording charges and other charges and fees (including any penalties and interest) incurred in connection with consummation of the transactions contemplated by this Agreement (the "Transfer Taxes") shall be paid by the Holders as a Transaction Expense, and all necessary Returns and other documentation with respect to all such Transfer Taxes shall be prepared and filed by the Person required by law to file such Returns. Each such Person shall provide the parties hereto with copies of all Returns and other documentation for Transfer Taxes and evidence that such Transfer Taxes have been paid. The parties hereto shall cooperate to the extent reasonably requested in connection with the filing of any such Returns for Transfer Taxes including, in the case of Parent and the Company, joining in the execution of such Returns.

Section 5.12 Parachute Payments. With respect to each employee of, or other service provider to, the Company or its who is, or would reasonably be expected to be as of the Closing Date, a "disqualified individual" (as defined in Section 280G of the Code), prior to the Closing Date, the Company shall use its commercially reasonable efforts to obtain waivers from such individuals with respect to any payments or economic benefits that could constitute an "excess parachute payment" (as defined in Section 280G(b) of the Code) with respect to such individual. If any individual waives his or her rights to payments or economic benefits as described in the previous sentence, the Company shall use commercially reasonable efforts to obtain shareholder approval in accordance with the requirements of Section 280G(b)(5)(B) of the Code and in a manner that satisfies the applicable requirements of Section 280G(b)(5)(B) of the Code and any regulations promulgated thereunder; provided that in no event shall this Section 5.13 be construed to require the Company to compel any person to waive any existing rights under any contract that such person has with the Company or any of its Subsidiaries, and in no event shall the Company be deemed in breach of this Section 5.13 if any such person refuses to waive any such rights or such shareholder approval is not obtained. Within a reasonable period of time before taking such actions, the Company shall deliver to the Parent and Merger Sub for review and comment copies of any documents or agreements necessary to effect this Section 5.13, including, but not limited to, any shareholder consent form, disclosure statement, or waiver, and the Company shall consider in good faith all comments received from the Parent or Merger Sub on such documents and agreements.

Section 5.13 Termination of Certain Agreements. At or prior to the Effective Time, the Company shall take all actions necessary to cause any tax sharing agreement to which the Company or any of the Subsidiaries is a party or any voting agreement, investor rights agreement, stockholders agreement, including the Fifth Amended and Restated Stockholders Agreement dated as of August 22, 2012 as thereafter amended, by and among the Company and certain

Holders, or similar agreements to which it is a party with any Stockholders or with respect to the Shares, and any management, advisory or consulting agreement with any Stockholder, to be terminated as of the Effective Time without any further liability or obligation on the part of the Company or any of its Subsidiaries.

Section 5.14 Company 401(k) Plan. Prior to the Closing Date, the Company will take all actions and to do all things necessary, proper or advisable to freeze and terminate any "401(k)" plan sponsored by the Company or any of its Subsidiaries (collectively, the "Company 401(k) Plan"), with the actual effective date of such freeze and termination of the Company 401(k) Plan to be effective no later than immediately prior to the Closing. Following the Closing, Company employees who were eligible to participate in the Company 401(k) Plan shall be eligible to participate in a defined contribution plan that is intended to be qualified under Section 401(a) of the Code and that contains a feature as described in Section 401(k) of the Code, and the Parent shall cause such qualified defined contribution plan to accept as rollovers any distributions made to such employees, including distributions of loans, that qualify as eligible rollover distributions as described in the Code and the terms of such qualified defined contribution plan.

ARTICLE VI
CONDITIONS TO CLOSING

Section 6.1 General Conditions. The respective obligations of each party to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may, to the extent permitted by applicable Law, be waived in writing by any party in its sole discretion (provided, that such waiver shall only be effective as to the obligations of such party):

(a) No Injunction or Prohibition. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law that is then in effect and that enjoins, restrains, conditions, makes illegal or otherwise prohibits the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) Approval of Holders. The Company Holder Approval shall have been validly obtained under Delaware Law and the Constituent Documents.

(c) HSR Act. Any waiting period (and any extension thereof) under the HSR Act applicable to the transactions contemplated by this Agreement and the Ancillary Agreements shall have expired or shall have been terminated.

(d) CFIUS Approval. The CFIUS Approval shall have been obtained.

Section 6.2 Conditions to Obligations of the Company. The obligations of the Company to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Company in its sole discretion:

(a) Representations and Warranties. The representations and warranties of the Parent and Merger Sub contained in this Agreement or any Ancillary Agreement or any schedule, certificate or other document delivered pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby shall be true and correct in all material respects both when made and as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct in all material respects as of such specified date.

(b) Performance of Obligations of the Parent and Merger Sub. The Parent and Merger Sub shall have performed in all material respects all obligations and agreements and complied with all covenants and conditions required by this Agreement to be performed or complied with by them prior to or at the Closing.

(c) Officer's Certificate. The Company shall have received from the Parent and Merger Sub a certificate signed by a duly authorized officer certifying as to the matters set forth in Sections 6.2(a) and (b).

(d) Ancillary Agreements. The Company shall have received an executed counterpart of each of the Ancillary Agreements, signed by the Parent and Merger Sub, as applicable.

Section 6.3 Conditions to Obligations of the Parent and Merger Sub. The obligations of the Parent and Merger Sub to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment, at or prior to the Closing, of each of the following conditions, any of which may be waived in writing by the Parent in its sole discretion:

(a) Representations and Warranties. (i) The Fundamental Representations of the Company shall be true and correct both when made and, for the purpose of determining whether this closing condition is satisfied, as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct as of such specified date, and (ii) each other representation and warranty of the Company contained in this Agreement, the Disclosure Schedule or the certificate delivered pursuant Section 6.3(d) shall be true and correct both when made and, for the purpose of determining whether this closing condition is satisfied, as of the Closing Date, or in the case of representations and warranties that are made as of a specified date, such representations and warranties shall be true and correct as of such specified date, except for any failure to be so true and correct as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Performance of Obligations of the Company. The Company shall have performed all obligations and agreements and complied with all covenants and conditions required by this Agreement or any Ancillary Agreement to which the Company is a party to be performed or complied with by it prior to or at the Closing.

(c) No Material Adverse Effect. There shall not have occurred any event, change, circumstance, occurrence, effect or state of facts that, individually or in the aggregate, has had or is reasonably likely to have a Material Adverse Effect.

(d) Officer's Certificate. The Parent shall have received from the Company a certificate signed by a duly authorized officer certifying as to the matters set forth in Sections 6.3(a), (b) and (c).

(e) Consents and Approvals. All authorizations, consents, orders and approvals of all Governmental Authorities set forth on Section 6.3(e)(1) of the Disclosure Schedules and officials and all third party consents and estoppel certificates set forth on Section 6.3(e)(2) of the Disclosure Schedules shall have been received and shall be satisfactory in form and substance to the Parent in its reasonable discretion.

(f) Ancillary Agreements. The Parent shall have received an executed counterpart of each of the Ancillary Agreements, signed by each party other than the Parent or Merger Sub.

(g) Resignations. The Parent shall have received letters of resignation from the directors of the Company and each of its Subsidiaries.

(h) Debt Payoff Letters. The Company shall have delivered to the Parent a payoff letter duly executed by each holder of Indebtedness for borrowed money, each in form and substance reasonably acceptable to the Parent, in which the payee shall agree that upon payment of the amount specified in such payoff letter: (i) all outstanding obligations of the Company and its Subsidiaries (and as of the Effective Time, the Surviving Corporation) arising under or related to the applicable Indebtedness shall be repaid, discharged and extinguished in full; (ii) all Encumbrances in connection therewith shall be released; (iii) the payee shall take all actions reasonably requested by the Parent to evidence and record such discharge and release as promptly as practicable; and (iv) the payee shall return to the Company and its Subsidiaries all instruments evidencing the applicable Indebtedness (including all notes) and all collateral securing the applicable Indebtedness (each such payoff letter, a "Debt Payoff Letter").

(i) Maximum Dissenting Shares. Not more than 5% of the Shares of any class of Common Stock or Preferred Stock outstanding immediately prior to the Effective Time shall be Dissenting Shares.

(j) FIRPTA Certificate. The Company shall have delivered to the Parent a certificate of the Company certifying that the Company is not, and has not been, a United States real property holding corporation, within the meaning of Section 897 of the Code, during the applicable period specified in Section 897(c)(1)(a)(ii) of the Code, which certificate complies with the requirements of Section 1445 of the Code.

(k) Employee Arrangements. The Employment Arrangements with each of the Persons listed in Section 6.3(k) of the Disclosure Schedules shall be in full force and effect as of the Closing.

(l) Termination of Certain Agreements. The Parent shall have received evidence, in form and substance reasonably satisfactory to the Parent, of the termination of the Warrants and the agreements contemplated by Section 5.14.

ARTICLE VII
INDEMNIFICATION

Section 7.1 Survival of Representations and Warranties. The representations and warranties of the Company, the Parent and Merger Sub contained in this Agreement and in the case of the Company, in the Disclosure Schedule or the certificate delivered pursuant to Section 6.3(d), and in the case of the Parent and Merger Sub, in the certificate delivered pursuant to Section 6.2(c) shall survive the Closing until the 18 month anniversary of the Closing Date; provided, however, that, (i) the representations and warranties set forth in Sections 3.1 and 4.1 (relating to organization), Sections 3.2 and 4.2 (relating to authority), Section 3.4 (relating to capitalization), and Sections 3.20 and 4.5 (relating to brokers fees) (Sections 3.1, 3.2, 3.4, 3.15, 3.20, 4.1, 4.2 and 4.5 are collectively referred to herein as the "Fundamental Representations"), shall survive until the earlier of (x) the sixth anniversary of the Closing Date and (y) the date that is 30 days after the expiration of the applicable statute of limitations, (ii) the representations and warranties set forth in Section 3.15 (relating to taxes), shall survive until the date that is 30 days after the expiration of the applicable statute of limitations, and (iii) any claim in respect of Fraud in this Agreement shall survive until the date that is 30 days after the expiration of the applicable statute of limitations for fraud. The covenants and agreements of the parties hereunder shall survive in accordance with their respective terms.

Section 7.2 Indemnification by the Participating Securityholders. The Participating Securityholders, jointly and severally by all of the Participating Securityholders to the extent of the Indemnity Escrow Fund, and severally but not jointly by the Participating Securityholders (according to their respective Pro Rata Percentages) thereafter, shall save, defend, indemnify and hold harmless the Parent, Merger Sub, the Surviving Corporation and their respective Affiliates, Representatives, successors and assigns from and against any and all losses, damages, interest, awards, judgments, penalties, costs and expenses (including attorneys' fees, costs and other costs and expenses incurred in investigating, preparing or defending the foregoing to the extent such fees, costs and expenses are incurred in connection with an indemnifiable Loss) (hereinafter collectively, "Losses"), asserted against, incurred, sustained or suffered by any of the foregoing as a result of or arising out of or relating to:

(a) any breach of any representation or warranty made by the Company contained in this Agreement or any Ancillary Agreement;

(b) any breach of any covenant or agreement by Company contained in this Agreement, any Ancillary Agreement or any schedule, certificate or document delivered hereto or thereto;

(c) any amounts paid to the holders of Dissenting Shares, including any interest required to be paid thereon, that are in excess of what such holders would have received hereunder had such holders not been holders of Dissenting Shares;

(d) any Transaction Expenses or Indebtedness charged to the Parent, Merger Sub or the Surviving Corporation, the Company or any of their Affiliates, or for which any of the foregoing otherwise becomes liable, that shall have not been reflected in the Final Closing Statement;

(e) any amounts that any Person is entitled to receive in connection with the Merger pursuant to the Constituent Documents, the Warrants, any written or oral agreement with the Company or any other Law in excess of the amount indicated on the Consideration Schedule (together with any amounts that may become payable pursuant to Section 2.13 or out of the Indemnity Escrow Fund, Adjustment Escrow Fund or Expense Fund) as the amount such Person is entitled to receive in connection with the Merger or due to any inaccuracy therein;

(f) Taxes imposed on or in respect of the Company and its Subsidiaries (i) for Pre-Closing Tax Periods and (ii) in the case of any Straddle Period, for the portion of such Straddle Period ending on and including the Closing Date, as apportioned pursuant to Section 5.12(a);

(g) any liabilities relating to any failure to properly classify employees under the Fair Labor Standards Act; and

(h) Fraud in this Agreement.

Section 7.3 Indemnification by the Parent. The Parent shall save, defend, indemnify and hold harmless the Securityholders and their respective Affiliates, Representatives, successors and assigns from and against any and all Losses asserted against, incurred, sustained or suffered by any of the foregoing as a result of or arising out of or relating to:

(a) any breach of any representation or warranty made by the Parent or Merger Sub contained in this Agreement or any Ancillary Agreement;

(b) any breach of any covenant or agreement by the Parent or Merger Sub contained in this Agreement, any Ancillary Agreement or any schedule, certificate or other document delivered pursuant hereto or thereto; and

(c) Fraud in this Agreement.

Section 7.4 Procedures.

(a) In order for a party (the "Indemnified Party") to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a Loss or a claim or demand made by any person against the Indemnified Party (a "Third Party Claim"), such Indemnified Party shall deliver notice thereof to the Securityholder Representative, on behalf of the Securityholders, or to the Parent, as applicable (the Securityholders collectively or Parent, as applicable, the "Indemnifying Party") with reasonable promptness after receipt by such Indemnified Party of written notice of the Third Party Claim and shall provide the Indemnifying Party with such information with respect thereto as the Indemnifying Party may reasonably request. The failure to provide such notice, however, shall not release the Indemnifying Party from any of its obligations under this Article VII except to the extent that the Indemnifying Party is materially prejudiced by such failure. For the avoidance of doubt, in each case where the Indemnified Party or the Indemnifying Party is, collectively, the Securityholders, all references to such Indemnified Party or Indemnifying Party, as the case may be, in this Section 7.4 shall be deemed (except for provisions relating to an obligation to make or a right to receive any payments) to refer to the Securityholder Representative acting on behalf of such Indemnified Party or Indemnifying Party, as applicable.

(b) If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party against any and all Losses (subject to the limitations set forth in this Agreement) that may result from a Third Party Claim that is exclusively for civil monetary damages at law pursuant to the terms of this Agreement, the Indemnifying Party shall have the right (except with respect to any Third Party Claim involving a customer or potential customer of the Indemnified Party or any of its Affiliates), upon written notice to the Indemnified Party within 30 days of receipt of notice from the Indemnified Party of the commencement of such Third Party Claim, to assume the defense thereof, and assert any claims, including counter claims, cross-claims and third-party claims, in connection therewith (and any award with respect thereto will reduce the Loss on a dollar for dollar basis), at the expense of the Indemnifying Party with counsel selected by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. In the event that the Indemnifying Party assumes the defense of any Third Party Claim, it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make claims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume the defense of any Third Party Claim for equitable or injunctive relief or any claim that would impose criminal liability or damages, and the Indemnified Party shall have the right to defend any such Third Party Claim at the expense of the Indemnifying Party to the extent such Third Party Claim gives rise to indemnifiable Losses. If the Indemnifying Party does not expressly elect to assume the defense of such Third Party Claim within the time period and otherwise in accordance with the first sentence of this Section 7.4(b), the Indemnified Party shall have the sole right to assume the defense of and to settle such Third Party Claim and, in any such case, shall keep the Securityholder Representative reasonably informed of all material developments relating to such Third Party Claim. Notwithstanding anything to the contrary in this Agreement, in the event that the defense of any Third Party Claim is conducted by the Indemnified Party in accordance with this Section 7.4(b), the Indemnified Party shall not consent to the entry of any judgment or enter into any settlement or compromise of such Third Party Claim without the prior written consent of the Securityholder Representative (such consent not to be unreasonably withheld, conditioned or delayed). If the Indemnifying Party assumes the defense of such Third Party Claim, the Indemnified Party shall have the right to employ separate counsel and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party unless (i) the employment of such counsel shall have been specifically authorized in writing by the Indemnifying Party or (ii) the named parties to the Third Party Claim (including any impleaded parties) include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party reasonably determines that representation by counsel to the Indemnifying Party of both the Indemnifying Party and such Indemnified Party may present such counsel with a conflict of interest. If the Indemnifying Party assumes the defense of any Third Party Claim, the Indemnified Party shall, at the Indemnifying Party's expense, cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party all witnesses, pertinent records, materials and information in the Indemnified Party's possession or under the Indemnified Party's control relating thereto as is reasonably required by the Indemnifying Party. If the Indemnifying Party assumes the defense of any Third Party Claim, the Indemnifying Party shall not, without the prior written consent of the Indemnified Party, enter into any settlement or compromise or consent to the entry of any judgment with respect to such Third Party Claim if such settlement, compromise or judgment (A) involves a finding or admission of wrongdoing, (B) does not include an unconditional written release by the claimant or plaintiff of the Indemnified Party from all liability in respect of such Third Party Claim or (C) imposes equitable remedies or any obligation on the Indemnified Party other than solely the payment of money damages for which the Indemnified Party will be fully indemnified hereunder.

(c) Subject to the limitations set forth herein, the indemnification required hereunder in respect of a Third Party Claim shall be made by prompt payment by the Escrow Agent (to the extent of any amounts then held in the Indemnity Escrow Fund if applicable) or the Indemnifying Party (to the extent of any amounts not then held in the Indemnity Escrow Fund if applicable) of the amount of Losses in connection therewith to the extent such Losses have been determined to be indemnifiable Losses hereunder pursuant to the terms hereof.

(d) In the event any Indemnified Party should have a claim against any Indemnifying Party hereunder that does not involve a Third Party Claim being asserted against or sought to be collected from such Indemnified Party, the Indemnified Party shall deliver notice of such claim with reasonable promptness to the Indemnifying Party. The failure to provide such notice, however, shall not release the Indemnifying Party from any of its obligations under this Article VII except to the extent that the Indemnifying Party is materially prejudiced by such failure and shall not relieve the Indemnifying Party from any other obligation or liability that it may have to the Indemnified Party or otherwise than pursuant to this Article VII. If the Indemnifying Party does not notify the Indemnified Party within 30 days following its receipt of such notice that the Indemnifying Party disputes its liability to the Indemnified Party hereunder, such claim specified by the Indemnified Party in such notice shall be conclusively deemed a liability of the Indemnifying Party hereunder and the Indemnifying Party shall pay the amount of such liability to the Indemnified Party on demand (which may be paid out of the Indemnity Escrow Fund to the extent of any amounts then held in the Indemnity Escrow Fund, if applicable). If the Indemnifying Party agrees that it has an indemnification obligation but asserts that it is obligated to pay a lesser amount than that claimed by the Indemnified Party, the Indemnifying Party shall pay such lesser amount (which may be paid out of the Indemnity Escrow Fund to the extent of any amounts then held in the Indemnity Escrow Fund, if applicable) promptly to the Indemnified Party, without prejudice to or waiver of the Indemnified Party's claim for the difference.

Section 7.5 Limits on Indemnification.

(a) Notwithstanding anything to the contrary contained in this Agreement:

(i) (A) an Indemnifying Party shall not be liable for any claim for indemnification pursuant to Section 7.2(a) or Section 7.3(a), as applicable, unless and until the aggregate amount of indemnifiable Losses which may be recovered from the Indemnifying Party pursuant to Section 7.2(a) or Section 7.3(a), as applicable, equals or exceeds $1,012,500, in which case an Indemnifying Party shall be liable for all Losses from the first dollar thereof, and (B) the maximum aggregate amount of indemnifiable Losses which may be recovered from the Indemnifying Parties arising out of or relating to the matters set forth Section 7.2(a) or Section 7.3(a), as applicable, shall be the Indemnity Escrow Amount; provided that the foregoing limitations shall not apply to the breach of any Fundamental Representation, any representation or warranty set forth in Section 3.15 (relating to taxes) or in respect of any claim for Fraud in this Agreement;

(ii) the Parent, Merger Sub and the Surviving Corporation each agrees that its sole source of recovery with respect to claims for indemnification pursuant to Section 7.2(a) (other than with respect to the breach of any Fundamental Representation, any representation or warranty set forth in Section 3.15 (relating to taxes) or in respect of any claim for Fraud in this Agreement) shall be the amounts then remaining in the Indemnity Escrow Fund;

(iii) the maximum aggregate amount of indemnifiable Losses which may be recovered from any Participating Securityholder under this Agreement shall be the portion of the Merger Consideration actually paid to such Person; and

(iv) without limiting the rights set forth in Section 9.12, the indemnification provisions, procedures and limitations of this Agreement shall be the exclusive rights, remedies and procedures relating thereto available to any party with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement or any Ancillary Agreement, including any claim for Fraud in this Agreement.

(b) For purposes of calculating or determining the amount of indemnifiable Losses: (i) there shall be deducted from any Losses an amount equal to the amount of any proceeds actually received by any Indemnified Party from any third-party insurer or from any indemnity, contribution or other similar payment, in each case, in connection with the specific Losses (net of any deductibles, expenses, costs or increased premiums as a result of paying such insurance claims); and (ii) no Indemnified Party shall be entitled to double recovery for any adjustments to consideration provided for hereunder or for any indemnifiable Losses even though such Losses, or any other adjustment, may have resulted from the breach of more than one of the representations, warranties and covenants, or any other indemnity, in this Agreement.

Section 7.6 Remedies Not Affected by Investigation, Disclosure or Knowledge. If the transactions contemplated hereby are consummated, the Parent expressly reserves the right to seek indemnity or other remedy for any Losses arising out of or relating to any breach of any representation, warranty or covenant contained herein, notwithstanding any investigation by, disclosure to or knowledge of the Parent in respect of any fact or circumstances that reveals the occurrence of any such breach, whether before or after the execution and delivery hereof.

Section 7.7 Indemnity Escrow Fund.

(a) The Parent hereby agrees that it shall first seek a remedy from the Indemnity Escrow Fund, to the extent of the amount then held in the Indemnity Escrow Fund, with respect to any indemnification claim asserted hereunder before seeking to recover any Losses directly from the Securityholders.

(b) On the date that is 12 months after the Closing Date, the Parent and the Securityholder Representative shall deliver joint written instructions to the Escrow Agent instructing it to release to the Participating Securityholders from the Indemnity Escrow Fund any amounts then-remaining therein in excess of $4,800,000, less the amount of any pending but unresolved claims that have been submitted by the Parent pursuant to this Article VII. Upon the termination of the Indemnity Escrow Fund at the 18 month anniversary of the Closing Date pursuant to the terms of the Escrow Agreement, the Escrow Agent shall pay any amounts remaining in the Indemnity Escrow Fund to the Participating Securityholders. Any amounts released to the Participating Securityholders shall be distributed as instructed by the Securityholder Representative in accordance with each Participating Securityholder's respective Pro Rata Percentage.

Section 7.8 Treatment of Indemnity Payments. Any indemnity payment under this Agreement shall be treated as an adjustment to the Merger Consideration for Tax purposes to the extent permitted by applicable Law.

ARTICLE VIII
TERMINATION

Section 8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of the Parent and the Company;

(b) (i) by the Company, if the Parent or Merger Sub breaches or fails to perform in any respect any of its representations, warranties or covenants contained in this Agreement or any Ancillary Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.2, (B) cannot be or has not been cured within 30 days following delivery of written notice of such breach or failure to perform and (C) has not been waived by the Company or (ii) by the Parent, if the Company breaches or fails to perform in any respect any of its representations, warranties or covenants contained in this Agreement or any Ancillary Agreement and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.3, (B) cannot be or has not been cured within 30 days following delivery of written notice of such breach or failure to perform and (C) has not been waived by the Parent;

(c) by either the Company or the Parent, if the Merger shall not have been consummated by the date that is 90 days after the date hereof (the "Outside Date"); provided that in the event all conditions in Article XI have been satisfied other than those set forth in either Section 6.1(c) and/or (d), the Outside Date shall be automatically extended for up to an additional 60 days or until such earlier time as the conditions set forth in both Section 6.1(c) and (d) have been satisfied; provided further that the right to terminate this Agreement under this Section 8.1(c) shall not be available if the failure of the party so requesting termination to use its commercially reasonable efforts to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Merger to be consummated on or prior to such date;

(d) by either the Company or the Parent, in the event that any Governmental Authority shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable;

(e) by the Parent, if Written Consents sufficient to obtain the Company Holder Approval are not delivered to the Parent within 48 hours of the execution and delivery of this Agreement; or

(f) by the Parent if more than 5% of any class of Shares outstanding immediately prior to the Effective Time are Dissenting Shares. The party seeking to terminate this Agreement pursuant to this Section 8.1 (other than Section 8.1(a)) shall give prompt written notice of such termination to the other party.

Section 8.2 Effect of Termination. In the event of termination of this Agreement as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no liability on the part of either party except (a) for the provisions of Section 3.20 and Section 4.5 relating to broker's fees and finder's fees, Section 5.8 relating to confidentiality, Section 5.10 relating to public announcements, Section 9.1 relating to fees and expenses, Section 9.5 relating to notices, Section 9.8 relating to third-party beneficiaries, Section 9.9 relating to governing law, Section 9.10 relating to submission to jurisdiction and this Section 8.2, and (b) that nothing herein shall relieve either party from liability for any willful breach of this Agreement or any agreement made as of the date hereof or subsequent thereto pursuant to this Agreement.

ARTICLE IX
GENERAL PROVISIONS

Section 9.1 Fees and Expenses. Except as otherwise provided herein, all fees and expenses incurred in connection with or related to this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby shall be paid by the party incurring such fees or expenses, whether or not such transactions are consummated; provided, that if the transactions contemplated hereby are consummated, Transaction Expenses shall be borne and paid as provided in this Agreement. In the event of termination of this Agreement, the obligation of each party to pay its own expenses will be subject to any rights of such party arising from a breach of this Agreement by the other.

Section 9.2 Amendment and Modification. This Agreement may be amended, modified or supplemented by the parties by action taken or authorized by their respective Boards of Directors at any time prior to the Closing Date (notwithstanding any stockholder approval); provided, however, that after approval of the transactions contemplated hereby by the Holders of the Company, no amendment shall be made which pursuant to applicable Law requires further approval by such Holders without such further approval. This Agreement may not be amended, modified or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing specifically designated as an amendment hereto, signed on behalf of each of the parties in interest at the time of the amendment.

Section 9.3 Extension. At any time prior to the Effective Time, the parties, by action taken or authorized by their respective Boards of Directors, may, to the extent permitted by applicable Law, extend the time for the performance of any of the obligations or other acts of the parties. Any agreement on the part of a party to any such extension shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of such party.

Section 9.4 Waiver. At any time prior to the Effective Time, the parties may, by action taken or authorized by their respective Boards of Directors, to the extent permitted by applicable Law, (a) waive any inaccuracies in the representations and warranties of the other parties contained in this Agreement or any document delivered pursuant hereto or (b) subject to applicable Law, waive compliance with any of the agreements or conditions of the other parties contained herein. Any agreement on the part of a party to any such waiver shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of such party. No failure or delay of any party in exercising any right or remedy 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 right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereunder are cumulative and are not exclusive of any rights or remedies which they would otherwise have hereunder.

Section 9.5 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly given (a) on the date of delivery if delivered personally, or if by e-mail, upon written confirmation of receipt by e-mail or otherwise or (b) on the first Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier. All notices hereunder shall be delivered to the addresses set forth below, or pursuant to such other instructions as may be designated in writing by the party to receive such notice:

(i) if to the Parent, Merger Sub or the Surviving Corporation, to:

NICE Systems, Inc. c/o NICE-Systems Ltd.
22 Zarhin Street
P.O. Box 690
4310602 Ra'anana
Israel
Attention: Yechiam Cohen
Email: yechiam.cohen@nice.com

with a copy (which shall not constitute notice) to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attention: Barbara L. Becker
E-mail: bbecker@gibsondunn.com

(ii) if to the Company prior to the Effective Time, to:

Nexidia Inc.
3565 Piedmont Road, N.E.
Building Two, Suite 400
Atlanta, Georgia 30305
Attention: John Willcutts, CEO
Email: jwillcutts@nexidia.com

with a copy (which shall not constitute notice) to:

James-Bates-Brannan-Groover-LLP
3399 Peachtree Road, N.E., Suite 1700
Atlanta, Georgia 30326
Attention: Chason L. Harrison
Email: charrison@jamesbatesllp.com

(iii) if to the Securityholder Representative, to:

Shareholder Representative Services LLC
1614 15th Street, Suite 200
Denver, CO 80202
Attention: Managing Director
Email: deals@srsacquiom.com
Telephone: (303) 648-4085
Facsimile: (303) 623-0294

Section 9.6 Interpretation. When a reference is made in this Agreement to a Section, Article, Annex, Exhibit or Schedule such reference shall be to a Section, Article, Annex, Exhibit or Schedule of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement or in any Exhibit or Schedule are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein shall have the meaning as defined in this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth herein. The word "including" and words of similar import when used in this Agreement will mean "including, without limitation," unless otherwise specified. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to the Agreement as a whole and not to any particular provision in this Agreement. The term "or" is not exclusive. The word "will" shall be construed to have the same meaning and effect as the word "shall." References to days mean calendar days unless otherwise specified. Any agreement, instrument or Law defined herein means such agreement, instrument or Law as from time to time amended, modified or supplemented, except as otherwise provided herein.

Section 9.7 Entire Agreement. This Agreement (including the Exhibits, Annexes, Disclosure Schedules and other Schedules hereto), the Ancillary Agreements and the Confidentiality Agreement constitute the entire agreement, and supersede all prior written agreements, arrangements, communications and understandings and all prior and contemporaneous oral agreements, arrangements, communications and understandings among the parties with respect to the subject matter hereof and thereof. Notwithstanding any oral agreement or course of conduct of the parties or their Representatives to the contrary, no party to this Agreement shall be under any legal obligation to enter into or complete the transactions contemplated hereby unless and until this Agreement shall have been executed and delivered by each of the parties.

Section 9.8 No Third-Party Beneficiaries. Except as provided in Article VII, nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

Section 9.9 Governing Law. This Agreement and all disputes or controversies arising out of or relating to this Agreement or the transactions contemplated hereby shall be governed by, and construed in accordance with, the internal laws of the State of Delaware, without regard to the laws of any other jurisdiction that might be applied because of the conflicts of laws principles of the State of Delaware.

Section 9.10 Submission to Jurisdiction. Each of the parties irrevocably agrees that any Action arising out of or relating to this Agreement brought by any other party or its successors or assigns shall be brought and determined in any state or federal court sitting in the State of Delaware, and each of the parties hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Each of the parties agrees not to commence any Action relating thereto except in the courts described above in Delaware, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in Delaware as described herein. Each of the parties further agrees that notice as provided herein shall constitute sufficient service of process and the parties further waive any argument that such service is insufficient. Each of the parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in Delaware as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Section 9.11 Assignment; Successors. Neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated, in whole or in part, by operation of law or otherwise, by any party without the prior written consent of the Parent (in the case of an assignment by the Company) or the Company (in the case of an assignment by the Parent or Merger Sub), and any such assignment without such prior written consent shall be null and void; provided, however that no assignment shall limit the assignor's obligations hereunder. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 9.12 Enforcement. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of the parties shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of Delaware, this being in addition to any other remedy to which such party is entitled at law or in equity. Each of the parties hereby further waives (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any law to post security as a prerequisite to obtaining equitable relief.

Section 9.13 Currency. All references to "dollars" or "$" or "US$" in this Agreement or any Ancillary Agreement refer to United States dollars, which is the currency used for all purposes in this Agreement and any Ancillary Agreement.

Section 9.14 Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

Section 9.15 Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.16 Counterparts. This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

Section 9.17 Facsimile or .pdf Signature. This Agreement may be executed by facsimile or .pdf signature and a facsimile or .pdf signature shall constitute an original for all purposes.

Section 9.18 No Presumption Against Drafting Party. Each of the Parent, Merger Sub and the Company acknowledges that each party to this Agreement has been represented by legal counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of Law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting party has no application and is expressly waived.

Section 9.19 Consent for the Securityholder Representative to use Company's Law Firm. Company, Parent, Merger Sub and Surviving Corporation acknowledge and agree that legal representation of the Company by James-Bates-Brannan-Groover-LLP (the "Firm") shall automatically terminate at the Effective Time. Subject to applicable Law and professional standard of conduct, Parent, Merger Sub, the Company and the Surviving Corporation each hereby consent to allow the Securityholder Representative, as the representative of the Securityholders, to use the Firm exclusively in connection with any dispute arising out of, or interpretation of, this Agreement, the Ancillary Agreements and the transactions contemplated hereby and thereby. The Parent, Merger Sub, the Company and the Surviving Corporation recognize that the Firm has been and will be providing advice to the Securityholder Representative, the Company, the Securityholders, and their directors, officers, stockholders, investment bankers, accounting firm, and/or employees, and the Parent, Merger Sub, the Company, and the Surviving Corporation expressly waive any right to receive any communications, files, attorney notes, drafts or other documents directly and exclusively relating to the negotiation and interpretation of this Agreement, the Ancillary Agreements and the transactions contemplated hereby or thereby, whether written or electronic, including without limitation any communications between the Firm, the directors, officers, stockholders, investment bankers, accounting firm, and/or employees of the Company or any Securityholder prior to the Closing (collectively, the "Company Related Materials"); provided, however, that the Parent and Surviving Corporation do not waive the right to receive any Company Related Materials that any of them shall reasonably request in writing specifically in response to a Third Party Claim, and provided further, that such request shall only be for Company Related Materials reasonably related to the subject matter of such Third Party Claim and such Company Related Materials will be used solely in connection with such Third Party Claim.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

NICE SYSTEMS, INC.

By: DocuSigned by: Barak Eilam 6AD7B3F218D04F8...
Name: Barak Eilam
Title: CEO

By: DocuSigned by: Sarit Sagiv A95745F3E0F9453...
Name: Sarit Sagiv
Title: CFO

DIAG ACQUISITION CORP.

By: DocuSigned by: Tom Dziersk 52C05104F3DB48C...
Name: Tom Dziersk
Title: President, Nice America

By: DocuSigned by: 2FD7A8F623DE461...
Name: Eran Porat
Title: VP Finance

NEXIDIA INC.

By: John D. Willetts
Name: John D. Willetts
Title: CEO

SHAREHOLDER REPRESENTATIVE SERVICES LLC, solely in its capacity as the Securityholder Representative

By: Sam Riffe
Name: Sam Riffe
Title: Executive Director

Exhibit 4.15

EXECUTION VERSION

CREDIT AGREEMENT

dated as of

November 14, 2016,

among

NICE LTD.,
as Parent,

NICE SYSTEMS INC.,
as the Borrower,

The LENDERS Party Hereto,

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent,

ROYAL BANK OF CANADA,
as Syndication Agent

and

CITIBANK N.A.,
BMO HARRIS BANK, N.A.,
WELLS FARGO BANK, N.A.,
CAPITAL ONE, NATIONAL ASSOCIATION
and
TD BANK, N.A.
as Co-Documentation Agents

_____

and

JPMORGAN CHASE BANK, N.A. and RBC CAPITAL MARKETS[1],
as Joint Lead Arrangers and Joint Bookrunners

[1] RBC Capital Markets is a brand name for the capital markets activities of Royal Bank of Canada and its affiliates.

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CREDIT AGREEMENT dated as of November [14], 2016, among NICE LTD., a public company formed under the laws of the State of Israel ("Parent"), NICE SYSTEMS INC., a Delaware corporation (the "Borrower"), the LENDERS party hereto, JPMORGAN CHASE BANK, N.A., as Administrative Agent, ROYAL BANK OF CANADA, as Syndication Agent and CITIBANK N.A., BMO HARRIS BANK, N.A., WELLS FARGO BANK, N.A., CAPITAL ONE, NATIONAL ASSOCIATION and TD BANK, N.A., as Co-Documentation Agents.

The parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"Above-Threshold Prepayment Events" means any Prepayment Event described in clause (a) or (b) of the definition thereof the Net Proceeds of which (together with any series of related Prepayment Events) are equal to or exceed $10,000,000.

"ABR", when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, shall bear interest at a rate determined by reference to the Alternate Base Rate.

"Accepting Lenders" has the meaning set forth in Section 2.24(a).

"Acquisition" means the acquisition by Parent (directly or indirectly) of all the outstanding Equity Interests in inContact pursuant to the Acquisition Agreement.

"Acquisition Agreement" means the Agreement and Plan of Merger, entered into as of May 17, 2016, by and among Parent, Victory Merger Sub Inc., a Delaware corporation and a wholly-owned indirect Subsidiary of Parent, and inContact, together with all exhibits, schedules and disclosure letters thereto.

"Adjusted LIBO Rate" means with respect to any Eurocurrency Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (i) the LIBO Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate.

"Adjustment Date" has the meaning set forth in the Applicable Pricing Grid.

"Administrative Agent" means JPMorgan Chase Bank, N.A. (including its branches and Affiliates), in its capacity as administrative agent hereunder and under the other Loan Documents, and its successors in such capacity as provided in Article VIII.

"Administrative Questionnaire" means an administrative questionnaire in a form supplied by the Administrative Agent.

"Affected Class" has the meaning set forth in Section 2.24(a).

"Affiliate" means, with respect to a specified Person, another Person that directly or indirectly Controls or is Controlled by or is under common Control with the Person specified.

"Affiliate Transaction" has the meaning set forth in Section 6.09.

"Aggregate Exposure" means, with respect to any Lender at any time, an amount equal to (a) until the Closing Date, the aggregate amount of such Lender's Commitments at such time and (b) thereafter, the sum of (i) the aggregate then unpaid principal amount of such Lender's Term Loans then outstanding and (ii) the amount of such Lender's Revolving Commitment then in effect or, if the Revolving Commitments have been terminated, the amount of such Lender's Revolving Extensions of Credit then outstanding.

"Aggregate Exposure Percentage" means, with respect to any Lender at any time, the ratio (expressed as a percentage) of such Lender's Aggregate Exposure at such time to the Aggregate Exposure of all Lenders at such time.

"Agreement" means this Credit Agreement, as the same may be modified, amended or supplemented from time to time.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate on such day (or if such day is not a Business Day, the immediately preceding Business Day) for a deposit in U.S. Dollars with a maturity of one month plus 1%. For purposes of clause (c) above, the Adjusted LIBO Rate on any day shall be based on the rate per annum determined in accordance with the definition of the term "LIBO Rate", as the screen or quoted rate at approximately 11:00 a.m., London time, on such day for deposits in U.S. Dollars with a maturity of one month. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to Parent or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Applicable Creditor" has the meaning set forth in Section 9.18(b).

"Applicable Funding Account" means the applicable account of the Borrower that shall be specified in a written notice signed by a Financial Officer and delivered to (and, in the case of any account located outside the United States, reasonably approved by) the Administrative Agent.

"Applicable Pricing Grid" means the table set forth below:

Pricing Level	Total Net Leverage Ratio	Applicable Rate for Eurocurrency Loans	Applicable Rate for ABR Loans	Commitment Fee
I	≥ 2.25:1.00	2.00%	1.00%	0.50%
II	≥ 1.75:1 and < 2.25:1.00	1.75%	0.75%	0.425%
III	≥ 1.25:1 and < 1.75:1.00	1.50%	0.50%	0.375%
IV	< 1.25:1.00	1.25%	0.25%	0.25%

For the purposes of the Applicable Pricing Grid, changes in the Applicable Rate resulting from changes in the Total Net Leverage Ratio shall become effective on the date (the "Adjustment Date") that is three Business Days after the date on which a Compliance Certificate is delivered to the Administrative Agent pursuant to Section 5.01(d) and shall remain in effect until the next change to be effected pursuant to this paragraph. If any Compliance Certificate referred to above is not delivered within the time period specified in Section 5.01(d), then, until the date that is three Business Days after the date on which such Compliance Certificate is delivered, the highest rate set forth in each column of the Applicable Pricing Grid shall apply. Each determination of the Total Net Leverage Ratio pursuant to the Applicable Pricing Grid shall be made in a manner consistent with the determination thereof pursuant to Section 6.13.

"Applicable Rate" means, for any day,

(a) in the case of Term Loans, (i) with respect to any ABR Loan or Eurocurrency Loan that is an Initial Term Loan, 0.50% per annum and 1.50% per annum, respectively; provided that on and after the first Adjustment Date occurring after the delivery of a Compliance Certificate for the full fiscal quarter of Parent after the Closing Date, the Applicable Margin with respect to the Initial Term Loans will be determined pursuant to the Applicable Pricing Grid and (ii) with respect to any Incremental Term Loan of any Series, the rate per annum specified in the Incremental Facility Amendment establishing the Incremental Term Commitments of such Series; and

(b) in the case of Revolving Loans, with respect to any ABR Loan or Eurocurrency Loan, 0.50% per annum and 1.50% per annum, respectively; provided that on and after the first Adjustment Date occurring after the delivery of a Compliance Certificate for the full fiscal quarter of Parent after the Closing Date, the Applicable Margin with respect to the Revolving Loans will be determined pursuant to the Applicable Pricing Grid.

"Application" means an application, substantially in the form of Exhibit B-3 or any other form as the applicable Issuing Lender may specify from time to time, requesting such Issuing Lender to issue a Letter of Credit.

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit in the ordinary course of its activities 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.

"Arrangers" means each of JPMorgan Chase Bank, N.A. and RBC Capital Markets in its capacity as a joint lead arranger and joint bookrunner for the Facilities.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee, with the consent of any Person whose consent is required by Section 9.04, and accepted by the Administrative Agent, substantially in the form of Exhibit A or any other form approved by the Administrative Agent and the Borrower.

"Authorized Officer" means the chief executive officer, president, chief financial officer or corporate vice president of finance (or any other officer with similar duties) of Parent or the Borrower or any other officer of Parent or the Borrower designated by it for such purpose.

"Available Amount" means, as of any time, the excess, if any, of:

(a) $150,000,000 (the "Starter Basket"), plus

(b) the amount (which amount shall not be less than zero) equal to 50% of Cumulative Consolidated Net Income as of such time; plus

(c) to the extent not already included in clause (b) above, the sum of (i) the Net Proceeds received by Parent in respect of sales and issuances of its Qualified Equity Interests or capital contributions (other than the issuance of Equity Interests to officers, directors or employees of Parent or any Subsidiary pursuant to employee benefit or incentive plans or other similar arrangements, the issuance of Equity Interests to any Subsidiary, and the issuance of Qualified Equity Interests that are used to make Investments pursuant to Section 6.04(t)), plus (ii) the Net Proceeds of Indebtedness and Disqualified Equity Interests of Parent, in each case incurred or issued after the Closing Date, which have been exchanged or converted into Qualified Equity Interests of Parent, plus (iii) the Net Proceeds of Dispositions of Investments (including Investments in Unrestricted Subsidiaries, joint ventures or other minority-held entities) made using the Available Amount (in an amount, together with amounts added pursuant to clause (iv) below, not to exceed the amount of such Investment made using the Available Amount), plus (iv) returns, profits, distributions, returns on capital and similar amounts received in cash or Permitted Investments on Investments (including joint ventures or other minority-held entities, but excluding Investments in Unrestricted Subsidiaries) made using the Available Amount (in an amount, together with amounts added pursuant to clause (iii) above, not to exceed the amount of such Investments made using the Available Amount), plus (v) the Investments made using the Available Amount of Parent and its Subsidiaries in any Unrestricted Subsidiary that has been redesignated as a Restricted Subsidiary or that has been merged or consolidated into Parent or any of its Subsidiaries or the fair market value of the assets of any Unrestricted Subsidiary that have been transferred to Parent or any of its Subsidiaries, in an amount not to exceed the amount of the Investment of Parent and its Subsidiaries in such Unrestricted Subsidiary made using the Available Amount, plus (vi) the aggregate fair market value (as reasonably determined by Parent) of marketable securities received by Parent, the Borrower or a Subsidiary since the Closing Date from any Person other than the Borrower or a Subsidiary, plus (vii) any Net Proceeds from a Prepayment Event that do not constitute Prepayment Proceeds, plus (viii) returns, profits, distributions, returns on capital and similar amounts received in cash or Permitted Investments on Investments in Unrestricted Subsidiaries made using the Available Amount; over

(d) the sum of all Investments made prior to such time in reliance on Section 6.04(r), plus all Restricted Payments made prior to such time in reliance on Section 6.08(a)(vii), plus all expenditures in respect of Indebtedness made prior to such time in reliance on Section 6.08(b)(v), in each case utilizing the Available Amount or portions thereof in effect on the date of any such Investment, Restricted Payment or expenditure.

"Available Revolving Commitment" means, as to any Revolving Lender at any time, an amount equal to the excess, if any, of (a) such Lender's Revolving Commitment then in effect over (b) such Lender's Revolving Extensions of Credit then outstanding; provided, that in calculating any Lender's Revolving Extensions of Credit for the purpose of determining such Lender's Available Revolving Commitment pursuant to Section 2.13(b), the aggregate principal amount of Swingline Loans then outstanding shall be deemed to be zero.

"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 Title 11 of the United States Code entitled "Bankruptcy," as now or hereafter in effect, or any successor thereto.

"Bankruptcy Event" means, with respect to any Person, that such Person has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, liquidator, trustee, administrator, custodian, assignee for the benefit of creditors, officer (including to the extent relevant,*"baal-tafkid"*) for the implementation of reorganization process (including to the extent relevant, "*halichei-havraa*") or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment.

"Base Incremental Amount" means, as of any date, an amount equal to (a) $100,000,000 less (b) the sum of (i) the aggregate amount of all Incremental Commitments extended prior to such date in reliance on the Base Incremental Amount and (ii) the aggregate principal amount of all Incremental Equivalent Debt incurred prior to such date in reliance on the Base Incremental Amount.

"Below-Threshold Prepayment Events" means any Prepayment Event described in clause (a) or (b) of the definition thereof which is not an Above-Threshold Prepayment Event.

"Board of Governors" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" has the meaning set forth in the preamble hereto.

"Borrowing" means Loans of the same Class and Type made, converted or continued on the same date and, in the case of Eurocurrency Loans, as to which a single Interest Period is in effect.

"Borrowing Minimum" means $5,000,000.

"Borrowing Multiple" means $1,000,000.

"Borrowing Request" means a request by the Borrower for a Borrowing in accordance with Section 2.03, which shall be, in the case of any such written request, substantially in the form of Exhibit B-1 or any other form approved by the Administrative Agent.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to remain closed; provided that, when used in connection with (a) a Eurocurrency Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in deposits in U.S. Dollars in the London interbank market and (b) any payments, the term "Business Day" shall also exclude any day on which banks are not open in Tel Aviv, Israel.

"Capital Expenditures" means, for any period, (a) the additions to property, plant and equipment and other capital expenditures of Parent and its Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of Parent for such period prepared in accordance with GAAP, excluding (i) any such expenditures made to restore, replace or rebuild assets to the condition of such assets immediately prior to any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, such assets to the extent such expenditures are made with insurance proceeds, condemnation awards or damage recovery proceeds relating to any such casualty, damage, taking, condemnation or similar proceeding, (ii) any such expenditures constituting Permitted Acquisitions or any other acquisition of all the Equity Interests in, or all or substantially all the assets of (or the assets constituting a business unit, division, product line or line of business of), any Person and related costs and expenses and (iii) any such expenditures in the form of a substantially contemporaneous exchange of similar property, plant, equipment or other capital assets, except to the extent of cash or other consideration (other than the assets so exchanged), if any, paid or payable by Parent and its Subsidiaries, and (b) such portion of principal payments on Capital Lease Obligations made by Parent and its Subsidiaries during such period as is attributable to additions to property, plant and equipment that have not otherwise been reflected on the consolidated statement of cash flows as additions to property, plant and equipment for such period.

"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 (without giving effect to any subsequent changes in GAAP arising out of a change described in the Proposed Accounting Standards Update to Leases (Topic 840) dated August 17, 2010, or a substantially similar pronouncement). The amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. For purposes of Section 6.02, 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 Management Agreement" means an agreement pursuant to which a bank or other financial institution provides Cash Management Services.

"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 Parent or any Subsidiary and (b) commercial credit card and purchasing card services provided to Parent or any Subsidiary.

"CFC" means (a) each Person that is a "controlled foreign corporation" for purposes of Section 957 of the Code and (b) each Subsidiary of any such controlled foreign corporation.

"CFC Holding Company" means a Subsidiary, substantially all of the assets of which consist of Equity Interests or Indebtedness of (a) one or more CFCs or (b) one or more CFC Holding Companies.

"Change in Control" means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder, but excluding any employee benefit plan of such Person or its Subsidiaries and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan unless such plan is party of a group) of Equity Interests in Parent representing more than 35% of either the aggregate ordinary voting power or the aggregate equity value represented by the issued and outstanding Equity Interests in Parent, (b) the Borrower shall cease to be a wholly-owned direct Subsidiary of Parent or another Loan Party that is a wholly-owned Subsidiary of Parent or (c) occupation at any time of a majority of the seats (other than vacant seats) on the board of directors of Parent by Persons who were not (i) directors of Parent on the date of this Agreement or (ii) nominated or approved by the board of directors of Parent.

"Change in Law" means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any rule, regulation, treaty or other law, (b) any change in any rule, regulation, treaty or other law 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, including the entry into any agreement with such Governmental Authority; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Charges" has the meaning set forth in Section 9.13.

"Class", when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans, Incremental Term Loans of any Series, Revolving Loans or Swingline Loans, (b) any Commitment, refers to whether such Commitment is an Initial Term Loan Commitment, an Incremental Term Commitment of any Series or a Revolving Commitment and (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class. Additional Classes of Loans, Borrowings, Commitments and Lenders may be established pursuant to Sections 2.22, 2.23 and 2.24.

"Closing Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02) and the Initial Term Loans are funded.

"Co-Documentation Agents" means Citibank N.A., BMO Harris Bank, N.A., Wells Fargo Bank, N.A., Capital One, National Association and TD Bank, N.A. in their capacity as co-documentation agents for the Facilities provided for herein.

"Code" means the United States Internal Revenue Code of 1986, as amended from time to time.

"Collateral" means any and all assets, whether real or personal, tangible or intangible, on which Liens are purported to be granted pursuant to the Security Documents as security for the Obligations.

"Collateral Agreements" means the Israeli Collateral Agreements and the U.S. Collateral Agreement.

"Collateral and Guarantee Requirement" means, at any time, the requirement that:

(a) the Administrative Agent shall have received from Parent, the Borrower and each Designated Subsidiary either (i) counterparts of (A) the Guarantee Agreement duly executed and delivered on behalf of such person and (B) each applicable Collateral Agreement duly executed and delivered on behalf of such Person in acceptable form for filing with each applicable Governmental Authority (including, if applicable, the Registrar of Companies, the Registrar of Patents and the Registrar of Pledges) together with such other applications, consents and ancillary documentation as detailed in the Collateral Agreement or (ii) in the case of any Person that becomes a Designated Subsidiary after the Closing Date, (A) a supplement to the Guarantee Agreement, substantially in the form specified therein (or as otherwise agreed by the Administrative Agent) and (B) a supplement to each applicable Collateral Agreement, substantially in the form specified therein (or as otherwise agreed by the Administrative Agent), or, to the extent reasonably required by the Administrative Agent, additional Collateral Agreements, duly executed and delivered on behalf of such Person, together with documents of the type referred to in paragraph (e) of Section 4.01 and clauses (a)(i) (B) and (d) of the definition of the term "Collateral and Guarantee Requirement" and, to the extent reasonably requested by the Administrative Agent, opinions of the type referred to in paragraph (d) of Section 4.01, with respect to such Designated Subsidiary;

(b) (i) all outstanding Equity Interests in the Borrower and any Significant Subsidiary (other than Excluded Equity Interests), in each case directly owned by any Loan Party, shall have been pledged pursuant to a Collateral Agreement and (ii) the Administrative Agent shall, to the extent required by such Collateral Agreement, have received certificates or other instruments representing all such Equity Interests, together with undated stock powers or other instruments of transfer with respect thereto endorsed in blank, and, with respect to Equity Interests of Persons formed in Israel, irrevocable instructions in relation to payments while an Event of Default shall have occurred and be continuing;

(c) all (i) Indebtedness of Parent and each Subsidiary that is owing to any Loan Party in an aggregate principal amount in excess of $20,000,000 shall be evidenced by the Intercompany Note or a promissory note and shall have been pledged pursuant to a Collateral Agreement or a supplement to a Collateral Agreement, and the Administrative Agent shall have received all such Intercompany Notes or promissory notes, as applicable, together with undated instruments of transfer with respect thereto endorsed in blank, except that Indebtedness of Parent and each Subsidiary that is owing to any Loan Party and is incurred from time to time in the ordinary course of business shall not be required to be evidenced by an Intercompany Note or promissory note and the ancillary documentation referred to above (irrespective of the amount of such Indebtedness), to the extent that such Indebtedness is repaid or reduced to or below the aforementioned $20,000,000, in each case, within 45 days of the date incurred;

(d) all documents and instruments, including Uniform Commercial Code financing statements, charge registration forms ("Forms 10") and pledge notices in acceptable form for filing with the Registrar of Companies, the Registrar of Pledges and the Registrar of Patents (as applicable) and Hebrew convenience translations of any Collateral Agreement, in each case, as required by Requirements of Law or reasonably requested by the Administrative Agent to be filed, registered or recorded to evidence the Liens intended to be created by the Security Documents and perfect such Liens to the extent required by, and with the priority required by, the Security Documents and the other provisions of the definition of the term "Collateral and Guarantee Requirement," shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording; and

(e) the Administrative Agent shall have received (i) counterparts of a Mortgage with respect to each Mortgaged Property duly executed and delivered by the Loan Party that is the record owner of such Mortgaged Property, (ii) other than with respect to any Mortgaged Property located in the State of Israel, a policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage as a valid and enforceable first Lien on the Mortgaged Property described therein, free of any other Liens except as permitted under Section 6.02, together with such endorsements and affirmative coverage as the Administrative Agent may reasonably request, (iii) if Parent is in receipt of a standard flood hazard determination that shows that a Mortgaged Property is located in an area determined by the Federal Emergency Management Agency to have special flood hazards, Parent shall (prior to the delivery of a counterpart to the Mortgage for such Mortgaged Property) deliver to the Administrative Agent evidence of such flood insurance as may be required under applicable law or regulations, including the Flood Insurance Regulations, and in any event in form, substance and amount reasonably satisfactory to the Administrative Agent, (iv) a survey as may exist and in the possession of a Loan Party at such time with respect to any such Mortgaged Property, (v) with respect to any Mortgaged Property located in the State of Israel or owned by any Israeli Loan Party, all documents and instruments required by Requirements of Law or reasonably requested by the Administrative Agent to be filed, registered or recorded with any Governmental Authority (including for the purpose of perfection) and (vi) legal opinions as the Administrative Agent may reasonably request with respect to any such Mortgage and with respect to the enforceability, due authorization, execution and delivery of such Mortgage.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) the Loan Parties shall have the time periods specified in (x) Section 5.16 to satisfy the Collateral and Guarantee Requirement with respect to the items specified in Schedule 5.16 and (y) Section 5.11 to satisfy the Collateral and Collateral Requirement with respect to Designated Subsidiaries newly acquired or formed (or which first become Designated Subsidiaries) after the Closing Date or Section 5.13 to satisfy the Collateral and Guarantee Requirement with respect to any Material Real Property acquired by any Loan Party after the Closing Date, (b) the foregoing provisions of this definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance, legal opinions or other deliverables with respect to, particular assets of the Loan Parties, or the provision of Guarantees by any Subsidiary, in each case as to which the Administrative Agent and the Borrower reasonably agree in writing that the cost of creating or perfecting such pledges or security interests in such assets, or obtaining such title insurance, legal opinions or other deliverables in respect of such assets, or providing such Guarantees (taking into account any adverse tax consequences to Parent and the Subsidiaries (including the imposition of withholding or other material taxes or as the result of the operation of Section 956 of the Code or any similar law or regulation in any applicable jurisdiction)), shall be excessive in relation to the benefits to be obtained by the Lenders therefrom, (c) Liens required to be granted from time to time pursuant to the definition of the term "Collateral and Guarantee Requirement" shall be subject to exceptions and limitations set forth in the Security Documents and, to the extent appropriate in the applicable jurisdiction, as reasonably agreed between the Administrative Agent and the Borrower, (d) in no event shall the Collateral (directly or indirectly, including by way of an offset or otherwise) include any Excluded Assets. The Administrative Agent may, without the consent of any Lender, grant extensions of time for the creation and perfection of security interests in or the obtaining of title insurance, legal opinions or other deliverables with respect to particular assets or the provision of any Guarantee by any Designated Subsidiary (including extensions beyond the Closing Date and the time periods set forth in Schedule 5.16 or in connection with assets acquired, or Designated Subsidiaries formed or acquired, after the Closing Date) if it and the Borrower reasonably agree that such action cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Security Documents. In addition, in no event shall (a) control agreements or control or similar arrangements be required with respect to cash deposit, securities accounts or commodity accounts, (b) notice be required to be sent to account debtors or other contractual third parties prior to the occurrence and absent the continuance of an Event of Default, (c) landlord lien waivers, estoppels or collateral access letters be required to be delivered, (d) perfection be required with respect to letter of credit rights and commercial tort claims (except to the extent perfected through the filing of Uniform Commercial Code financing statements or registration with the Registrar of Companies or Registrar of Pledges) or (e) security documents governed by the laws of a jurisdiction other than Israel and the United States or any State thereof or the District of Columbia be required (it being understood and agreed that notwithstanding anything herein to the contrary, security interests in any IIA-Funded Know-How shall be subject to the immediately following paragraph and shall be granted solely under security documents governed by Israeli law and subject to the exclusive jurisdiction of Israeli courts).

The Secured Parties hereby acknowledge that any security interest in any IIA-Funded Know-How, to the extent applicable, and the realization thereof is subject to the Research Law. In addition, the Secured Parties hereby acknowledge that (a) the grant of the security interest in any IIA-Funded Know-How will require and will be subject to the approval of the Israeli Innovation Authority and to the execution and delivery by the Administrative Agent, on behalf of itself and the other Secured Parties, of an undertaking towards the Israeli Innovation Authority, in the form attached hereto as Exhibit M or any similar form requested by the Israeli Innovation Authority which does not adversely affect the Lenders in their capacity as Secured Parties in respect of the IIA-Funded Know-How (the "IIA Undertaking"), prior to the creation of such security interest, (b) any realization of a security interest in IIA-Funded Know-How, including the sale, assignment or license of the IIA-Funded Know-How and its transfer within the framework of realization procedures under the Loan Documents will require and be subject to the approval of the Israeli Innovation Authority and to the conditions of the IIA Approval and of the Research Law. In addition, any realization of the IIA-Funded Know-How will be subject to receiving an undertaking of the grantee, potential buyer or any other transferee to assume the applicable obligations in respect of such IIA-Funded Know-How in accordance with the Research Law and in accordance with the terms of the program pursuant to which grants were provided to the applicable Loan Party. This paragraph is referred to herein as the "IIA Provision." The Secured Parties hereby authorize the Administrative Agent to take, or refrain from taking, any actions or to enter into any necessary undertakings or agreements on behalf of the Secured Parties that the Administrative Agent shall determine in its sole discretion are necessary to comply with the IIA Provision or any other requirements of the Israeli Innovation Authority with respect to IIA-Funded Know-How and any ancillary or related property.

"Commitment" means with respect to any Lender, such Lender's Initial Term Loan Commitment, Incremental Term Commitment of any Series, Revolving Commitment or any combination thereof (as the context requires). Additional Revolving Commitments may be established pursuant to Sections 2.22 and 2.23.

"Commitment Fee Rate" means 0.375% per annum; provided, that on and after the first Adjustment Date occurring after the completion of one full fiscal quarter of Parent after the Closing Date, the Commitment Fee Rate will be determined pursuant to the Applicable Pricing Grid.

"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.

"Companies Law" means the Israeli Companies Law, 5759-1999, and any regulations promulgated thereunder.

"Compliance Certificate" means a Compliance Certificate substantially in the form of Exhibit D or any other form approved by the Administrative Agent.

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consolidated EBITDA" means, for any period, Consolidated Net Income for such period, plus without duplication and (other than in the case of clauses (a)(x) and (a)(xi)) to the extent deducted in determining such Consolidated Net Income, the sum of:

(a)

(i) Consolidated Interest Expense for such period (including imputed interest expense in respect of Capital Lease Obligations),

(ii) provision for taxes based on income, profits or losses (whether paid, estimated or accrued), including foreign withholding taxes, and for corporate franchise, capital stock, net worth, value-added taxes and similar taxes (including penalties and interest, if any), in each case during such period,

(iii) all amounts attributable to depreciation, depletion and amortization (including amortization or impairment of intangible assets and properties) for such period (excluding amortization expense attributable to a prepaid cash expense that was paid in a prior period),

(iv) any extraordinary, unusual or nonrecurring losses or charges for such period, determined on a consolidated basis in accordance with GAAP,

(v) any Non-Cash Charges for such period; provided that any cash payment made with respect to any Non-Cash Charges added back in computing Consolidated EBITDA for any prior period pursuant to this clause (a)(v) shall be subtracted in computing Consolidated EBITDA for the period in which such cash payment is made,

(vi) any losses for such period attributable to early extinguishment of Indebtedness or obligations under any Hedging Agreement or other derivative instruments,

(vii) any unrealized losses for such period attributable to the application of "mark to market" accounting in respect of Hedging Agreements or other derivative instruments,

(viii) proceeds of, and expenses and charges associated with, liability or casualty event or business interruption insurance to the extent actually received or, so long as Parent has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days),

(ix) charges, losses or expenses to the extent indemnified, reimbursable or insured to the extent actually received or, so long as Parent has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the applicable counterparty and only to the extent that such amount is (A) not denied by the applicable counterparty in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), plus

(x) any gain relating to Hedging Obligations associated with transactions realized in the current period that has been reflected in Consolidated Net Income in prior periods and excluded from Consolidated EBITDA in such period pursuant to clause (c)(iv) below,

(xi) cash receipts in such period (or any netting arrangements resulting in reduced cash expenses) not included in Consolidated EBITDA in any prior period to the extent non-cash gains relating to such receipts were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (c) below for any previous period and were not added back,

(xii) accruals and expenses (including rationalization, legal, tax, structuring and other costs and expenses) related to the Transactions, acquisitions or issuances of debt or equity permitted under the Loan Documents, whether or not consummated, and

(xiii) restructuring charges, accruals or reserves (including restructuring and integration costs related to acquisitions and closure of facilities and adjustments to existing reserves) whether or not classified as restructuring expense on the consolidated financial statements, plus

(xiv) losses on asset sales, disposals or abandonments (other than asset sales, disposals and abandonments in the ordinary course of business), plus

(xv) actual net losses resulting from discontinued operations, plus

(b) Pro Forma Adjustments in connection with Permitted Acquisitions (including the Acquisition) consummated during such period (or, for purposes of determining whether such Permitted Acquisition and any related Investment or incurrence of Indebtedness or Lien is permitted, after the end of such period) and other Initiatives; provided that (i) such Pro Forma Adjustments shall be calculated net of the amount of actual benefits realized and (ii) the aggregate amount of all amounts under this clause (b) that increase Consolidated EBITDA in any Test Period shall not exceed, and shall be limited to, 15% of Consolidated EBITDA in respect of such Test Period (calculated before giving effect to such adjustments and all other adjustments to Consolidated EBITDA and before giving effect to all adjustments in connection with the Acquisition); and minus

(c) without duplication and to the extent included in determining such Consolidated Net Income:

(i) any extraordinary gains for such period, determined on a consolidated basis in accordance with GAAP,

(ii) any non-cash gains for such period, including with respect to write-ups of assets or goodwill, determined on a consolidated basis in accordance with GAAP,

(iii) any gains attributable to the early extinguishment of Indebtedness or obligations under any Hedging Agreement, determined on a consolidated basis in accordance with GAAP,

(iv) any unrealized gains for such period attributable to the application of "mark to market" accounting in respect of Hedging Agreements,

(v) gains on asset sales, disposals or abandonments (other than asset sales, disposals and abandonments in the ordinary course of business), and

(vi) actual net gains resulting from discontinued operations.

provided further that, Consolidated EBITDA for any period shall be calculated so as to exclude (without duplication of any adjustment referred to above) non-cash foreign translation gains and losses. For purposes of calculating Consolidated EBITDA for any period to determine the First Lien Net Leverage Ratio, the Total Net Leverage Ratio or the Secured Net Leverage Ratio, if during such period Parent or any Subsidiary shall have consummated a Permitted Acquisition, any Initiative, any Subsidiary shall have been designated an Unrestricted Subsidiary or any Unrestricted Subsidiary shall have been designated as a Subsidiary, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto in accordance with Section 1.04(c). For purposes of determining the First Lien Net Leverage Ratio, Total Net Leverage Ratio and the Secured Net Leverage Ratio with respect to any period including a fiscal quarter ended on or prior to the Closing Date, Consolidated EBITDA will (subject to Section 1.04(c) with respect to any Permitted Acquisition, Initiative or Subsidiary Designation after the Closing Date) be deemed to be equal to (i) for the fiscal quarter ended June 30, 2015, $60,187,000, (ii) for the fiscal quarter ended September 30, 2015, $62,718,000, (iii) for the fiscal quarter ended December 31, 2015, $97,148,000 and (iv) for the fiscal quarter ended March 31, 2016, $72,722,000.

"Consolidated Interest Expense" means, for any period, total interest expense (including that attributable to Capital Lease Obligations) of Parent and its Subsidiaries for such period with respect to all outstanding Indebtedness of Parent and its Subsidiaries (including all commissions, discounts and other fees, expenses and charges owed with respect to borrowed money, letters of credit and bankers' acceptance financing and net costs under Hedging Agreements in respect of interest rates to the extent such net costs are allocable to such period in accordance with GAAP), but excluding, however, any amounts referred to in Section 2.13 payable to the Administrative Agent and Lenders on or before the Closing Date.

"Consolidated Net Income" means, for any period, the net income or loss of Parent and its consolidated Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income of any Person (other than Parent) that is not, or prior to the date it becomes, a consolidated Subsidiary except to the extent of the amount of cash dividends or other cash distributions actually paid by such Person to Parent or, subject to clauses (b) and (c) of this proviso, any consolidated Subsidiary during such period, (b) the income of, and any amounts referred to in clause (a) of this proviso paid to any Subsidiary (other than a Loan Party) to the extent that, on the date of determination, the declaration or payment of cash dividends or other cash distributions by such Subsidiary of that income is not at the time permitted by a Requirement of Law or any agreement or instrument applicable to such Subsidiary, unless such restrictions with respect to the payment of cash dividends and other cash distributions have been legally and effectively waived and (c) the income or loss of, and any amounts referred to in clause (a) of this proviso paid to, any consolidated Subsidiary that is not wholly-owned by Parent to the extent such income or loss or such amounts are attributable to the noncontrolling interest in such consolidated Subsidiary. Notwithstanding the foregoing, the amount of any cash dividends paid by any Unrestricted Subsidiary and received by Parent or the Subsidiaries during any such period shall be included, without duplication and subject to clauses (b) and (c) of the proviso in the immediately preceding sentence, in the calculation of Consolidated Net Income for such period. For purposes of calculating Consolidated Net Income for any period to determine the First Lien Net Leverage Ratio, the Total Net Leverage Ratio or the Secured Net Leverage Ratio, if during such period Parent or any Subsidiary shall have consummated a Permitted Acquisition, an Initiative or a Subsidiary Designation, Consolidated Net Income for such period shall be calculated after giving pro forma effect thereto in accordance with Section 1.04(c).

"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.

"Credit Party" means the Administrative Agent, each Issuing Lender, the Swingline Lender and each Lender.

"Cumulative Consolidated Net Income" means, as of any date of determination, the cumulative amount of Consolidated Net Income for the period (taken as one accounting period) commencing on October 1, 2016 and ending on the last day of the most recent fiscal quarter for which financial statements have been delivered pursuant to Section 5.01(a) or (b).

"Default" means any event or condition that constitutes, or upon notice, lapse of time or both would constitute, an Event of Default.

"Defaulting Lender" means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans, or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent to funding (specifically identified in such writing, including, if applicable, by reference to a specific Default) cannot be satisfied), (c) has failed, within three Business Days after request by a Credit Party, made in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement; provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such written certification, (d) has become the subject of a (A) Bankruptcy Event or (B) a Bail-In Action or (e) has 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 its Lender Parent by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (e) 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) upon delivery of written notice of such determination to the Borrower and each Lender.

"Designated Non-Cash Consideration" means the fair market value of non-cash consideration received by Parent or one of its Subsidiaries in connection with a Disposition that is so designated as Designated Non-Cash Consideration pursuant to an officer's certificate of an Authorized Officer, setting forth the basis of such valuation, less the amount of cash and Permitted Investments received in connection with a subsequent sale of such Designated Non-Cash Consideration within 180 days of receipt thereof.

"Designated Subsidiary" means each Subsidiary that is not an Excluded Subsidiary.

"Disposition" has the meaning set forth in Section 6.05.

"Disqualified Equity Interest" means, with respect to any Person, any Equity Interest in such Person that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable, either mandatorily or at the option of the holder thereof), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), whether pursuant to a sinking fund obligation or otherwise;

(b) is convertible or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or Equity Interests (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests); or

(c) is redeemable (other than solely for Equity Interests in such Person that do not constitute Disqualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) or is required to be repurchased by Parent or any Subsidiary, in whole or in part, at the option of the holder thereof;

in each case, on or prior to the date that is 91 days after the Latest Maturity Date (determined as of the date of issuance thereof or, in the case of any such Equity Interests outstanding on the Closing Date, the Closing Date); provided, however, that (i) an Equity Interest in any Person that would not constitute a Disqualified Equity Interest but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an "asset sale" or a "change of control" (or similar event, however denominated) shall not constitute a Disqualified Equity Interest if any such requirement becomes operative only after repayment in full of all the Loans and all other Loan Document Obligations that are accrued and payable and the termination or expiration of the Commitments and (ii) an Equity Interest in any Person that is issued to any employee or to any plan for the benefit of employees or by any such plan to such employees shall not constitute a Disqualified Equity Interest solely because it may be required to be repurchased by such Person or any of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Disqualified Institutions" means (a) any persons that are engaged as principals primarily in private equity, mezzanine financing or venture capital and certain banks, financial institutions, other institutional lenders and other entities, in each case, that have been specified by name to the Arrangers by the Borrower from time to time in writing, subject to the written consent of the Arrangers (not to be unreasonably withheld or delayed), (b) competitors of the Borrower, inContact and their respective Subsidiaries (including Unrestricted Subsidiaries) in each case identified by name in writing by the Borrower to the Administrative Agent from time to time, (c) any Israeli non-bank financial institutions and (d) as to any entity referenced in each case of clauses (a), (b) and (c) above (the "Primary Disqualified Institution"), any of such Primary Disqualified Institution's known Affiliates readily identifiable solely by similarity of name, but excluding any Affiliate that is primarily engaged in, or that advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course and with respect to which the Primary Disqualified Institution does not, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity. For the avoidance of doubt (i) the Administrative Agent shall, and shall be permitted to, provide such list of Disqualified Institutions to the Lenders and prospective Lenders, (ii) any addition to the list of Disqualified Institutions pursuant to clause (b) above will not become effective until at least three Business Days after such addition is posted to the Lenders and (iii) no retroactive disqualification of the Lenders that later become Disqualified Institutions shall be permitted. In no event shall the Administrative Agent be obligated to ascertain, monitor or inquire as to whether any prospective assignee is a Disqualified Institution or have any liability with respect to any assignment made to a Disqualified Institution. Any such list of Disqualified Institutions and any updates to the list shall be delivered to the email address titled JPMDQ_Contact@jpmorgan.com**.**

"Domestic Subsidiary" means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"Domestic Subsidiary Loan Party" means any Loan Party that is a Domestic Subsidiary.

"EEA Financial Institution" means (a) any institution established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, (d) any bank and (e) any other financial institution or investment fund engaged as a primary activity in the ordinary course of its business in making or investing in commercial loans or debt securities, other than, in each case, (i) a natural person or (ii) Parent, any Subsidiary or any other Affiliate of Parent, in each case other than any Disqualified Institution.

"Environmental Laws" means all Requirements of Law relating to pollution or the protection of the environment or natural resources (or, as it relates to exposure to hazardous or toxic substances, human health and safety matters).

"Environmental Liability" means any liability, obligation, loss, claim, lawsuit or order, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties and indemnities) directly or indirectly resulting or arising from (a) the violation of any Environmental Law or Environmental Permit, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) the Release or threatened Release of any Hazardous Materials, (d) exposure to any Hazardous Materials or (e) any contract or agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permits" means any and all permits, licenses, approvals, registrations, notifications, exemptions and any other authorization issued or required under Environmental Laws.

"Equity Interests" means shares of capital stock, partnership interests, membership interests, beneficial interests in a trust or other equity ownership interests (whether voting or non-voting) in, or interests in the income or profits of, a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with Parent, is treated as a single employer under Section 4001(b)(1) of ERISA or Section 414(b) or 414(c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) or 414(o) of the Code.

"ERISA Event" means (a) the existence, with respect to any Plan of Parent, of a non-exempt Prohibited Transaction; (b) any Reportable Event; (c) any failure by any Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Plan, in each case whether or not waived; (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (e) a determination that any Plan is, or is expected to be, in "at-risk" status (as defined in Section 430(i)(4) of the Code or Section 303(i)(4) of ERISA); (f) the incurrence by Parent or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (g) the receipt by Parent or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (h) the incurrence by Parent or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (i) the receipt by Parent or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from Parent or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA) or terminated (within the meaning of Section 4041A of ERISA); (j) the failure by Parent or any ERISA Affiliate to pay when due (after expiration of any applicable grace period) any installment payment with respect to Withdrawal Liability under Section 4201 of ERISA or (k) a Foreign Plan Event.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"Eurocurrency", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Adjusted LIBO Rate.

"Event of Default" has the meaning set forth in Article VII.

"Exchange Act" means the United States Securities Exchange Act of 1934.

"Excluded Assets" means (a) any fee-owned real property with a fair market value of less than $7,500,000; (b) any leasehold interests in real property; (c) motor vehicles and other assets subject to certificates of title (other than to the extent a security interest in such assets can be perfected by filing a Uniform Commercial Code financing statement or a similar filing in a non-U.S. jurisdiction); (d) any assets if, to the extent, and for so long as, the grant of a Lien thereon to secure the Obligations is effectively prohibited or restricted by any Requirements of Law; provided that such asset shall cease to be an Excluded Asset at such time as such prohibition ceases to be in effect; (e) any lease, license or other agreement or any property subject to a purchase money security interest or similar arrangement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money security interest or similar arrangement or create a right of termination in favor of any other party thereto (other than Parent or any Subsidiary), in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or analogous law of any non-U.S. jurisdiction, and other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or analogous law of any non-U.S. jurisdiction notwithstanding such prohibition or right of termination; (f) (A) any asset to the extent that a grant of a security interest therein would require the consent (other than a consent that has been obtained and other than with respect to IIA-Funded Know-How, which shall be subject to the IIA Provision) of a third Person (other than Parent or any Subsidiary) in each case pursuant to an agreement relating to secured Indebtedness permitted by clause (b), (e), (f), (g), (h), (i), (j), (k), (l), (n), (o), (p), (q) or (u) of Section 6.01 so long as such consent requirement applies only to the assets securing such Indebtedness and (B) any lease, license or other agreement which requires the consent (other than a consent that has been obtained and other than with respect to IIA-Funded Know-How, which shall be subject to the IIA Provision) of a third Person (other than Parent or any Subsidiary) in order for such lease, license or other agreement (or rights thereunder) to be part of the Collateral, in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or analogous law of any non-U.S. jurisdiction, and other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or analogous law of any non-U.S. jurisdiction notwithstanding such consent requirement; (g) those assets as to which the Administrative Agent and the Borrower reasonably agree in writing that the cost of obtaining such a security interest or perfection thereof are excessive in relation to the benefit to the Lenders of the security to be afforded thereby; (h) "intent-to-use" trademark applications, unless and until acceptable evidence of use of the trademark has been filed with and accepted by the United States Patent and Trademark Office pursuant to Section 1(c) or Section 1(d) of the Lanham Act (15 U.S.C. 1051, et seq.), to the extent that granting a lien in such trademark application prior to such filing would adversely affect the enforceability or validity of such trademark application; (i) any governmental licenses or state or local franchises, charters and authorizations, to the extent security interests in such licenses, franchises, charters or authorizations are prohibited or restricted thereby or require governmental approval or consent (other than an approval or consent that has been obtained and, to the extent relevant, other than with respect to IIA-Funded Know-How, which shall be subject to the IIA Provision), in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or analogous law of any non-U.S. jurisdiction, and other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or analogous law of any non-U.S. jurisdiction notwithstanding such prohibition, restriction or consent requirement; (j) any Excluded Equity Interests; (k) other customary exclusions under applicable local law or in applicable local jurisdictions as mutually agreed by the Administrative Agent and the Borrower; (l) margin stock; (m) assets in any CFC or any CFC Holding Company and other assets to the extent a security interest in such assets would result in material adverse tax consequences (including, without limitation, as a result of the operation of Section 956 of the Code or any similar law or regulation in any applicable jurisdiction) or material adverse regulatory consequences, in each case, as reasonably determined in good faith by the Borrower; (n) any payroll accounts, employee wage and benefit accounts, tax accounts, escrow accounts, or fiduciary or trust accounts; (o) cash or other assets restricted that are subject to Liens permitted under Section 6.02(l) or Hedging Agreements entered into in the ordinary course of business with relationship banks of Parent or any of its Subsidiaries; and (p) any asset that is the target or subject of Sanctions.

"Excluded Equity Interests" means (a) any Equity Interests that consist of voting stock of a Subsidiary that is a CFC or a CFC Holding Company in excess of 65% of the outstanding voting stock (or 65% of the outstanding Equity Interests in the case of an entity that is not a corporation for U.S. tax purposes) of such Subsidiary, (b) any Equity Interests if, to the extent, and for so long as, the grant of a Lien thereon to secure the Obligations is effectively prohibited or restricted by any Requirements of Law; provided that such Equity Interest shall cease to be an Excluded Equity Interest at such time as such prohibition ceases to be in effect, (c) Equity Interests in any Person that is not a wholly-owned Subsidiary directly owned by a Loan Party; provided that such Equity Interest shall cease to be an Excluded Equity Interest if such Person becomes a wholly-owned Subsidiary directly owned by a Loan Party and (d) Equity Interests as to which the Administrative Agent and the Borrower reasonably agree in writing that the cost obtaining such a security interest or perfection thereof are excessive in relation to the benefit of the Lenders of the security to be afforded thereby.

"Excluded Subsidiary" means (a) any Subsidiary that is not a wholly-owned Significant Subsidiary, (b) any Subsidiary that is a Foreign Subsidiary (unless such Subsidiary is organized under the laws of Israel), (c) any Subsidiary (other than the Borrower) that is a CFC or a CFC Holding Company (and accordingly, in no event shall a CFC or a CFC Holding Company be required to enter into any Security Document or pledge any assets hereunder), (d) any Subsidiary that is prohibited or restricted by Requirements of Law or by contractual obligations existing on the Closing Date (or, in the case of any newly acquired Subsidiary, in existence at the time of acquisition but not entered into in contemplation thereof) from Guaranteeing the Loan Document Obligations or if guaranteeing the Obligations (i) would require governmental (including regulatory) consent, approval, license or authorization in order to provide such guarantee or (ii) could result in material adverse tax consequences as reasonably determined by the Borrower, (e) a special purpose securitization vehicle (or similar entity), (f) a not for profit Subsidiary, (g) a captive insurance Subsidiary, (h) any Unrestricted Subsidiary or (i) a Subsidiary with respect to which, in the reasonable judgment of the Borrower and the Administrative Agent, the burden or cost of providing a Guarantee shall be excessive in view of the benefits to be obtained by the Lenders therefrom; provided that any Subsidiary shall cease to be an Excluded Subsidiary at such time as none of foregoing clauses apply to such Subsidiary.

"Excluded Swap Obligation" means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, and only for so long as, all or a portion of the guarantee by such Loan Party of, or the grant by such Loan Party of a security interest to secure, as applicable, such Swap Obligation (or any guarantee thereof) is or becomes illegal or unlawful 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) (determined after giving effect to any applicable keepwell, support, or other agreement for the benefit of such Loan Party and any and all applicable guarantees of such Loan Party's swap obligations by the other Loan Parties) by virtue of Loan Party'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 guarantee of such Loan Party or the grant by any Loan Party of a security interest, as applicable, becomes effective with respect to such related 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 guarantee or security interest is or becomes illegal.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. Federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.20(b)) or (ii) such Lender changes its lending or branch office, except in each case to the extent that, pursuant to Section 2.18, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in such Loan or Commitment or to such Lender immediately before it changed its lending or branch office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.18(f) and (d) any Taxes imposed under FATCA.

"Existing inContact Credit Agreement" means that certain Revolving Credit Loan Agreement, dated July 16, 2009, between inContact and Zions First National Bank.

"Facility" means each of (a) the Initial Term Facility, (b) the Revolving Facility and (c) any Incremental Term Facility.

"FATCA" means Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, any intergovernmental agreements entered into in connection with the implementation of such Sections of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to such intergovernmental agreement.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it; provided that, if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Fee Payment Date" means, (a) the third Business Day following the last day of each March, June, September and December and (b) the last day of the Revolving Commitment Period.

"Financial Officer" means, with respect to any Person, the chief financial officer, principal accounting officer, treasurer, corporate vice president of finance or controller of such Person (or other persons holding similar duties).

"First Lien Net Leverage Ratio" means, on any date of determination, the ratio of (a) an amount equal to (x) Total First Lien Indebtedness as of the last day of the Test Period most recently ended on or prior to such date less (y) Unrestricted Cash of Parent and its Subsidiaries as of the last day of the Test Period most recently ended on or prior to such date in an amount not to exceed $100,000,000 in the aggregate, and with such Unrestricted Cash calculated net of the amount of any Taxes that would have been required to be paid if such Unrestricted Cash had been used to repay Indebtedness constituting Total First Lien Indebtedness (provided that if the aggregate amount of Unrestricted Cash of Parent and its Subsidiaries as of such date is in excess of $150,000,000 (prior to giving effect to any such netting), no such netting shall be required) to (b) Consolidated EBITDA for the Test Period most recently ended on or prior to such date.

"Flood Insurance Regulations" means, collectively, (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"Foreign Lender" means any Lender that is not a U.S. Person.

"Foreign Plan" means each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA), program or agreement that is not subject to US law and is maintained or contributed to by, or entered into with, Parent, any Affiliate, or any other entity to the extent Parent could have any liability in respect of its current or former employees, other than any employee benefit plan, program or agreement that is sponsored or maintained exclusively by a Governmental Authority.

"Foreign Plan Event" means, with respect to any Foreign Plan, (a) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any contributions or payments required by applicable law or by the terms of such Foreign Plan; (b) the failure to register or loss of good standing with applicable Governmental Authorities of any such Foreign Plan required to be registered with such Governmental Authorities; or (c) the failure of any Foreign Plan to comply with any material provisions of applicable law and regulations or with the material terms of such Foreign Plan.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"Funding Lenders" means, at any time, all Lenders other than any Lenders that at such time are Non-Funding Lenders.

"Funding Office" means such office as may be specified from time to time by the Administrative Agent as its funding office by written notice to the Borrower and the Lenders.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time.

"Governmental Approvals" means all authorizations, consents, approvals, permits, licenses and exemptions of, registrations and filings with, and reports to, Governmental Authorities.

"Governmental Authority" means the government of the United States of America, the State of Israel, any other nation or government, 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 the Bank of Israel, the Commissioner of Capital Markets, Insurance and Savings Department in the Israeli Ministry of Finance and including any supra-national body exercising such powers or functions, such as the European Union or the European Central Bank).

"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 or other obligation 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 or other obligation 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 or other obligation; provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The amount, as of any date of determination, of any Guarantee shall be the principal amount outstanding on such date of the Indebtedness or other obligation guaranteed thereby (or, in the case of (i) any Guarantee the terms of which limit the monetary exposure of the guarantor or (ii) any Guarantee of an obligation that does not have a principal amount, the maximum monetary exposure as of such date of the guarantor under such Guarantee (as determined, in the case of clause (i), pursuant to such terms or, in the case of clause (ii), reasonably and in good faith by a Financial Officer of Parent)). The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantee Agreement" means the Guarantee Agreement among the Borrower, the other Loan Parties and the Administrative Agent, substantially in the form of Exhibit K.

"Hazardous Materials" means petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, mercury, lime solids, radon gas and all other substances, wastes or other pollutants (including explosive, radioactive, hazardous or toxic substances or wastes) that are regulated pursuant to any Environmental Law due to their potential harmful or deleterious effects on human health or the environment.

"Hedging Agreement" means any agreement with respect to any swap, forward, future or derivative transaction, or any option or similar agreement, involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt securities or instruments, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, or any similar transaction or any combination of the foregoing 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 Parent or any Subsidiary shall be a Hedging Agreement.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under any Hedging Agreements.

"IIA Approval" means the Initial IIA Approval and any other approval (substantially similar to the Initial IIA Approval or in form and substance reasonably satisfactory to the Administrative Agent) of the Israeli Innovation Authority granted in connection with the transactions contemplated by the Loan Documents.

"IIA-Funded Know-How" means the Intellectual Property forming part of the Collateral that was developed with the support of the Israeli Innovation Authority, including any rights derived therefrom.

"IIA Provision" has the meaning set forth in the definition of the term "Collateral and Guarantee Requirement".

"IIA Rights" means all the rights, powers and privileges of the Research Committee by virtue of the Research Law and/or any instrument of approval granted by the Israeli Innovation Authority, pursuant to the Israeli Innovation Authority's powers under the Research Law.

"IIA Undertaking" has the meaning set forth in the definition of the term "Collateral and Guarantee Requirement."

"Impacted Interest Period" has the meaning set forth in the definition of the term "LIBO Rate."

"inContact" means inContact, Inc., a Delaware corporation.

"inContact Material Adverse Effect" means, with respect to inContact, a material adverse effect on (a) the condition (financial or otherwise), business, assets or results of operations of inContact and its Subsidiaries, taken as a whole, excluding any effect resulting from (i) changes in the financial or securities markets or general economic or political conditions in the United States not having a materially disproportionate effect on inContact and its Subsidiaries, taken as a whole, relative to other participants in the industry in which inContact and its Subsidiaries operate, (ii) changes in GAAP, (iii) changes (including changes of Applicable Law) or conditions generally affecting the industry in which inContact and its Subsidiaries operate and not specifically relating to or having a materially disproportionate effect on inContact and its Subsidiaries, taken as a whole, relative to other participants in the industry in which inContact and its Subsidiaries operate, (iv) acts of war, sabotage or terrorism or natural disasters not having a materially disproportionate effect on inContact and its Subsidiaries, taken as a whole, relative to other participants in the industry in which inContact and its Subsidiaries operate, (v) the announcement, pendency or consummation of the transactions contemplated by the Acquisition Agreement (including any loss of, or adverse change in, the relationship of inContact or any of its Subsidiaries with its employees, customers, distributors, partners, suppliers or other business partners resulting therefrom; provided that this clause (v) shall not apply with respect to any representation or warranty, or any condition to consummation of the Merger to the extent related thereto, that by its terms addresses the consequences of the announcement or consummation of the transactions contemplated by the Acquisition Agreement), (vi) any failure by inContact and its Subsidiaries to meet any internal or published budgets, projections, forecasts or predictions of financial performance for any period (it being understood that this clause (vi) shall not prevent a party from asserting that any fact, change, event, occurrence or effect that may have contributed to such failure independently constitutes or contributes to an inContact Material Adverse Effect), (vii) any actions taken by the Company at the express written request of Parent or (viii) any legal proceedings made or brought by any of the current or former stockholders of the Company (on their own behalf or on behalf of the Company) against the Company or its directors for breaches of fiduciary duties or as class action claims arising out of the Merger or in connection with any other transactions contemplated by the Acquisition Agreement; or (b) inContact's ability to consummate the transactions contemplated by the Acquisition Agreement. Terms used in this definition (other than "Acquisition Agreement" and "inContact Material Adverse Effect") have the meanings assigned thereto in the Acquisition Agreement.

"inContact Refinancing" means (a) the payment in full of all indebtedness outstanding under the Existing inContact Credit Agreement, (b) the termination or cash collateralization of all letters of credit issued thereunder, (c) the termination of all commitments outstanding thereunder and (d) the release of all Liens securing obligations thereunder.

"inContact Required Financials" has the meaning set forth in Section 3.04(a).

"Incremental Acquisition Term Facility" means Incremental Term Commitments designated as an "Incremental Acquisition Term Facility" by the Borrower, the Administrative Agent and the applicable Incremental Term Lenders in the applicable Incremental Facility Amendment, the making of which is conditioned upon the consummation of, and the proceeds of which will be used to finance, a Permitted Acquisition or other acquisition or Investment permitted hereunder (including the refinancing of Indebtedness in connection therewith (to the extent required in connection with such Permitted Acquisition, acquisition or Investment) and the payment of related fees and expenses).

"Incremental Commitments" means the Incremental Term Commitments and the Incremental Revolving Commitments.

"Incremental Equivalent Debt" has the meaning set forth in Section 6.01(h).

"Incremental Facility Amendment" means an amendment to this Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.22.

"Incremental Junior Debt" has the meaning set forth in Section 6.01(h).

"Incremental Lenders" means the Incremental Term Lenders and the Incremental Revolving Lenders.

"Incremental Pari Passu Debt" has the meaning set forth in Section 6.01(h).

"Incremental Revolving Commitment" means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Amendment and Section 2.22, to make additional Revolving Commitments available hereunder, expressed as an amount representing the maximum principal amount of the Revolving Loans to be made by such Lender in respect thereof.

"Incremental Revolving Lender" means a Lender providing Incremental Revolving Commitments.

"Incremental Term Commitment" means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Amendment and Section 2.22, to make Incremental Term Loans of any Series hereunder, expressed as an amount representing the maximum principal amount of the Incremental Term Loans of such Series to be made by such Lender.

"Incremental Term Facility" means an incremental facility established hereunder pursuant to an Incremental Facility Amendment providing for Incremental Term Commitments.

"Incremental Term Lender" means a Lender with an Incremental Term Commitment or an outstanding Incremental Term Loan.

"Incremental Term Loan" means a Loan made by an Incremental Term Lender to the Borrower pursuant to Section 2.22.

"Incremental Term Maturity Date" means, with respect to Incremental Term Loans of any Series, the scheduled date on which such Incremental Term Loans shall become due and payable in full hereunder, as specified in the applicable Incremental Facility Amendment.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (excluding, for the avoidance of doubt, trade accounts payable incurred in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding trade accounts payable, deferred compensation arrangements for employees, directors and officers and other accrued obligations, in each case in the ordinary course of business), (e) all Capital Lease Obligations of such Person, (f) the maximum aggregate amount that would be available for drawing under all letters of credit issued for the account of such Person, together without duplication, the amount of all honored but unpaid drawings and/or unreimbursed payments thereunder and all obligations, contingent or otherwise, of such Person as an account party in respect of letters of guaranty, (g) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (h) all Disqualified Equity Interests in such Person, valued, as of the date of determination, at the greater of (x) the maximum aggregate amount that would be payable upon maturity, redemption, repayment or repurchase thereof (or of Disqualified Equity Interests or Indebtedness into which such Disqualified Equity Interests are convertible or exchangeable) and (y) the maximum liquidation preference of such Disqualified Equity Interests, (i) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed by such Person, and (j) all Guarantees by such Person of Indebtedness of others. The Indebtedness of any Person shall include the Indebtedness of any other Person (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 other Person, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor. Notwithstanding the foregoing, the term "Indebtedness" shall not include (i) purchase price adjustments, earnouts, holdbacks or deferred payments of a similar nature (including deferred compensation representing consideration or other contingent obligations incurred in connection with an acquisition), except in each case to the extent that such amount payable is more than 90 days overdue and such amount would otherwise be required to be reflected on a balance sheet prepared in accordance with GAAP; (ii) current accounts payable incurred in the ordinary course of business; (iii) obligations in respect of non-competes and similar agreements; (iv) Hedging Obligations; (v) obligations in respect of Cash Management Services; and (vi) licenses and operating leases. The amount of Indebtedness of any Person for purposes of clause (i) above shall (unless such Indebtedness has been assumed by such Person or such Person has otherwise become liable for the payment thereof) be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the fair market value of the property encumbered thereby as determined by such Person in good faith.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a), VAT imposed on or with respect to any payment made by any Israeli Loan Party under any Loan Document and Other Taxes.

"Indemnitee" has the meaning set forth in Section 9.03(b).

"Initial IIA Approval" has the meaning set forth in Section 4.01(n).

"Initial Term Facility" means the term loan facility established pursuant to Section 2.02(a).

"Initial Term Loan" means a Loan made pursuant to Section 2.02(a).

"Initial Term Loan Commitment" means, with respect to each Lender, the commitment, if any, of such Lender to make an Initial Term Loan on the Closing Date, expressed as an amount representing the maximum principal amount of the Initial Term Loan to be made by such Lender, as such commitment may be (a) reduced from time to time pursuant to Section 2.09 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Initial Term Loan Commitment is set forth in Schedule 1.01(a) or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Initial Term Loan Commitment, as applicable. The initial aggregate amount of the Lenders' Initial Term Loan Commitments is $475,000,000.

"Initiative" means any Specified Transaction, restructuring, business optimization activity, cost savings initiative or other similar initiative (including restructuring charges and any charges and expenses incurred in connection with Capital Expenditures for future expansion and business optimization projects).

"Intellectual Property" has the meaning set forth in the U.S. Collateral Agreement.

"Intercompany Note" means an intercompany note among the Loan Parties and the Subsidiaries party thereto, substantially in the form of Exhibit L or any other form approved by the Administrative Agent.

"Intercreditor Agreement" means (a) in respect of Indebtedness intended to be secured by some or all of the Collateral on a pari passu basis with the Obligations, an intercreditor agreement reasonably acceptable to the Administrative Agent the terms of which are consistent with market terms governing security arrangements for the sharing of Liens on a pari passu basis at the time such intercreditor agreement is proposed to be established in light of the type of Indebtedness to be secured by such Liens, as reasonably determined by the Administrative Agent and the Borrower, and (b) in respect of Indebtedness intended to be secured by some or all of the Collateral on a junior priority basis with the Obligations, an intercreditor agreement reasonably acceptable to the Administrative Agent the terms of which are consistent with market terms governing security arrangements for the sharing of Liens on a junior basis at the time such intercreditor agreement is proposed to be established in light of the type of Indebtedness to be secured by such Liens, as reasonably determined by the Administrative Agent and the Borrower (including a customary standstill provision and a customary waiver by the junior priority creditors of any right to object to the manner in which the Administrative Agent or the Secured Parties enforce or collect the Obligations or the liens granted on any of the Collateral).

"Interest Election Request" means a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.08, which shall be, in the case of any such written request, substantially in the form of Exhibit E or any other form approved by the Administrative Agent.

"Interest Payment Date" means (a) with respect to any ABR Loan (other than any Swingline Loan), the last day of each March, June, September and December and the final maturity date of such Loan, (b) with respect to any Eurocurrency 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 Eurocurrency Borrowing with an Interest Period of more than three months' duration, such day or days prior to the last day of such Interest Period as shall occur at intervals of three months' duration after the first day of such Interest Period and (c) as to any Swingline Loan, the day that such Loan is required to be repaid.

"Interest Period" means, with respect to any Eurocurrency 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 thereafter (or, if agreed by all Lenders of the Class participating therein, 12 months thereafter or any other period acceptable to the Administrative Agent), 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, 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 for U.S. Dollars) that is shorter than the Impacted Interest Period and (b) the Screen Rate for the shortest period (for which that Screen Rate is available for U.S. Dollars) that exceeds the Impacted Interest Period, in each case, as of the Specified Time on the Quotation Day for such Interest Period. When determining the rate for a period which is less than the shortest period for which the Screen Rate is available, the Screen Rate for purposes of clause (a) above shall be deemed to be the overnight rate for U.S. Dollars determined by the Administrative Agent from such service as the Administrative Agent may select.

"Investment" means, with respect to a specified Person, (a) any purchase of Equity Interests, bonds, notes, debentures or other securities (including any option, warrant or other right to acquire any of the foregoing) of, or any capital contribution or loans or advances (other than advances made in the ordinary course of business that would be recorded as accounts receivable on the balance sheet of the specified Person prepared in accordance with GAAP) to, Guarantees of any Indebtedness of or other obligations of, or any other investment in, any other Person that are held or made by the specified Person and (b) the purchase or acquisition (in one transaction or a series of related transactions) of all or substantially all the property and assets or business of another Person or assets constituting a business unit, line of business, division or product line of such other Person. The amount, as of any date of determination, of (i) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date (excluding any portion thereof representing paid-in-kind interest or principal accretion), without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (ii) any Investment in the form of a Guarantee shall be determined in accordance with the definition of the term "Guarantee", (iii) any Investment in the form of a transfer of Equity Interests or other non-cash property by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the fair value (as determined reasonably and in good faith by Parent in accordance with GAAP) of such Equity Interests or other property as of the time of the transfer, minus any payments actually received in cash, or other property that has been converted into cash or is readily marketable for cash, by such specified Person representing a return of capital of such Investment, but without any adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such transfer, (iv) any Investment (other than any Investment referred to in clause (i), (ii) or (iii) above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness, other securities or assets of any other Person shall be the original cost of such Investment (including any Indebtedness assumed in connection therewith), plus the cost of all additions, as of such date, thereto, and minus the amount, as of such date, of any portion of such Investment repaid to the investor in cash as a repayment of principal or a return of capital, as the case may be, but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment, and (v) any Investment (other than any Investment referred to in clause (i), (ii), (iii) or (iv) above) by the specified Person in any other Person resulting from the issuance by such other Person of its Equity Interests to the specified Person shall be the fair value (as determined reasonably and in good faith by a Financial Officer of Parent) of such Equity Interests at the time of the issuance thereof. For purposes of Section 6.04, if an Investment involves the acquisition of more than one Person, the amount of such Investment shall be allocated among the acquired Persons in accordance with GAAP; provided that pending the final determination of the amounts to be so allocated in accordance with GAAP, such allocation shall be as reasonably determined by a Financial Officer of Parent. Any basket in this Agreement used to make an Investment by any Loan Party on or after the Closing Date in any Person that is not a Loan Party on the date such Investment is made but subsequently becomes a Loan Party in accordance with the terms of this Agreement shall be refreshed by the amount of the Investment so made on the date such Person so becomes a Loan Party.

"Investment Company Act" means the U.S. Investment Company Act of 1940, as amended.

"IP Security Agreement" has the meaning set forth in the U.S. Collateral Agreement.

"IRS" means the United States Internal Revenue Service.

"Israeli Collateral Agreements" means any pledge, charge, mortgage, security and/or collateral agreements, assignments or other documents securing the Obligations, between Parent or any other Loan Party organized in the State of Israel or that owns Collateral located in the State of Israel (including Equity Interests in any Significant Subsidiary organized in the State of Israel (other than Excluded Equity Interests)) and the Administrative Agent, in each case in form and substance reasonably satisfactory to the Administrative Agent.

"Israeli Innovation Authority" means the Israeli National Authority for Technological Innovation (formerly known as the Office of the Chief Scientist of the Israeli Ministry of the Economy, or any successor Governmental Authority.

"Israeli Lender" means a Lender subject to the Bank of Israel guidelines and directives.

"Israeli Loan Party" means any Loan Party organized under the laws of the State of Israel.

"Israeli Patents" has the meaning set forth in Section 3.16(a).

"Israeli Regulatory Guidelines" has the meaning set forth in Section 9.19.

"Issuing Lender" means each of JPMorgan Chase Bank, N.A. and any other Revolving Lender approved by the Administrative Agent and the Borrower that has agreed in its sole discretion to act as an "Issuing Lender" hereunder, or any of their respective Affiliates, in each case in its capacity as issuer of any Letter of Credit. Each reference herein to "the Issuing Lender" shall be deemed to be a reference to the relevant Issuing Lender.

"Judgment Currency" has the meaning set forth in Section 9.18(b).

"L/C Commitment" means $5,000,000.

"L/C Exposure" means, at any time, the total L/C Obligations. The L/C Exposure of any Revolving Lender at any time shall be its Revolving Percentage of the total L/C Exposure at such time; provided that, in the case of Section 2.04(a) when a Non-Funding Lender shall exist, the L/C Exposure of any Revolving Lender shall be adjusted to give effect to any reallocation effected pursuant to Section 2.21.

"L/C Obligations" means, at any time, an amount equal to the sum of (a) the aggregate then undrawn and unexpired amount of the then outstanding Letters of Credit and (b) the aggregate amount of drawings under Letters of Credit that have not then been reimbursed pursuant to Section 2.06(e).

"L/C Participants" means, the collective reference to all the Revolving Lenders other than the Issuing Lender.

"Latest Maturity Date" means, at any date of determination, the latest Maturity Date applicable to any Loan or Commitment hereunder at such time, including in respect of any Incremental Term Facility and including any Maturity Date that has been extended from time to time in accordance with this Agreement.

"LCA Action" has the meaning set forth in Section 1.06.

"LCA Election" has the meaning set forth in Section 1.06.

"LCA Test Date" has the meaning set forth in Section 1.06.

"Lender Parent" means, with respect to any Lender, any Person in respect of which such Lender is a Subsidiary.

"Lenders" means the Persons listed in Schedule 1.01(a) and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, an Incremental Facility Amendment or a Refinancing Facility Agreement, other than any such Person that shall have ceased to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "Lenders" includes the Swingline Lender.

"Letters of Credit" has the meaning set forth in Section 2.06(a).

"LIBO Rate" means, with respect to any Eurocurrency Borrowing 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 U.S. Dollars for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters Screen that displays such rate (or, in the event such rate does not appear on either of such Reuters pages, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case, the "Screen Rate") as of the Specified Time on the Quotation Day for such Interest Period; provided that if the Screen Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement; provided, further, that if the Screen Rate shall not be available at such time for such Interest Period (an "Impacted Interest Period") with respect to U.S. Dollars, then the LIBO Rate shall be the Interpolated Rate at such time (provided that if the Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement).

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, charge, assignment by way of pledge, security interest or other encumbrance on, in or of such asset, including any agreement to provide any of the foregoing, (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 Condition Acquisition" means any acquisition by Parent or one or more of its Subsidiaries permitted pursuant to this Agreement whose consummation is not conditioned on the availability of, or on obtaining, third-party financing and which is designated as a Limited Condition Acquisition by Parent or such Subsidiary in writing to the Administrative Agent.

"Loan Document Obligations" means (a) the due and punctual payment by the Borrower of (i) the principal of and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans and Reimbursement Obligations, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise and (ii) all other monetary obligations of the Borrower under this Agreement and each of the other Loan Documents, including obligations to pay fees, expense reimbursement obligations (including with respect to attorneys' fees) and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual performance of all other obligations of the Borrower under or pursuant to this Agreement and each of the other Loan Documents and (c) the due and punctual payment and performance of all the obligations of each other Loan Party under or pursuant to each of the Loan Documents (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding).

"Loan Documents" means this Agreement, the Guarantee Agreement, any Incremental Facility Amendment, any Refinancing Facility Agreement, any Intercreditor Agreement, any Loan Modification Agreement, the Collateral Agreements, the other Security Documents, and, except for purposes of Section 9.02, any promissory notes delivered pursuant to Section 2.10(c) (and, in each case, any amendment, restatement, waiver, supplement or other modification to any of the foregoing).

"Loan Modification Agreement" means a Loan Modification Agreement, in form and substance reasonably satisfactory to the Administrative Agent and Parent, among the Borrower and the Administrative Agent and one or more Accepting Lenders, effecting one or more Permitted Amendments and such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.24.

"Loan Modification Offer" has the meaning set forth in Section 2.24(a).

"Loan Parties" means Parent, the Borrower and each Subsidiary that is a party to the Guarantee Agreement.

"Loans" means the loans made by the Lenders to the Borrower pursuant to this Agreement, including pursuant to any Incremental Facility Amendment or any Refinancing Facility Agreement.

"Local Time" means New York City time.

"Majority in Interest", when used in reference to Lenders of any Class, means, at any time, Lenders other than Non-Funding Lenders holding outstanding Loans of such Class (or, in respect of any Class of revolving commitments, Commitments of such Class) representing more than 50% of the aggregate principal amount of all Loans (or the aggregate amount of Commitments) of such Class outstanding at such time (other than (i) Loans or Commitments of Non-Funding Lenders and (ii) in respect of Section 2.08(d) and Section 2.15(b), Loans or Commitments of Non-Funding Lenders).

"Material Adverse Effect" means an event or condition that has resulted, or could reasonably be expected to result, in a material adverse effect on (a) the business, assets, operations or financial condition of Parent and the Subsidiaries, in each case, taken as a whole, (b) the ability of the Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Administrative Agent and the Lenders under the Loan Documents.

"Material Indebtedness" means Indebtedness (other than the Loans and Guarantees under the Loan Documents) or Hedging Obligations of any one or more of Parent and the Subsidiaries in an aggregate principal amount of $50,000,000 or more. For purposes of determining Material Indebtedness, the "principal amount" of any Hedging Obligation at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that Parent or such Subsidiary would be required to pay if the applicable Hedging Agreement were terminated at such time.

"Material Real Property" means any and all parcel or real property owned in fee by any Loan Party, other than any Excluded Asset.

"Maturity Date" means the Term Maturity Date, the Incremental Term Maturity Date with respect to Incremental Term Loans of any Series, the Revolving Termination Date or any extended maturity date with respect to all or a portion of any Class of Loans or Commitments hereunder pursuant to a Refinancing Facility Agreement or a Loan Modification Agreement, as the context requires.

"Maximum Incremental Amount" means an amount represented by Incremental Commitments to be incurred pursuant to Section 2.22 that would not, immediately after giving effect to the incurrence thereof (excluding from such pro forma calculation the Net Proceeds of any Loans made in respect thereof and assuming that the full amount of such Incremental Commitments is drawn), cause the First Lien Net Leverage Ratio, calculated on a Pro Forma Basis as of the date of incurrence of such Indebtedness, to exceed 2.00 to 1.00.

"Maximum Rate" has the meaning set forth in Section 9.13.

"Minimum Extension Condition" has the meaning set forth in Section 2.24(a).

"MNPI" means material information concerning Parent, inContact, any Subsidiary or any Affiliate of any of the foregoing or their securities that has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD under the Securities Act and the Exchange Act. For purposes of this definition, "material information" means information concerning Parent, inContact, any Subsidiary or any Affiliate of any of the foregoing, or any of their securities, that could reasonably be expected to be material for purposes of the United States Federal and State securities laws.

"Moody's" means Moody's Investors Service, Inc., and any successor to its rating agency business.

"Mortgage" means a mortgage, deed of trust, deed to secure debt, trust deed or other similar security document granting a Lien on any Mortgaged Property to secure the Obligations. Each Mortgage shall be in form and substance reasonably satisfactory to the Administrative Agent.

"Mortgaged Property" means collectively, any and all parcels of or interests in real property owned in fee by any Loan Party and covered by a Mortgage delivered pursuant to Section 5.11 or Section 5.13 (subject to the limitations in the definition of the term "Collateral and Guarantee Requirement"), together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other property and rights incidental to the ownership thereof. For the avoidance of doubt, no Excluded Asset shall be Mortgaged Property.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Proceeds" means, with respect to any event, (a) the cash proceeds (including, in the case of any casualty, condemnation or similar proceeding, insurance, condemnation or similar proceeds) received in respect of such event, including any cash received in respect of any noncash proceeds, but only as and when received, net of (b) the sum, without duplication, of (i) all fees and out-of-pocket expenses paid in connection with such event by Parent and the Subsidiaries, (ii) in the case of a Disposition (including pursuant to a Sale/Leaseback Transaction or a casualty or a condemnation or similar proceeding) of an asset, (A) the amount of all payments required to be made by Parent and the Subsidiaries as a result of such event to repay Indebtedness (other than Loans, any Permitted First Priority Refinancing Indebtedness, any Permitted Second Priority Refinancing Indebtedness and any Permitted Unsecured Refinancing Indebtedness) secured by such asset, (B) the pro rata portion of net cash proceeds thereof (calculated without regard to this subclause (B)) attributable to minority interests and not available for distribution to or for the account of Parent and the Subsidiaries as a result thereof, and (C) the amount of any liabilities directly associated with such asset and retained by Parent or any Subsidiary and (iii) the amount of all taxes paid (or reasonably estimated to be payable) by Parent and the Subsidiaries (including any taxes paid or payable in connection with transferring or distributing any such amounts to Parent or any other Loan Party), and the amount of any reserves established by Parent and the Subsidiaries in accordance with GAAP to fund purchase price adjustment, indemnification and similar contingent liabilities (other than any earnout, holdback or similar obligations) reasonably estimated to be payable, that in each case are directly attributable to the occurrence of such event (as determined reasonably and in good faith by a Financial Officer of Parent). For purposes of this definition, in the event any taxes estimated to be payable with respect to any event as described in clause (b)(iii) above are determined by Parent or the applicable Subsidiary not to be payable or any contingent liability reserve established with respect to any event as described in clause (b)(iii) above shall be reduced, in an aggregate amount equal to or greater than $500,000, the amount of such estimated taxes not payable or reduction shall, except to the extent such reduction is made as a result of a payment having been made in respect of the contingent liabilities with respect to which such reserve has been established, be deemed to be receipt, on the date of such determination or reduction, of cash proceeds in respect of such event.

"Non-Cash Charges" means any non-cash charges, including (a) any write-off for impairment of long lived assets (including goodwill, intangible assets and fixed assets such as property, plant and equipment), or of deferred financing fees or investments in debt and equity securities, in each case, pursuant to GAAP, (b) non-cash expenses resulting from the grant of stock options, restricted stock awards or other equity-based incentives to any director, officer or employee of Parent or any Subsidiary (excluding, for the avoidance of doubt, any cash payments of income taxes made for the benefit of any such Person in consideration of the surrender of any portion of such options, stock or other incentives upon the exercise or vesting thereof), (c) any non-cash charges resulting from (i) the application of purchase accounting or (ii) investments in minority interests in a Person, to the extent that such investments are subject to the equity method of accounting; provided that Non-Cash Charges shall not include additions to bad debt reserves or bad debt expense and any noncash charge that results from the write-down or write-off of accounts receivable, (d) the non-cash impact of accounting changes or restatements, (e) non-cash charges and expenses resulting from pension adjustments and (f) any non-cash expenses and costs that result from the issuance of stock-based awards, partnership interest-based awards and similar incentive based compensation awards or arrangements.

"Non-Consenting Lender" has the meaning set forth in Section 9.02(c).

"Non-Funding Lender" means any Defaulting Lender and any Restricted Israeli Lender.

"Obligations" means, collectively, (a) the Loan Document Obligations, (b) the Secured Cash Management Obligations and (c) the Secured Hedging Obligations.

"Organizational Documents" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and, if applicable, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"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 Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan Document).

"Other Revolving Commitments" means one or more Classes of Revolving Commitments hereunder or extended Revolving Commitments that result from a Refinancing Facility Agreement.

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.20).

"Parent" has the meaning set forth in the preamble hereto.

"Parent Required Financials" has the meaning set forth in Section 3.04(a).

"Participant" has the meaning set forth in Section 9.04(c).

"Participant Register" has the meaning set forth in Section 9.04(c).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor entity performing similar functions.

"Perfection Certificate" means a certificate substantially in the form of Exhibit F or any other form approved by the Administrative Agent.

"Permitted Acquisition" means the purchase or other acquisition, by merger or otherwise, by Parent or any Subsidiary of substantially all the Equity Interests in, or all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of), any Person; provided that, in each case, (i) the business of such Person, or such assets, as the case may be, constitute a business permitted under Section 6.03(b), (ii) with respect to each such purchase or other acquisition, all actions required to be taken (if any) with respect to each newly created or acquired Subsidiary or assets in order to satisfy the requirements set forth in the definition of the term "Collateral and Guarantee Requirement" shall be taken within the required time periods for satisfaction of such requirements set forth therein, (iii) at the time of the entry into the definitive documentation with respect to such purchase or acquisition, no Event of Default shall have occurred and be continuing, in each case, immediately after giving Pro Forma Effect to such purchase or other acquisition as if it were consummated on such date, including the incurrence of Indebtedness in connection therewith and (iv) at the time of the entry into the definitive documentation with respect to such purchase or acquisition, Parent and its Subsidiaries shall be in Pro Forma Compliance with the then-applicable financial covenant level set forth in Section 6.13; provided further that the aggregate consideration paid by Parent or any of its Subsidiaries in respect of Permitted Acquisitions consisting of the purchase or other acquisition of Equity Interests in a Person that does not become a Loan Party or the purchase or other acquisition of assets by a Subsidiary that is not a Loan Party shall not exceed the greater of (i) $200,000,000 and (ii) 65% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time of such acquisition. For the avoidance of doubt, the Acquisition shall be deemed to be a Permitted Acquisition for all purposes under this Agreement.

"Permitted Amendment" means an amendment to this Agreement and the other Loan Documents, effected in connection with a Loan Modification Offer pursuant to Section 2.24, providing for an extension of the Maturity Date and/or amortization applicable to the Loans and/or Commitments of the Accepting Lenders of a relevant Class and, in connection therewith, may also provide for (a)(i) a change in the Applicable Rate with respect to the Loans and/or Commitments of the Accepting Lenders subject to such Permitted Amendment and/or (ii) a change in the fees payable to, or the inclusion of new fees to be payable to, the Accepting Lenders in respect of such Loans and/or Commitments, (b) in the case of Term Loans, changes to any prepayment premiums with respect to the applicable Loans and Commitments of a relevant Class, (c) such amendments to this Agreement and the other Loan Documents as shall be appropriate, in the reasonable judgment of the Administrative Agent, to provide the rights and benefits of this Agreement and other Loan Documents to each new "Class" of loans and/or commitments resulting therefrom and (d) additional amendments to the terms of this Agreement applicable only to the applicable Loans and/or Commitments of the Accepting Lenders that either are (i) less favorable to such Accepting Lenders than the terms of this Agreement prior to giving effect to such Permitted Amendments or (ii) only apply after the Latest Maturity Date in effect immediately prior to giving effect to such Permitted Amendments and, in each case, that are reasonably acceptable to the Administrative Agent.

"Permitted Amount" means, as of any date, (a) the greater of (i) $200,000,000 and (ii) 65% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of such date less (b) the sum of, without duplication, (i) the aggregate amount of Investments by Loan Parties in Subsidiaries (including Unrestricted Subsidiaries) that are not Loan Parties outstanding under Section 6.04(d) as of such date, (ii) the aggregate outstanding amount of loans or advances made by Loan Parties to Subsidiaries (including Unrestricted Subsidiaries) that are not Loan Parties under Section 6.04(e) as of such date, (iii) the aggregate outstanding amount of Indebtedness of Subsidiaries (including Unrestricted Subsidiaries) that are not Loan Parties guaranteed by Loan Parties under Section 6.04(f) as of such date and (iv) the aggregate amount of Dispositions by Loan Parties to Subsidiaries (including Unrestricted Subsidiaries) that are not Loan Parties under Section 6.05(b)(ii) as of such date.

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes that are not yet due or delinquent or are being contested in compliance with Section 5.05;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's, landlords' and other like Liens imposed by law (other than any Lien imposed pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code or any analogous laws), arising in the ordinary course of business that secure amounts not overdue for a period of more than 60 days or, if more than 60 days overdue, that are being contested in compliance with Section 5.05;

(c) (i) Liens (including pledges and deposits) arising in the ordinary course of business in connection with worker's compensation, unemployment insurance, old age pensions and social security benefits and similar statutory obligations and (ii) pledges and deposits in respect of letters of credit, bank guarantees or similar instruments issued for the account of Parent or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (c)(i) above;

(d) pledges and deposits made (i) to secure the performance of bids, trade and commercial contracts (other than for payment of Indebtedness), leases (other than Capital Lease Obligations), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business and (ii) in respect of letters of credit, bank guarantees or similar instruments issued for the account of Parent or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (d)(i) above;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;

(f) encroachments, easements, zoning restrictions, rights-of-way and similar encumbrances on real property, and other minor title imperfections and defects with respect to real property, that in any case do not secure any monetary obligations and do not materially interfere with the use, occupancy or ordinary conduct of business of Parent or any Subsidiary at such real property;

(g) Liens deemed to arise from repurchase agreements that constitute Permitted Investments;

(h) Liens arising solely by virtue of any contractual, statutory or common law provisions, banker's liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained with depository institutions and securities accounts and other financial assets maintained with a securities intermediary; provided that such deposit accounts or funds and securities accounts or other financial assets are not established or deposited for the purpose of providing collateral for any Indebtedness;

(i) Liens arising by virtue of Uniform Commercial Code financing statement filings (or similar filings under applicable law) regarding operating leases or consignment of goods entered into by Parent and the Subsidiaries in the ordinary course of business;

(j) Liens of a collecting bank arising in the ordinary course of business under Section 4-208 (or the applicable corresponding section) of the Uniform Commercial Code in effect in the relevant jurisdiction covering only the items being collected upon (or similar provisions under applicable law);

(k) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor, or a licensee, lessee or sublicensee or sublessee, in the personal property subject to any lease, license or sublicense or concession agreement, in each case which are entered into in the ordinary course of business;

(l) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(m) Liens that are contractual rights of setoff;

(n) with respect to any Mortgaged Property, such exceptions appearing in Schedule B to the title insurance policies delivered to the Administrative Agent pursuant to the terms of this Agreement, all of which exceptions must be acceptable to the Administrative Agent in its reasonable judgment or expressly permitted pursuant to the terms of this Agreement;

(o) the IIA Rights solely in respect of IIA-Funded Know-How;

(p) customary rights of first refusal or first offer, and tag, drag and similar rights in joint venture agreements;

(q) Liens arising from grants of non-exclusive licenses or non-exclusive sublicenses in Intellectual Property made in the ordinary course of business and that do not interfere in any material respect with the business of Parent and its Subsidiaries, taken as a whole; provided that such Liens do not secure any Indebtedness; and

(r) with respect to any non-Domestic Subsidiary not organized in the State of Israel, other Liens and privileges arising mandatorily by any Requirements of Law in the ordinary course of business;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness, other than Liens referred to in clauses (c) and (d) above securing obligations under letters of credit, bank guarantees or similar instruments.

"Permitted First Priority Refinancing Indebtedness" means Indebtedness of Parent or any other Loan Party in the form of bonds, debentures, notes or similar instruments (but not loans) (a) that is secured by Liens on the Collateral on a pari passu basis (but without regard to the control of remedies except to the extent set forth in the Incremental Facility Amendment) to the Liens on the Collateral securing the Obligations and any other Permitted First Priority Refinancing Indebtedness and is not secured by any property or assets of Parent or any of the Subsidiaries other than the Collateral (or property or assets that substantially concurrently become Collateral), (b) the proceeds of which, substantially concurrently with the incurrence thereof, are applied to the repayment or prepayment of then outstanding Term Loan Borrowings of any Class; provided that the principal amount of such Permitted First Priority Refinancing Indebtedness shall not exceed the amount of the Term Loan Borrowings so refinanced (plus the aggregate amount of accrued and unpaid interest with respect to such outstanding Term Loan Borrowings, fees, expenses, commissions, underwriting discounts and premiums payable in connection therewith), (c) that does not mature earlier than the Maturity Date of the Class of Term Loans so refinanced, and has a weighted average life to maturity no shorter than the Class of Term Loans so refinanced, (d) that, as determined by the Borrower, contains covenants, events of default and other terms that are customary for similar Indebtedness in light of then-prevailing market conditions or, when taken as a whole (other than interest rates, rate floors, fees and optional prepayment or redemption terms), are no more restrictive with respect to Parent or any Subsidiary than those set forth in the Loan Documents (other than covenants or other provisions applicable only to periods after the Maturity Date of the Loans and Commitments being refinanced by such Permitted First Priority Refinancing Indebtedness); provided that such Permitted First Priority Refinancing Indebtedness may contain financial maintenance covenants, so long as any such financial maintenance covenant shall not be more restrictive with respect to Parent and its Subsidiaries than (or in addition to) the financial maintenance covenant set forth in Section 6.13 (unless such financial maintenance covenants are also added to this Agreement for the benefit of the Lenders), (e) the security agreements relating to which are substantially the same as the Security Documents (with such differences as are reasonably satisfactory to the Administrative Agent), (f) that is not guaranteed by any Persons other than the Loan Parties and (g) in respect of which a trustee, collateral agent, security agent or similar Person, acting on behalf of the holders thereof, shall have become party to an Intercreditor Agreement. Permitted First Priority Refinancing Indebtedness will include any Registered Equivalent Notes issued in exchange therefor.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency or instrumentality thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper or corporate demand notes maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, (i) a short-term credit rating of "P-1" or higher from Moody's or "A-1" or higher from S&P or (ii) a long-term rating of "A2" or higher from Moody's or "A" or higher from S&P;

(c) investments in certificates of deposit, banker's acceptances and demand or time deposits, in each case maturing within 365 days from the date of acquisition thereof, issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, (i) any commercial bank that is a Lender or (ii) any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof that has a combined capital and surplus and undivided profits of not less than $500,000,000;

(d) repurchase agreements with a term of not more than 90 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) "money market funds" that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act, (ii) with (A) a short-term credit rating of "P-1" or higher from Moody's or "A-1" or higher from S&P or (B) a long-term rating of "A2" or higher from Moody's or "A" or higher from S&P and (iii) have portfolio assets of at least $5,000,000,000;

(f) investments in Indebtedness that is (x) issued by Persons with (i) a short-term credit rating of "P-1" or higher from Moody's or "A-1" or higher from S&P or (ii) a long-term rating of "A2" or higher from Moody's or "A" or higher from S&P, in each case for clauses (i) and (ii) with maturities not more than 12 months after the date of acquisition and (y) of a type customarily used by companies for cash management purposes;

(g) investments in accordance with Parent's cash management and investment policy or guidelines as provided to the Administrative Agent and as in effect on the Closing Date (as may be modified by Parent after the Closing Date in a manner reasonably satisfactory to the Administrative Agent); and

(h) in the case of Parent or any Foreign Subsidiary, other short-term investments that are analogous to the foregoing, are of comparable credit quality and are customarily used by companies in the jurisdiction of such Foreign Subsidiary for cash management purposes.

"Permitted Reorganization" means any re-organization or other similar activities among Parent and its Subsidiaries (including Unrestricted Subsidiaries) related to Tax planning and re-organization, so long as, after giving effect thereto, (a) the Loan Parties are in compliance with the Collateral and Guarantee Requirement and Section 5.11, (b) taken as a whole, the value of the Collateral securing the Secured Obligations and the Guarantees by the Guarantors of the Secured Obligations are not materially reduced and (c) the Liens in favor of the Administrative Agent for the benefit of the Secured Parties under the Security Documents are not materially impaired; provided that, No Loan Party shall become an Unrestricted Subsidiary or an Excluded Subsidiary, and no asset of any Loan Party shall become an asset of an Unrestricted Subsidiary or an Excluded Subsidiary, in each case, as a result of such Permitted Reorganization and such related activities and investments, unless otherwise permitted under this Agreement.

"Permitted Second Priority Refinancing Indebtedness" means Indebtedness of Parent or any other Loan Party in the form of term loans (other than, for the avoidance of doubt, Incremental Term Loans or other Term Loans under this Agreement) or bonds, debentures, notes or similar instruments (a) that is secured by Liens on the Collateral on a junior basis to the Liens on the Collateral securing the Obligations and any Permitted First Priority Refinancing Indebtedness and is not secured by any property or assets of Parent or any of the Subsidiaries other than the Collateral (or property or assets that substantially concurrently become Collateral), (b) the proceeds of which, substantially concurrently with the incurrence thereof, are applied to the repayment or prepayment of then outstanding Term Loan Borrowings of any Class; provided that the principal amount of such Permitted Second Priority Refinancing Indebtedness shall not exceed the amount of the Term Loan Borrowings so refinanced (plus the aggregate amount of accrued and unpaid interest with respect to such outstanding Term Loan Borrowings, fees, expenses, commissions, underwriting discounts and premiums payable in connection therewith), (c) that does not mature earlier than the Maturity Date of the Class of Term Loans so refinanced, and has a weighted average life to maturity no shorter than the Class of Term Loans so refinanced, (d) that, as determined by the Borrower, contains covenants, events of default and other terms that are customary for similar Indebtedness in light of then-prevailing market conditions or, when taken as a whole (other than interest rates, rate floors, fees and optional prepayment or redemption terms), are no more restrictive with respect to Parent or any Subsidiary than those set forth in the Loan Documents (other than covenants or other provisions applicable only to periods after the Maturity Date of the Loans and Commitments being refinanced by such Permitted Second Priority Refinancing Indebtedness); provided that such Permitted Second Priority Refinancing Indebtedness may contain financial maintenance covenants, so long as any such financial maintenance covenant shall not be more restrictive with respect to Parent and its Subsidiaries than (or in addition to) the financial maintenance covenant set forth in Section 6.13 (unless such financial maintenance covenants are also added to this Agreement for the benefit of the Lenders);, (e) the security agreements relating to which are substantially the same as the Security Documents (with such differences as are satisfactory to the Administrative Agent), (f) that is not guaranteed by any Persons other than the Loan Parties and (g) in respect of which a trustee, collateral agent, security agent or similar Person, acting on behalf of the holders thereof, shall have become party to an Intercreditor Agreement. Permitted Second Priority Refinancing Indebtedness will include any Registered Equivalent Notes issued in exchange therefor.

"Permitted Unsecured Refinancing Indebtedness" means Indebtedness of Parent or any other Loan Party in the form of unsecured term loans (other than, for the avoidance of doubt, Incremental Term Loans or other Term Loans under this Agreement) or unsecured bonds, debentures, notes or similar instruments (a) the proceeds of which, substantially concurrently with the incurrence thereof, are applied to the repayment or prepayment of then outstanding Term Loan Borrowings of any Class; provided that the principal amount of such Permitted Unsecured Refinancing Indebtedness shall not exceed the amount of the Term Loan Borrowings so refinanced (plus the aggregate amount of accrued and unpaid interest with respect to such outstanding Term Loan Borrowings, fees, expenses, commissions, underwriting discounts and premiums payable in connection therewith), (b) that does not mature earlier than the Maturity Date of the Class of Term Loans so refinanced, and has a weighted average life to maturity no shorter than the Class of Term Loans so refinanced, (c) that, as determined by the Borrower, contains covenants, events of default and other terms that are customary for similar Indebtedness in light of then-prevailing market conditions or, when taken as a whole (other than interest rates, rate floors, fees and optional prepayment or redemption terms), are no more restrictive with respect to Parent or any Subsidiary than those set forth in the Loan Documents (other than covenants or other provisions applicable only to periods after the Maturity Date of the Loans and Commitments being refinanced by such Permitted Unsecured Refinancing Indebtedness); provided that such Permitted Unsecured Refinancing Indebtedness may contain financial maintenance covenants, so long as any such financial maintenance covenant shall not be more restrictive with respect to Parent and its Subsidiaries than (or in addition to) the financial maintenance covenant set forth in Section 6.13 (unless such financial maintenance covenants are also added to this Agreement for the benefit of the Lenders); and (d) that is not guaranteed by any Persons other than the Loan Parties. Permitted Unsecured Refinancing Indebtedness will include any Registered Equivalent Notes issued in exchange therefor.

"Person" means any natural person, corporation, company, limited liability company, trust, joint venture, association, partnership, Governmental Authority or other entity.

"Plan" means any "employee pension benefit plan," as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), that is subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which Parent or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" has the meaning set forth in Section 9.01(d).

"Post-Transaction Period" means, (a) with respect to any Specified Transaction, the period beginning on the date such Specified Transaction is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such Specified Transaction is consummated and (b) with respect to any other Initiative, the period beginning on the date on which such Initiative commences and ending on the last day of the fourth full consecutive fiscal quarter following the date on which such Initiative commences.

"Prepayment Event" means:

(a) any Disposition (including pursuant to a sale and leaseback transaction and by way of merger or consolidation) (for purposes of this defined term, collectively, "dispositions") of any asset of Parent or any Subsidiary, other than dispositions described in clauses (a) through (k) and (m) through (o) of Section 6.05;

(b) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of (for purposes of this defined term, collectively, "casualty events"), any asset of Parent or any Subsidiary; or

(c) the incurrence by Parent or any Subsidiary of any Indebtedness, other than any Indebtedness permitted to be incurred under Section 6.01.

"Prepayment Proceeds" means (a) in respect of Above-Threshold Prepayment Events, the Net Proceeds thereof, (b) in respect of Below-Threshold Prepayment Events, the Net Proceeds thereof in excess of $25,000,000 and (c) in respect of any Prepayment Event described in clause (c) of the definition thereof, the Net Proceeds of such Indebtedness.

"Primary Disqualified Institution" has the meaning set forth in the definition of the term "Disqualified Institution".

"Prime Rate" means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. 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.

"Private Side Lender Representatives" means, with respect to any Lender, representatives of such Lender that are not Public Side Lender Representatives.

"Pro Forma Adjustment" means, with respect to any Initiative, for any Test Period, the pro forma increase or decrease (for the avoidance of doubt, net of any such increase or decrease actually realized) in Consolidated EBITDA (including the portion thereof attributable to any assets (including Equity Interests) sold or acquired) from cost savings, operating expense reductions, business optimization projects and other synergies (in each case net of amounts actually realized and costs incurred to achieve the same), in each case, related to such Initiative that are reasonably identifiable, factually supportable and projected by Parent in good faith to result within the Post-Transaction Period from actions taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of Parent) within (x) in the case of any Specified Transaction, 12 months after the date of consummation of such Specified Transaction and (y) in the case of any other Initiative, 12 months after commencement of such Initiative, as applicable, including those in connection with the Acquisition; provided that, the cost savings and synergies related to such actions or such additional costs, as applicable, may be assumed, for purposes of projecting such pro forma increase or decrease to such Consolidated EBITDA to be realized on a "run-rate" basis during the entirety, or, in the case of, additional costs, as applicable, to be incurred during the entirety of any fiscal quarters of Parent included in such Test Period; provided further that any such pro forma increase or decrease to Consolidated EBITDA shall be (i) without duplication for cost savings, synergies or additional costs already included in Consolidated EBITDA for such Test Period and (ii) made in any fiscal quarter that does not commence after the Post-Transaction Period.

"Pro Forma Basis" and "Pro Forma Compliance" means, with respect to compliance with any test or covenant hereunder required by the terms of this Agreement to be made on a Pro Forma Basis, that (a) to the extent applicable, the Pro Forma Adjustment shall have been made (subject, for the avoidance of doubt, to the limitations set forth in clause (b) of the definition of the term "Consolidated EBITDA") and (b) all Initiatives and the following transactions in connection therewith shall be deemed to have occurred as of (or commencing with) the first day of the applicable period of measurement in such test or covenant: (i) income statement items (whether positive or negative) attributable to the property or Person subject to such Initiative (A) in the case of a Disposition of all or substantially all Equity Interests in any Subsidiary or any division, product line, or facility used for operations of Parent or any of the Subsidiaries or the designation of a Subsidiary as an Unrestricted Subsidiary, shall be excluded, and (B) in the case of an acquisition or Investment described in the definition of the term "Specified Transaction" or designation of an Unrestricted Subsidiary as a Subsidiary, shall be included, (ii) any prepayment, repayment, retirement, redemption or satisfaction of Indebtedness, and (iii) any Indebtedness incurred or assumed by Parent or any of the Subsidiaries in connection therewith; provided that, without limiting the application of the Pro Forma Adjustment pursuant to clause (a) above, the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with (and subject to applicable limitations included in) the definition of the term "Consolidated EBITDA" and give effect to operating expense reductions that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on Parent and the Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of the term "Pro Forma Adjustment".

"Prohibited Transaction" has the meaning assigned to such term in Section 406 of ERISA and Section 4975(c) of the Code.

"Prohibition on Money Laundering Law" means the Israeli Prohibition on Money Laundering Law 5760-2000 and the regulations, rules, circulars and guidelines promulgated or published thereunder.

"Proposed Change" has the meaning set forth in Section 9.02(c).

"Public Side Lender Representatives" means, with respect to any Lender, representatives of such Lender that do not wish to receive MNPI.

"Qualified Equity Interests" means Equity Interests of Parent other than Disqualified Equity Interests.

"Quotation Day" means with respect to any Eurocurrency Loan for any Interest Period, two Business Days prior to the commencement of such Interest Period.

"Recipient" means the Administrative Agent and any Lender, or any combination thereof (as the context requires).

"Refinancing Commitments" has the meaning set forth in Section 2.23(a).

"Refinancing Facility Agreement" means an amendment to this Agreement, in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, among the Borrower, the Administrative Agent and one or more Refinancing Lenders, establishing Refinancing Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.23.

"Refinancing Indebtedness" means, in respect of any Indebtedness (the "Original Indebtedness"), any Indebtedness that extends, renews or refinances such Original Indebtedness (or any Refinancing Indebtedness in respect thereof); provided that (a) the principal amount (or accreted value or committed amount, if applicable) of such Refinancing Indebtedness shall not exceed the principal amount (or accreted value or committed amount, if applicable) of such Original Indebtedness except by an amount no greater than accrued and unpaid interest with respect to such Original Indebtedness and any reasonable fees, premiums and expenses relating to such extension, renewal or refinancing; (b) the stated final maturity of such Refinancing Indebtedness shall not be earlier than that of such Original Indebtedness; (c) such Refinancing Indebtedness shall not be required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default or a change in control, fundamental change, or upon conversion or exchange in the case of convertible or exchangeable Indebtedness or as and to the extent such repayment, prepayment, redemption, repurchase or defeasance would have been required pursuant to the terms of such Original Indebtedness) prior to the maturity of such Original Indebtedness; provided that, notwithstanding the foregoing, scheduled amortization payments (however denominated) of such Refinancing Indebtedness shall be permitted so long as the weighted average life to maturity of such Refinancing Indebtedness shall be longer than the shorter of the weighted average life to maturity of such Original Indebtedness remaining as of the date of such extension, renewal or refinancing; (d) such Refinancing Indebtedness shall not constitute an obligation (including pursuant to a Guarantee) of any Subsidiary, in each case that shall not have been (or, in the case of after-acquired Subsidiaries, shall not have been required to become pursuant to the terms of the Original Indebtedness) an obligor in respect of such Original Indebtedness, and shall not constitute an obligation of the Borrower if the Borrower shall not have been an obligor in respect of such Original Indebtedness, and, in each case, shall constitute an obligation of such Subsidiary or of the Borrower only to the extent of their obligations in respect of such Original Indebtedness; (e) if such Original Indebtedness shall have been subordinated in right of payment or otherwise to the Loan Document Obligations, such Refinancing Indebtedness shall also be subordinated to the Loan Document Obligations on terms not less favorable in any material respect to the Lenders; and (f) such Refinancing Indebtedness shall not be secured by any Lien on any asset other than the assets that secured such Original Indebtedness (or would have been required to secure such Original Indebtedness pursuant to the terms thereof) or, in the event Liens securing such Original Indebtedness shall have been contractually subordinated to any Lien securing the Loan Document Obligations, by any Lien that shall not have been contractually subordinated to at least the same extent.

"Refinancing Lenders" means the Refinancing Term Lenders and the Refinancing Revolving Lenders.

"Refinancing Loans" means the Refinancing Term Loans and the Refinancing Revolving Loans.

"Refinancing Revolving Commitments" has the meaning set forth in Section 2.23(a).

"Refinancing Revolving Lender" has the meaning set forth in Section 2.23(a).

"Refinancing Revolving Loans" means any Loans made under the Refinancing Revolving Commitments.

"Refinancing Term Lender" has the meaning set forth in Section 2.23(a).

"Refinancing Term Loan" has the meaning set forth in Section 2.23(a).

"Refinancing Term Loan Commitments" has the meaning set forth in Section 2.23(a).

"Refunded Swingline Loans" has the meaning set forth in Section 2.05(b).

"Register" has the meaning set forth in Section 9.04(b)(iv).

"Registered Equivalent Notes" means, with respect to any bonds, notes, debentures or similar instruments originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

"Registrar of Companies" means the Israeli Registrar of Companies.

"Registrar of Patents" means the Israeli Registrar of Patents, Designs and Trademarks.

"Registrar of Pledges" means the Israeli Registrar of Pledges.

"Reimbursement Obligation" means the obligation of the Borrower to reimburse the Issuing Lenders pursuant to Section 2.06(e) for amounts drawn under Letters of Credit.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the directors, officers, partners, trustees, employees, agents, administrators, managers, representatives and advisors of such Person and of such Person's Affiliates.

"Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the indoor or outdoor environment.

"Reportable Event" means any "reportable event," as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a Plan, other than those events as to which notice is waived pursuant to DOL Reg. § 4043.

"Required Financials" has the meaning set forth in Section 3.04(a).

"Required Lenders" means, at any time, the holders of more than 50% of (a) until the Closing Date, the Commitments then in effect and (b) thereafter, the sum of (i) the aggregate principal amount of the Term Loans then outstanding and (ii) the Total Revolving Commitments then in effect or, if the Revolving Commitments have been terminated, the Total Revolving Extensions of Credit then outstanding (provided that if the Revolving Commitments of any Class hereunder have been terminated at a time when there are other Revolving Commitments outstanding, but the Lenders in respect thereof have Revolving Extensions of Credit outstanding, for purposes of this definition only, such Lenders shall be deemed to have Revolving Commitments in the amount of their Revolving Extensions of Credit).

"Requirements of Law" means, with respect to any Person, (a) the Organizational Documents of such Person and (b) any law (including common law), statute, ordinance, treaty, rule, regulation, code, judgment, order, decree, writ, injunction, settlement agreement or determination of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Research Committee" means the research committee established in accordance with the Research Law.

"Research Law" means the Israeli Encouragement of Research, Development and Technological Innovation in Industry Law, 5744-1984 and the regulations, rules, circulars and guidelines promulgated or published thereunder.

"Restricted Indebtedness" has the meaning set forth in Section 6.08(b).

"Restricted Israeli Lender" means, at any time, any Israeli Lender that is at such time (or after giving effect to the making of any requested extension of credit hereunder, would be) in violation of Israeli Regulatory Guidelines.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in Parent or any Subsidiary, or any payment or distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, exchange, conversion, cancelation or termination of, or any other return of capital with respect to, any Equity Interests in Parent or any Subsidiary.

"Restricted Subsidiary" means any Subsidiary that is not an Unrestricted Subsidiary.

"Revolving Commitment" means, with respect to each Lender, the obligation of such Lender, if any, to make Revolving Loans and participate in Swingline Loans and Letters of Credit, as such commitment may be (a) reduced from time to time pursuant to Section 2.09 and Section 9.02(b) or reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Revolving Commitment is set forth on Schedule 1.01(a) or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable. The initial aggregate amount of the Lender's Revolving Commitments is $75,000,000.

"Revolving Commitment Period" means the period from and including the Closing Date to the Revolving Termination Date.

"Revolving Extensions of Credit" means, as to any Revolving Lender at any time, an amount equal to the sum of (a) the aggregate principal amount of all Revolving Loans held by such Lender then outstanding, (b) such Lender's Revolving Percentage of the L/C Obligations then outstanding and (c) such Lender's Revolving Percentage of the aggregate principal amount of Swingline Loans then outstanding.

"Revolving Facility" means the Revolving Commitments and the extensions of credit made thereunder.

"Revolving Lender" means each Lender that has a Revolving Commitment or that holds Revolving Loans.

"Revolving Loans" has the meaning set forth in Section 2.01(b).

"Revolving Percentage" means, as to any Revolving Lender at any time, the percentage which such Lender's Revolving Commitment then constitutes of the Total Revolving Commitments or, at any time after the Revolving Commitments shall have expired or terminated, the percentage which the aggregate principal amount of such Lender's Revolving Loans then outstanding constitutes of the aggregate principal amount of the Revolving Loans then outstanding, provided that, in the event that the Revolving Loans are paid in full prior to the reduction to zero of the Total Revolving Extensions of Credit, the Revolving Percentages shall be determined in a manner designed to ensure that the other outstanding Revolving Extensions of Credit shall be held by the Revolving Lenders on a comparable basis. Notwithstanding the foregoing, when a Non-Funding Lender shall exist, (i) in the case of Section 2.21, Revolving Percentages shall be determined without regard to any Non-Funding Lender's Revolving Commitment and (ii) in the case of the defined term "Revolving Extensions of Credit" (other than as used in Section 2.21(c)), Section 2.01(b), Section 2.05(b), Section 2.05(c) and Section 2.06(d), Revolving Percentages shall be adjusted to give effect to any reallocation effected pursuant to Section 2.21(c).

"Revolving Termination Date" means the date that is five years after the Closing Date.

"S&P" means Standard & Poor's Financial Services LLC.

"Sanctioned Country" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (as of the Closing Date, the Crimea region of Ukraine, Cuba, Iran, North Korea, Sudan and Syria).

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained or provided by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the Minister of Finance of the State of Israel (or otherwise maintained or provided under the Trading with the Enemy Ordinance 1939), the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person owned 50 percent or more or controlled by any Person or Persons described in clause (a).

"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 the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) the State of Israel pursuant to the Trading with the Enemy Ordinance 1939 or (c) the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

"Sale/Leaseback Transaction" means an arrangement relating to property owned by Parent or any Subsidiary whereby Parent or such Subsidiary sells or transfers such property to any Person that is not Parent or any Subsidiary and Parent or any Subsidiary leases such property, or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, from such Person or its Affiliates.

"Screen Rate" has the meaning set forth in the definition of the term "LIBO Rate".

"SEC" means the United States Securities and Exchange Commission, any successor thereto and any analogous Governmental Authority.

"Secured Cash Management Obligations" means the due and punctual payment and performance of any and all obligations of Parent and each Subsidiary (whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor)) arising in respect of Cash Management Services that (a) are owed pursuant to a Cash Management Agreement in effect on the Closing Date, entered into with a party that was a Lender as of the Closing Date or an Affiliate thereof, (b) are owed pursuant to a Cash Management Agreement entered into after the Closing Date with a party that was a Lender or the Administrative Agent or an Affiliate of a Lender or the Administrative Agent, in each case at the time such Cash Management Agreement was entered into or (c) are owed pursuant to a Cash Management Agreement entered into with a financial institution that is not a Lender, the Administrative Agent or an Affiliate of the foregoing at the time such Cash Management Agreement was entered into, and, in the case of any such Cash Management Agreement referred to in clause (a), (b) or (c) above, has been designated by Parent in a written notice given to the Administrative Agent as a Cash Management Agreement the obligations under which are to constitute Secured Cash Management Obligations for purposes of the Loan Documents; provided that in the case of Cash Management Agreements referred to in clause (c) above, the aggregate amount of Secured Cash Management Obligations in respect thereof, together with the Secured Hedging Obligations described in clause (c) of the definition of the term "Secured Hedging Obligations", shall not exceed $50,000,000.

"Secured Hedging Obligations" means the due and punctual payment and performance of any and all obligations of Parent and each Subsidiary arising under each Hedging Agreement that (a) was in effect on the Closing Date with a counterparty that was a Lender as of the Closing Date or an Affiliate thereof, (b) is entered into after the Closing Date with a counterparty that was a Lender or the Administrative Agent or an Affiliate of a Lender or the Administrative Agent, in each case at the time such Hedging Agreement was entered into, or (c) is entered into with a counterparty that is not a Lender, the Administrative Agent or an Affiliate of the foregoing at the time such Hedging Agreement was entered into, and, in the case of any such Hedging Agreement referred to in clause (a), (b) or (c) above has been designated by Parent in a written notice given to the Administrative Agent as a Hedging Agreement the obligations under which are to constitute Secured Hedging Obligations for purposes of the Loan Documents; provided that in the case of Hedging Agreements referred to in clause (c) above, the aggregate amount of Secured Hedging Obligations in respect thereof, together with Secured Cash Management Obligations described in clause (c) of the definition of the term "Secured Cash Management Obligations", shall not exceed $50,000,000; provided, further, that for purposes of determining any Secured Hedging Obligations of a Loan Party, "Secured Hedging Obligations" shall not create any guarantee by a Loan Party of any Excluded Swap Obligation of such Loan Party.

"Secured Net Leverage Ratio" means, on any date of determination, the ratio of (a) an amount equal to (x) Total Secured Indebtedness as of the last day of the Test Period most recently ended on or prior to such date less (y) Unrestricted Cash of Parent and its Subsidiaries as of the last day of the Test Period most recently ended on or prior to such date in an amount not to exceed $100,000,000 in the aggregate, and with such Unrestricted Cash calculated net of the amount of any Taxes that would have been required to be paid if such Unrestricted Cash had been used to repay Indebtedness constituting Total Secured Indebtedness (provided that if the aggregate amount of Unrestricted Cash of Parent and its Subsidiaries is in excess of $150,000,000 as of such date (prior to giving effect to any such netting), no such netting shall be required) to (b) Consolidated EBITDA for the Test Period most recently ended on or prior to such date.

"Secured Parties" means, collectively, (a) the Lenders, (b) the Administrative Agent, (c) the Arrangers, (d) the Issuing Lenders, (e) the Swingline Lender, (f) each provider of Cash Management Services under a Cash Management Agreement the obligations under which constitute Secured Cash Management Obligations, (g) each counterparty to any Hedging Agreement the obligations under which constitute Secured Hedging Obligations, (h) the beneficiaries of each indemnification obligation undertaken by any Loan Party under this Agreement or any other Loan Document and (i) the successors and permitted assigns of each of the foregoing.

"Securities Act" means the United States Securities Act of 1933.

"Security Documents" means the Collateral Agreements, the Mortgages, the Intercompany Note and each other security agreement or other instrument or document executed and delivered pursuant to Section 5.03, 5.11 or 5.16 or clauses (a)(i)(B), (a)(ii)(B) or (d) of the definition of the term "Collateral and Guarantee Requirement" to secure the Obligations.

"Series" has the meaning set forth in Section 2.22(b).

"Significant Subsidiary" means (a) each Subsidiary (i) with total assets (including the value of Equity Interests of its Subsidiaries and excluding intercompany assets), for the Test Period most recently ended, equal to or greater than 2.5% of Total Assets (or, solely for purposes of clauses (h), (i) and (j) of Article VII, equal to or greater than 10.0% of Total Assets) and/or (ii) the gross revenues (net of payroll, taxes, benefits and other deductions permitted under GAAP and excluding intercompany gross revenues) of which, for the Test Period most recently ended, are equal to or greater than 2.5% of such gross revenues of Parent and its Subsidiaries (or, solely for purposes of clauses (h), (i) and (j) of Article VII, equal to or greater than 10.0% of such gross revenues of Parent and its Subsidiaries) and (b) each Subsidiary that owns any Equity Interests of any Subsidiary that would be deemed a Significant Subsidiary under clause (a)(i) or (a)(ii) above; provided that, if at the end of any Test Period during the term of this Agreement, the combined aggregate amount of total assets (excluding intercompany assets) as of the last day of any fiscal quarter for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) or combined aggregate amount of gross revenues (net of payroll, taxes, benefits and other deductions permitted under GAAP and excluding intercompany gross revenues) for the Test Period most recently ended of all Subsidiaries that are not Significant Subsidiaries shall have exceeded 10.0% of the Total Assets of Parent and its Subsidiaries or 10.0% of such gross revenues of Parent and its Subsidiaries, in each case, for the Test Period most recently ended, then one or more of the Subsidiaries that are not Significant Subsidiaries shall be designated by Parent in writing to the Administrative Agent as a Significant Subsidiary until such excess has been eliminated (it being understood that no Subsidiary that is not wholly-owned or is otherwise an Excluded Subsidiary pursuant to the operation of clauses (b)-(i) of the definition thereof shall be designated a Significant Subsidiary pursuant to this proviso).

"Specified Acquisition Agreement Representations" means such of the representations and warranties made by, or with respect to, inContact and its Subsidiaries in the Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Parent (or its applicable Affiliates) has the right to terminate its (or their) obligations under the Acquisition Agreement or to decline to consummate the Acquisition as a result of a breach of any one or more of such representations and warranties in the Acquisition Agreement.

"Specified Permitted Acquisition Agreement Representations" means, with respect to any Permitted Acquisition or other acquisition or Investment permitted hereunder, such of the representations and warranties made by, or with respect to, the applicable entity to be acquired and its Subsidiaries in the applicable acquisition or investment agreement as are material to the interests of the Lenders, but only to the extent that Parent (or its applicable Affiliates) have the right to terminate its (or their) obligations under such agreement or to decline to consummate such transaction as a result of a breach of any one or more of such representations and warranties in such agreement.

"Specified Permitted Amount" means, as of any date, (a) the greater of (i) $150,000,000 and (ii) 50% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of such date less (b) the sum of, without duplication, (i) the aggregate outstanding principal amount of Indebtedness incurred under Section 6.01(n) as of such date and (ii) the aggregate amount of Investments by Parent and the Subsidiaries in Unrestricted Subsidiaries outstanding under Section 6.04(p) as of such date.

"Specified Representations" means the representations and warranties made in Sections 3.01 (as it relates solely to the Loan Parties), 3.02, 3.03(b) (as it relates to the entering into and the performance of the Loan Documents, the establishment of the Commitments, the incurrence of the Loans and granting of Liens hereunder), 3.09, 3.14, 3.16 (after giving effect to the second to last paragraph of Section 4.01), 3.17, 3.18 (with respect to use of proceeds of the Letters of Credit and Loans), 3.19 and 3.20.

"Specified Time" means 11:00 a.m., London time.

"Specified Transaction" means, with respect to any period, any Investment, acquisition, Disposition, incurrence, assumption or repayment of Indebtedness (including the incurrence of Incremental Term Facilities), Restricted Payment, designation of a Subsidiary as an Unrestricted Subsidiary or of an Unrestricted Subsidiary as a Subsidiary or other event that by the terms of this Agreement requires Pro Forma Compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

"Starter Basket" has the meaning set forth in the definition of the term "Available Amount".

"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 (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board) maintained by a member bank of the Federal Reserve System. Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency 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.

"Subordinated Indebtedness" of any Person means any Indebtedness of such Person that is contractually subordinated in right of payment to any other Indebtedness of such Person.

"Subsidiary" means, with respect to any Person (the "parent") at any date, (a) any Person 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 and (b) any other Person (i) of which Equity Interests representing more than 50% of the equity value 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 (ii) 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. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of Parent; provided, however, that Unrestricted Subsidiaries shall be deemed not to be Subsidiaries for any purpose of this Agreement or the other Loan Documents, unless otherwise specified in this Agreement.

"Subsidiary Designation" has the meaning set forth in Section 1.04(c).

"Supplemental Perfection Certificate" means a certificate substantially in the form of Exhibit G or any other form approved by the Administrative Agent.

"Swap" means any agreement, contract, or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Swap Obligation" means, with respect to any Loan Party, any obligation to pay or perform under any Swap.

"Swingline Commitment" means the obligation of the Swingline Lender to make Swingline Loans pursuant to Section 2.04 in an aggregate principal amount at any one time outstanding not to exceed $5,000,000.

"Swingline Exposure" means, at any time, the sum of the aggregate amount of all outstanding Swingline Loans at such time. The Swingline Exposure of any Revolving Lender at any time shall be the sum of, after giving effect to any repayments of Swingline Loans upon the borrowing of a Revolving Loan, (a) its Revolving Percentage of the total Swingline Exposure at such time related to Swingline Loans other than any Swingline Loans made by such Lender in its capacity as a Swingline Lender and (b) if such Lender shall be a Swingline Lender, the principal amount of all Swingline Loans made by such Lender outstanding at such time (to the extent that the other Revolving Lenders shall not have funded their participations in such Swingline Loans); provided that in the case of Section 2.01(b) and Section 2.04(a) when a Non-Funding Lender shall exist, the Swingline Exposure of any Revolving Lender shall be adjusted to give effect to any reallocation effected pursuant to Section 2.21(c).

"Swingline Lender" means JPMorgan Chase Bank, N.A. in its capacity as the lender of Swingline Loans.

"Swingline Loans" has the meaning set forth in Section 2.04.

"Swingline Participation Amount" has the meaning set forth in Section 2.05(c).

"Syndication Agent" means Royal Bank of Canada, in its capacity as syndication agent for the Facilities provided for herein.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Commitment" means an Initial Term Loan Commitment or an Incremental Term Commitment of any Series.

"Term Lender" means a Lender with a Term Commitment or an outstanding Term Loan.

"Term Loan" means an Initial Term Loan or an Incremental Term Loan of any Series.

"Term Maturity Date" means the date that is five years after the Closing Date.

"Test Period" means each period of four consecutive fiscal quarters of Parent for which financial statements are available.

"Total Assets" means, as of any date, the total assets of Parent and its Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of Parent and its Subsidiaries, determined on a Pro Forma Basis.

"Total First Lien Indebtedness" means, as of any date, the aggregate amount of Total Indebtedness as of such date that is secured by a Lien on any property or assets of Parent and the Subsidiaries that is not expressly subordinated or junior to the Liens securing the Obligations.

"Total Indebtedness" means, on any date, the aggregate principal amount of Indebtedness of Parent and the Subsidiaries outstanding as of such date, in the amount that would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP (but without giving effect to any election to value any Indebtedness at "fair value," as described in Section 1.04(a), or any other accounting principle that results in the amount of any such Indebtedness (other than zero coupon Indebtedness) as reflected on such balance sheet to be below the stated principal amount of such Indebtedness) consisting of indebtedness for borrowed money, drawn but unreimbursed obligations under letters of credit (and in the case of trade letters of credit, unreimbursed for more than three Business Days) and the principal portion of obligations in respect of Capital Leases.

"Total Net Leverage Ratio" means, on any date of determination, the ratio of (a) an amount equal to (x) Total Indebtedness as of the last day of the Test Period most recently ended on or prior to such date less (y) Unrestricted Cash of Parent and its Subsidiaries as of the last day of the Test Period most recently ended on or prior to such date in an amount not to exceed $100,000,000 in the aggregate, and with such Unrestricted Cash calculated net of the amount of any Taxes that would have been required to be paid if such Unrestricted Cash had been used to repay Indebtedness constituting Total Indebtedness (provided that if the aggregate amount of Unrestricted Cash of Parent and its Subsidiaries is in excess of $150,000,000 as of such date (prior to giving effect to any such netting), no such netting shall be required) to (b) Consolidated EBITDA for the Test Period most recently ended on or prior to such date.

"Total Revolving Commitments" means, at any time, the aggregate amount of the Revolving Commitments then in effect.

"Total Revolving Extensions of Credit" means, at any time, the aggregate amount of the Revolving Extensions of Credit of the Revolving Lenders outstanding at such time.

"Total Secured Indebtedness" means, as of any date, the aggregate amount of Total Indebtedness as of such date that is secured by a Lien on any property or assets of Parent and the Subsidiaries (but only, for the avoidance of doubt, to the extent so secured).

"Transaction Costs" means the (i) consideration in connection with the Acquisition, (ii) the fees, costs and expenses incurred in connection with the Transactions and (iii) the inContact Refinancing.

"Transactions" means, collectively, (a) the execution, delivery and performance by each Loan Party of the Loan Documents (including this Agreement) to which it is to be a party, (b) the creation and perfection of the security interests provided for in the Security Documents, (c) the consummation of the Acquisition, (d) the inContact Refinancing and (e) the payment of the Transaction Costs.

"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.

"Unrestricted Cash" means cash and Permitted Investments of Parent and its Subsidiaries which are not subject to any Liens (other than Permitted Encumbrances of the type described in clause (a) or (h) of the definition thereof and Liens permitted by Sections 6.02(a) or (k)).

"Unrestricted Subsidiary" means (a) any Subsidiary of Parent that is designated as an Unrestricted Subsidiary by Parent on the Closing Date or pursuant to Section 5.15 subsequent to the Closing Date and (b) any Subsidiary of an Unrestricted Subsidiary.

"U.S. Collateral Agreement" means the Collateral Agreement among the Borrower, the other Loan Parties and the Administrative Agent, substantially in the form of Exhibit C.

"U.S. Dollars" or "$" refers to lawful money of the United States of America.

"U.S. Person" means any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning set forth in Section 2.18(f)(ii)(B)(3).

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

"VAT" means the Israeli value added tax imposed pursuant to the Israel Value Added Tax Law of 1975 (including any successor law).

"Voluntary Prepayment Amount" means, as of any date, an amount equal to (a) the sum of (i) the aggregate principal amount of all optional prepayments of Term Loans and Incremental Equivalent Debt in the form of term loans made prior to such date (excluding prepayments made with the proceeds of long-term Indebtedness) and (ii) the aggregate principal amount all optional prepayments of Revolving Loans or Incremental Equivalent Debt in the form of revolving loans made prior to such date (excluding prepayments made with the proceeds of long-term Indebtedness), solely to the extent accompanied by an equivalent permanent reduction of Revolving Commitments or the revolving commitments under such Incremental Equivalent Debt, as applicable, less (b) the sum of (i) the aggregate amount of all Incremental Commitments extended prior to such date in reliance on the Voluntary Prepayment Amount and (ii) the aggregate principal amount of all Incremental Equivalent Debt incurred prior to such date in reliance on the Voluntary Prepayment Amount.

"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.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"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 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Class (e.g., a "Term Loan" or "Term Loan Borrowing") or by Type (e.g., a "Eurocurrency Loan" or "Eurocurrency Borrowing") or by Class and Type (e.g., a "Eurocurrency Term Loan" or "Eurocurrency Term Borrowing").

SECTION 1.03 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." The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all real and personal, tangible and intangible assets and properties, including cash, securities, accounts and contract rights. The word "law" shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders, writs and decrees, of all Governmental Authorities. Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document (including this Agreement and the other Loan Documents) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, extended, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, amendment and restatements, extensions, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, consolidated, replaced, interpreted, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) 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 and (e) 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. In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including," the words "to" and "until" each mean "to but excluding," and the word "through" means "to and including."

SECTION 1.04 Accounting Terms; GAAP; Pro Forma Calculations. (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature used herein shall be construed in accordance with GAAP as in effect from time to time; provided that (i) if the Borrower, by notice to the Administrative Agent, shall request an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent or the Required Lenders, by notice to the Borrower, shall 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 amended in accordance herewith and (ii) notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to (A) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159, The Fair Value Option for Financial Assets and Financial Liabilities), or any successor thereto (including pursuant to the Accounting Standards Codification), to value any Indebtedness of Parent or any Subsidiary at "fair value," as defined therein and (B) any treatment of Indebtedness relating to convertible or equity-linked securities under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) requiring the valuation of any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. For purposes of the foregoing, any change by Parent in its accounting principles and standards to adopt International Financial Reporting Standards, regardless of whether required by applicable laws and regulations, will be deemed a change in GAAP.

(b) Notwithstanding any change in GAAP after the Closing Date that would require obligations that would be classified and accounted for as an operating lease under GAAP as existing on the Closing Date to be classified and accounted for as capital leases or otherwise reflected on the consolidated balance sheet of Parent and its Subsidiaries (including its Unrestricted Subsidiaries), such obligations shall continue to be treated as operating leases for all purposes under this Agreement.

(c) For purposes of determining compliance with any test or covenant contained in this Agreement with respect to any period during which any Initiative occurs or during which any designation of any Subsidiary as an Unrestricted Subsidiary and any Unrestricted Subsidiary as a Subsidiary in accordance with Section 5.15 occurs (a "Subsidiary Designation"), or for purposes of determining whether any Initiative or Subsidiary Designation is permitted hereunder, Consolidated EBITDA, the First Lien Net Leverage Ratio, the Total Net Leverage Ratio and the Secured Net Leverage Ratio shall be calculated with respect to such period on a Pro Forma Basis, giving effect to such Initiative or Subsidiary Designation.

SECTION 1.05 Excluded Swap Obligations. Notwithstanding any provision of this Agreement or any other Loan Document, no Guarantee by any Loan Party under any Loan Document shall include a Guarantee of any Obligation that, as to such Loan Party, is an Excluded Swap Obligation and no Collateral provided by any Loan Party shall secure any Obligation that, as to such Loan Party, is an Excluded Swap Obligation. In the event that any payment is made by, or any collection is realized from, any Loan Party as to which any Obligations are Excluded Swap Obligations, or from any Collateral provided by such Loan Party, the proceeds thereof shall be applied to pay the Obligations of such Loan Party as otherwise provided herein without giving effect to such Excluded Swap Obligations and each reference in this Agreement or any other Loan Document to the ratable application of such amounts as among the Obligations or any specified portion of the Obligations that would otherwise include such Excluded Swap Obligations shall be deemed so to provide.

SECTION 1.06 Limited Condition Acquisitions. In connection with the incurrence of any Indebtedness or Liens or the making of any Investments, Restricted Payments, prepayments of Restricted Indebtedness, Dispositions or fundamental changes or the designation of any Subsidiaries or Unrestricted Subsidiaries, in each case, in connection with a Limited Condition Acquisition (any of the foregoing, an "LCA Action" and collectively, the "LCA Actions"), for purposes of determining compliance with any provision of this Agreement which requires that no Default or Event of Default has occurred, is continuing or would result from any such LCA Action or that the representations and warranties shall be true and correct (or true and correct in all material respects), as applicable, such condition shall, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Condition Acquisition, an "LCA Election"), be deemed satisfied, so long as no Default or Event of Default exists and the representations and warranties are true and correct (or true and correct in all material respects, as applicable) on the date the definitive agreements for such Limited Condition Acquisition are entered into (the "LCA Test Date"). For the avoidance of doubt, if the Borrower has exercised the LCA Election, and any Default or Event of Default occurs (including as a result of the representations and warranties not being true and correct) following the LCA Test Date and prior to the consummation of such Limited Condition Acquisition, any such Default or Event of Default shall be deemed to not have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Acquisition is permitted hereunder.

(a) In connection with any LCA Action, for purposes of:

(i) determining compliance with any provision of this Agreement which requires the calculation of the First Lien Net Leverage Ratio, the Total Net Leverage Ratio or the Secured Net Leverage Ratio; or

(ii) testing baskets set forth in this Agreement;

in each case, upon the LCA Election, the date of determination of whether any such action is permitted hereunder, shall be the LCA Test Date, and if, after giving effect to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) on a Pro Forma Basis as if they had occurred at the beginning of the most recent four consecutive fiscal quarters ending prior to the LCA Test Date for which consolidated financial statements of Parent are available, the Borrower could have taken such action on the relevant LCA Test Date in compliance with such ratio or basket, such ratio or basket shall be deemed to have been complied with. For the avoidance of doubt, if the Borrower has made an LCA Election and any of the ratios or baskets for which compliance was determined or tested as of the LCA Test Date are exceeded as a result of fluctuations in any such ratio or basket, including due to fluctuations in Consolidated EBITDA of Parent or the Person subject to such Limited Condition Acquisition, at or prior to the consummation of the relevant transaction or action, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket availability with respect to the incurrence of any Indebtedness or Liens or the making of any Investments, Restricted Payments, prepayments of Restricted Indebtedness, Dispositions or fundamental changes or the designation of any Subsidiaries or Unrestricted Subsidiaries, in each case on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated both (y) on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated and (z) assuming such Limited Condition Acquisition and other transactions in connection therewith have not been consummated.

ARTICLE II

THE CREDITS

SECTION 2.01 Commitments. (b) Subject to the terms and conditions set forth herein, each Term Lender agrees to make a Term Loan in U.S. Dollars to the Borrower on the Closing Date in a principal amount not exceeding its Initial Term Loan Commitment. Amounts repaid or prepaid in respect of Term Loans may not be reborrowed.

(b) Subject to the terms and conditions set forth herein, each Revolving Lender agrees to make revolving credit loans ("Revolving Loans") in U.S. Dollars to the Borrower from time to time during the Revolving Commitment Period in an aggregate principal amount at any one time outstanding which, when added (after giving effect to any application of proceeds of such Revolving Loans pursuant to Section 2.04) to the sum of, after giving effect to any repayments of Swingline Loans upon the borrowing of a Revolving Loan, (i) such Lender's Revolving Percentage of the L/C Obligations then outstanding and (ii) such Lender's Swingline Exposure then outstanding, does not exceed the amount of such Lender's Revolving Commitment; provided that on the Closing Date Revolving Loans shall be available in an aggregate amount not to exceed $25,000,000 and may be used solely (x) to finance a portion of the Transactions (including working capital and/or purchase price adjustments and the payment of Transaction Costs) and (y) for working capital purposes. During the Revolving Commitment Period the Borrower may use the Revolving Commitments by borrowing, prepaying the Revolving Loans in whole or in part, and reborrowing, all in accordance with the terms and conditions hereof.

SECTION 2.02 Loans and Borrowings. (c)(i) Each Term Loan shall be made as part of a Borrowing made by the Lenders ratably in accordance with their Term Commitments of the applicable Class. The failure of any Term Lender to make any Term Loan required to be made by it shall not relieve any other Term Lender of its obligations hereunder; provided that the Term Commitments of the Term Lenders are several and no Term Lender shall be responsible for any other Term Lender's failure to make Loans as required.

(ii) Each Revolving Loan shall be made as part of a Borrowing made by the Lenders ratably in accordance with their Revolving Commitments. The failure of any Revolving Lender to make any Revolving Loan required to be made by it shall not relieve any other Revolving Lender of its obligations hereunder; provided that the Revolving Commitments of the Revolving Lenders are several and no Revolving Lender shall be responsible for any other Revolving Lender's failure to make Loans as required.

(b) Subject to Section 2.15, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any 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 Eurocurrency Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided that a Eurocurrency Borrowing that results from a continuation of an outstanding Eurocurrency Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than $1,000,000 (provided that the Swingline Lender may request, on behalf of the Borrower, borrowings under the Revolving Commitments that are ABR Loans in other amounts pursuant to Section 2.05(a)). Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of 10 (or such greater number as may be agreed to by the Administrative Agent) Eurocurrency Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert to or continue, any Eurocurrency Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date applicable thereto.

SECTION 2.03 Requests for Borrowings. (d) To request a Borrowing (other than a Borrowing of Swingline Loans), the Borrower shall notify the Administrative Agent of such request by delivery of an executed written Borrowing Request in accordance with the notice provisions set forth in Section 9.01 (a) in the case of a Eurocurrency Borrowing, not later than 11:00 a.m., Local Time, three Business Days (or, in the case of the Term Loan Borrowing to be made on the Closing Date, such shorter period as may be agreed by the Administrative Agent) before the date of the proposed Borrowing (or such shorter period of time as may be agreed to by the Administrative Agent and the Lenders) or (b) in the case of an ABR Borrowing, not later than 11:00 a.m., Local Time, on the day of the proposed Borrowing (or such shorter period of time as may be agreed to by the Administrative Agent and the Lenders). Each such Borrowing Request shall be irrevocable, except that a Borrowing Request may be conditioned on the occurrence of any subsequent event (including a Permitted Acquisition or other Investment), in which case, such notice may be revoked by the Borrower (by written notice to the Administrative Agent on or prior to the date of such funding) if such event does not occur. Each such written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) whether the requested Borrowing is to be a Term Loan Borrowing, an Incremental Term Loan Borrowing of a particular Series or a Revolving Loan Borrowing;

(ii) the aggregate amount of such Borrowing;

(iii) the date of such Borrowing, which shall be a Business Day;

(iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;

(v) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period," and

(vi) the Applicable Funding Account.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency 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 2.03, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04 Swingline Commitments. (e) Subject to the terms and conditions set forth herein, from time to time during the Revolving Commitment Period, the Swingline Lender agrees to make a portion of the credit otherwise available to the Borrower under the Revolving Commitments by making swing line loans ("Swingline Loans") to the Borrower; provided that (i) the sum of (x) the Swingline Exposure of such Swingline Lender (in its capacity as a Revolving Lender), (y) the aggregate principal amount of outstanding Revolving Loans made by such Swingline Lender (in its capacity as a Revolving Lender) and (z) the L/C Exposure of such Swingline Lender (in its capacity as a Revolving Lender) shall not exceed its Revolving Commitment then in effect, (ii) the sum of the outstanding Swingline Loans shall not exceed the Swingline Commitment and (iii) the Borrower shall not request, and no Swingline Lender shall make, any Swingline Loan if, after giving effect to the making of such Swingline Loan, the aggregate amount of the Available Revolving Commitments would be less than zero. During the Revolving Commitment Period, the Borrower may use the Swingline Commitment by borrowing, repaying and reborrowing, all in accordance with the terms and conditions hereof. Swingline Loans shall be ABR Loans only.

(b) The Borrower shall repay to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Revolving Termination Date and five Business Days after such Swingline Loan is made; provided that on each date that a Revolving Loan is borrowed, the Borrower shall repay all Swingline Loans then outstanding and the proceeds of any such Revolving Loans shall be applied by the Administrative Agent to repay any Swingline Loans outstanding.

SECTION 2.05 Procedure for Swingline Borrowing; Refunding of Swingline Loans. (f) Whenever the Borrower desires that the Swingline Lender make Swingline Loans it shall give the Swingline Lender irrevocable telephonic notice confirmed promptly in writing (which telephonic notice must be received by the Swingline Lender not later than 1:00 p.m., Local Time, on the date of the proposed Borrowing), substantially in the form of Exhibit B-2 or any other form approved by the Swingline Lender, specifying (i) the amount to be borrowed and (ii) the requested date of Borrowing (which shall be a Business Day during the Revolving Commitment Period). Each borrowing under the Swingline Commitment shall be in an amount equal to $500,000 or a whole multiple of $100,000 in excess thereof. Not later than 3:00 p.m., Local Time, on the proposed Borrowing date specified in a notice in respect of Swingline Loans, the Swingline Lender shall make available to the Administrative Agent at the Funding Office an amount in immediately available funds equal to the requested Swingline Loan. The Administrative Agent shall make the proceeds of such Swingline Loan available to the Borrower on such Borrowing date by depositing such proceeds in the account of the Borrower with the Administrative Agent on such Borrowing date in immediately available funds.

(b) The Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of the Borrower (which hereby irrevocably directs the Swingline Lender to act on its behalf), on one Business Day's notice given by such Swingline Lender no later than 12:00 Noon, Local Time, request each Revolving Lender to make, and each Revolving Lender hereby agrees to make, a Revolving Loan, in an amount equal to such Revolving Lender's Revolving Percentage of the aggregate amount of the Swingline Loans (the "Refunded Swingline Loans") outstanding on the date of such notice, to repay the Swingline Lender. Each Revolving Lender shall make the amount of such Revolving Loan available to the Administrative Agent at the Funding Office in immediately available funds, not later than 10:00 a.m., Local Time, one Business Day after the date of such notice. The proceeds of such Revolving Loans shall be immediately made available by the Administrative Agent to the Swingline Lender for application by the Swingline Lender to the repayment of the Refunded Swingline Loans. The Borrower irrevocably authorizes the Swingline Lender to charge the Borrower's accounts with the Administrative Agent (up to the amount available in each such account) in order to immediately pay the amount of such Refunded Swingline Loans to the extent amounts received from the Revolving Lenders are not sufficient to repay in full such Refunded Swingline Loans.

(c) If prior to the time a Revolving Loan would have otherwise been made pursuant to Section 2.05(b), one of the events described in clause (h) or (i) of Article VII shall have occurred and be continuing with respect to the Borrower or if for any other reason, as determined by any Swingline Lender in its sole discretion, Revolving Loans may not be made as contemplated by Section 2.05(b), each Revolving Lender shall, on the date such Revolving Loan was to have been made pursuant to the notice referred to in Section 2.05(b), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to the Swingline Lender an amount (the "Swingline Participation Amount") equal to (i) such Revolving Lender's Revolving Percentage times (ii) the sum of the aggregate principal amount of Swingline Loans of the Swingline Lender then outstanding that were to have been repaid with such Revolving Loans.

(d) Whenever, at any time after the Swingline Lender has received from any Revolving Lender such Lender's Swingline Participation Amount, the Swingline Lender receives any payment on account of the Swingline Loans, the Swingline Lender will distribute to such Lender its ratable portion of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Lender's pro rata portion of such payment if such payment is not sufficient to pay the principal of and interest on all Swingline Loans then due); provided, however, that in the event that such payment received by the Swingline Lender is required to be returned, such Revolving Lender will return to the Swingline Lender any portion thereof previously distributed to it by the Swingline Lender.

(e) Each Revolving Lender's obligation to make the Loans referred to in Section 2.05(b) and to purchase participating interests pursuant to Section 2.05(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender or the Borrower may have against the Swingline Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Article IV, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other Revolving Lender or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

SECTION 2.06 Letters of Credit. (g) L/C Commitment. Subject to the terms and conditions hereof, each Issuing Lender, in reliance on the agreements of the other Revolving Lenders set forth in Section 2.06(d)(i), agrees to issue letters of credit ("Letters of Credit") for the account of Parent or any Subsidiary (including, to the extent not prohibited by Section 6.04, Unrestricted Subsidiaries) on any Business Day during the Revolving Commitment Period in such form as may be approved from time to time by such Issuing Lender; provided that such Issuing Lender shall have no obligation to issue any Letter of Credit if, after giving effect to such issuance, (i) the L/C Obligations would exceed the L/C Commitment or (ii) the aggregate amount of the Available Revolving Commitments would be less than zero. Each Letter of Credit shall (i) be denominated in U.S. Dollars and (ii) expire no later than the earlier of (x) the first anniversary of its date of issuance and (y) the date that is five Business Days prior to the Revolving Termination Date, provided that any Letter of Credit with a one-year term may provide for the renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (y) above). No Issuing Lender shall at any time be obligated to issue any Letter of Credit if such issuance would conflict with, or cause such Issuing Lender or any L/C Participant to exceed any limits imposed by, any applicable Requirement of Law.

(b) Procedure for Issuance of Letter of Credit. The Borrower may from time to time request that an Issuing Lender issue a Letter of Credit by delivering to such Issuing Lender at its address for notices specified herein an Application therefor, completed to the satisfaction of such Issuing Lender, and such other certificates, documents and other papers and information as such Issuing Lender may request. Upon receipt of any Application, the applicable Issuing Lender will process such Application and the certificates, documents and other papers and information delivered to it in connection therewith in accordance with its customary procedures and shall promptly issue the Letter of Credit requested thereby (but in no event shall such Issuing Lender be required to issue any Letter of Credit earlier than three Business Days after its receipt of the Application therefor and all such other certificates, documents and other papers and information relating thereto) by issuing the original of such Letter of Credit to the beneficiary thereof or as otherwise may be agreed to by such Issuing Lender and the Borrower. The applicable Issuing Lender shall furnish a copy of such Letter of Credit to the Borrower promptly following the issuance thereof. The applicable Issuing Lender shall promptly furnish to the Administrative Agent, which shall in turn promptly furnish to the Lenders, notice of the issuance of each Letter of Credit (including the amount thereof).

(c) Fees and Other Charges. (i) The Borrower will pay a fee on all outstanding Letters of Credit at a per annum rate equal to the Applicable Rate then in effect with respect to Eurocurrency Loans under the Revolving Facility on the face amount of each such Letter of Credit, shared ratably among the Revolving Lenders and payable quarterly in arrears on each Fee Payment Date after the issuance date. In addition, the Borrower shall pay to each Issuing Lender for its own account a fronting fee of 0.125% per annum on the undrawn and unexpired amount of each Letter of Credit, payable quarterly in arrears on each Fee Payment Date after the issuance date.

(ii) In addition to the foregoing fees, the Borrower shall pay or reimburse each Issuing Lender for such normal and customary costs and expenses as are incurred or charged by such Issuing Lender in issuing, negotiating, effecting payment under, amending or otherwise administering any Letter of Credit.

(d) L/C Participations. (ii) Each Issuing Lender irrevocably agrees to grant and hereby grants to each L/C Participant, and, to induce such Issuing Lender to issue Letters of Credit, each L/C Participant irrevocably agrees to accept and purchase and hereby accepts and purchases from such Issuing Lender, on the terms and conditions set forth below, for such L/C Participant's own account and risk an undivided interest equal to such L/C Participant's Revolving Percentage in such Issuing Lender's obligations and rights under and in respect of each Letter of Credit and the amount of each draft paid by such Issuing Lender thereunder. Each L/C Participant agrees with each such Issuing Lender that, if a draft is paid under any Letter of Credit for which such Issuing Lender is not reimbursed in full by the Borrower in accordance with the terms of this Agreement (or in the event that any reimbursement received by such Issuing Lender shall be required to be returned by it at any time), such L/C Participant shall pay to such Issuing Lender upon demand at such Issuing Lender's address for notices specified herein an amount equal to such L/C Participant's Revolving Percentage of the amount that is not so reimbursed (or is so returned). Each L/C Participant's obligation to pay such amount shall be absolute and unconditional and shall not be affected by any circumstance, including (i) any setoff, counterclaim, recoupment, defense or other right that such L/C Participant may have against such Issuing Lender, the Borrower or any other Person for any reason whatsoever, (ii) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Article IV, (iii) any adverse change in the condition (financial or otherwise) of the Borrower, (iv) any breach of this Agreement or any other Loan Document by the Borrower, any other Loan Party or any other L/C Participant or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(ii) If any amount required to be paid by any L/C Participant to an Issuing Lender pursuant to Section 2.06(d)(i) in respect of any unreimbursed portion of any payment made by such Issuing Lender under any Letter of Credit is paid to such Issuing Lender within three Business Days after the date such payment is due, such L/C Participant shall pay to such Issuing Lender on demand an amount equal to the product of (x) such amount, times (y) the daily average Federal Funds Effective Rate during the period from and including the date such payment is required to the date on which such payment is immediately available to such Issuing Lender, times (z) a fraction the numerator of which is the number of days that elapse during such period and the denominator of which is 360. If any such amount required to be paid by any L/C Participant pursuant to Section 2.06(d)(i) is not made available to the applicable Issuing Lender by such L/C Participant within three Business Days after the date such payment is due, such Issuing Lender shall be entitled to recover from such L/C Participant, on demand, such amount with interest thereon calculated from such due date at the rate per annum applicable to ABR Loans under the Revolving Facility. A certificate of any Issuing Lender submitted to any L/C Participant with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error.

(iii) Whenever, at any time after an Issuing Lender has made payment under any Letter of Credit and has received from any L/C Participant its pro rata share of such payment in accordance with Section 2.06(d)(i), such Issuing Lender receives any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of collateral applied thereto by such Issuing Lender), or any payment of interest on account thereof, such Issuing Lender will distribute to such L/C Participant its pro rata share thereof; provided, however, that in the event that any such payment received by such Issuing Lender shall be required to be returned by such Issuing Lender, such L/C Participant shall return to such Issuing Lender the portion thereof previously distributed by such Issuing Lender to it.

(e) Reimbursement Obligation of the Borrower. If any draft is paid under any Letter of Credit, the Borrower shall reimburse the applicable Issuing Lender for the amount of (i) the draft so paid and (ii) any taxes, fees, charges or other costs or expenses incurred by such Issuing Lender in connection with such payment, not later than 12:00 Noon, Local Time, on (x) the Business Day immediately following the day that the Borrower receives notice of such draft, if such notice is received on such day prior to 10:00 a.m., Local Time, or (y) if clause (x) above does not apply, two Business Days following the day that the Borrower receives such notice. Each such payment shall be made to the applicable Issuing Lender at its address for notices referred to herein in U.S. Dollars and in immediately available funds. Interest shall be payable on any such amounts from the date on which the relevant draft is paid until payment in full at the rate set forth in (A) until the Business Day next succeeding the date of the relevant notice, Section 2.14(a) and (B) thereafter, Section 2.14(c).

(f) Obligations Absolute. The Borrower's obligations under this Section 2.06 shall be absolute, unconditional and irrevocable under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment that the Borrower may have or have had against any Issuing Lender, any beneficiary of a Letter of Credit or any other Person. The Borrower also agrees with the Issuing Lenders that no Issuing Lenders shall be responsible for, and the Borrower's Reimbursement Obligations under Section 2.06(e) shall not be affected by, among other things, (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be invalid, fraudulent or forged in any respect or any statement therein being untrue or inaccurate in any respect, (iii) any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred or any claims whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee, (iv) payment by an Issuing Lender under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (v) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. No Issuing Lender shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or message or advice, however transmitted, in connection with any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of any Issuing Lender; provided that the foregoing shall not be construed to excuse any Issuing Lender 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 Lender'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 Lender (as finally determined by a court of competent jurisdiction), such Issuing Lender shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality 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, an Issuing Lender 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.

(g) Letter of Credit Payments. If any draft shall be presented for payment under any Letter of Credit, the applicable Issuing Lender shall promptly notify the Borrower of the date and amount thereof. The responsibility of any Issuing Lender to the Borrower in connection with any draft presented for payment under any Letter of Credit shall, in addition to any payment obligation expressly provided for in such Letter of Credit, be limited to determining that the documents (including each draft) delivered under such Letter of Credit in connection with such presentment are substantially in conformity with such Letter of Credit.

(h) Applications. To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Section 2.06, the provisions of this Section 2.06 shall apply.

(i) Replacement of an Issuing Lender. An Issuing Lender may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Lender and the successor Issuing Lender. The Administrative Agent shall notify the Revolving Lenders of any such replacement of the Issuing Lender. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Lender pursuant to Section 2.06(c). From and after the effective date of any such replacement, (i) the successor Issuing Lender shall have all the rights and obligations of the Issuing Lender under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Lender" shall be deemed to refer to such successor or to any previous Issuing Lender, or to such successor and all previous Issuing Lenders, as the context shall require. After the replacement of an Issuing Lender hereunder, the replaced Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued hereunder is in support of obligations of, or is for the account of, a Subsidiary (including, to the extent not prohibited by Section 6.04, Unrestricted Subsidiaries) of the Borrower, the Borrower or Parent shall be a co-applicant thereunder and jointly and severally liable to reimburse the L/C Obligations for any and all drawings under such Letter of Credit and to pay any and all other Obligations arising in respect of such Letter of Credit.

SECTION 2.07 Funding of Borrowings. (h) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds in U.S. Dollars by 2:00 p.m. (or in the case of the Loans to be made on the Closing Date, 9:00 a.m.), Local Time, to the Administrative Agent at the Funding Office. The Administrative Agent will make such Loans available to the Borrower by promptly remitting the amounts so received, in like funds, to the Applicable Funding Account.

(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 share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.07 and may, in reliance on such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share 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 a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to ABR Term Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.08 Interest Elections. (i) Each Borrowing (other than a Borrowing of Swingline Loans) initially shall be of the Type and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in the applicable Borrowing Request or as otherwise provided in Section 2.03. Thereafter, the Borrower may elect to convert such Borrowing to a Borrowing of a different Type or to continue such Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section 2.08. 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, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section 2.08, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower was requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election (it being understood and agreed that such an election may be made prior to the Closing Date). Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by delivery to the Administrative Agent of an executed written Interest Election Request in accordance with the notice provisions set forth in Section 9.01. Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(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 Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is to be a Eurocurrency 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 Eurocurrency 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.

(c) Promptly following receipt of an Interest Election Request in accordance with this Section 2.08, the Administrative Agent shall advise each Lender of the applicable Class of the details thereof and of such Lender's portion of each resulting Borrowing.

(d) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency 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 Eurocurrency Borrowing for an additional Interest Period of one month. Notwithstanding any contrary provision hereof, if an Event of Default under clause (h) or (i) of Article VII has occurred and is continuing with respect to Parent or the Borrower, or if any other Event of Default has occurred and is continuing and the Administrative Agent, at the request of a Majority in Interest of Lenders of any Class, has notified the Borrower of the election to give effect to this sentence on account of such other Event of Default, then, in each such case, so long as such Event of Default is continuing, (i) no outstanding Borrowing of such Class may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing of such Class shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09 Termination and Reduction of Commitments. (j) Unless previously terminated, (i) the Initial Term Loan Commitments shall automatically terminate on the Closing Date (upon funding of the Initial Term Loans) and (ii) the Revolving Commitments shall automatically terminate on the Revolving Termination Date.

(b) The Borrower may at any time terminate, or from time to time permanently reduce, the Commitments of any Class; provided that each partial reduction of the Commitments of any Class shall be in an amount that is an integral multiple of $1,000,000 and not less than $5,000,000; provided further, that no such termination or reduction of Revolving Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Loans and Swingline Loans made on the effective date thereof, the Revolving Extensions of Credit of any Revolving Lender would exceed its Revolving Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section 2.09 at least three Business Days prior to the effective date of such termination or reduction, specifying the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class of the contents thereof. Each notice delivered by the Borrower pursuant to this Section 2.09 shall be irrevocable. Any termination or reduction of the Commitments of any Class shall be permanent. A notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities being funded, the occurrence of a Specified Transaction or other contingent event, 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.

SECTION 2.10 Repayment of Loans; Evidence of Debt. (k) 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 Initial Term Loan of such Lender as provided in Section 2.11, (ii) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Incremental Term Loan of such Lender on the Maturity Date applicable to such Incremental Term Loans and (iii) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan of such Lender on the Revolving Termination Date.

(b) The records maintained by the Administrative Agent and the Lenders shall be prima facie evidence of the existence and amounts of the obligations of the Borrower in respect of Loans, interest and fees due or accrued hereunder; provided that the failure of the Administrative Agent or any Lender to maintain such records or any error therein shall not in any manner affect the obligation of the Borrower to pay any amounts due hereunder in accordance with the terms of this Agreement.

(c) Any Lender may request that Loans of any Class made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein (or to such payee and its registered assigns).

SECTION 2.11 Amortization of Term Loans. (l) The Borrower shall repay Initial Term Loan Borrowings on the last Business Day of each March, June, September and December, commencing on March 31, 2017 and ending with the last such Business Day to occur prior to the Term Maturity Date, in an aggregate principal amount for each such date equal to the percentage set forth below opposite the applicable date of the aggregate principal amount of the Initial Term Loan Borrowings outstanding on the Closing Date (as such amount shall be adjusted pursuant to paragraph (c) of this Section 2.11).

Repayment Date – Last Business Day of the Applicable Month	Repayment Percentage
March 2017	1.25%
June 2017	1.25%
September 2017	1.25%
December 2017	1.25%
March 2018	1.25%
June 2018	1.25%
September 2018	1.25%
December 2018	1.25%
March 2019	1.25%
June 2019	1.25%
September 2019	1.25%
December 2019	1.25%
March 2020	2.50%
June 2020	2.50%
September 2020	2.50%
December 2020	2.50%
March 2021	2.50%
June 2021	2.50%
September 2021	2.50%

(b) The Borrower shall repay Incremental Term Loans of any Series in such amounts and on such date or dates as shall be specified therefor in the Incremental Facility Amendment establishing the Incremental Term Commitments of such Series (as such amount shall be adjusted pursuant to paragraph (d) of this Section 2.11 or pursuant to such Incremental Facility Amendment).

(c) To the extent not previously paid, (i) all Initial Term Loans shall be due and payable on the Term Maturity Date and (ii) all Incremental Term Loans of any Series shall be due and payable on the applicable Incremental Term Maturity Date.

(d) Any optional prepayment of Term Loans of any Class pursuant to Section 2.12(a) shall be applied to reduce the subsequent scheduled repayments of the Term Loans of such Class to be made pursuant to this Section 2.11 as directed by the Borrower (and absent such direction, in direct order of maturity thereof) and may be applied to the Initial Term Loans or any Incremental Term Loans, in any case, as directed by the Borrower (and absent such direction, in direct order of maturity thereof). All mandatory prepayments of Term Loans pursuant to Section 2.12(b) shall be applied to reduce the subsequent scheduled repayments of the Term Loans to be made pursuant to this Section 2.11 to the scheduled installments in direct order of maturity.

SECTION 2.12 Prepayment of Loans. (m) The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part, subject to the requirements of this Section 2.12.

(b) In the event and on each occasion that any Prepayment Proceeds are received by or on behalf of Parent or any Subsidiary in respect of any Prepayment Event, the Borrower shall, not later than the fifth Business Day following the day such Prepayment Proceeds are received, prepay Term Loan Borrowings in an aggregate amount equal to 100% of the amount of such Prepayment Proceeds; provided that Parent may use a portion of such Prepayment Proceeds to prepay or repurchase Permitted First Priority Refinancing Indebtedness, Incremental Pari Passu Debt or Incremental Equivalent Debt secured on a pari passu basis with the Obligations to the extent any applicable credit agreement, indenture or other agreement governing such Permitted First Priority Refinancing Indebtedness, Incremental Pari Passu Debt or Incremental Equivalent Debt so requires, in each case in an amount not to exceed the product of (x) the amount of such Prepayment Proceeds and (y) a fraction, the numerator of which is the outstanding principal amount of such Permitted First Priority Refinancing Indebtedness, Incremental Pari Passu Debt or Incremental Equivalent Debt, as applicable, and the denominator of which is the sum of the outstanding principal amount of such Permitted First Priority Refinancing Indebtedness, Incremental Pari Passu Debt or Incremental Equivalent Debt, as applicable, and the outstanding principal amount of Term Loans; provided further that, in the case of any event described in clause (a) or (b) of the definition of the term "Prepayment Event," if Parent shall, prior to the date of the required prepayment, deliver to the Administrative Agent a certificate of a Financial Officer of Parent to the effect that Parent or the applicable Subsidiary intends to cause the Prepayment Proceeds from such event (or a portion thereof specified in such certificate) to be applied within 365 days after receipt of such Prepayment Proceeds to make an Investment in the business of Parent or the Subsidiaries permitted hereunder, then no prepayment shall be required pursuant to this paragraph in respect of the Prepayment Proceeds in respect of such event (or the portion of such Prepayment Proceeds specified in such certificate, if applicable) except to the extent of any such Prepayment Proceeds that have not been so applied by the end of such 365-day period (or within a period of 180 days thereafter if by the end of such initial 365-day period Parent or one or more Subsidiaries shall have entered into an agreement with a third party to consummate an Investment with such Prepayment Proceeds), at which time a prepayment shall be required in an amount equal to such Prepayment Proceeds that have not been so applied.

(c) Prior to any optional or mandatory prepayment of Borrowings under this Section 2.12, the Borrower shall, subject to the next sentence, specify the Borrowing or Borrowings to be prepaid in the notice of such prepayment delivered pursuant to paragraph (d) of this Section 2.12. In the event of any mandatory prepayment of Term Loans made at a time when Term Loans of more than one Class are outstanding, the Borrower shall select Term Loans to be prepaid so that the aggregate amount of such prepayment is allocated among the Term Loans pro rata based on the aggregate principal amounts of outstanding Borrowings of each such Class; provided that the amounts so allocable to Incremental Term Loans of any Series may be applied to other Term Loan Borrowings as provided in the applicable Incremental Facility Amendment.

(d) The Borrower shall notify the Administrative Agent by telephone (confirmed by hand delivery or facsimile) of any optional prepayment and, to the extent practicable, any mandatory prepayment hereunder (i) in the case of prepayment of a Eurocurrency Borrowing, not later than 1:00 p.m., Local Time, three Business Days before the date of prepayment, or (ii) in the case of prepayment of an ABR Borrowing, not later than 11:00 a.m., Local Time, on the Business Day of the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment; provided that a notice of optional prepayment of Loans pursuant to paragraph (a) of this Section 2.12 may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice of prepayment may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified date of prepayment) if such condition is not satisfied. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the applicable Class 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 2.02, except (i) as necessary to apply fully the required amount of a mandatory prepayment and (ii) partial prepayments of Swingline Loans shall be in an aggregate principal amount of $100,000 or a whole multiple thereof. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.14.

(e) Notwithstanding any other provisions of this Section 2.12, to the extent that any of or all the Prepayment Proceeds of any Disposition by Parent or any non-U.S. Subsidiary or of any casualty event from Parent or any non-U.S. Subsidiary either (A) is prohibited, restricted or delayed by applicable local law from being repatriated to the United States or (B) would, in the good faith judgment of Parent, result in a material adverse tax consequence to Parent or any of its Subsidiaries if applied to repay the Term Loans, in each case, the portion of such Prepayment Proceeds so affected will not be required to be applied to repay Term Loans at the times provided in Section 2.12(b). Instead, such amounts may be retained by Parent or the applicable Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to the United States (Parent hereby agreeing to promptly take, or to cause the applicable Subsidiary to promptly take, all actions reasonably required by the applicable local law to permit such repatriation as long as such repatriation does not create a material adverse tax consequence) or, in the good faith judgment of Parent, a material adverse tax consequence to Parent or any of its Subsidiaries would result if such Prepayment Proceeds are applied to repay the Term Loans, and once such repatriation of any of such affected Prepayment Proceeds is permitted under the applicable local law and, in the good faith judgment of Parent, no material adverse tax consequence to Parent or any of its Subsidiaries would result if such Prepayment Proceeds are applied to repay the Term Loans, such repatriation will be promptly effected and such Prepayment Proceeds will be promptly (and in any event not later than five Business Days) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.12 to the extent provided herein.

SECTION 2.13 Fees.

(a) 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.

(b) The Borrower agrees to pay to the Administrative Agent in U.S. Dollars for the account of each Revolving Lender a commitment fee for the period from and including the Closing Date to the last day of the Revolving Commitment Period, computed at the Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period for which payment is made, payable quarterly in arrears on each Fee Payment Date, commencing on the first such date to occur after the Closing 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).

(c) All fees payable hereunder shall be paid in U.S. Dollars on the dates due, in immediately available funds, to the Administrative Agent. Fees paid shall not be refundable under any circumstances.

SECTION 2.14 Interest. (n) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurocurrency 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, if any principal of or interest on any Loan or Reimbursement Obligation or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount 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, 2.00% per annum plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section 2.14, (ii) in the case of Reimbursement Obligations, 2.00% per annum plus the rate applicable to ABR Loans under the Revolving Facility or (iii) in the case of interest payable on any Loan or Reimbursement Obligation or any fee or other amount payable hereunder, 2.00% per annum plus the rate applicable to ABR Loans under the relevant Facility (or, in the case of any such other amounts that do not relate to a particular Facility, 2.00% per annum plus the rate applicable to ABR Loans under the Revolving Facility).

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan; provided that (i) interest accrued pursuant to paragraph (c) of this Section 2.14 shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than any Revolving Loan that is an ABR Loan and any Swingline Loan), 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 a Eurocurrency 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. All interest shall be payable in U.S. Dollars.

(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 and Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.15 Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurocurrency Borrowing of any Class:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means (including by means of an Interpolated Rate) do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by a Majority in Interest of the Lenders of such Class that the Adjusted LIBO Rate or the LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Eurocurrency Borrowing for such Interest Period;

then the Administrative Agent shall give notice (which may be telephonic) thereof to the Borrower and the Lenders of such Class as promptly as practicable and, until the Administrative Agent notifies the Borrower and the Lenders of such Class that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing of such Class to, or continuation of any Borrowing of such Class as, a Eurocurrency Borrowing shall be ineffective and (ii) any Borrowing Request for a Eurocurrency Borrowing of such Class denominated in U.S. Dollars shall be treated as a request for an ABR Borrowing.

SECTION 2.16 Increased Costs. (o) 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 or participated in by, any Lender or other Credit Party (except any such reserve requirement reflected in the Adjusted LIBO Rate);

(ii) impose on any Lender or other Credit Party or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurocurrency Loans made by such Lender or such other Credit Party; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of the term "Excluded Taxes" and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Credit Party or other Recipient of making, converting to, continuing or maintaining any Loan or of maintaining its obligation to make any such Loan or issuing or participating in Letters of Credit, or to increase the cost to such Lender or such other Credit Party, or to reduce the amount of any sum received or receivable by such Lender or such other Credit Party (whether of principal, interest or any other amount) then, from time to time upon request of such Lender, the Borrower will pay to such Lender or such other Credit Party such additional amount or amounts as will compensate such Lender or such other Credit Party for such additional costs or expenses incurred or reduction suffered.

(b) If any Lender determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has had or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or its obligations under any Letter of Credit, the Commitments of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy or liquidity), then, from time to time upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender or any other Credit Party setting forth the amount or amounts necessary to compensate such Lender or such other Credit Party or such Lender's or such other Credit Party's holding company, as the case may be, as specified in paragraph (a) or (b) of this Section 2.16 delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such other Credit Party, as the case may be, the amount shown as due on any such certificate within 30 Business Days after receipt thereof.

(d) Failure or delay on the part of any Lender or any other Credit Party to demand compensation pursuant to this Section 2.16 shall not constitute a waiver of such Lender's or such other Credit Party's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or such other Credit Party pursuant to this Section 2.16 for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender or such other Credit Party notifies the Borrower of the Change in Law giving rise to such increased costs or expenses or reductions and of such Lender's or such other Credit Party's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.17 Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurocurrency Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert or continue any Eurocurrency Loan on the date specified in any notice delivered pursuant hereto, (d) the failure to prepay any Eurocurrency Loan on a date specified therefor in any notice of prepayment given by the Borrower (whether or not such notice may be revoked in accordance with the terms hereof) or (e) the assignment of any Eurocurrency 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 2.20 or 9.02(c), then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. 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 that 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 (but not including the Applicable Rate applicable thereto), 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 that would accrue on such principal amount for such period at the interest rate such Lender would bid if it were to bid, at the commencement of such period, for deposits in U.S. Dollars of a comparable amount and period from other banks in the London interbank market. A certificate of any Lender delivered to the Borrower and setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.17 shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 30 Business Days after receipt thereof.

SECTION 2.18 Taxes. (p) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.18) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.18, such Loan Party 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.

(d) Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within 30 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.18) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. After a Recipient learns of the imposition of Indemnified Taxes or Other Taxes, such Recipient will act in good faith to promptly notify the loan Parties of its obligations hereunder. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 30 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(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 any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.18(f)(ii)(A), (ii)(B), (ii)(D) and (ii)(E)) 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) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), copies of executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, copies of executed originals of IRS Form W-8BEN or Form W-8BEN-E establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or Form W-8BEN-E establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) copies of executed originals of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit I-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) copies of executed originals of IRS Form W-8BEN or Form W-8BEN-E; or

(4) to the extent a Foreign Lender is not the beneficial owner, copies of executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit I-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), copies of 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 the withholding or deduction required to be made;

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the Closing Date; and

(E) each non-Israeli Lender shall deliver to the Company, upon reasonable request from time to time, executed originals of State of Israel Ministry of Finance form A/114 (or any form that will replace it from time to time). Each Israeli Lender shall deliver to the Company, upon reasonable request from time to time, a certificate of exemption from withholding tax issued by the Israeli Tax Authority.

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.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.18 (including by the payment of additional amounts pursuant to this Section 2.18), 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 2.18 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed, and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) For purposes of this Section 2.18, the term "Lender" includes each Issuing Lender and the Swingline Lender.

(i) Any and all payments by any Israeli Loan Party under any Loan Document is exclusive of VAT.

SECTION 2.19 Payments Generally; Pro Rata Treatment; Sharing of Setoffs. (q) (i) Each borrowing by the Borrower from the Lenders hereunder, each payment by the Borrower on account of any commitment fee and any reduction of the Commitments of the Lenders shall be made ratably among the Lenders in accordance with their respective Commitments of the applicable Class.

(ii) Each payment (including each prepayment) by the Borrower on account of principal and interest on the Term Loans of any Class shall be made pro rata according to the respective outstanding principal amounts of the Term Loans of such Class then held by the Term Lenders.

(iii) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Revolving Loans shall be made pro rata according to the respective outstanding amounts of the Revolving Loans then held by the Revolving Lenders.

(r) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees, or otherwise) in U.S. Dollars prior to 1:00 p.m., Local Time, on the date when due, in immediately available funds, without any setoff or counterclaim. All such payments in U.S. Dollars shall be made to the Administrative Agent at the Funding Office, except payments pursuant to Sections 2.16, 2.17, 2.18 and 9.03 shall be made directly to the Persons entitled thereto and payments pursuant to other Loan Documents shall be made to the Persons specified therein. Any amounts received after the time required to be received hereunder 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. The Administrative Agent shall distribute any such payment received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Each Lender at its option may change its branch office for purposes of such distribution of payments hereunder to any domestic or foreign branch of such Lender by providing written notice of such change to the Administrative Agent no later than the date that is three Business Days prior to the date of the applicable payment; provided that such Lender shall have delivered to the Administrative Agent and the Borrower properly completed and executed documentation as will permit such payments to be made to such branch office without deduction or withholding for any Tax in excess of the deduction or withholding for any Tax that would be imposed if the Lender did not change its branch office. If any payment under any Loan Document shall be due on a day that is not a Business Day, the date for payment 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 required to be made by any Loan Party under any Loan Document shall be made in U.S. Dollars except that any amounts payable under Section 2.16, 2.17 or 9.03 (or any indemnification or expense reimbursement provision of any other Loan Document) that are invoiced in a currency other than U.S. Dollars shall be payable in the currency so invoiced.

(c) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, 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 then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(d) Except to the extent that this Agreement provides for payments to be disproportionately allocated to or retained by a particular Lender or group of Lenders (including Lenders as opposed to Non-Funding Lenders or in connection with the payment of interest or fees at different rates and the repayment of principal amounts of Term Loans at different times as a result of Refinancing Agreements pursuant to Section 2.23), each Lender agrees that if it shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any Obligations owing to it resulting in such Lender receiving payment of a greater proportion of its Obligations than the proportion received by any other Lender, then the Lender receiving such greater proportion shall notify the Administrative Agent of such fact and shall purchase (for cash at face value) participations in the Obligations of other Lenders to the extent necessary so that the aggregate amount of all such payments shall be shared by the Lenders ratably in accordance with the aggregate Obligations owing to the Lenders (calculated prior to giving effect to such payment); 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), or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or Commitments to any Person that is an Eligible Assignee (as such term is defined from time to time). 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 setoff 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. Notwithstanding the foregoing, to the extent prohibited by applicable law as described in the definition of the term "Excluded Swap Obligation," no amounts received from, or set off with respect to, any Loan Party shall be applied to any Excluded Swap Obligations of such Loan Party.

(e) 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 hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it hereunder to or for the account of the Administrative Agent, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations in respect of such payment until all such unsatisfied obligations have been discharged or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender pursuant to Sections 2.7(a), 2.18(e), 2.19(e) and 9.03(c), in each case in such order as shall be determined by the Administrative Agent in its discretion.

SECTION 2.20 Mitigation Obligations; Replacement of Lenders. (s) If any Lender requests compensation under Section 2.16, or if any Loan Party is required to pay any Indemnified Taxes or additional amounts to any Lender or to any Governmental Authority for the account of any Lender pursuant to Section 2.18, then such Lender shall (at the request of the Borrower) use commercially reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the judgment of such Lender, such designation or assignment and delegation (i) would eliminate or reduce amounts payable pursuant to Section 2.16 or 2.18, 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 in any material respect 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 and delegation.

(b) If (i) any Lender requests compensation under Section 2.16, (ii) the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.18 or (iii) any Lender has become a Non-Funding Lender or Non-Consenting Lender, 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 9.04), all its interests, rights (other than its existing rights to payments pursuant to Section 2.16 or 2.18) and obligations under this Agreement and the other Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment and delegation); provided that (A) the Borrower shall have paid to the Administrative Agent the processing and recordation fee (if any) specified in Section 9.04(b)(ii)(C), (B) 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 (including, for all such Lenders other than Non-Funding Lenders, any amounts under Section 2.17) payable to it hereunder and under the other Loan Documents (if applicable, in each case only to the extent such amounts relate to its interest as a Lender of a particular Class) from the assignee (in the case of such principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (C) in the case of any such assignment and delegation resulting from a claim for compensation under Section 2.16 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments and (D) such assignment does not conflict with applicable law. A Lender shall not be required to make any such assignment and 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.

SECTION 2.21 Non-Funding Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Non-Funding Lender, then, until such time as such Lender is no longer a Non-Funding Lender, to the extent permitted by applicable law:

(a) Waivers and Amendments. The Commitments, Revolving Extensions of Credit and Loans of any such Non-Funding Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder or under any other Loan Document (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that any amendment, waiver or other modification requiring the consent of all Lenders or all Lenders affected thereby shall, except as otherwise provided in Section 9.02, require the consent of such Non-Funding Lender in accordance with the terms hereof.

(b) Commitment Fees. Fees shall cease to accrue on the unfunded portion of the Revolving Commitment of such Non-Funding Lender pursuant to Section 2.13(b).

(c) Swingline or L/C Exposure of Non-Funding Lender. If any Swingline Exposure or L/C Exposure exists at the time such Lender becomes, or while any Lender is, a Non-Funding Lender then:

(i) all or any part of the Swingline Exposure and L/C Exposure of such Non-Funding Lender (other than the portion of such Swingline Exposure referred to in clause (b) of the definition of such term) shall be reallocated among the Funding Lenders in accordance with their respective Revolving Percentages but only to the extent the sum of all Funding Lenders' Revolving Extensions of Credit plus such Non-Funding Lenders' Swingline Exposure and L/C Exposure does not exceed the total of all Funding Lenders' Revolving Commitments;

(ii) if the reallocation described in clause (i) 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 Swingline Exposure and (y) second, cash collateralize for the benefit of the Issuing Lenders only the Borrower's obligations corresponding to such Non-Funding Lender's L/C Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Article VII for so long as such L/C Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Non-Funding Lender's L/C Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Non-Funding Lender pursuant to Section 2.06(c)(i) with respect to such Non-Funding Lender's L/C Exposure during the period such Non-Funding Lender's L/C Exposure is cash collateralized;

(iv) if the L/C Exposure of the Funding Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.06(c)(i) shall be adjusted in accordance with such Funding Lenders' Revolving Percentages; and

(v) if all or any portion of such Non-Funding Lender's L/C Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Lender or any other Lender hereunder, all fees payable under Section 2.06(c)(i) with respect to such Non-Funding Lender's L/C Exposure shall be payable to such Issuing Lender until and to the extent that such L/C Exposure is reallocated and/or cash collateralized; and

So long as such Lender is a Non-Funding Lender, the Swingline Lender shall not be required to fund any Swingline Loan and no Issuing Lender shall be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Non-Funding Lender's then outstanding L/C Exposure will be 100% covered by the Revolving Commitments of the Funding Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.21(c), and participating interests in any newly made Swingline Loan or any newly issued or increased Letter of Credit shall be allocated among Funding Lenders in a manner consistent with Section 2.21(c)(i) (and such Non-Funding Lender shall not participate therein).

If (i) a Bankruptcy Event or a Bail-In Action with respect to a Lender Parent of any Lender shall occur following the date hereof and for so long as such event shall continue or (ii) the Swingline Lender or any Issuing Lender has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Swingline Lender shall not be required to fund any Swingline Loan and such Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless the Swingline Lender or such Issuing Lender, as the case may be, shall have entered into arrangements with the Borrower or such Lender, satisfactory to the Swingline Lender or such Issuing Lender, as the case may be, to defease any risk to it in respect of such Lender hereunder.

(d) Non-Funding Lender Cure. If the Borrower and the Administrative Agent (and, in the case of a Revolving Lender, the Swingline Lender and the Issuing Lenders) agree in writing that a Lender is no longer a Non-Funding 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 cease to be a Non-Funding Lender and, in the case of a Revolving Lender, the Swingline Exposure and L/C Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Commitment and on such date such Lender shall purchase at par such of the Revolving Loans of the other Lenders (but, for the avoidance of doubt, not the Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Revolving Loans in accordance with its Revolving Percentage. Notwithstanding anything to the contrary in the Loan Documents, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender having been a Defaulting Lender.

(e) No Claim. Notwithstanding anything to the contrary in the Loan Documents but without derogating from any rights that the Borrower has under this Agreement with respect to any Restricted Israeli Lender that is a Non-Funding Lender, any change of status from Lender to Restricted Israeli Lender will not give rise to any liability, obligation, claim or lawsuit whatsoever, of any party hereunder arising from such Lender having become a Restricted Israeli Lender.

SECTION 2.22 Incremental Facilities. (t) The Borrower may on one or more occasions after the Closing Date, by written notice to the Administrative Agent, request the establishment of Incremental Commitments; provided that the aggregate amount of the Incremental Commitments incurred under this Section 2.22 on any date shall not exceed the sum of (x) an amount equal to the Base Incremental Amount in effect on such date, (y) an amount subject to the Maximum Incremental Amount as of such date and (z) an amount equal to the Voluntary Prepayment Amount as of such date (it being understood that (A) the Borrower shall be deemed to have used amounts under clause (y) above prior to utilization of amounts under clause (x) or (z) above and (B) the proceeds from any such incurrence under such clauses may be utilized in a single transaction by first calculating the incurrence under clause (y) above and then calculating the incurrence under clauses (x) and/or (z) above). Each such notice shall specify (A) whether the Borrower is requesting Incremental Term Commitments or Incremental Revolving Commitments, (B) the date on which the Borrower proposes that the Incremental Commitments shall be effective, which shall be a date not less than 5 Business Days (or such shorter period as may be agreed to by the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent and (C) the amount of the Incremental Commitments being requested (it being agreed that (x) any Lender approached to provide any Incremental Commitments may elect or decline, in its sole discretion, to provide such Incremental Commitments and (y) any Person that the Borrower proposes to become an Incremental Lender, if such Person is not then a Lender, must be an Eligible Assignee).

(b) The terms and conditions of any Incremental Term Facility and the Incremental Term Loans to be made thereunder shall be, except as otherwise set forth herein or in the applicable Incremental Facility Amendment, substantially consistent to those of the Term Commitments and the Term Loans and, to the extent such terms and conditions are not substantially consistent with the terms and conditions applicable to the Term Commitments and the Term Loans, such terms and conditions shall not be more favorable, taken as a whole, to the Incremental Term Lenders providing such Incremental Term Facility than the terms of the existing Term Commitments and the Term Loans, as applicable (other than with respect to terms and conditions applicable only after the Maturity Date); provided that (i) the upfront fees, interest rates and amortization schedule applicable to any Incremental Term Facility and Incremental Term Loans shall be determined by the Borrower and the Incremental Term Lenders providing the relevant Incremental Term Commitments, (ii) except in the case of an Incremental Term Facility effected as an increase to an existing Class of Term Loans, the weighted average life to maturity of any Incremental Term Loans shall be no shorter than the remaining weighted average life to maturity of the Initial Terms Loans (other than as required to make such Incremental Term Facility fungible with the Initial Term Facility or any other existing Incremental Term Facility), (iii) no Incremental Term Maturity Date shall be earlier than the Term Maturity Date and (iv) any Incremental Term Facility, for purposes of prepayments (either mandatory or optional), shall be treated substantially the same as (and in any event no more favorably than) the Initial Term Loans. Any Incremental Term Commitments established pursuant to an Incremental Facility Amendment that have identical terms and conditions, and any Incremental Term Loans made thereunder, shall be designated as a separate series (each a "Series") of Incremental Term Commitments and Incremental Term Loans for all purposes of this Agreement. Any Incremental Revolving Commitments established pursuant to an Incremental Facility Amendment shall have substantially the same terms as and be deemed to be Revolving Commitments for all purposes of this Agreement. Each Incremental Facility and all extensions of credit thereunder (i) shall be secured by the same Collateral securing the other Loan Document Obligations on a pari passu basis with the Liens on the Collateral securing the other Loan Document Obligations, (ii) shall not be secured by any property or assets of Parent or any of the Subsidiaries other than the Collateral (or property or assets that substantially concurrently become Collateral), unless otherwise permitted by this Agreement, (iii) shall be Guaranteed by the same Loan Parties that Guarantee the other Loan Document Obligations and (iv) shall not be Guaranteed by any Persons other than the Loan Parties, unless otherwise permitted by this Agreement.

(c) The Incremental Term Commitments and Incremental Term Facilities relating thereto and the Incremental Revolving Commitments shall be effected pursuant to one or more Incremental Facility Amendments executed and delivered by the Borrower, each Incremental Lender providing such Incremental Commitments and the Administrative Agent; provided that no Incremental Commitments shall become effective unless (i) no Event of Default shall have occurred and be continuing on the date of effectiveness thereof, both immediately prior to and immediately after giving effect to such Incremental Commitments (and assuming that the full amount of such Incremental Commitments shall have been funded as Loans on such date); provided that in case of any Incremental Acquisition Term Facility if agreed by all applicable Incremental Term Lenders, the foregoing shall be satisfied if no Event of Default shall have occurred and be continuing on the date of execution of the applicable acquisition or investment documentation, in each case determined after giving effect to such Incremental Commitments (and assuming that the full amount of such Incremental Commitments shall have been funded as Loans on the applicable date), (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents (or, in the case of any Incremental Acquisition Term Facility if agreed by all applicable Incremental Term Lenders, the Specified Representations and the Specified Permitted Acquisition Agreement Representations) shall be true and correct (A) in the case of such representations and warranties qualified as to materiality or Material Adverse Effect, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that expressly relates to a prior date, in which case such representation and warranty shall be so true and correct on and as of such prior date, (iii) Parent shall be in compliance on a Pro Forma Basis with the financial maintenance covenant set forth in Section 6.13, (iv) the Borrower shall make any payments required to be made pursuant to Section 2.17 in connection with such Incremental Commitments and the related transactions under this Section 2.22 and (v) the Borrower shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and, other than in connection with a Limited Condition Acquisition, consents and approvals (including additional IIA Approvals if required) and other documents as shall be requested by the Administrative Agent in connection with any such transaction. Each Incremental Facility Amendment may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section 2.22.

(d) Upon the effectiveness of an Incremental Commitment of any Incremental Lender, such Incremental Lender shall be deemed to be a "Lender" (and a Lender in respect of Commitments and Loans of the applicable Class) hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders (or Lenders in respect of Commitments and Loans of the applicable Class) hereunder and under the other Loan Documents.

(e) Subject to the terms and conditions set forth herein and in the applicable Incremental Facility Amendment, each Lender holding an Incremental Term Commitment of any Series shall make an Incremental Term Loan to the Borrower in an amount equal to such Incremental Term Commitment on the date specified in such Incremental Facility Amendment.

(f) On the date of effectiveness of any Incremental Revolving Commitments, each Revolving Lender shall assign to each Incremental Revolving Lender holding such Incremental Revolving Commitment, and each such Incremental Revolving Lender shall purchase from each Revolving Lender, at the principal amount thereof (together with accrued interest), such interests in the Revolving Loans and participations in Letters of Credit and Swingline Loans outstanding on such date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans and participations in Letters of Credit and Swingline Loans will be held by all of the Revolving Lenders (including such Incremental Revolving Lenders) ratably in accordance with their Revolving Percentages after giving effect to the effectiveness of such Incremental Revolving Commitments. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(g) The Administrative Agent shall notify the Lenders promptly upon receipt by the Administrative Agent of any notice from the Borrower referred to in Section 2.22(a) and of the effectiveness of any Incremental Commitments in each case advising the Lenders of the details thereof.

SECTION 2.23 Refinancing Facilities. (u) The Borrower may, on one or more occasions after the Closing Date, by written notice to the Administrative Agent and with the consent of the Borrower, the applicable Refinancing Lenders and, to the extent that the rights, duties or privileges of the Administrative Agent, the Issuing Lenders or the Swingline Lender are affected, the Administrative Agent, the Issuing Lenders or the Swingline Lender, respectively (such consent, in each case, not to be unreasonably withheld or delayed), request the establishment hereunder of one or more additional Classes of (i) term loan commitments (the "Refinancing Term Loan Commitments") pursuant to which each Person providing such a commitment (a "Refinancing Term Lender") will make term loans to the Borrower (the "Refinancing Term Loans") and (ii) revolving commitments (the "Refinancing Revolving Commitments;" together with Refinancing Term Loan Commitments, the "Refinancing Commitments") pursuant to which each Person providing such a commitment (a "Refinancing Revolving Lender") will provide revolving commitments to the Borrower; provided that each Refinancing Lender shall be an Eligible Assignee and shall otherwise be reasonably acceptable to the Administrative Agent to the extent that the Administrative Agent's consent would be required in connection with an assignment to such Refinancing Lender of a Term Loan or a Revolving Commitment, as applicable, pursuant to Section 9.04.

(b) The Refinancing Commitments shall be effected pursuant to one or more Refinancing Facility Agreements executed and delivered by the Borrower, each Refinancing Lender providing the applicable Refinancing Commitments and the Administrative Agent; provided that no Refinancing Commitments shall become effective unless (i) no Event of Default shall have occurred and be continuing on the date of effectiveness thereof, (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (A) in the case of the representations and warranties qualified as to materiality or Material Adverse Effect, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that specifically relates to an earlier date, in which case such representation and warranty shall be so true and correct on and as of such earlier date, (iii) the Borrower shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates, consent and approvals (including additional IIA Approvals if required) and other documents as shall reasonably be requested by the applicable Refinancing Lender in connection with any such transaction, (iv) with respect to Refinancing Term Loan Commitments, substantially concurrently with the effectiveness thereof, the Borrower shall obtain Refinancing Term Loans thereunder and shall repay or prepay then outstanding Term Borrowings of one or more Classes in an aggregate principal amount equal to the aggregate amount of such Refinancing Term Loan Commitments; provided that the principal amount of such Refinancing Term Loans shall not exceed the amount of the Term Borrowings so refinanced (plus the aggregate amount of accrued and unpaid interest with respect to such outstanding Term Borrowings, fees, expenses, commissions, underwriting discounts and premiums payable in connection therewith) and (v) with respect to Refinancing Revolving Commitments, substantially concurrently with the effectiveness thereof, the Borrower shall terminate an equivalent amount of Revolving Commitments and shall, to the extent necessary, repay or prepay then outstanding Revolving Borrowings in an aggregate principal amount such that after giving effect to such prepayment, the Revolving Lenders and the Refinancing Revolving Lenders hold outstanding Loans ratably in accordance with the outstanding Revolving Commitments and the outstanding Refinancing Revolving Commitments; provided further that (x) at no time shall there be more than three Classes of revolving Commitments hereunder unless otherwise agreed by the Administrative Agent and (y) in the case of any Refinancing Commitments to be provided in connection with an LCA Action, at the sole option of the Borrower, the conditions in clauses (i) and/or (ii) above may be tested at the time that the definitive agreement with respect to such LCA Action is entered into and the consents, approvals and other documents referred to in clause (iii) may be provided after the Refinancing Commitments have become effective, in each case so long as agreed to by the lenders providing such Refinancing Commitments (but without the consent of any existing Lenders or the Administrative Agent). With respect to any prepayment of Term Loans in accordance with clause (iv) above, the Borrower shall determine the amount of such prepayments allocated to each Class of outstanding Term Loans, and any such prepayment of Term Borrowings of any Class shall be applied to reduce the subsequent scheduled repayments of Term Borrowings of such Class to be made pursuant to Section 2.11(a) as directed by the Borrower.

(c) The Refinancing Facility Agreement shall set forth, with respect to the Refinancing Commitments established thereby and the Refinancing Loans and other extensions of credit to be made thereunder, to the extent applicable, the following terms thereof: (i) the designation of such Refinancing Commitments and Refinancing Loans as a new "Class" for all purposes hereof (provided that with the consent of the Administrative Agent, any Refinancing Commitments and Refinancing Loans may be treated as a single "Class" with any then-outstanding existing Commitments or Loans), (ii) the stated termination and maturity dates applicable to the Refinancing Commitments or Refinancing Loans of such Class, provided that (A) such stated termination and maturity dates shall not be earlier than the Maturity Date applicable to the Class of Loans or Revolving Commitments, as applicable, so refinanced and (B) any Refinancing Term Loans shall not have a weighted average life to maturity shorter than the Class of Term Loans so refinanced, (iii) in the case of any Refinancing Term Loans, any amortization applicable thereto and the effect thereon of any prepayment of such Refinancing Term Loans, (iv) the interest rate or rates applicable to the Refinancing Loans of such Class, (v) the fees applicable to the Refinancing Commitments or Refinancing Loans of such Class, (vi) in the case of any Refinancing Term Loans, any original issue discount or upfront fees applicable thereto and in the case of any Refinancing Revolving Commitments, any upfront fees applicable thereto, (vii) the initial Interest Period or Interest Periods applicable to Refinancing Loans of such Class, (viii) any voluntary or mandatory commitment reduction or prepayment requirements applicable to Refinancing Commitments or Refinancing Loans of such Class (which prepayment requirements, in the case of any Refinancing Term Loans, may provide that such Refinancing Term Loans may participate in any mandatory prepayment on a pro rata basis with any Class of existing Term Loans, but may not provide for prepayment requirements that are more favorable to the Lenders holding such Refinancing Term Loans than to the Lenders holding such Class of Term Loans) and any restrictions on the voluntary or mandatory reductions or prepayments of Refinancing Commitments or Refinancing Loans of such Class and (ix) any financial maintenance covenant with which Parent shall be required to comply (provided that if any Refinancing Term Loans or Refinancing Revolving Commitments, as applicable, have a financial maintenance covenant at any time prior to the Maturity Date of the Loans or Commitments being refinanced, such financial maintenance covenant shall not be more restrictive with respect to Parent and its Subsidiaries than (or in addition to) the financial maintenance covenant set forth in Section 6.13 (unless such financial maintenance covenant is also added to this Agreement for the benefit of all Lenders)). Except as contemplated by the preceding sentence, the terms of the Refinancing Term Loan Commitments and Refinancing Term Loans or the Refinancing Revolving Commitments and Refinancing Revolving Loans, as applicable, shall be substantially the same as the terms of the existing Term Commitments and the existing Term Loans or the existing Revolving Commitments and the existing Revolving Loans, as applicable, and in any event no more restrictive, taken as a whole, with respect to Parent or any Subsidiary than those set forth in the Loan Documents with respect to the existing Term Commitments and the existing Term Loans or the existing Revolving Commitments and the existing Revolving Loans, as applicable (other than covenants or other provisions applicable only to periods after the Maturity Date of the Loans and Commitments being refinanced by such Refinancing Commitments and Refinancing Loans). With the consent of the Issuing Lenders or the Swingline Lender, as applicable, any Refinancing Facility Agreement may provide for the issuance of Letters of Credit for the account of Parent or its Subsidiaries, or the provision to the Borrower of Swingline Loans, pursuant to any Revolving Commitments established thereby, in each case on terms substantially equivalent to the terms applicable to Letters of Credit and Swingline Loans under the Revolving Commitments. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Facility Agreement. Each Refinancing Facility Agreement may, without the consent of any Lender other than the applicable Refinancing Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section 2.23, including any amendments necessary to treat the applicable Refinancing Commitments and Refinancing Loans as a new "Class" of loans and/or commitments hereunder; provided that as between the Revolving Commitments and Refinancing Revolving Commitments, all Borrowings, all prepayments of Loans and all reductions of Commitments shall continue to be made on a ratable basis among the Lenders with Revolving Commitments and Refinancing Revolving Commitments, based on the relative amounts of their Commitments; provided further that the allocation of the participation exposure with respect to Swingline Loans and Letters of Credit as between the Refinancing Revolving Commitments and the remaining Revolving Commitments shall be made on a ratable basis in accordance with the relative amounts thereof (if any) until the Maturity Date in respect of the earlier maturing Commitments (it being understood that no reallocation of such exposure to later maturing Commitments shall occur on such Maturity Date if such reallocation would cause the Revolving Extensions of Credit of any Lender to exceed its applicable Commitment). The Administrative Agent and the Lenders hereby acknowledge that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement are not intended to apply to the transactions effected pursuant to this Section 2.23. This Section 2.23 shall supersede any provisions in Section 2.19 or Section 9.02 to the contrary.

SECTION 2.24 Loan Modification Offers. (v) The Borrower may on one or more occasions after the Closing Date, by written notice to the Administrative Agent, make one or more offers (each, a "Loan Modification Offer") to all (and not fewer than all) the Lenders of one or more Classes (each Class subject to such a Loan Modification Offer, an "Affected Class") to make one or more Permitted Amendments pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Borrower. Such notice shall set forth (i) the terms and conditions of the requested Loan Modification Offer and (ii) the date on which such Loan Modification Offer is requested to become effective. Permitted Amendments shall become effective only with respect to the Loans and Commitments of the Lenders of the Affected Class that accept the applicable Loan Modification Offer (such Lenders, the "Accepting Lenders") and, in the case of any Accepting Lender, only with respect to such Lender's Loans and Commitments of such Affected Class as to which such Lender's acceptance has been made. With respect to all Permitted Amendments consummated by the Borrower pursuant to this Section 2.24, (i) such Permitted Amendments shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.12 and (ii) any Loan Modification Offer, unless contemplating a Maturity Date already in effect hereunder pursuant to a previously consummated Permitted Amendment, must be in a minimum amount of $25,000,000 (or such lesser amount as may be approved by the Administrative Agent in its reasonable discretion); provided that the Borrower may at their election specify as a condition (a "Minimum Extension Condition") to consummating any such Permitted Amendment that a minimum amount (to be determined and specified in the relevant Loan Modification Offer in the Borrower's sole discretion and which may be waived by the Borrower) of Commitments or Loans of any or all Affected Classes be extended. If the aggregate principal amount of Commitments or Loans of any Affected Class in respect of which Lenders shall have accepted the relevant Loan Modification Offer shall exceed the maximum aggregate principal amount of Commitments or Loans of such Affected Class offered to be extended by the Borrower pursuant to such Loan Modification Offer, then the Commitments and Loans of such Lenders shall be extended ratably up to such maximum amount based on the relative principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Loan Modification Offer.

(b) A Permitted Amendment shall be effected pursuant to a Loan Modification Agreement executed and delivered by the Borrower, each Accepting Lender and the Administrative Agent; provided that in the case of any Permitted Amendment relating to the Revolving Commitments and affecting the rights, duties or privileges of the Issuing Lenders or the Swingline Lender, each Issuing Lender and the Swingline Lender, respectively, shall have approved such Permitted Amendment; provided that no Permitted Amendment shall become effective unless (i) no Event of Default shall have occurred and be continuing on the date of effectiveness thereof, (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct (A) in the case of the representations and warranties qualified as to materiality or Material Adverse Effect, in all respects and (B) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that specifically relates to an earlier date, in which case such representation and warranty shall be so true and correct on and as of such earlier date, (iii) the Borrower shall have delivered, or agreed to deliver by a date following the effectiveness of such Permitted Amendment reasonably acceptable to the Administrative Agent, to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents (including reaffirmation agreements, supplements and/or amendments to Mortgages or other Security Documents, in each case to the extent applicable) as shall reasonably be requested by the Administrative Agent in connection therewith and (iv) any applicable Minimum Extension Condition shall be satisfied (unless waived by the Borrower). The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Loan Modification Agreement. Each Loan Modification Agreement may, without the consent of any Lender other than the applicable Accepting Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent, to give effect to the provisions of this Section 2.24, including any amendments necessary to treat the applicable Loans and/or Commitments of the Accepting Lenders as a new Class of loans and/or commitments hereunder (and the Lenders hereby irrevocably authorize the Administrative Agent to enter into any such amendments); provided that all Borrowings, all prepayments of Loans and all reductions of Commitments shall continue to be made on a ratable basis among all Lenders, based on the relative amounts of their Commitments (i.e., both extended and non-extended), until the repayment of the Loans attributable to the non-extended Commitments (and the termination of the non-extended Commitments) on the relevant Maturity Date; provided further that in the case of any Loan Modification Offer relating to Revolving Commitments or Revolving Loans, the allocation of the participation exposure with respect to Swingline Loans and Letters of Credit as between the commitments extended hereunder and the remaining Revolving Commitments shall be made on a ratable basis as between such extended Commitments (if any) and the remaining Revolving Commitments until the Maturity Date in respect of the non-extended Commitments (it being understood that no reallocation of such exposure to extended Commitments shall occur on such Maturity Date if such reallocation would cause the Revolving Extensions of Credit of any Lender to exceed its extended Commitments); provided further that at no time shall there be more than three Classes of revolving Commitments hereunder unless otherwise agreed by the Administrative Agent. The Administrative Agent and the Lenders hereby acknowledge that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement are not intended to apply to the transactions effected pursuant to this Section 2.24. This Section 2.24 shall supersede any provisions in Section 2.19 or Section 9.02 to the contrary.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Parent and the Borrower represent and warrant to the Lenders that:

SECTION 3.01 Organization; Powers. Parent and each Subsidiary (a) is duly organized, validly existing and, to the extent that such concept is applicable in the relevant jurisdiction, in good standing under the laws of the jurisdiction of its organization, (b) has all requisite power and authority, and the legal right (i) to carry on its business as now conducted and as proposed to be conducted and (ii) to execute, deliver and perform its obligations under each Loan Document (with respect to each Loan Party) to which it is a party and to effect the Transactions and (c) is qualified to do business in, and, to the extent that such concept is applicable in the relevant jurisdiction, is in good standing in every jurisdiction where such qualification is required, except, in the case of clauses (b)(i) and (c), where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.02 Authorization; Enforceability. The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party, and the consummation by each Loan Party of the Transactions to which it is a party, has been duly authorized by all necessary corporate or other organizational action. This Agreement has been duly executed and delivered by Parent and the Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation Parent, the Borrower or such other Loan Party, as applicable, enforceable against such Person 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 3.03 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) as contemplated by the definition of the term "Collateral and Guarantee Requirement," (ii) such as have been obtained or made and are in full force and effect and (iii) filings necessary to perfect Liens created under the Loan Documents, (b) will not violate any Requirement of Law applicable to Parent or any Subsidiary, (c) will not violate or result (alone or with notice or lapse of time or both) in a default under any indenture or agreement governing any Indebtedness, any material agreement or any other material instrument binding upon Parent or any Subsidiary or their respective assets, or give rise to a right thereunder to require any payment, repurchase or redemption to be made by Parent or any Subsidiary or give rise to a right of, or result in, termination, cancelation or acceleration of any obligation thereunder, except, in the case of clauses (a) – (c), to the extent any such violations, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect and (d) will not result in the creation or imposition of any Lien on any asset now owned or hereafter acquired by Parent or any Subsidiary, except Liens permitted under the Loan Documents.

SECTION 3.04 Financial Condition; No Material Adverse Change. (w) Parent has heretofore furnished to the Lenders (i) (x) the audited consolidated balance sheets of Parent and its Subsidiaries on a consolidated basis, and related statements of income, changes in equity and cash flows of Parent and its Subsidiaries on a consolidated basis for the periods ended December 31, 2013, December 31, 2014 and December 31, 2015, audited by and accompanied by the opinion of Kost Forer Gabbay & Kasierer, independent registered public accounting firm, and the related unaudited consolidating financial statements and (y) unaudited consolidated and consolidating balance sheets and related statements of income, changes in equity and cash flows of Parent and its Subsidiaries for the fiscal quarters ended March 31, 2016 and June 30, 2016 (the financial statements set forth in this clause (a)(i)(x) and (y), the "Parent Required Financials") and (ii) (x) the audited consolidated balance sheets of inContact and its Subsidiaries and related statements of income, changes in equity and cash flows of inContact and its Subsidiaries for the periods ended December 31, 2013, December 31, 2014 and December 31, 2015, audited by and accompanied by the opinion of Deloitte & Touche LLP, independent registered public accounting firm, and the related unaudited consolidating financial statements and (y) unaudited consolidated and consolidating balance sheets and related statements of income, changes in equity and cash flows of the inContact and its Subsidiaries for the fiscal quarters ended March 31, 2016 and June 30, 2016 (the financial statements set forth in this clause (a)(ii)(x) and (y), the "inContact Required Financials," and together with Parent Required Financials, the "Required Financials"). The Required Financials present fairly, in all material respects, the financial position, results of operations and cash flows of Parent and its Subsidiaries and inContact and its Subsidiaries, respectively, as of such date and for such period in conformity with GAAP, subject, with respect to any quarterly financial statements, to the absence of footnotes and to normal year-end audit adjustments and, in respect of the inContact Required Financials, subject to the knowledge Parent based on the representations in the Acquisition Agreement. Each reference in this Section 3.04(a) to a "Subsidiary" shall include any Unrestricted Subsidiary.

(b) As of the Closing Date and except as disclosed by Parent in reports filed with or furnished to the SEC prior to the Closing Date (it being understood the preceding shall not apply to disclosure set forth in risk factors, forward looking statements and other similar prospective statements contained therein), since December 31, 2015 there has been no event or condition that has resulted, or would reasonably be expected to result, in a Material Adverse Effect.

SECTION 3.05 Properties. (x) Each of Parent and each Subsidiary has good title to, or valid leasehold interests in, all its real and personal property material to its business (including Mortgaged Properties, if any), except as would not reasonably be expected to have a Material Adverse Effect.

(b) Each of Parent and any applicable Subsidiary owns, or is licensed to use, all Intellectual Property used in the conduct of the business of Parent or such Subsidiary, as applicable, and the use thereof and the conduct of its business by Parent or such Subsidiary does not infringe in any respect upon the rights of any other Person, except in each case for any such infringements that, individually or in the aggregate, would not be reasonably expected to result in a Material Adverse Effect, and provided that the foregoing representations are made to the knowledge of Parent with respect to infringement of patents owned by third parties. Parent and its Subsidiaries have made all maintenance payments and taken all other actions necessary to maintain in full force and effect all registrations and applications for Intellectual Property owned by Parent and any applicable Subsidiary that are material to the business of Parent or such Subsidiary, as applicable. Each such registration and application is subsisting and, to the knowledge of Parent or such Subsidiary, as applicable, valid and enforceable. No claim, litigation or proceeding is pending or, to the knowledge of Parent or such Subsidiary, as applicable, overtly threatened against Parent or such Subsidiary in which any Person is alleging that Parent or such Subsidiary, as applicable, is infringing, misappropriating, diluting or otherwise violating the Intellectual Property of any Person in any respect, that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect. To the knowledge of Parent or such Subsidiary, no Person is infringing the Intellectual Property owned by Parent or any applicable Subsidiary, except as would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06 Litigation. Except as disclosed on Schedule 3.06, there are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of Parent or any Loan Party, overtly threatened in writing against or affecting Parent or any Subsidiary that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 3.07 Environmental Matters. Except with respect to any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (a) there are no actions, suits or proceedings with respect to any Environmental Liability by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Loan Party, threatened in writing against or affecting Parent or any Subsidiary; and (b) none of Parent or any Subsidiary (i) has violated any Environmental Law or, to the knowledge of any Loan Party, is subject to any Environmental Liability, (ii) has failed to obtain, maintain or comply with any Environmental Permit required for Parent or any Subsidiary to operate as currently operated, or knows of any reason such Environmental Permit may be revoked, not renewed, or adversely modified, (iii) has used, handled, stored or disposed of Hazardous Materials in a manner that would reasonably be expected to result in Environmental Liability, (iv) has received notice of any claim alleging Parent or any Subsidiary is responsible for any Environmental Liability, or (v) knows of any basis for, or is subject to any judgment or consent order pertaining to, any Environmental Liability of Parent or any Subsidiary.

SECTION 3.08 Compliance with Laws and Agreements. Each of Parent and each Subsidiary is in compliance with (i) all Requirements of Law and (ii) all indentures, agreements and other instruments binding upon it or its property, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. Neither Parent nor any Subsidiary organized under the laws of the State of Israel is a "company in violation" under Section 362A of the Companies Law.

SECTION 3.09 Investment Company Status. None of Parent or any other Loan Party is required to be registered as an "investment company" under the Investment Company Act.

SECTION 3.10 Taxes. Each of Parent and each Subsidiary (a) has timely filed or caused to be filed all Tax returns and reports required to have been filed by it, except to the extent the failure to do so would not reasonably be expected to result in a Material Adverse Effect and (b) has paid or caused to be paid all Taxes required to have been paid by it, except where (i) (x) the validity or amount thereof is being contested in good faith by appropriate proceedings and (y) Parent or such Subsidiary, as applicable, has set aside on its books adequate reserves with respect thereto to the extent required by GAAP or (ii) the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11 ERISA and Labor Matters. (y) No ERISA Events have occurred or are reasonably expected to occur that would, in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Except as, in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (i) there are no strikes, lockouts, work stoppages or similar labor disputes against Parent or any Subsidiary pending or, to the knowledge of Parent or any Subsidiary, overtly threatened, (ii) hours worked by and payment made to employees of Parent and the Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law dealing with such matters and (iii) all payments due from Parent or any Subsidiary on account of employee health and welfare insurance have been paid or accrued as a liability on the books of Parent or relevant Subsidiary.

SECTION 3.12 Subsidiaries. Schedule 3.12 sets forth the name and jurisdiction of organization of, and the ownership interest of Parent and each Subsidiary in, each Subsidiary and each class of Equity Interest of each Loan Party and each direct Subsidiary thereof and identifies each Subsidiary that is a Loan Party or an Excluded Subsidiary, in each case as of the Closing Date. The Equity Interests in each Subsidiary have been duly authorized and validly issued and are fully paid and nonassessable, and such Equity Interests are owned by Parent, directly or indirectly, free and clear of all Liens (other than Liens permitted by Section 6.02). Except as set forth in Schedule 3.12, as of the Closing Date, there is no existing option, warrant, call, right, commitment or other agreement to which any Subsidiary is a party requiring, and there are no Equity Interests in any Subsidiary outstanding that upon exercise, conversion or exchange would require, the issuance by any Subsidiary of any additional Equity Interests or other securities exercisable for, convertible into, exchangeable for or evidencing the right to subscribe for or purchase any Equity Interests in any Subsidiary.

SECTION 3.13 Insurance. Schedule 3.13 sets forth a description of all material insurance maintained by or on behalf of Parent and the Subsidiaries as of the Closing Date.

SECTION 3.14 Solvency. Immediately after giving effect to the Transactions on the Closing Date, Parent and its Subsidiaries (on a consolidated basis) (a) have property with fair value greater than the total amount of their debts and liabilities, contingent (it being understood that the amount of contingent liabilities at any time shall be computed as the amount that, in 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), subordinated or otherwise, (b) have assets with present fair salable value not less than the amount that will be required to pay their liability on their debts as they become absolute and matured, (c) will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as they become absolute and matured and (d) are not engaged in business or a transaction, and are not about to engage in business or a transaction, for which their property would constitute an unreasonably small capital.

SECTION 3.15 Disclosure. No written reports, financial statements, certificates or other written information (taken as a whole) furnished by or on behalf of any Loan Party to any Arranger, the Administrative Agent or any Lender on or prior to the Closing Date in connection with the negotiation of this Agreement or any other Loan Document, included herein or therein or furnished hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to forecasts and projected financial information, Parent and the Borrower represent only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time so prepared and, if such projected financial information was furnished prior to the Closing Date, as of the Closing Date (it being understood and agreed that any such projected financial information may vary from actual results and that such variations may be material).

SECTION 3.16 Collateral Matters. Subject to the Collateral and Guarantee Requirement:

(a) Each Collateral Agreement (other than any Israeli Collateral Agreement relating to Israeli Patents (as defined below)), upon execution and delivery thereof by the parties thereto, will create in favor of the Administrative Agent, for the benefit of the Secured Parties, under the laws of the jurisdiction governing such Collateral Agreement, a valid and enforceable security interest in the Collateral (as defined therein, or if applicable, the analogous term in any Israeli Collateral Agreement) and (i) when the Collateral (as defined in the U.S. Collateral Agreement) constituting certificated securities (as defined in the Uniform Commercial Code) is delivered to the Administrative Agent in the State of New York, together with instruments of transfer duly endorsed in blank and, in relation to the Loan Parties organized in Israel, also upon the filing of the U.S. Collateral Agreement (together with a Hebrew convenience translation) with the Registrar of Companies within 21 days of execution thereof, the security interest created under the U.S. Collateral Agreement will constitute a fully perfected security interest in all right, title and interest of the pledgors thereunder in such Collateral to the extent such security interest may be perfected by delivery of certificated securities, prior and superior in right to any other Person (other than Permitted Encumbrances that by operation of law or contract would have priority over the Obligations), (ii) when financing statements in appropriate form are filed in the applicable filing offices and, in relation to the Loan Parties organized in Israel, also upon the filing of the U.S. Collateral Agreement (together with a Hebrew convenience translation) with the Registrar of Companies within 21 days of execution thereof, the security interest created under the U.S. Collateral Agreement will constitute a fully perfected security interest in all right, title and interest of the pledgors in the remaining Collateral (as defined therein) to the extent perfection can be obtained by filing Uniform Commercial Code financing statements, prior and superior to the rights of any other Person (other than Liens permitted under Section 6.02), (iii) with respect to Israeli Collateral Agreements, relating to patents registered with the Registrar of Patents ("Israeli Patents"), upon execution and delivery thereof by the parties thereto the registration with the Registrar of Patents, and the filing with the Registrar of Companies or the Registrar of Pledges, as applicable, the security interest created under such Israeli Collateral Agreements will create in favor of the Administrative Agent, for the benefit of the Secured Parties, under Israeli law, a valid and enforceable fixed charge over the Collateral (as defined therein), and will constitute a fully perfected first ranking fixed charge in all right, title and interest of the pledgors in such Collateral, if filed (in the case of the Registrar of Companies) within 21 days of execution thereof and (iv) with respect to Israeli Collateral Agreements other than in relation to Israeli Patents, when filed with the Registrar of Companies or the Registrar of Pledges, as applicable, the first ranking fixed or floating charge, as applicable, created under such Israeli Collateral Agreement will constitute a fully perfected first ranking fixed or floating charge, as applicable, in all right, title and interest of the pledgors thereunder in the Collateral (as defined therein), if filed (in the case of the Registrar of Companies) within 21 days of execution thereof.

(b) If and when executed and delivered, each Mortgage, upon execution and delivery thereof by the parties thereto, will create in favor of the Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable lien on, or security interest in, as applicable, all the applicable mortgagor's right, title and interest in and to the Mortgaged Properties subject thereto and the proceeds thereof, and when the Mortgages have been filed in the jurisdictions specified therein, the Mortgages will constitute a valid first priority lien on, or fully perfected security interest in, as applicable, all right, title and interest of the mortgagors in the Mortgaged Properties and the proceeds thereof, prior and superior in right to any other Person, other than Liens permitted under Section 6.02.

(c) Upon the recordation of the U.S. Collateral Agreement (or an IP Security Agreement in form and substance reasonably satisfactory to Parent and the Administrative Agent) with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, and the filing of the financing statements referred to in paragraph (a) of this Section 3.16, the security interest created under the U.S. Collateral Agreement will constitute a fully perfected security interest in all right, title and interest of the Loan Parties in the Intellectual Property in which a security interest may be perfected by filing or recording in the United States of America, in each case prior and superior in right to any other Person, other than Liens permitted under Section 6.02 (it being understood and agreed that subsequent recordings in the United States Patent and Trademark Office or the United States Copyright Office will be necessary to perfect a security interest in such Intellectual Property applied for, acquired or developed by the applicable Loan Parties after the Closing Date).

(d) Each Security Document, upon execution and delivery thereof by the parties thereto and the making of the filings and registrations with the applicable Governmental Authorities and taking of the other actions provided for therein, will be effective under applicable law to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid and enforceable security interest in the Collateral subject thereto, and will constitute a fully perfected security interest in all right, title and interest of the Loan Parties in the Collateral subject thereto, prior and superior to the rights of any other Person, except for rights secured by Liens permitted under Section 6.02.

SECTION 3.17 Federal Reserve Regulations. None of Parent, the Borrower or any other Subsidiary is engaged or will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors), or extending credit for the purpose of purchasing or carrying margin stock. No part of the proceeds of the Loans will be used, directly or indirectly, for any purpose that entails a violation (including on the part of any Lender) of any of the regulations of the Board of Governors, including Regulations U and X. Not more than 25% of the value of the assets subject to any restrictions on the sale, pledge or other disposition of assets under this Agreement, any other Loan Document or any other agreement to which any Lender or Affiliate of a Lender is party will at any time be represented by margin stock (within the meaning of Regulation U of the Board of Governors).

SECTION 3.18 Anti-Corruption Laws and Sanctions. Parent has implemented and maintains in effect policies and procedures reasonably designed to promote compliance by Parent, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and Parent, its Subsidiaries and, to the knowledge of Parent, its directors, officers, employees and agents are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) Parent, any Subsidiary or, to the knowledge of Parent, any of their respective directors, officers or employees or (b) to the knowledge of Parent, any agent of Parent or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person.

SECTION 3.19 Use of Proceeds. The Borrower will use the proceeds of the Term Loans, Revolving Loans, Swingline Loans and the Letters of Credit in compliance with Section 5.10.

SECTION 3.20 USA PATRIOT Act. To the extent applicable, Parent and its Subsidiaries are in compliance in all material respects with the USA PATRIOT Act and the Prohibition on Money Laundering Law.

ARTICLE IV

CONDITIONS

SECTION 4.01 Conditions to Closing Date. The obligations of each Lender to make any extension of credit hereunder on the Closing Date shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent shall have received from each Loan Party either (i) a counterpart of this Agreement signed on behalf of such party or (ii) evidence satisfactory to the Administrative Agent (which may include a facsimile or other electronic transmission) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent and the Arrangers shall have received at least three Business Days prior to the Closing Date all documentation and other information about the Loan Parties as has been reasonably requested in writing at least 10 Business Days prior to the Closing Date by the Administrative Agent or the Arrangers that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act and the Prohibition on Money Laundering Law.

(c) The Administrative Agent shall have received a certificate relating to the organization, existence and good standing of the Borrower and each Domestic Subsidiary Loan Party, the authorization of the Transactions and other legal matters relating to the Borrower and each Domestic Subsidiary Loan Party, the Loan Documents or the Transactions (as applicable), substantially in the form attached hereto as Exhibit J-1.

(d) The Administrative Agent shall have received customary favorable written opinions (each addressed to the Administrative Agent and the Lenders and dated the Closing Date) of (i) Davis Polk & Wardwell LLP, special New York counsel for the Loan Parties, (ii) Meitar Liquornik Geva Leshem Tal, special Israeli counsel for the Loan Parties, (iii) Holland & Knight, special California counsel for the Loan Parties, (iv) Morris, Nichols, Arsht & Tunnell LLP, special Delaware counsel for the Loan Parties, (v) Brownstein Hyatt Farber Schreck, LLP, special Nevada counsel for the Loan Parties and (vi) Parsons Behle & Latimer PLC, special Utah counsel for the Loan Parties, in each case reasonably satisfactory to the Administrative Agent.

(e) The Administrative Agent shall have received certificates relating to the organization and existence of each Israeli Loan Party, the Organizational Documents and an up-to-date extract from the Registrar of Companies of each Israeli Loan Party, the authorization of the Transactions and other legal matters (including confirmation of each Israeli Loan Party in accordance with Sections 256(d) and 282 of the Companies Law that all required authorizations and corporate approvals have been obtained) relating to the Israeli Loan Parties, the Loan Documents or the Transactions (as applicable), substantially in the form attached hereto as Exhibit J-2.

(f) The Administrative Agent shall have received a certificate, dated the Closing Date and signed by an Authorized Officer of Parent, confirming compliance with the conditions set forth in each of paragraphs (j), (k) and (l) of this Section 4.01.

(g) The Administrative Agent shall have received (including, if requested by the Borrower, by way of off-set against the proceeds of the Loans) all fees and other reasonable out-of-pocket amounts required to be paid on or prior to the Closing Date, including, to the extent invoiced at least three Business Days prior to the Closing Date, payment or reimbursement of all fees and reasonable out-of-pocket expenses (including the reasonable and documented fees, charges and disbursements of counsel) required to be paid or reimbursed by any Loan Party on or prior to the Closing Date.

(h) The Collateral and Guarantee Requirement shall have been satisfied and the Administrative Agent shall have received a completed Perfection Certificate, dated the Closing Date and signed by an Authorized Officer of Parent, together with all attachments contemplated thereby, including the IP Security Agreements and 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. Notwithstanding anything to the contrary in this Agreement, to the extent any security interest in any Collateral is not or cannot be provided or perfected on the Closing Date (other than the pledge and perfection of the security interest in (A) the Equity Interests of any Loan Party's direct wholly-owned Significant Subsidiaries (to the extent required to be pledged pursuant to the definition of the term "Collateral and Guarantee Requirement"), (B) other assets pursuant to which a Lien may be perfected by the filing of a financing statement under the Uniform Commercial Code or (C) other assets pursuant to which a Lien may be perfected by registration with the Registrar of Companies, the Registrar of Pledges or the Registrar of Patents in Israel (provided that to the extent any registration pursuant to clause (A) or clause (C) cannot be effected with the Registrar of Companies, the Registrar of Pledges or the Registrar of Patents on the Closing Date, all documents, consents and instruments required to create, register and perfect the Administrative Agent's security interest in such assets shall have been executed in form and substance reasonably satisfactory to the Administrative Agent and delivered on or prior to the Closing Date to the Administrative Agent or any other person directed by it and be in proper form for filing with the Registrar of Companies, the Registrar of Pledges or the Registrar of Patents, as applicable)) after the use of commercially reasonable efforts to do so or without undue burden or expense, then the provision or perfection of a security interest in such Collateral shall not constitute a condition precedent to the availability of the Facilities on the Closing Date but instead shall be required to be provided or delivered not later than 90 days after the Closing Date (or such later date as agreed by the Administrative Agent) pursuant to arrangements to be mutually agreed by the Administrative Agent and Parent acting reasonably.

(i) The Administrative Agent shall have received (i) a certificate in the form attached hereto as Exhibit H, dated the Closing Date and signed by the chief financial officer or other officer with similar duties (including the corporate vice president of finance) of Parent, as to the solvency of Parent and the Subsidiaries on a consolidated basis after giving effect to the Transactions and (ii) a duly completed and executed Borrowing Request from the Borrower.

(j) The Acquisition shall have been consummated pursuant to the Acquisition Agreement, substantially concurrently with the initial funding of the Initial Term Loans, and no provision thereof shall have been amended or waived, and no consent shall have been given thereunder, in any manner materially adverse to the interests of the Arrangers or the Lenders without the prior written consent of the Arrangers (such consent not to be unreasonably withheld, delayed or conditioned).

(k) The Specified Representations shall be true and correct in all material respects as of the Closing Date (except in the case of any Specified Representation which expressly relates to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be); provided, that to the extent that any Specified Representation is qualified by or subject to a "material adverse effect", "material adverse change" or similar term or qualification (a) to the extent such representation relates to inContact and its Subsidiaries, the definition thereof shall be the definition of "inContact Material Adverse Effect" for purposes of the making or deemed making of such Specified Representation on, or as of, the Closing Date (or any date prior thereto) and (b) the same shall be true and correct in all respects. The Specified Acquisition Agreement Representations shall be true and correct as of the Closing Date.

(l) (i) Between December 31, 2015 and the date of the Acquisition Agreement, there shall not have been any event, occurrence, development or state of circumstances or facts that has had or would reasonably be expected to have, individually or in the aggregate an inContact Material Adverse Effect on inContact and (ii) since December 31, 2015, there shall not have been any event, occurrence, revelation or development of a state of circumstances or facts which, individually or in the aggregate, has had or would reasonably be expected to have an inContact Material Adverse Effect on inContact.

(m) The Administrative Agent shall have received (i) the Required Financials and (ii) a pro forma consolidated balance sheet and related pro forma consolidated statement of income of Parent as of and for the 12-month period ending June 30, 2016, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such statement of income).

(n) The Administrative Agent shall have received an approval, in form and substance reasonably satisfactory to the Administrative Agent, from the Israeli Innovation Authority for the pledge and charge of the IIA-Funded Know-How in favor of the Administrative Agent (in its capacity as collateral agent for the Secured Parties) as security for the Obligations (the "Initial IIA Approval"), subject only to the execution by the Administrative Agent on behalf of the Secured Parties of the IIA Undertaking. Notwithstanding the foregoing, if Parent and the Borrower shall have used commercially reasonable efforts to deliver the IIA Approval without undue burden or expense, but shall nevertheless be unable to deliver the IIA Approval, delivery of the IIA Approval shall not be a condition precedent to the obligations of the Lenders hereunder on the Closing Date, but shall be required to be accomplished as provided in Section 5.16.

(o) The Administrative Agent shall have received reasonably satisfactory evidence that prior to or substantially concurrently with the Closing Date, the inContact Refinancing has been consummated.

The Administrative Agent shall promptly notify the Lenders of the Closing Date, and such notice shall be conclusive and binding.

SECTION 4.02 Conditions to Each Extension of Credit after the Closing Date. The obligation of each Lender to make a Loan on the occasion of any Borrowing (other than the Initial Term Loans and any Revolving Loans made on the Closing Date), and of any Issuing Lender to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions (subject to Section 2.22 in the case of Limited Condition Acquisitions):

(a) Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct (i) in the case of the representations and warranties qualified as to materiality or Material Adverse Effect, in all respects and (ii) otherwise, in all material respects, in each case on and as of such date, except in the case of any such representation and warranty that specifically relates to an earlier date, in which case such representation and warranty shall be so true and correct on and as of such earlier date.

(b) No Default or Event of Default has occurred, shall have occurred and be continuing on such date or after giving effect to the extensions of credit requested to be made on such date.

(c) The Administrative Agent shall have received a fully executed and delivered Borrowing Request or an Application for a Letter of Credit, as the case may be as and when required by the terms hereof.

Each borrowing by and issuance, amendment, renewal or extension of a Letter of Credit on behalf of the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such extension of credit that the conditions contained in this Section 4.02 have been satisfied.

For the avoidance of doubt, no Restricted Israeli Lender shall be required to make any extension of credit hereunder.

ARTICLE V

AFFIRMATIVE COVENANTS

Until the Commitments shall 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 (excluding contingent indemnification or other contingent obligation as to which no claim has been asserted, or Letters of Credit that have been backstopped or cash collateralized on terms satisfactory to the applicable Issuing Lender), the Borrower covenants and agrees with the Lenders that:

SECTION 5.01 Financial Statements and Other Information. Parent will furnish to the Administrative Agent, on behalf of each Lender (or in the case of clause (h) below, conduct):

(a) within 120 days after the end of each fiscal year of Parent (or, for so long as Parent shall be subject to periodic reporting obligations under the Exchange Act, by the date that the Annual Report on Form 20-F of Parent for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such forms), its audited consolidated balance sheet and statements of income, comprehensive income, shareholders' equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Kost Forer Gabbay & Kasierer or another independent registered public accounting firm of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit (other than any such exception, explanatory paragraph or qualification that is expressly solely with respect to, or expressly resulting solely from, (x) an upcoming maturity date of the credit facilities hereunder or other indebtedness occurring within one year from the time such report is delivered or (y) an actual or anticipated breach of a financial covenant)) to the effect that such financial statements present fairly in all material respects the financial condition, results of operations and cash flow of Parent and its Subsidiaries (including Unrestricted Subsidiaries) on a consolidated basis as of the end of and for such fiscal year in accordance with GAAP and accompanied by a narrative report containing management's discussion and analysis of the financial position and financial performance for such fiscal year in reasonable form and detail;

(b) within 60 days after the end of each of the first three fiscal quarters of each fiscal year of Parent, its unaudited consolidated balance sheet and unaudited statements of income 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 a Financial Officer of Parent as presenting fairly in all material respects the financial condition, results of operations and cash flows of Parent and its Subsidiaries (including Unrestricted Subsidiaries) on a consolidated basis as of the end of and for such fiscal quarter and such portion of the fiscal year in accordance with GAAP, subject to normal year-end audit adjustments and the absence of certain footnotes, and accompanied by a narrative report containing management's discussion and analysis of the financial position and financial performance for such fiscal quarter in reasonable form and detail;

(c) 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 Parent and its Subsidiaries and treating any Unrestricted Subsidiaries as if they were not consolidated with Parent or accounted for on the basis of the equity method but rather account for an investment and otherwise eliminating all accounts of Unrestricted Subsidiaries, together with an explanation of reconciliation adjustments in reasonable detail; provided that the financial statements pursuant to this clause (c) shall not be required to be delivered so long as the combined aggregate amount of Total Assets as of the last day of any fiscal quarter for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) or combined aggregate amount of gross revenues (net of payroll, taxes, benefits and other deductions permitted under GAAP) for the Test Period most recently ended in each case of all Unrestricted Subsidiaries but excluding intercompany assets and revenues does not exceed 10% of the Total Assets of Parent and its Subsidiaries (including Unrestricted Subsidiaries) or 10.0% of the combined aggregate amount of such gross revenues of Parent and its Subsidiaries (including Unrestricted Subsidiaries), in each case, excluding intercompany assets and revenues for the Test Period most recently ended;

(d) not later than the date of delivery of financial statements under clause (a) or (b) above, a completed Compliance Certificate of an Authorized Officer of Parent (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) demonstrating compliance with the financial maintenance covenant contained in Section 6.13 by calculation thereof as of the end of the fiscal period covered by such financial statements, (iii) in the case of the Compliance Certificate relating to annual financial statements delivered pursuant to clause (a) above, identifying as of the date of such Compliance Certificate each Subsidiary that (A) is a Loan Party as of such date but has not been identified as a Loan Party in Schedule 3.12 or in any prior Compliance Certificate or (B) has previously been identified as a Loan Party but has ceased to be a Loan Party as a result of its status as an Excluded Subsidiary, (iv) if any change in GAAP or in the application thereof has occurred since the date of the consolidated balance sheet of Parent most recently theretofore delivered under clause (a) or (b) above (or, prior to the first such delivery, referred to in Section 3.04) that is required to be disclosed in the financial statements that are delivered concurrently with such Compliance Certificate, stating the occurrence of such change in GAAP or in the application thereof; provided that the requirement in this clause (iv) may be satisfied by referencing in the Compliance Certificate the specific notes to the financial statements containing such disclosure and (v) in the case of the Compliance Certificate relating to annual financial statements delivered pursuant to clause (a) above, solely to the extent that the Available Amount has been utilized in such fiscal year, setting forth the amounts of the Available Amount utilized during the most recent fiscal year included in such financial statements, specifying each such use and the amount thereof;

(e) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by Parent or any Subsidiary with the SEC or with any national securities exchange, or distributed by Parent to its shareholders generally, as the case may be; and

(f) promptly following any request therefor, such other information regarding the operations, business affairs, assets, liabilities (including contingent liabilities) and financial condition of Parent or any Subsidiary, or compliance with the terms of this Agreement or any other Loan Document, as the Administrative Agent or any Lender (acting through the Administrative Agent) may reasonably request.

Notwithstanding anything to the contrary in this Section 5.01, (a) none of Parent or any of its Subsidiaries will be required to disclose 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 representative or contractors) is prohibited or restricted by Requirements of Law or any binding agreement with a third party not entered into in contemplation hereof, (iii) is subject to attorney-client or similar privilege or constitutes attorney work product or (iv) constitutes classified information and (b) all such material that is so disclosed will be subject to Sections 9.12 and 9.17.

Information required to be furnished pursuant to this Section 5.01 shall be deemed to have been furnished if such information, or one or more annual or quarterly reports containing such information, shall have been posted by the Administrative Agent on a Platform to which the Lenders have been granted access or shall be available on the website of the SEC at http://www.sec.gov or the website of Parent. Information required to be furnished pursuant to this Section 5.01 or Section 5.02 may also be furnished by electronic communications pursuant to procedures approved by the Administrative Agent.

SECTION 5.02 Notices of Material Events. Within five Business Days after obtaining knowledge thereof, the Borrower will furnish to the Administrative Agent notice of the following:

(a) the occurrence of any Default; provided that giving such notice shall not shorten any grace period that applies to such Default pursuant to Article VII;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority (including with respect to any Environmental Liability) against Parent or any Subsidiary or any adverse development in any such pending action, suit or proceeding not previously disclosed in writing by Parent to the Administrative Agent, that in each case would reasonably be expected to result in a Material Adverse Effect;

(c) the occurrence of any ERISA Event or any fact or circumstance that gives rise to a reasonable expectation that any ERISA Event will occur that, in either case, alone or together with any other ERISA Events that have occurred or are reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect;

(d) any material change in accounting policies or financial reporting practices of Parent or any Subsidiary (it being understood and agreed that such notice shall be deemed provided to the extent described in any financial statement delivered to the Administrative Agent pursuant to the terms of this Agreement); and

(e) any other development that has resulted, or would reasonably be expected to result, in a Material Adverse Effect.

Each notice delivered under this Section 5.02 shall be accompanied by a statement of a Financial Officer or other executive officer of Parent 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 5.03 Information Regarding Collateral. (z) The Borrower will furnish to the Administrative Agent prompt written notice (which shall in any event be provided by the earlier of (x) 30 days after such change and (y) 10 days prior to the date on which the perfection of the Liens under the Collateral Agreements would (absent additional filings or other actions) lapse, in whole or in part, by reason of such change) of: (i) any change in any Loan Party's legal name, as set forth in such Loan Party's Organizational Documents, (ii) any change in the jurisdiction of incorporation or organization of any Loan Party, (iii) any change in the form of organization of any Loan Party and (iv) any change in any Loan Party's organizational identification number or Federal Taxpayer Identification Number, if such Loan Party is organized under the laws of a jurisdiction that requires a Loan Party's organizational identification number or Federal Taxpayer Identification Number to be set forth on the face of a Uniform Commercial Code financing statement. Upon request, the Borrower agrees to deliver all executed or authenticated financing statements and other filings under the Uniform Commercial Code (or analogous law in a non-U.S. jurisdiction) or otherwise that are required in order for the Administrative Agent to continue to have a valid, legal and perfected security interest in all the Collateral following any such change.

(b) At the time of delivery of financial statements pursuant to Section 5.01(a), the Borrower shall deliver to the Administrative Agent a completed Supplemental Perfection Certificate, signed by a Financial Officer of Parent, (i) setting forth the information required pursuant to the Supplemental Perfection Certificate and indicating, in a manner reasonably satisfactory to the Administrative Agent, any changes in such information from the most recent Supplemental Perfection Certificate delivered pursuant to this Section 5.03 (or, prior to the first delivery of a Supplemental Perfection Certificate, from the Perfection Certificate delivered on the Closing Date) or (ii) certifying that there has been no change in such information from the most recent Supplemental Perfection Certificate delivered pursuant to this Section 5.03 (or, prior to the first delivery of a Supplemental Perfection Certificate, from the Perfection Certificate delivered on the Closing Date).

(c) With respect to the Israeli Collateral Agreements, promptly upon receipt of pledge certificates, the Borrower shall deliver to the Administrative Agent an original of such certificate together with a copy of an extract from the relevant registry evidencing the registration of any such Israeli Collateral Agreement.

SECTION 5.04 Existence; Conduct of Business. Parent and each Subsidiary will do or cause to be done all things necessary to preserve, renew and keep in full force and effect (i) its legal existence and (ii) the rights, licenses, permits, privileges, franchises, and Intellectual Property material to the conduct of its business, in each case with respect to clause (i) (other than the preservation of the existence of the Borrower) and clause (ii) to the extent that the failure to do any of the foregoing would reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any transaction permitted under Section 6.03 or 6.05, including any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.05 Payment of Taxes. Each of Parent and each Subsidiary will pay its material Tax liabilities, before the same shall become delinquent or in default, except where (a)(i) the validity or amount thereof is being contested in good faith by appropriate proceedings and (ii) Parent or such Subsidiary has set aside on its books adequate reserves with respect thereto to the extent required by GAAP or (b) the failure to make payment would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.06 Maintenance of Properties. Each of Parent and each Subsidiary will keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted, in each case except where the failure to so keep and maintain would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

SECTION 5.07 Insurance. Each of Parent and each Subsidiary will maintain, with financially sound and reputable insurance companies, as determined by Parent in good faith, insurance in such amounts (with no greater risk retention) and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations. From and after the date that is 90 days after the Closing Date (or such later date as the Administrative Agent agrees to in writing), each such policy of liability or property insurance maintained by or on behalf of Loan Parties shall (a) in the case of each liability insurance policy (other than workers' compensation, director and officer liability, errors and omissions liability (to the extent endorsement of such policy is not permitted) or other policies in which such endorsements are not customary), name the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder, and (b) in the case of each property insurance policy, contain a customary lender's loss payable clause or endorsement that names the Administrative Agent, on behalf of the Secured Parties, as the lender's loss payee thereunder. With respect to each Mortgaged Property that is located in an area determined by the Federal Emergency Management Agency to have special flood hazards, the applicable Loan Party has obtained, and will maintain, with financially sound and reputable insurance companies, such flood insurance in form, substance and amount as may be reasonably required by the Administrative Agent but in any event as is required under applicable law, including the Flood Insurance Regulations and provide evidence in form and substance satisfactory to Administrative Agent of such flood insurance. Notwithstanding the foregoing, if the Administrative Agent receives any payment under any insurance policy of Parent or of any Subsidiary, or otherwise receives any amount in respect of any casualty or condemnation event with respect to any property of Parent or any Subsidiary, in each case at a time when no Event of Default has occurred and is continuing, the Administrative Agent shall promptly remit such amount to an account specified by Parent.

SECTION 5.08 Books and Records; Inspection and Audit Rights. Parent will, and will cause each Subsidiary to, keep proper books of record and account in which full, true and correct entries in conformity with GAAP and in material conformity with all Requirements of Law are made of all dealings and transactions in relation to its business and activities. Parent will, and will cause each Subsidiary to, permit any representatives designated by the Administrative Agent or any Lender (in the case of such Lender, coordinated 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, subject to Sections 9.12 and 9.17, to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times during regular business hours and as often as reasonably requested; provided, however, that, excluding any such visits and inspections during the continuation of an Event of Default, (i) only the Administrative Agent, acting individually or on behalf of the Lenders, may exercise rights under this Section 5.08 and (ii) the Administrative Agent shall not exercise the rights under this Section 5.08 more often than one time during any calendar year.

SECTION 5.09 Compliance with Laws. (aa) Each of Parent and each Subsidiary will comply with all Requirements of Law with respect to it or its assets, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(b) Parent will maintain in effect policies and procedures reasonably designed to promote compliance by Parent, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

(c) Each of Parent and each Subsidiary will comply with all minimum funding requirements and all other material requirements of ERISA, if applicable, so as not to give rise to any liability thereunder, except to the extent a failure to do so would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.10 Use of Proceeds. The proceeds of the Initial Term Loans made on the Closing Date will be used, together with cash on hand at Parent, solely to pay the Transaction Costs. The proceeds of the Incremental Term Loans will be used solely for the purpose or purposes set forth in the applicable Incremental Facility Amendment. The Letters of Credit and proceeds of Revolving Loans and Swingline Loans will be used by the Borrower for working capital and other general corporate purposes or for any other purpose not prohibited by this Agreement, including capital expenditures and the financing of Permitted Acquisitions and other Permitted Investments. The Borrower will not request any Borrowing or Letter of Credit, and Parent shall not use and shall not permit its Subsidiaries or its or their respective directors, officers, employees and agents to use, the proceeds of any Borrowing or Letter of Credit (A) 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, (B) 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 if conducted by a Person required to comply with Sanctions, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.11 Additional Subsidiaries. If any additional Subsidiary (other than an Excluded Subsidiary if the Equity Interests in such Excluded Subsidiary and any Indebtedness of such Excluded Subsidiary are, in each case, excluded from the Collateral and Guarantee Requirement) is formed or acquired or any existing Subsidiary ceases to be an Excluded Subsidiary after the Closing Date, then Parent will, as promptly as practicable and, in any event, within 60 days (or such longer period as the Administrative Agent may, in its sole discretion, agree to in writing) after such Subsidiary is formed or acquired or ceases to be an Excluded Subsidiary, notify the Administrative Agent thereof and (a) with respect to any such Subsidiary (other than an Excluded Subsidiary), cause such Subsidiary to satisfy the Collateral and Guarantee Requirement, to the extent applicable and (b) cause each Loan Party to satisfy the Collateral and Guarantee Requirement with respect to any Equity Interest in or Indebtedness of such Subsidiary owned by such Loan Party.

SECTION 5.12 Further Assurances. Each of Parent and each other Loan Party will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the Collateral and Guarantee Requirement to be satisfied, all at the expense of the Loan Parties. Parent also agrees to provide to the Administrative Agent (i) from time to time upon request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents and (ii) promptly after reasonable request therefor, all documentation and other information reasonably requested by the Administrative Agent or any Lender that is required to satisfy applicable "know your borrower" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Prohibition on Money Laundering Law.

SECTION 5.13 After-Acquired Real Property. Within 90 days of the acquisition of any Material Real Property by a Loan Party (or such later date as the Administrative Agent may agree in its sole discretion) such Loan Party shall deliver to the Administrative Agent a Mortgage on such Material Real Property and shall cause clause (e) of the Collateral and Guarantee Requirement to be satisfied with respect thereto.

SECTION 5.14 Environmental Compliance. (bb) Each of Parent and each Subsidiary will (i) comply with all Environmental Laws, and obtain, comply with and maintain any and all Environmental Permits necessary for its operations as conducted; and (ii) take all reasonable efforts to ensure that all of its tenants, subtenants, contractors, subcontractors, and invitees comply with all Environmental Laws, and obtain, comply with and maintain any and all Environmental Permits, applicable to them; provided that, for purposes of this Section 5.14(a), noncompliance with any of the foregoing shall be deemed not to constitute a breach of this covenant so long as, with respect to any such noncompliance, Parent or its relevant Subsidiary is undertaking all reasonable efforts to achieve compliance (or to ensure that the relevant tenant, subtenant, contractor, subcontractor or invitee is achieving compliance), or (y) to the extent such noncompliance, individually or in the aggregate, would not reasonably be expected to give rise to a Material Adverse Effect.

(b) Without in any way limiting Parent's and each Subsidiary's obligations under Section 5.14(a), each of Parent and each Subsidiary will promptly comply with all orders and directives of all Governmental Authorities regarding Environmental Laws, other than such orders and directives (i) that are being disputed in good faith in the applicable manner and forum, or (ii) that are not being complied with, provided that the pendency of such disputes and the noncompliance with such orders and directives would not reasonably be expected, individually or in the aggregate, to give rise to a Material Adverse Effect.

SECTION 5.15 Designation of Subsidiaries. Parent may at any time designate any Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Subsidiary by delivering to the Administrative Agent a certificate of an Authorized Officer of Parent specifying such designation and certifying that the conditions to such designation set forth in this Section 5.15 are satisfied; provided that:

(i) both immediately before and immediately after any such designation, no Event of Default shall have occurred and be continuing;

(ii) both immediately before and immediately after any such designation, Parent and its Subsidiaries shall be in Pro Forma Compliance with the then-applicable financial maintenance covenant levels set forth in Section 6.13; and

(iii) in the case of a designation of a Subsidiary as an Unrestricted Subsidiary, each Subsidiary of such Subsidiary has been, or concurrently therewith will be, designated as an Unrestricted Subsidiary in accordance with this Section 5.15.

The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by Parent in such Subsidiary on the date of designation in an amount equal to the fair market value of Parent's Investment therein (as determined reasonably and in good faith by a Financial Officer of Parent). The designation of any Unrestricted Subsidiary as a Subsidiary shall constitute the incurrence at the time of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time.

SECTION 5.16 Certain Post-Closing Collateral Obligations. As promptly as practicable, and in any event within the applicable time period set forth in Schedule 5.16 (or such longer time as the Administrative Agent may reasonably agree), the Borrower and each other Loan Party will deliver all documents and take all actions set forth on Schedule 5.16.

SECTION 5.17 Company in Violation. Promptly upon receipt of notice or becoming aware that Parent or any Subsidiary has or will become a "company in violation" under Section 362A of the Companies Law, Parent shall take all steps necessary to avoid or remove such designation within 30 days of receipt of such notice or of first becoming aware of it, whichever is the earlier.

ARTICLE VI

NEGATIVE COVENANTS

Until the Commitments shall 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 (excluding contingent indemnification or other contingent obligation as to which no claim has been asserted, or Letters of Credit that have been backstopped or cash collateralized on terms satisfactory to the applicable Issuing Lender), Parent and the Borrower covenant and agree with the Lenders that:

SECTION 6.01 Indebtedness; Certain Equity Securities. None of Parent or any Subsidiary will create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness created under the Loan Documents;

(b) Indebtedness existing on the Closing Date and set forth on Schedule 6.01 and Refinancing Indebtedness in respect of any of the foregoing;

(c) intercompany Indebtedness among Parent and its Subsidiaries; provided that (A) any such Indebtedness owing by any Loan Party shall be subordinated in right of payment to the Loan Document Obligations pursuant to the Intercompany Note or on terms (x) at least as favorable to the Lenders as those set forth in the form of Intercompany Note attached as Exhibit L or (y) customary for intercompany subordinated Indebtedness or reasonably acceptable to the Administrative Agent; provided that a written subordination agreement shall not be required if Parent and its Subsidiaries are not required to evidence such Indebtedness by an Intercompany Note or a promissory note pursuant to the terms of the Collateral and Guarantee Requirement and the aggregate amount of all such Indebtedness that is not subject to a written subordination agreement satisfying the requirements of this clause (A) shall not exceed $20,000,000 at any time outstanding, (B) any such Indebtedness owing to any Loan Party shall be evidenced by an Intercompany Note or a promissory note which shall have been pledged pursuant to the Collateral Agreements to the extent required by the Collateral and Guarantee Requirement and (C) any such Indebtedness owing by any Subsidiary that is not a Loan Party to any Loan Party shall be incurred in compliance with Section 6.04(e);

(d) Guarantees incurred in compliance with Section 6.04;

(e) Permitted First Priority Refinancing Indebtedness, Permitted Second Priority Refinancing Indebtedness, Permitted Unsecured Refinancing Indebtedness and any Refinancing Indebtedness in respect of any of the foregoing;

(f) (i) Indebtedness of Parent or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations, purchase money Indebtedness and any Indebtedness assumed by Parent or any Subsidiary in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to or within 270 days after the acquisition, construction, repair, lease or improvement of the applicable asset; provided that the aggregate principal amount of Indebtedness permitted by this clause (f) shall not exceed at any time outstanding the greater of (A) $15,000,000 and (B) 5% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such Indebtedness is incurred and (ii) Refinancing Indebtedness in respect of Indebtedness incurred or assumed pursuant to clause (i) above;

(g) (i) Indebtedness of any Person that becomes a Restricted Subsidiary (or of any Person not previously a Restricted Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder, including the re-designation of an Unrestricted Subsidiary as a Restricted Subsidiary) after the Closing Date, or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary in a Permitted Acquisition; provided that such Indebtedness exists at the time such Person becomes a Restricted Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming, as the case may be, a Subsidiary or Restricted Subsidiary (or such merger or consolidation) or such assets being acquired and (ii) Refinancing Indebtedness in respect of Indebtedness assumed pursuant to clause (i) above; provided further that the aggregate principal amount of Indebtedness permitted by this clause (g) shall not exceed at any time outstanding the greater of (A) $25,000,000 and (B) 8% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such Indebtedness is incurred;

(h) secured or unsecured loans, bonds or notes so long as such Indebtedness shall not exceed the sum of (i) an amount equal to the Base Incremental Amount in effect on such date, (ii) an amount equal to the Voluntary Prepayment Amount and (iii) an additional amount that would not (A) in the case of any such Indebtedness that is secured by a Lien on the Collateral that is pari passu with the Lien on the Collateral securing the Facilities ("Incremental Pari Passu Debt"), cause the First Lien Net Leverage Ratio, calculated on a Pro Forma Basis as of the date of incurrence thereof (excluding from such pro forma calculation the Net Proceeds of such Indebtedness), to exceed 2.00 to 1.00, (B) in the case of any such Indebtedness that is secured by a Lien on the Collateral that is junior to the Lien on the Collateral securing the Facilities ("Incremental Junior Debt"), cause the Secured Net Leverage Ratio, calculated on a Pro Forma Basis as of the date of incurrence thereof (excluding from such pro forma calculation the Net Proceeds of such Indebtedness), to exceed 2.50 to 1.00 and (C) in the case of unsecured debt, cause the Total Net Leverage Ratio, calculated on a Pro Forma Basis as of the date of incurrence thereof (excluding from such pro forma calculation the Net Proceeds of such debt), to exceed the then-applicable financial maintenance covenant level set forth in Section 6.13 (any Indebtedness incurred in reliance on this clause (h), "Incremental Equivalent Debt"); provided, that (A) the Borrower shall be deemed to have used amounts under clause (iii) above prior to utilization of amounts under clause (i) or (ii) above and (B) the proceeds from any such incurrence under such clauses may be utilized in a single transaction by first calculating the incurrence under clause (iii) above and then calculating the incurrence under clauses (i) and/or (ii) above); provided, further, that any such Incremental Equivalent Debt (1) to the extent secured, (x) shall not be secured by any Lien on any asset of Parent or any Subsidiary that does not also secure the Obligations and (y) shall be subject to an Intercreditor Agreement, (2) shall not be Guaranteed by any Subsidiary other than the Loan Parties, (3) shall mature no earlier than the Maturity Date of the Initial Term Loans, (4) shall have a weighted average life to maturity not shorter than the Initial Term Loans, (5) in the case of Incremental Equivalent Debt in the form of bonds or notes, does not provide for any amortization, mandatory prepayment, redemption or repurchase (other than upon a change of control or fundamental change and customary acceleration rights after an event of default and, for the avoidance of doubt, rights to convert or exchange in the case of convertible or exchangeable Indebtedness) prior to the Maturity Date of the Initial Term Loans and (6) contains covenants, events of default, guarantees and other terms that are customary for similar Indebtedness in light of then-prevailing market conditions or, when taken as a whole (other than interest rates, rate floors, fees and optional prepayment or redemption terms), are not more favorable to the lenders or investors providing such Incremental Equivalent Debt, as the case may be, than those set forth in the Loan Documents are with respect to the Lenders (other than covenants or other provisions applicable only to periods after the Maturity Date of the Initial Term Loans);

(i) Indebtedness incurred in the ordinary course of business and owed in respect of Cash Management Services or any overdrafts and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearinghouse transfers of funds;

(j) Indebtedness in respect of letters of credit, bank guarantees and similar instruments issued for the account of Parent or any Subsidiary in the ordinary course of business supporting obligations under (i) workers' compensation, health, disability or other employee benefits, casualty or liability insurance, unemployment insurance and other social security laws and local state and federal payroll taxes, (ii) obligations in connection with self-insurance arrangements in the ordinary course of business and (iii) bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance and reclamation bonds and obligations of a like nature;

(k) Indebtedness consisting of client advances or deposits received in the ordinary course of business;

(l) Indebtedness consisting of short-term credit facilities, including, among others, bank guarantees and letters of credit, collectively in an aggregate at any time outstanding not to exceed the greater of (A) $50,000,000 and (B) 17% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such credit facility is entered into;

(m) Indebtedness of Parent or any Subsidiary in the form of purchase price adjustments (including in respect of working capital), earnouts, seller notes deferred compensation, indemnification or other arrangements representing acquisition consideration or deferred payments of a similar nature incurred in connection with any Permitted Acquisition or other Investments permitted under Section 6.04 or Dispositions permitted under Section 6.05;

(n) Indebtedness of Subsidiaries that are not Loan Parties; provided that no Subsidiary that is not a Loan Party shall incur any Indebtedness under this Section 6.01(n) if, at the time of, and after giving effect to, the incurrence of such Indebtedness (and any substantially simultaneous use of the Specified Permitted Amount) and the use of proceeds thereof, the Specified Permitted Amount would be less than zero;

(o) Indebtedness relating to (i) premium financing arrangements for insurance plans (including property and health insurance plans) and health and welfare benefit plans (including health and workers compensation insurance, employment practices liability insurance and directors and officers insurance), if incurred in the ordinary course of business or (ii) take-or-pay obligations contained in supply agreements, in the ordinary course of business;

(p) additional Indebtedness in an aggregate amount at any time outstanding not in excess of the greater of (A) $50,000,000 and (B) 17% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such Indebtedness is incurred;

(q) Indebtedness in respect of Hedging Agreements permitted under Section 6.07;

(r) Indebtedness supported by a Letter of Credit, in a principal amount not to exceed the face amount of such Letter of Credit;

(s) Indebtedness representing deferred compensation or stock-based compensation owed to employees of Parent and its Subsidiaries incurred in the ordinary course of business or consistent with past practice;

(t) to the extent constituting Indebtedness, Guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of Parent and its Subsidiaries;

(u) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described above.

For purposes of determining compliance with this Section 6.01, (i) in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the categories of Indebtedness described in clauses (a) through (u) above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the above clauses; provided that all Indebtedness outstanding under the Loan Documents will be deemed to have been incurred in reliance only on the exception in clause (a) above.

SECTION 6.02 Liens. None of Parent or any Subsidiary will create, incur, assume or permit to exist any Lien on any asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Liens created under the Loan Documents;

(b) Permitted Encumbrances;

(c) any Lien on any asset of Parent or any Subsidiary existing on the Closing Date and set forth on Schedule 6.02; provided that (i) such Lien shall not apply to any other asset of Parent or any Subsidiary other than after-acquired property that is affixed or incorporated into the asset covered by such Lien on the Closing Date and the proceeds and products of the foregoing and (ii) such Lien shall secure only those obligations that it secures on the Closing Date and extensions, renewals, replacements and refinancings thereof so long as the principal amount of such extensions, renewals, replacements and refinancings does not exceed the principal amount of the obligations being extended, renewed, replaced or refinanced or, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01(b) as Refinancing Indebtedness in respect thereof;

(d) any Lien existing on any asset prior to the acquisition thereof by Parent or any Subsidiary or existing on any asset of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the Closing Date prior to the time such Person becomes a Subsidiary (or is so merged or consolidated); provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary (or such merger or consolidation), (ii) such Lien shall not apply to any other asset of Parent or any Subsidiary (other than (x) in the case of any such merger or consolidation, the assets of any Subsidiary without significant assets that was formed solely for the purpose of effecting such acquisition and (y) after-acquired property that is affixed or incorporated into the asset initially covered by such Lien and the proceeds and products of the foregoing) and (iii) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary (or is so merged or consolidated) and extensions, renewals, replacements and refinancings thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced or, in the case of any such obligations constituting Indebtedness, that are permitted under Section 6.01(g);

(e) Liens on fixed or capital assets acquired, constructed or improved (including any such assets made the subject of a Capital Lease Obligation incurred) by Parent or any Subsidiary; provided that (i) such Liens secure Indebtedness incurred to finance such acquisition, construction or improvement and permitted by clause (f)(i) of Section 6.01 or any Refinancing Indebtedness in respect thereof permitted by clause (f)(ii) of Section 6.01, and (ii) such Liens shall not apply to any other property or assets of Parent or any Subsidiary, other than after-acquired property affixed or incorporated into such asset initially covered by such Lien and the proceeds and products of the foregoing;

(f) in connection with the sale or transfer of any Equity Interests or other assets in a transaction permitted under Section 6.05, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(g) in the case of (i) any Subsidiary that is not a wholly-owned Subsidiary or (ii) the Equity Interests in any Person that is not a Subsidiary, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such Subsidiary or such other Person set forth in the Organizational Documents of such Subsidiary or such other Person or any related joint venture, shareholders' or similar agreement;

(h) Liens solely on any cash earnest money deposits, escrow arrangements or similar arrangements made by Parent or any Subsidiary in connection with any letter of intent or purchase agreement for a Permitted Acquisition or other transaction permitted hereunder;

(i) Liens granted by a Subsidiary that is not a Loan Party in respect of Indebtedness permitted to be incurred by such Subsidiary under Section 6.01(n);

(j) Liens securing judgments for the payment of money not constituting an Event of Default under Article VII;

(k) Liens on the Collateral securing (i) Permitted First Priority Refinancing Indebtedness permitted under Section 6.01(e) on a pari passu or junior basis with the Liens on the Collateral securing the Loan Document Obligations, and Refinancing Indebtedness in respect thereof; provided that a trustee, collateral agent, security agent or other Person acting on behalf of the holders of such Indebtedness has entered into an Intercreditor Agreement and (ii) Permitted Second Priority Refinancing Indebtedness permitted under Section 6.01(e) on a junior basis to the Liens on the Collateral securing the Loan Document Obligations and Refinancing Indebtedness in respect thereof; provided that a trustee, collateral agent, security agent or other Person acting on behalf of the holders of such Indebtedness has entered into an Intercreditor Agreement;

(l) Liens on cash and other assets owned by a Person that has incurred Indebtedness permitted pursuant to Section 6.01(l) to secure such Indebtedness of such Person or on cash and other assets owned by a Person that has entered into a Hedging Agreement permitted by Section 6.07 to secure Hedging Obligations in respect thereof; provided that such Liens in respect of Indebtedness incurred pursuant to Section 6.01(l) shall not apply to any other assets of Parent or any Subsidiary other than after-acquired property that is affixed or incorporated into the assets initially covered by such Lien and the proceeds and products of the foregoing; provided further that such Liens shall not secure Indebtedness or Hedging Obligations in excess of $50,000,000 in the aggregate;

(m) Liens on the Collateral securing Incremental Equivalent Debt that are pari passu with or junior to the Liens on the Collateral securing the Obligations; provided that a trustee, collateral agent, security agent or other Person acting on behalf of the holders of such Indebtedness has entered into an Intercreditor Agreement;

(n) Liens consisting of cash collateral to secure Hedging Agreements permitted by Section 6.07;

(o) additional Liens securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any time outstanding the greater of (A) $50,000,000 and (B) 17% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such Liens are incurred;

(p) Liens on assets of Foreign Subsidiaries securing obligations of Foreign Subsidiaries permitted hereunder; and

(q) Liens securing Indebtedness permitted by Section 6.01(c).

SECTION 6.03 Fundamental Changes. (cc) None of Parent or any Subsidiary will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve (which, for the avoidance of doubt, shall not restrict Parent or any Subsidiary from changing its organizational form), except that:

(i) any Person (other than the Borrower) may merge into or consolidate with Parent in a transaction in which Parent is the surviving entity;

(ii) any Person (other than Parent or the Borrower) may merge or consolidate with any Subsidiary in a transaction in which the surviving entity is a Subsidiary (and, if any party to such merger or consolidation is a Loan Party, the surviving entity is a Loan Party);

(iii) any Subsidiary (other than the Borrower) may merge into or consolidate with any Person (other than Parent or the Borrower) in a transaction permitted under Section 6.05 (other than pursuant to Section 6.05(n)) in which, after giving effect to such transaction, the surviving entity is not a Subsidiary;

(iv) any Subsidiary (other than the Borrower) may merge, consolidate or amalgamate with any other Person in order to effect an Investment permitted pursuant to Section 6.04; provided that if such Subsidiary is a Loan Party the continuing or surviving Person shall be a Loan Party;

(v) any Subsidiary (other than the Borrower) may liquidate or dissolve if Parent determines in good faith that such liquidation or dissolution is in the best interests of Parent and is not materially disadvantageous to the Lenders; provided that any such merger or consolidation involving a Person that is not a wholly-owned Subsidiary immediately prior thereto shall not be permitted unless it is also permitted under Section 6.04 or 6.05 (other than pursuant to Section 6.05(n)); and

(vi) Parent or any Subsidiary may consummate any Permitted Reorganization.

(b) None of Parent or any Subsidiary will engage to any material extent in any business other than businesses of the type conducted by Parent and the Subsidiaries on the Closing Date and businesses reasonably related, ancillary, adjacent or incidental thereto.

SECTION 6.04 Investments, Loans, Advances, Guarantees and Acquisitions. None of Parent or any Subsidiary will purchase, hold, acquire (including pursuant to any merger or consolidation with any Person that was not a wholly-owned Subsidiary prior thereto), make or otherwise permit to exist any Investment in any other Person, except:

(a) the Acquisition;

(b) Permitted Investments;

(c) (i) Investments existing in Subsidiaries on the Closing Date and (ii) other Investments existing or contemplated by investment agreements existing on the Closing Date as set forth on Schedule 6.04;

(d) (i) Investments by any Loan Party in another Loan Party, (ii) Investments by any Subsidiary that is not a Loan Party in any other Subsidiary that is not a Loan Party, (iii) Investments by Loan Parties in any Subsidiary (including any Unrestricted Subsidiary) that is not a Loan Party, (iv) Investments by Loan Parties in any Subsidiary that is not a Loan Party so long as such Investment is part of a series of simultaneous Investments by Subsidiaries in other Subsidiaries (including Unrestricted Subsidiaries) that result in the proceeds of the initial Investment being invested in one or more Loan Parties and (v) Investments (including by way of capital contributions) by Parent and the Subsidiaries in Equity Interests in their Subsidiaries; provided, in the case of clause (iii), that (x) any such Equity Interests held by a Loan Party shall be pledged in accordance with the requirements of (and to the extent required by) the Collateral and Guarantee Requirement and (y) no Investment by any Loan Party in any Subsidiary that is not a Loan Party shall be permitted pursuant to this clause (iii) if, at the time of the making of, and after giving effect to, such Investment (and any substantially simultaneous use of the Permitted Amount), the Permitted Amount would be less than zero;

(e) loans or advances made among Parent and its Subsidiaries (including Unrestricted Subsidiaries); provided that no loan or advance made by any Loan Party to a Subsidiary (including any Unrestricted Subsidiary) that is not a Loan Party shall be permitted pursuant to this Section 6.04(e) if, at the time of, and after giving effect to, the making of such loan or advance (and any substantially simultaneous use of the Permitted Amount) and the use of proceeds thereof, the Permitted Amount would be less than zero;

(f) Guarantees by Parent or any Subsidiary of Indebtedness or other obligations of Parent or any Subsidiary, including any Unrestricted Subsidiary (including any such Guarantees arising as a result of any such Person being a joint and several co-applicant with respect to any letter of credit or letter of guaranty); provided that (i) (A) a Subsidiary (including any Unrestricted Subsidiary) that has not Guaranteed the Obligations pursuant to the Guarantee Agreement shall not Guarantee any Indebtedness of any Loan Party (other than Indebtedness of a Loan Party owed to Parent or a Subsidiary) in an amount not to exceed at any time outstanding the greater of (A) $25,000,000 and (B) 8% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such Indebtedness is guaranteed and (B) if the Guarantee is of Indebtedness that is required to be subordinated to the Loan Document Obligations, such Guarantee shall be subordinated to the Loan Document Obligations on terms no less favorable to the Lenders, taken as a whole, than the subordination terms of such Subordinated Indebtedness, (ii) any such Guarantee constituting Indebtedness is permitted by Section 6.01 (other than clause (d) thereof) and (iii) no Guarantee by any Loan Party of Indebtedness (excluding, for the avoidance of doubt, Guarantees of obligations not constituting Indebtedness) of any Subsidiary (including any Unrestricted Subsidiary)that is not a Loan Party shall be permitted pursuant to this Section 6.04(f) if, at the time of the making of, and after giving effect to, such Guarantee (and any substantially simultaneous use of the Permitted Amount), the Permitted Amount would be zero;

(g) (i) loans or advances to officers, directors or employees of Parent or any Subsidiary made in the ordinary course of business, including those to finance the purchase of Equity Interests of Parent pursuant to employee plans and (ii) payroll, travel, entertainment, relocation and similar advances to officers, directors and employees of Parent or any Subsidiary that are made in the ordinary course of business; provided that the aggregate principal amount of such loans and advances under this clause (g) outstanding at any time shall not exceed $5,000,000;

(h) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, or consisting of securities acquired in connection with the satisfaction or enforcement of claims due or owing to Parent or any Subsidiary, in each case in the ordinary course of business;

(i) Permitted Acquisitions (it being understood the definition thereof contains certain separate requirements that must be complied with in order for an Investment to qualify as a Permitted Acquisition) and Investments consisting of cash earnest money deposits in connection with a Permitted Acquisition or other Investment permitted hereunder;

(j) Investments held by a Subsidiary acquired after the Closing Date or of a Person merged or consolidated with or into Parent or a Subsidiary after the Closing Date, in each case as permitted hereunder, to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(k) Investments made as a result of the receipt of non-cash consideration from a sale, transfer, lease or other disposition of any asset in compliance with Section 6.05;

(l) Investments by Parent or any Subsidiary that result solely from the receipt by Parent or such Subsidiary from any of its Subsidiaries of a dividend or other Restricted Payment in the form of Equity Interests, evidences of Indebtedness or other securities (but not any additions thereto made after the date of the receipt thereof);

(m) Investments in the form of Hedging Agreements permitted under Section 6.07;

(n) Investments consisting of (i) extensions of trade credit, (ii) deposits made in connection with the purchase of goods or services or the performance of leases, licenses or contracts, in each case, in the ordinary course of business, (iii) notes receivable of, or prepaid royalties and other extensions of credit to, customers and suppliers that are not Affiliates of Parent and that are made in the ordinary course of business and (iv) Guarantees made in the ordinary course of business in support of obligations of Parent or any of its Subsidiaries not constituting Indebtedness for borrowed money, including operating leases and obligations owing to suppliers, customers and licensees;

(o) mergers and consolidations permitted under Section 6.03 that do not involve any Person other than Parent and Subsidiaries that are wholly-owned Subsidiaries;

(p) Investments (including by way of capital contributions, loans and advances and Guarantees of Indebtedness) by Parent and the Subsidiaries in Unrestricted Subsidiaries; provided that no Investment may be made under this clause (p) if, at time of the making of, and after giving effect to, such Investment (and any substantially simultaneous use of the Specified Permitted Amount), the Specified Permitted Amount would be less than zero;

(q) Investments consisting of Guarantees in the ordinary course of business to support the obligations of any Subsidiary under its worker's compensation and general insurance agreements;

(r) Investments in an amount not in excess of the Available Amount at the time such Investment is made;

(s) intercompany loans or other intercompany Investments made by the Loan Parties in the ordinary course of business to or in any Subsidiary that is not a Loan Party to provide funds as necessary to enable the applicable Subsidiary that is not a Loan Party to comply with changes in statutory or contractual capital requirements (other than any contractual requirement that constitutes a Guarantee);

(t) any Investment to the extent procured in exchange for the issuance of Qualified Equity Interests;

(u) Investments to the extent consisting of the redemption, purchase, repurchase or retirement of any common Equity Interests expressly permitted under Section 6.08;

(v) Guarantees by Parent or any Subsidiary of operating leases or of other obligations (for the avoidance of doubt, excluding any Capital Lease Obligations) that do not constitute Indebtedness, in each case, entered into by Parent or any such Subsidiary in the ordinary course of business;

(w) Investments consisting of the non-exclusive licensing of Intellectual Property pursuant to joint marketing arrangements with other Persons, in the ordinary course of business;

(x) additional Investments; provided that the Total Net Leverage Ratio immediately after giving effect to any such Investment, calculated on a Pro Forma Basis at the time such Investment is made, is not in excess of 2.25 to 1.00; provided, however, that at the time any such Investment is made pursuant to this clause (x), no Event of Default shall have occurred and be continuing or would result therefrom;

(y) (i) Investments made in connection with the cash management of Parent and the Subsidiaries; provided that such Investments are made in the ordinary course of business or are consistent with past practice and (ii) intercompany loans, advances, payables and receivables made among Parent and its Subsidiaries in connection with the cash management of such entities in the ordinary course of business or consistent with past practice;

(z) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business and upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(aa) any Permitted Reorganization;

(bb) to the extent constituting Investments, Indebtedness permitted by Section 6.01, guarantees of obligations that do not constitute Indebtedness and are otherwise not prohibited hereunder and Liens permitted by Section 6.02;

(cc) accounts receivable arising and trade credit granted in the ordinary course of business; and

(dd) additional Investments in an aggregate amount not to exceed, in any fiscal year, the greater of (A) $50,000,000 and (B) 17% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time such Investments are made.

Notwithstanding anything contrary set forth above, (i) if any Investment is denominated in a foreign currency, no fluctuation in currency values shall result in a breach of this Section 6.04 and (ii) if any Investment is made in reliance on any "basket" determined by reference to Consolidated EBITDA, no fluctuation in the amount of Consolidated EBITDA shall result in a breach of this Section 6.04. In addition, in the event that a Loan Party makes an Investment in an Excluded Subsidiary for purposes of permitting such Excluded Subsidiary or any other Excluded Subsidiary to apply the amounts received by it to make a substantially concurrent Investment (which may be made through any other Excluded Subsidiary) permitted hereunder, such substantially concurrent Investment by such Excluded Subsidiary shall not be included as an Investment for purposes of this Section 6.04 to the extent that the initial Investment by the Loan Party reduced amounts available to make Investments hereunder.

SECTION 6.05 Asset Sales. None of Parent or any Subsidiary will sell, transfer, lease, license, sublicense or otherwise dispose of any asset, including any Equity Interest owned by it (but other than, for the avoidance of doubt, treasury shares of Parent held by Parent), nor will any Subsidiary issue any additional Equity Interest in such Subsidiary (other than issuing directors' qualifying shares and other than issuing Equity Interests to Parent or another Subsidiary in compliance with Section 6.04(d)) (each, a "Disposition"), except:

(a) Dispositions of (i) inventory or other tangible property, (ii) used, obsolete, damaged or surplus equipment and (iii) cash and Permitted Investments, in each case in the ordinary course of business;

(b) Dispositions to Parent or a Subsidiary; provided that any such Disposition involving a Subsidiary that is not a Loan Party shall be made in compliance with Sections 6.04 and 6.09;

(c) Dispositions of accounts receivable in connection with the compromise, settlement or collection thereof in the ordinary course of business consistent with past practice and not as part of any accounts receivables financing transaction;

(d) (i) Dispositions of assets to the extent that such Disposition constitutes an Investment referred to in and permitted by Section 6.04 and (ii) Dispositions of assets to the extent that such Disposition constitute a Restricted Payment referred to in and permitted by Section 6.08;

(e) Sale/Leaseback Transactions permitted by Section 6.06;

(f) Licenses, sublicenses, leases or subleases entered into in the ordinary course of business, to the extent that they do not materially interfere with the business of Parent or any Subsidiary;

(g) Non-exclusive licenses or sublicenses of Intellectual Property in the ordinary course of business;

(h) Dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any asset of any of Parent or any Subsidiary;

(i) Dispositions of assets (including as a result of like-kind exchanges) to the extent that (i) such assets are exchanged for credit (on a fair market value basis) against the purchase price of similar or replacement assets or (ii) such asset is Disposed of for fair market value and the proceeds of such Disposition are promptly applied to the purchase price of similar or replacement assets;

(j) Dispositions of Investments in joint ventures to the extent required by the relevant joint venture arrangements;

(k) the abandonment, cancellation, non-renewal or discontinuance of use or maintenance of non-material Intellectual Property that Parent determines in its reasonable judgment does not need to be used or maintained;

(l) additional Dispositions of assets (including Equity Interests); provided that (i) if the total fair market value of the assets subject to any such Disposition or series of related Dispositions is in excess of $10,000,000, it shall be for fair market value (or if not for fair market value, the shortfall is permitted as and treated as an Investment under Section 6.04), (ii) at least 75% of the total consideration for any such Disposition received by Parent and its Subsidiaries is in the form of cash or Permitted Investments, (iii) no Event of Default then exists or would result from such Disposition (except if such Disposition is made pursuant to an agreement entered into at a time when no Event of Default exists) and (iv) the requirements of Section 2.12(b), to the extent applicable, are complied with in connection therewith; provided, however, that for purposes of clause (ii) above, the following shall be deemed to be cash: (A) any liabilities (as shown on Parent's or such Subsidiary's most recent balance sheet provided hereunder or in the footnotes thereto) of Parent or such Subsidiary (other than liabilities that are by their terms subordinated to the Obligations) that are assumed by the transferee with respect to the applicable Disposition and for which Parent and its Subsidiaries shall have been validly released by all applicable creditors in writing, (B) any securities, notes or other obligations or assets received by Parent or any of its Subsidiaries from such transferee that are converted by Parent or such Subsidiary into cash or Permitted Investments (to the extent of the cash or Permitted Investments received) within one hundred and eighty (180) days following the closing of the applicable Disposition and (C) any Designated Non-Cash Consideration received by Parent or any of its Subsidiaries in such Disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (l) that is at that time outstanding, not to exceed $20,000,000 (with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value);

(m) the granting of Liens permitted pursuant to Section 6.02 (other than Section 6.02(f));

(n) Dispositions permitted by Section 6.03 (other than by reference to this Section 6.05(n));

(o) Dispositions of receivables in the ordinary course of business and consistent with past practice of Parent and the Subsidiaries; and

(p) additional Dispositions of assets in an aggregate amount not to exceed the greater of (A) $50,000,000 and (B) 17% of Consolidated EBITDA computed on a Pro Forma Basis for the most recently ended Test Period as of the time of such Dispositions.

Notwithstanding the foregoing, other than Dispositions to Parent or any Subsidiary in compliance with Section 6.04, and other than directors' qualifying shares and other nominal amounts of Equity Interests that are required to be held by other Persons under applicable Requirements of Law, no such Disposition of any Equity Interests in any Subsidiary shall be permitted unless immediately after giving effect to such transaction, Parent and the Subsidiaries shall otherwise be in compliance with Section 6.04.

SECTION 6.06 Sale/Leaseback Transactions. None of Parent or any Subsidiary will enter into any Sale/Leaseback Transaction unless (a) the sale or transfer of the property thereunder is permitted under Section 6.05 (other than Section 6.05(e)), (b) any Capital Lease Obligations arising in connection therewith are permitted under Section 6.01 and (c) any Liens arising in connection therewith (including Liens deemed to arise in connection with any such Capital Lease Obligations) are permitted under Section 6.02.

SECTION 6.07 Hedging Agreements. None of Parent or any Subsidiary will enter into any Hedging Agreement, other than Hedging Agreements entered into for purposes other than speculative purposes, including (a) Hedging Agreements entered into to hedge or mitigate risks to which Parent or any Subsidiary has actual exposure (other than those in respect of the Equity Interests or Indebtedness of Parent or any Subsidiary), including with respect to currencies, and (b) Hedging Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of Parent or any Subsidiary.

SECTION 6.08 Restricted Payments; Certain Payments of Indebtedness. (dd) None of Parent or any Subsidiary will declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(i) any Subsidiary may declare and pay dividends or make other distributions with respect to its Equity Interests, in each case ratably to the holders of such Equity Interests (or if not ratably, on a basis more favorable to Parent and the Loan Parties);

(ii) Parent may declare and pay dividends with respect to its Equity Interests payable solely in shares of Qualified Equity Interests of Parent;

(iii) Parent may repurchase, purchase, acquire, cancel or retire for value Equity Interests of Parent from present or former employees, officers, directors or consultants (or their estates or beneficiaries under their estates) of Parent or any Subsidiary upon the death, disability, retirement or termination of employment or service of such employees, officers, directors or consultants, or to the extent required, pursuant to employee benefit plans, employment agreements, stock purchase agreements or stock purchase plans, or other benefit plans; provided that the aggregate amount of Restricted Payments made pursuant to this Section 6.08(a)(iii) shall not exceed $5,000,000 in any fiscal year;

(iv) Parent may make cash payments in lieu of the issuance of fractional shares representing insignificant interests in Parent in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests in Parent;

(v) Parent may acquire Equity Interests of Parent upon the exercise of stock options for such Equity Interests of Parent if such Equity Interests represent a portion of the exercise price of such stock options or in connection with tax withholding obligations arising in connection with the exercise of options by, or the vesting of restricted Equity Interests held by, any current or former director, officer or employee of Parent or its Subsidiaries;

(vi) Parent may convert or exchange any Equity Interests of Parent for or into Qualified Equity Interests of Parent;

(vii) Parent or any Subsidiary may on any date make Restricted Payments in an amount equal to the Available Amount on such date; provided, however, that (other than with respect to any Restricted Payment made solely using the Starter Basket) at the time of the making of such Restricted Payments and immediately after giving effect to such Restricted Payments made in reliance on this subclause (vii), (x) no Event of Default shall have occurred and be continuing or would result therefrom and (y) the Total Net Leverage Ratio on the date of such Restricted Payments, calculated on a Pro Forma Basis to give effect to any such Restricted Payments, is not in excess of the level that is 0.25 to 1.00 less than the then-applicable financial maintenance covenant level set forth in Section 6.13;

(viii) any Subsidiary may repurchase its Equity Interests held by minority shareholders or interest holders in a Permitted Acquisition or another transaction expressly permitted by Section 6.04 (other than Section 6.04(u) (it being understood that for purposes of Section 6.04, Parent shall be deemed the purchaser of such Equity Interests and such repurchase shall constitute an Investment by Parent in a Person that is not a Subsidiary in the amount of such purchase unless such Subsidiary becomes a Loan Party in connection with such repurchase);

(ix) to the extent such Investment constitutes a Restricted Payment, Parent and its Subsidiaries may enter into any Investment expressly permitted by Section 6.04 (other than Section 6.04(u));

(x) additional Restricted Payments; provided that the Total Net Leverage Ratio immediately after giving effect to any such Restricted Payment, calculated on a Pro Forma Basis at the time such Restricted Payment is made, is not in excess of 2.00 to 1.00; provided, further, that at the time any such Restricted Payment is made pursuant to this clause (x), no Event of Default shall have occurred and be continuing or would result therefrom;

(xi) Parent may pay regularly scheduled quarterly cash dividends to its shareholders consistent with its past practice or any other Restricted Payment in an amount per annum not to exceed the greater of (A) $40,000,000 and (B) $1.00 per share of the total issued and outstanding shares of common Equity Interests of Parent on the date of the declaration of a Restricted Payment; provided that such per share amount shall be adjusted to give effect to any stock split or issuance on account of equity for no consideration effected; and

(xii) additional Restricted Payments in an aggregate principal amount not to exceed $55,000,000.

(b) None of Parent or any Subsidiary will make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on (i) any Subordinated Indebtedness that is subordinated to the payment of the Obligations or (ii) other Indebtedness that is required pursuant to the Loan Documents to not mature later than the Latest Maturity Date at the time of incurrence thereof (Indebtedness described in the foregoing clauses (i) and (ii), "Restricted Indebtedness"), or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, defeasance, cancelation or termination of such Restricted Indebtedness, except:

(i) regularly scheduled interest and principal payments as and when due in respect of such Indebtedness, other than payments prohibited by the subordination provisions thereof;

(ii) refinancings of such Indebtedness with the proceeds of Refinancing Indebtedness permitted in respect thereof under Section 6.01;

(iii) payments of or in respect of such Indebtedness made solely with Qualified Equity Interests in Parent or the conversion of such Indebtedness into Qualified Equity Interests of Parent;

(iv) prepayments of intercompany Indebtedness permitted hereby owed by Parent or any Subsidiary to Parent or any Subsidiary, other than prepayments prohibited by the subordination provisions governing such Indebtedness;

(v) Parent or any Subsidiary may on any date make payments of or in respect of any such Indebtedness in an amount equal to the Available Amount on such date; provided, however, that (other than with respect to any such payments made solely using the Starter Basket) at the time of the making of such payments and immediately after giving effect to such payments, (x) no Event of Default shall have occurred and be continuing or would result therefrom and (y) the Total Net Leverage Ratio on the date of such payments, calculated on a Pro Forma Basis to give effect to any such payments, is not in excess of the level that is 0.25 to 1.00 less than the then-applicable financial maintenance covenant level set forth in Section 6.13; and

(vi) Parent may on any date make payments of or in respect of any such Indebtedness in an unlimited amount; provided that the Total Net Leverage Ratio immediately after giving effect to any such payment, calculated on a Pro Forma Basis at the time such payment is made, is not in excess of 2.00 to 1.00; provided, further, that at the time any such payment is made pursuant to this clause (vi), no Event of Default shall have occurred and be continuing or would result therefrom.

SECTION 6.09 Transactions with Affiliates. None of Parent or any Subsidiary will sell, lease or otherwise transfer any assets to, or purchase, lease or otherwise acquire any assets from, or otherwise engage in any other transactions in each case with an aggregate value for any such transaction or series of related transactions in excess of $5,000,000 with, any of its Affiliates (each an "Affiliate Transaction"), except (a) transactions that are at prices and on terms and conditions, taken as a whole, not less favorable to Parent or such Subsidiary than those that could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among Subsidiaries not involving any other Affiliate, (c) any Investment permitted under Section 6.04, (d) the payment of reasonable fees to directors of Parent or any Subsidiary who are not employees of Parent or any Subsidiary, (e) compensation, expense reimbursement and indemnification of, and other employment arrangements (including severance arrangements) and health, disability and similar insurance or benefit arrangements with, directors, officers and employees of Parent or any Subsidiary entered into in the ordinary course of business, (f) any Restricted Payment permitted by Section 6.08, (g) sales of Equity Interests to Affiliates to the extent not prohibited under this Agreement, (h) any payments or other transactions pursuant to any tax sharing agreement among the Loan Parties and their Subsidiaries; provided that any such tax sharing agreement is entered into in the ordinary course of business or on terms usual and customary for agreements of that type, (i) transactions with joint ventures in the ordinary course of business, (j) any Indebtedness permitted by Section 6.01, (k) any Liens permitted by Section 6.02, (k) any transactions permitted by Section 6.03 or 6.05, (l) the consummation of the Acquisition and the payment of fees and expenses in connection therewith and (m) agreements in existence on the Closing Date and set forth on Schedule 6.09 or any amendment to any such agreement to the extent such amendment is not materially adverse, taken as a whole, the Lenders in any material respect.

SECTION 6.10 Restrictive Agreements. None of Parent or any Subsidiary will, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that restricts or imposes any condition upon (a) the ability of Parent or any Subsidiary to create, incur or permit to exist any Lien upon any of its assets to secure the Obligations or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any of its Equity Interests or to make or repay loans or advances to Parent or any Subsidiary; provided that (i) the foregoing shall not apply to (A) restrictions and conditions imposed by law or by this Agreement or any other Loan Document, (B) restrictions and conditions contained in any agreement or document governing or evidencing Refinancing Indebtedness in respect of Indebtedness referred to in clause (A) (including, for the avoidance of doubt, Permitted First Priority Refinancing Indebtedness, Permitted Second Priority Refinancing Indebtedness and Permitted Unsecured Refinancing Indebtedness) or Refinancing Indebtedness in respect thereof; provided that any restrictions and conditions (that would otherwise be prohibited by clause (a) or (b) above) contained in any such agreement or document referred to in this clause (B) are not materially less favorable, taken as a whole, to the Lenders than the restrictions and conditions imposed by this Agreement, (C) restrictions and conditions existing on the date hereof identified on Schedule 6.10 and any extension, renewal, amendment, modification or replacement thereof, except to the extent any such extension, renewal, amendment, modification or replacement expands the scope of any such restriction or condition, (D) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its Organizational Documents or any related joint venture, shareholder or similar agreements; provided that such restrictions and conditions apply only to such Subsidiary and to the Equity Interests of such Subsidiary, (E) restrictions imposed by any agreement governing Indebtedness entered into after the Closing Date and permitted under Section 6.01(and any Refinancing Indebtedness in respect thereof) that either (i) are customary or reasonable or, taken as a whole, in the good faith judgment of Parent, not materially more restrictive with respect to Parent or any Subsidiary than those contained in this Agreement or (ii) the Borrower determines at the time of entry into such agreement or instrument that such encumbrances or restrictions will not adversely affect, in any material respect, the Borrower's ability to make principal or interest payments required hereunder or such encumbrances or restriction applies only during the continuance of a default relating to such agreement or instrument, (F) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary or any assets of Parent or any Subsidiary, in each case pending such sale; provided that such restrictions and conditions apply only to such Subsidiary or the assets that are to be sold and, in each case, such sale is permitted hereunder; and (ii) clause (a) or (b) of the foregoing shall not apply to (A) restrictions and conditions imposed by any agreement relating to secured Indebtedness permitted by clause (b), (e), (f), (g), (h), (i), (j), (k), (l), (n), (o), (p), (q) or (u) of Section 6.01 if such restrictions and conditions apply only to the assets securing such Indebtedness, (B) customary provisions in leases, licenses and other agreements restricting the assignment thereof, (C) customary net worth provisions contained in real property leases, (D) restrictions on cash (or Permitted Investments) or other deposits or net worth imposed by (x) suppliers or landlords under contracts entered into in the ordinary course of business, (y) customers under contracts entered into in the ordinary course of business or (z) or otherwise in the ordinary course of business, (E) restrictions imposed by agreements relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary and otherwise permitted by Section 6.01(g); provided that such restrictions apply only to such Subsidiary and its assets (or any special purpose acquisition Subsidiary without material assets acquiring such Subsidiary pursuant to a merger), (F) customary provisions restricting assignment of any agreement entered into in the ordinary course of business, (G) restrictions imposed by applicable law and (H) any restrictions regarding non-exclusive licensing or sublicensing by Parent or any of its Subsidiaries of intellectual property in the ordinary course of business. Nothing in this paragraph shall be deemed to modify the requirements set forth in the definition of the term "Collateral and Guarantee Requirement" or the obligations of the Loan Parties under Section 5.03, 5.11 or 5.17 or under the Security Documents.

SECTION 6.11 Amendment of Material Documents. No Loan Party will, amend, modify or waive any of its rights under (a) any agreement or document evidencing Restricted Indebtedness that constitutes Material Indebtedness or (b) its Organizational Documents, in each case to the extent such amendment, modification or waiver, taken as a whole, would be materially adverse to the Lenders.

SECTION 6.12 Fiscal Year. Parent will not, and Parent will not permit any other Loan Party to, change its fiscal year to end on a date other than December 31.

SECTION 6.13 Total Net Leverage Ratio. Parent shall not permit the Total Net Leverage Ratio (a) as of the last day of any fiscal quarter ending on or after March 31, 2017 and on or prior to December 31, 2018 to exceed 3.00 to 1.00 and (b) as of the last day of any fiscal quarter ending thereafter, to exceed 2.50 to 1.00.

ARTICLE VII

EVENTS OF DEFAULT

If any of the following events (each such event, 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, whether at the due date thereof or at a date fixed for mandatory 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 VII) payable under this Agreement or any other Loan Document, 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, warranty or statement made or deemed made by or on behalf of any Loan Party in any Loan Document or in any report, certificate, financial statement or other information furnished pursuant to or in connection with this Agreement or any other Loan Document or waiver hereunder or thereunder shall prove to have been incorrect in any material respect when made or deemed made;

(d) Parent or the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.04 (with respect to the existence of Parent and the Borrower), 5.10, 5.16 or in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement or any other Loan Document (other than those specified in clause (a), (b) or (d) of this Article VII), and such failure shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent or any Lender to Parent (with a copy to the Administrative Agent in the case of any such notice from a Lender);

(f) Parent or any Subsidiary shall fail to make any payment (whether of principal, interest, premium or otherwise and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (after giving effect to any grace period applicable on the date on which such payment was initially due), unless such event is remedied by Parent or any applicable Subsidiary or waived (including in the form of amendment) by the requisite holders of the applicable item of Material Indebtedness in either case, prior to acceleration of all the Loans pursuant to this Section 7.01;

(g) any event or condition occurs that results in any Material Indebtedness becoming due or being required to be prepaid, repurchased, redeemed or defeased prior to its scheduled maturity or that enables or permits the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf, or, in the case of any Hedging Agreement, the applicable counterparty, to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity (in each case after expiration of any applicable grace or cure period set forth in the agreement or instrument evidencing or governing such Material Indebtedness); provided that this clause (g) shall not apply to (i) any secured Indebtedness that becomes due as a result of the voluntary sale, transfer or other disposition of the assets securing such Indebtedness, (ii) any Indebtedness that becomes due as a result of a voluntary refinancing thereof permitted under Section 6.01, (iii) the occurrence of any conversion or exchange trigger in Indebtedness that is contingently convertible or exchangeable into Equity Interests of Parent or (iv) any such event or condition that is remedied by Parent or any applicable Subsidiary or waived (including in the form of amendment) by the requisite holders of the applicable item of Material Indebtedness in either case, prior to acceleration of all the Loans pursuant to this Section 7.01;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization, or other relief in respect of Parent, the Borrower or any Significant Subsidiary or its debts, or of a substantial part of its assets, under any federal, state, Israeli or other foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) the appointment of a receiver, trustee, custodian, sequestrator, liquidator, conservator or similar official for Parent, the Borrower or any Significant Subsidiary or for a substantial part of its assets, (iii) rehabilitation, creditors' arrangement or compromise, or a moratorium of any Indebtedness (including a freeze order ("*hakpaat halichim*") pursuant to Chapter 3 of Part 9 of the Companies Law), or (iv) removal of Parent from the records of the Registrar of Companies, and, in any such case, such proceeding, action or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) Parent, the Borrower or any Significant Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation (other than any liquidation permitted under Section 6.03(a)(v) or (vi)), reorganization or other relief under any federal, state, Israeli or other foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (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 VII, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, liquidator, conservator or similar official for Parent, the Borrower or any Significant 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 or (v) make a general assignment for the benefit of creditors, commence negotiations with one or more of its creditors with a view to rescheduling any of its Indebtedness or enter into a compromise, arrangement, assignment or composition with one or more of its creditors in connection with its potential inability to pay any Indebtedness as it shall become due, apply for any remedies with respect to, or enters into, any rehabilitation, creditors' arrangement or compromise, a moratorium of any Indebtedness (including a freeze order ("*hakpaat halichim*") pursuant to Chapter 3 of Part 9 of the Companies Law), or the board of directors (or similar governing body) of Parent, the Borrower or any Significant Subsidiary (or any committee thereof) shall adopt any resolution or otherwise authorize any of the actions referred to above in this clause (i) or clause (h) of this Article VII;

(j) Parent, the Borrower or any Significant Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of $50,000,000 (other than any such judgment covered by insurance (other than under a self-insurance program) to the extent a claim therefor has been made in writing and liability therefor has not been denied by the insurer), shall be rendered against Parent, the Borrower, any Significant Subsidiary or any combination thereof and the same shall remain undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of Parent, the Borrower or any Significant Subsidiary to enforce any such judgment;

(l) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect;

(m) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party not to be, a valid and perfected Lien on any Collateral having, individually or in the aggregate, a fair value in excess of $25,000,000, with the priority required by the applicable Security Document, except as a result of (i) the sale or other disposition of the applicable Collateral in a transaction permitted under the Loan Documents, (ii) the release thereof as provided in the applicable Security Document or Section 9.14 or (iii) as a result of the Administrative Agent's (A) failure to maintain possession of any stock certificate, promissory note or other instrument delivered to it under the Collateral Agreements or (B) file continuation statements under the applicable Uniform Commercial Code (or similar provisions under applicable law);

(n) (i) this Agreement or any Guarantee purported to be created under any Loan Document shall cease to be, or shall be asserted by any Loan Party not to be, in full force and effect, except, solely with respect to any Guarantee, as a result of the release thereof or any limitation in respect thereof, in each case as provided in the applicable Loan Document or Section 9.14;

(o) a Change in Control shall occur; or

(p) Parent or any additional Israeli Loan Party is declared a "company in violation" under Section 362A of the Companies Law and (solely with respect to the period following the registration and perfection of the Collateral with the Registrar of Companies and the Registrar of Patents) such designation continues unremedied for a period of 30 days.

then, and (i) in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article VII), and at any time after the Closing Date and thereafter during the continuance of such event, the Administrative Agent, 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: (A) terminate the Commitments, and thereupon such Commitments shall terminate immediately and (B) declare the Loans then outstanding to be due and payable in whole (or in part (but ratably as among the Classes of Loans and the Loans of each Class at such time outstanding), 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 or owing hereunder (including all amounts of L/C Obligations, whether or not the beneficiaries of the then outstanding Letters of Credit shall have presented the documents required thereunder), shall become due and payable immediately, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and (ii) in the case of any event with respect to the Borrower described in clause (h) or (i) of this Article VII, 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 hereunder, shall immediately and automatically become due, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. With respect to all Letters of Credit with respect to which presentment for honor shall not have occurred at the time of an acceleration pursuant to this paragraph, the Borrower shall at such time deposit in a cash collateral account opened by the Administrative Agent an amount equal to the aggregate then undrawn and unexpired amount of such Letters of Credit. Amounts held in such cash collateral account shall be applied by the Administrative Agent to the payment of drafts drawn under such Letters of Credit, and the unused portion thereof after all such Letters of Credit shall have expired or been fully drawn upon, if any, shall be applied to repay other obligations of the Borrower hereunder and under the other Loan Documents. After all such Letters of Credit shall have expired or been fully drawn upon, all Reimbursement Obligations shall have been satisfied and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such cash collateral account shall be returned to the Borrower (or such other Person as may be lawfully entitled thereto).

ARTICLE VIII

THE ADMINISTRATIVE AGENT

Each of the Lenders hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors to serve as administrative agent and collateral agent under the Loan Documents and authorizes the Administrative Agent, in its capacity as Administrative Agent, to execute and deliver the Loan Documents and to take such actions and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto (including, as trustee under any Security Document governed by Israeli or other relevant law). In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders hereby grants to the Administrative Agent any required powers of attorney to comply with the IIA Provision and to execute any Security Document governed by the laws of such jurisdiction on such Lender's behalf. It is understood and agreed that the use of the term "agent" (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties.

The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Parent or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or to exercise any discretionary power (including with respect to enforcement and collection), except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion, could expose the Administrative Agent to liability or be contrary to this Agreement or any other Loan Document or applicable law and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Parent, any Subsidiary or any other Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Notwithstanding clause (b) of the immediately preceding sentence, the Administrative Agent shall not be required to take, or to omit to take, any action hereunder or under the Loan Documents unless, upon demand, the Administrative Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to the Administrative Agent, any other Secured Party) against all liabilities, costs and expenses that, by reason of such action or omission, may be imposed on, incurred by or asserted against the Administrative Agent or any Related Person thereof. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and nonappealable judgment). The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof (stating that it is a "notice of default") is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent.

The Administrative Agent shall be entitled to rely, 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 or otherwise authenticated by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof). The Administrative Agent also shall be entitled to rely, and shall not incur any liability for relying, upon any statement made to it orally or by telephone and believed by it to be made by the proper Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or authenticator thereof), and may act upon any such statement prior to receipt of written confirmation thereof. 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 Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative 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 Administrative Agent may perform any of and all its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of and all their duties and exercise their rights and powers through their respective Related Parties. The exculpatory provisions of this Article VIII shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Subject to the terms of this paragraph, the Administrative Agent may resign at any time from its capacity as such. In connection with such resignation, the Administrative Agent shall give notice of its intent to resign to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower (and so long as no Event of Default shall have occurred and be continuing, with the consent of the Borrower, not to be unreasonably withheld or delayed), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank subject, so long as no Event of Default shall have occurred and be continuing, to the approval by the Borrower (which approval shall not be unreasonably withheld or delayed). Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent (including compliance with the IIA Provision), and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed by the Borrower and such successor. Notwithstanding the foregoing, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Security Document for the benefit of the Secured Parties and for purposes of compliance with the IIA Provision, the retiring Administrative Agent shall continue to be vested with such security interest and be subject to such compliance as collateral agent for the benefit of the Secured Parties and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this paragraph (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Security Document, including any action required to maintain the perfection of any such security interest), and (b) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties (and shall be subject to compliance with the IIA Provision) of the retiring Administrative Agent; provided that (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article VIII and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent, the Syndication Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, 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 Administrative Agent, the Syndication Agent, any Arranger or any other Lender, or any of the Related Parties of any of the foregoing, 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.

Each Lender, by delivering its signature page to this Agreement and funding its Loans on the Closing Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, this Agreement and each other Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Closing Date.

Except with respect to the exercise of setoff rights of any Lender in accordance with Section 9.08 or with respect to a Lender's right to file a proof of claim in an insolvency proceeding, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Administrative Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Loan Document Obligations as a credit on account of the purchase price for any collateral payable by the Administrative Agent on behalf of the Secured Parties at such sale or other disposition.

In furtherance of the foregoing and not in limitation thereof, no Hedging Agreement or Cash Management Agreement, the obligations under which constitute Secured Hedging Obligations or Secured Cash Management Obligations will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under this Agreement or any other Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such Hedging Agreement or Cash Management Agreement shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion, to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(e). The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

In case of the pendency of any proceeding with respect to any Loan Party under any Federal, State or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim under Sections 2.13, 2.14, 2.16, 2.17, 2.18 and 9.03) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender and each other Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03).

Notwithstanding anything herein to the contrary, neither the Arrangers nor the Syndication Agent shall have any duties or obligations under this Agreement or any other Loan Document (except in its capacity, as applicable, as a Lender), but all such Persons shall have the benefit of the indemnities provided for hereunder.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Section 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Credit Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid, (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles, (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

The provisions of this Article VIII are solely for the benefit of the Administrative Agent and the Lenders, and, except solely to the extent of the Borrower's rights to consent pursuant to and subject to the conditions set forth in this Article VIII, none of Parent, the Borrower or any Subsidiary shall have any rights as a third party beneficiary of any such provisions. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and the Guarantees of the Obligations provided under the Loan Documents, to have agreed to the provisions of this Article VIII.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01 Notices. (ee) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) of this Section 9.01), 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 fax, as follows:

(i) if to Parent, to it at NICE Ltd., 13 Zarchin Street, P.O. Box 690, R'anana, Israel 4310602, Attention of Yechiam Cohen, Corporate Vice President, General Counsel & Corporate Secretary (Phone: +972 (9) 775-3911; Fax No. +972 (9) 775-3911 ; Email: yechiam.cohen@nice.com);

(ii) if to the Borrower, to it at NICE Systems Inc., Mach-Cali Centre VI, 461 from Road, 3rd Floor, Paramus, NJ 07652 Attention of Jeff Levenberg, Vice President & General Counsel (Phone: (201) 549 - 1735 ; Email: jeff.levenberg@nice.com);

(iii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., 500 Stanton Christiana Road, Newark, DE 19713, Attention of Daniel Lahijani (Phone: (302) 634-4208; Fax No. 302-634-4733; Email: daniel.x.lahijani@jpmorgan.com), with a copy to JPMorgan Chase Bank, N.A., 383 Madison Avenue, Floor 24, New York, NY 10179, Attention of Nicolas Gitron-Beer (Phone: (212) 622-6438; Fax No. (212) 270-5172; Email: nicolas.gitron-beer@jpmorgan.com); and

(iv) if to any other Lender, to it at its address (or fax number) set forth in its Administrative Questionnaire.

Notices and 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 sent by fax 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 delivered through electronic communications to the extent provided in paragraph (b) of this Section 9.01 shall be effective as provided in such paragraph.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet and intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices under Article II to any Lender if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article II by electronic communication. Any notices or other communications to the Administrative Agent or Parent may be delivered or furnished by electronic communications pursuant to procedures approved by the recipient thereof prior thereto; provided that approval of such procedures may be limited or rescinded by any such Person by notice to each other such Person.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address, unless bounced back, shall be deemed received and (ii) notices and other communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) Any party hereto may change its address or fax number for notices and other communications hereunder by notice to the other parties hereto.

(d) Parent and the Borrower agree that the Administrative Agent may, but shall not be obligated to, make any communication by posting such communications on Debt Domain, Intralinks, Syndtrak or a similar electronic transmission system (the "Platform"). The Platform is provided "as is" and "as available." Neither the Administrative Agent nor any of its Related Parties warrants, or shall be deemed to warrant, the adequacy of the Platform and expressly disclaim liability for errors or omissions in such communications, absent willful misconduct, gross negligence or bad faith of any such Persons. 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, or shall be deemed to be made, by the Administrative Agent or any of its Related Parties in connection with the communications or the Platform.

SECTION 9.02 Waivers; Amendments. (ff) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document 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 Administrative Agent and the Lenders hereunder and under the other Loan Documents 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 any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Without limiting the generality of the foregoing, the execution and delivery of this Agreement or the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Except as otherwise expressly provided in this Agreement, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by Parent, the Borrower, the Administrative Agent and the Required Lenders and, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders, provided that (i) 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 and (ii) no such agreement shall (A) increase the amount of or extend the expiration date of any Commitment of any Lender without the written consent of such Lender, (B) reduce the principal amount of any Loan or reduce the rate of interest thereon (except in connection with the waiver of applicability of any post-default increase in interest rates (which waiver shall be effective with the consent of the Majority in Interest of each adversely affected Class) or any waiver of or change to a financial ratio or defined term related thereto), or reduce any fees payable hereunder, in each case, without the written consent of each Lender directly and adversely affected thereby (in which case the separate consent of the Required Lenders shall not be required), (C) postpone the scheduled maturity date of any Loan, or the date of any scheduled payment of the principal amount of any Term Loan under Section 2.11 or the applicable Incremental Facility Amendment or Refinancing Facility Agreement, or any date for the payment of any interest or 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 and adversely affected thereby (in which case the separate consent of the Required Lenders shall not be required), (D) amend, modify or waive the pro rata provisions of Section 2.19 without the written consent of each Lender adversely affected thereby, (E) change any of the provisions of this Section 9.02 or the percentage set forth in the definition of the term "Required Lenders" or "Majority in Interest" or any other provision of this Agreement or any other Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or otherwise modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (or each Lender of such Class, as applicable); provided that, with the consent of the Required Lenders or pursuant to an Incremental Facility Amendment or Refinancing Facility Agreement, the provisions of this Section 9.02 and the definition of the term "Required Lenders" may be amended to include references to any new Class of loans created under this Agreement (or to lenders extending such loans) on substantially the same basis as the corresponding references relating to the existing Classes of Loans or Lenders, (F) release all or substantially all of the value of the Guarantees provided by the Loan Parties under the Guarantee Agreement without the written consent of each Lender (except as expressly provided in Section 9.14 or the Guarantee Agreement (including any such release by the Administrative Agent in connection with any sale or other disposition of any Subsidiary upon the exercise of remedies under the Security Documents), it being understood and agreed that an amendment or other modification of the type of obligations guaranteed under the Guarantee Agreement shall not be deemed to be a release or limitation of any Guarantee), (G) release all or substantially all the Collateral from the Liens of the Security Documents without the written consent of each Lender (except as expressly provided in Section 9.14 or the applicable Security Document (including any such release by the Administrative Agent in connection with any sale or other disposition of the Collateral upon the exercise of remedies under the Security Documents), it being understood and agreed that an amendment or other modification of the type of obligations secured by the Security Documents shall not be deemed to be a release of the Collateral from the Liens of the Security Documents), (H) change Section 4.02 of the U.S. Collateral Agreement or any similar "waterfall" provision of an Israeli Collateral Agreement without the written consent of each Lender directly and adversely affected thereby or (I) change any provisions of this Agreement or any other Loan Document in a manner that by its terms directly and adversely affects the rights in respect of payments due to Lenders holding Loans of any Class differently than those holding Loans of any other Class, without the written consent of Lenders representing a Majority in Interest of each affected Class; provided, further, that (1) no such agreement shall amend, modify, extend or otherwise affect the rights or obligations of the Administrative Agent without the prior written consent of the Administrative Agent, (2) any amendment, waiver or other modification of this Agreement that by its terms affects the rights or duties under this Agreement of the Lenders of one or more Classes (but not the Lenders of any other Class) may be effected by an agreement or agreements in writing entered into by Parent, the Borrower and the requisite number or percentage in interest of each affected Class of Lenders that would be required to consent thereto under this Section 9.02 if such Class of Lenders were the only Class of Lenders hereunder at the time (it being understood that increases in the Applicable Rate, amendments or modifications to the amortization of the Initial Term Loans as in effect on the Closing Date, any amendment to the Term Maturity Date such that the Initial Term Loans mature prior to the Term Maturity Date as in effect on the Closing Date and any waiver of conditions to the provision of any Incremental Facility shall be deemed to affect each Class), (3) no such agreement shall amend, modify or waive any provision of Section 2.04 or 2.05 without the written consent of the Swingline Lender and (4) no such agreement shall amend, modify or waive any provision of Section 2.06 without the written consent of each Issuing Lender. Notwithstanding any of the foregoing, (1) no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of any Non-Funding Lender, except with respect to any amendment, waiver or other modification referred to in clause (A), (B) or (C) of clause (ii) of the first proviso of this paragraph and then only in the event such Non-Funding Lender shall be directly and adversely affected by such amendment, waiver or other modification and (2) this Agreement may be amended to provide for Incremental Facilities, Refinancing Commitments and Refinancing Loans and Permitted Amendments in connection with Loan Modification Offers as provided in Sections 2.22, 2.23 and 2.24, in each case without any additional consents.

(c) In connection with any proposed amendment, modification, waiver or termination (a "Proposed Change") requiring the consent of all Lenders or all affected Lenders, if the consent of the Required Lenders (and, to the extent any Proposed Change requires the consent of Lenders holding Loans of any Class pursuant to paragraph (b) of this Section 9.02, the consent of a Majority in Interest of the outstanding Loans and unused Commitments of such Class) to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in paragraph (b) of this Section 9.02 being referred to as a "Non-Consenting Lender"), then, so long as the Lender that is acting as Administrative Agent is not a Non-Consenting Lender, the Borrower may, at its sole expense and effort, upon notice to such Non-Consenting Lender and the Administrative Agent, require such Non-Consenting Lender to assign and delegate (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement 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, to the extent required by Section 9.04, which consent shall not unreasonably be withheld or delayed, (ii) such Non-Consenting 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 from the assignee or the Borrower , (iii) the Borrower or such assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 9.04(b)(ii), (iv) such assignment does not conflict with applicable law and (v) the assignee shall have given its consent to such Proposed Change. In connection with any such replacement, if any such Non-Consenting Lender does not execute and deliver to the Administrative Agent a duly executed Assignment and Assumption reflecting such replacement within five (5) Business Days of the date on which the assignee Lender executes and delivers such Assignment and Assumption to such Non-Consenting Lender, then such Non-Consenting Lender shall be deemed to have executed and delivered such Assignment and Assumption without any action on the part of the Non-Consenting Lender; provided that such Non-Consenting Lender shall be deemed to have executed and delivered such Assignment and Assumption only to the extent such Non-Consenting 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 from the assignee or the Borrower.

(d) Notwithstanding anything herein to the contrary, the Administrative Agent may, without the consent of any Secured Party, consent to a departure by any Loan Party from any covenant of such Loan Party set forth in this Agreement, the Guarantee Agreement, the Collateral Agreements or any other Security Document to the extent that such departure is consistent with the authority of the Administrative Agent set forth in the definition of the term "Collateral and Guarantee Requirement."

(e) The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, waivers or other modifications on behalf of such Lender. Any amendment, waiver or other modification effected in accordance with this Section 9.02 shall be binding upon each Person that is at the time thereof a Lender and each Person that subsequently becomes a Lender.

SECTION 9.03 Expenses; Indemnity; Damage Waiver. (gg) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Arranger and their respective Affiliates without duplication, including the reasonable and documented fees, charges and disbursements of one primary counsel and if reasonably necessary, one firm of local counsel in each jurisdiction as the Administrative Agent shall deem advisable in connection with the creation and perfection of the security interests in the Collateral provided under the Loan Documents (and such additional counsels otherwise retained with the Borrower's consent (such consent not to be unreasonably withheld or delayed), in connection with the structuring, arrangement and syndication of the credit facilities provided for herein and any credit or similar facility refinancing or replacing, in whole or in part, any of the credit facilities provided for herein, as well as the preparation, negotiation, execution, delivery and administration of this Agreement, the other Loan Documents and any amendments, modifications and waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) and (ii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Arranger, any Issuing Lender, the Swingline Lender or any Lender and their respective Affiliates, including the reasonable and documented fees, charges and disbursements of any counsel for any of the foregoing, in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section 9.03, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans; provided that the fees, charges and disbursements of counsel required to be paid by the Borrower pursuant to this clause (ii) shall be limited to (A) one counsel to the Administrative Agent and for the Lenders (taken together as a single group or client), (B) if reasonably necessary, one local counsel in jurisdictions material to the interests of the Lenders taken as a whole (which may include a single special counsel acting in multiple jurisdictions) (C) additional counsel retained with the Borrower's prior written consent (such consent not to be unreasonably withheld or delayed) and (D) if representation of the Administrative Agent and/or all Lenders in such matter by a single counsel would be inappropriate based on the advice of legal counsel due to the existence of an actual or potential conflict of interest and such party informs the Borrower of such conflict prior to retaining additional counsel, one additional counsel for each party subject to such conflict.

(b) The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), the Syndication Agent, each Arranger, each Issuing Lender, the Swingline Lender and each Lender, and each Related Party of any of the foregoing Persons and permitted successors and assigns of any of the foregoing Persons, without duplication (each such Person being called an "Indemnitee"), against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including reasonable and documented fees, charges and disbursements of counsel (limited to reasonable fees, disbursements and other charges of one primary counsel for all Indemnitees, taken as a whole, and, if reasonably necessary, one firm of local counsel in each jurisdiction (which may include a single special counsel acting in multiple jurisdictions) material to the interests of all such Indemnitees, taken as a whole (and, in the case of an actual or perceived conflict of interest, where an Indemnitee affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnitee and, if necessary, one firm of local counsel in each jurisdiction (which may include a single special counsel acting in multiple jurisdictions) material to the interests of such affected Indemnitee) and other reasonable and documented out-of-pocket expenses, incurred by or asserted against any Indemnitee arising out of, in connection with or as a result of (i) the structuring, arrangement and syndication of the credit facilities provided for herein, the preparation, execution, delivery, operation and administration of this Agreement, the other Loan Documents or any other agreement or instrument contemplated hereby or thereby, the performance by the parties to this Agreement or the other Loan Documents of their respective obligations hereunder or thereunder or the consummation of the Transactions or any other transactions contemplated hereby or thereby, (ii) any Loan or Letters of Credit (including any refusal by an Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or the use of the proceeds therefrom, (iii) any actual or alleged presence or Release of Hazardous Materials on or from any Mortgaged Property or any other property owned, leased or operated by Parent or any Subsidiary or any Environmental Liability related in any way to Parent or any Subsidiary 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 whether initiated against or by any party to this Agreement or any other Loan Document, any Affiliate of any of the foregoing or any third party (and regardless of whether any Indemnitee is a party thereto); provided that the foregoing indemnity shall not, as to any Indemnitee, apply to any losses, claims, damages, penalties, liabilities or related expenses to the extent they (A) are found in a final and non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct, bad faith or gross negligence of such Indemnitee or any of its controlled Affiliates or any of the officers, directors, employees, agents, advisors or other representatives of any of the foregoing, in each case who are involved in the Transactions, (B) result from a material breach of such Indemnitee's or its controlled Affiliate's or any officers, directors, employees, agents, advisors or other representatives of any of the foregoing's obligations under this Agreement or any other Loan Document if Parent or such Subsidiary has obtained a final and non-appealable judgment in Parent's or its Subsidiary's favor on such claim as determined by a court of competent jurisdiction, (C) result from a proceeding that does not involve an act or omission by the Borrower or any of its Affiliates and that is solely among Indemnitees (other than a proceeding that is brought against an Indemnitee in its capacity as or in fulfilling its roles as an agent or arranger hereunder or any similar role with respect to the Indebtedness incurred or to be incurred hereunder), unless such proceeding arises from the gross negligence, bad faith or willful misconduct of such Indemnitee. This paragraph shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it under paragraph (a) or (b) of this Section 9.03 to the Administrative Agent (or any sub-agent thereof) or an Issuing Lender or any Related Party of any of the foregoing (and without limiting their obligation to do so), each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or the applicable Issuing Lender or such Related Party, as applicable, such portion of the unpaid amount equal to such Lender's Aggregate Exposure 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 applicable, was incurred by or asserted against the Administrative Agent (or such sub-agent) or applicable Issuing Lender or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or such Issuing Lender, as the case may be, in connection with such capacity.

(d) To the fullest extent permitted by applicable law, (i) Parent shall not assert, or permit any of its Affiliates or Related Parties to assert, and each hereby waives, any claim against any Indemnitee for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of, or a material breach of the obligations under this Agreement or any other Loan Document by, such Indemnitee or any of such Indemnitee's controlled Affiliates or any of its or their respective officers, directors, employees, agents, advisors, controlling persons or other representatives (as determined by a court of competent jurisdiction in a final and non-appealable decision) and (ii) no party hereto shall assert, or permit any of its Affiliates or Related Parties to assert, and each party hereto hereby waives, any claim or damages based 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 or thereby, the Transactions, any Loan or the use of the proceeds thereof.

(e) All amounts due under this Section 9.03 shall be payable within 30 Business Days after written demand therefor (or such later time as the party making such demand provides in such notice).

SECTION 9.04 Successors and Assigns. (hh) 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 (including any Affiliate of any Issuing Lender that issues any Letter of Credit), except that (i) the Borrower may not assign, delegate or otherwise transfer any of its respective rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment, delegation or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign, delegate or otherwise transfer its rights or obligations hereunder except in accordance with this Section 9.04. 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 9.04), any Arranger and, to the extent expressly contemplated hereby, the sub-agents of the Administrative Agent and the Related Parties of any of the Administrative Agent, any Arranger and any Lender) 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 and delegate to one or more Eligible Assignees after the funding of the initial extensions of credit hereunder on the Closing Date 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 (1) if an Event of Default under clause (a), (b), (h) or (i) of Article VII has occurred and is continuing, (2) in the case of Term Loans, for an assignment and delegation to a Term Lender, an Affiliate of a Term Lender or an Approved Fund and (3) in the case of Revolving Commitments and/or Revolving Loans, for an assignment and delegation to a Revolving Lender; provided, further, that the Borrower shall be deemed to have consented to any such assignment and delegation of Term Loans unless it shall object thereto by written notice to the Administrative Agent within 15 Business Days after having received notice thereof;

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment and delegation of any Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) each Issuing Lender and the Swingline Lender; provided that no consent of each Issuing Lender and the Swingline Lender shall be required for an assignment and delegation of any Term Loan.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment and delegation to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment and delegation of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment and delegation (determined as of the trade date specified in the Assignment and Assumption with respect to such assignment and delegation or, if no trade date is so specified, as of the date the Assignment and Assumption with respect to such assignment and delegation is delivered to the Administrative Agent) shall not be less than (y) $1,000,000 in the case of the Initial Term Facility or any Incremental Term Facility and (z) $5,000,000 in the case of the Revolving Facility unless the Borrower and the Administrative Agent otherwise consent (such consent not to be unreasonably withheld or delayed); 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 and delegation shall be made as an assignment and delegation of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause (B) shall not be construed to prohibit the assignment and delegation of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment and delegation shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, provided that (1) only one such processing and recordation fee shall be payable in the event of simultaneous assignments and delegations from any Lender or its Approved Funds to one or more other Approved Funds of such Lender and (2) with respect to any assignment and delegation pursuant to Section 2.20(b) or 9.02(c), the parties hereto agree that such assignment and delegation may be effected pursuant to an Assignment and Assumption executed by Parent, the Administrative Agent and the assignee and that the Lender required to make such assignment and delegation need not be a party thereto; and

(D) the assignee, if it shall not be a Lender, shall (1) deliver to the Administrative Agent and to Parent any tax forms required by Section 2.18(f) and (2) to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain MNPI) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable law, including Federal, State and foreign securities laws.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(v) of this Section 9.04, 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 and delegated 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 and delegated by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all 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 (and subject to the obligations and limitations of) Sections 2.16, 2.17, 2.18 and 9.03). Any assignment, delegation or other transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 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 Section 9.04(c).

(iv) The Administrative Agent, acting solely 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 Commitments of, and principal amount (and stated interest) of the Loans and L/C Obligations 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, the Issuing Lenders 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 shall be available for inspection by the Borrower and, as to entries pertaining to it, any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon receipt by the Administrative Agent 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 2.18(f) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 9.04 and any written consent to such assignment and delegation required by paragraph (b) of this Section 9.04, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that the Administrative Agent shall not be required to accept such Assignment and Assumption or so record the information contained therein if the Administrative Agent reasonably believes that such Assignment and Assumption lacks any written consent required by this Section 9.04 or is otherwise not in proper form, it being acknowledged that the Administrative Agent shall have no duty or obligation (and shall incur no liability) with respect to obtaining (or confirming the receipt) of any such written consent or with respect to the form of (or any defect in) such Assignment and Assumption, any such duty and obligation being solely with the assigning Lender and the assignee. No assignment or delegation shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph, and following such recording, unless otherwise determined by the Administrative Agent (such determination to be made in the sole discretion of the Administrative Agent, which determination may be conditioned on the consent of the assigning Lender and the assignee), shall be effective notwithstanding any defect in the Assignment and Assumption relating thereto. Each assigning Lender and the assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the Administrative Agent that all written consents required by this Section 9.04 with respect thereto (other than the consent of the Administrative Agent) have been obtained and that such Assignment and Assumption is otherwise duly completed and in proper form, and each assignee, by its execution and delivery of an Assignment and Assumption, shall be deemed to have represented to the assigning Lender and the Administrative Agent that such assignee is an Eligible Assignee.

(vi) The words "execution," "signed," "signature" and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as applicable, 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.

(c) Any Lender may, without the consent of (or notice to) Parent, the Borrower, the Administrative Agent, the Issuing Lenders or the Swingline Lender, sell participations to one or more Eligible Assignees (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and Loans of any Class); 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) Parent, 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 9.02(b) that affects such Participant or requires the approval of all the Lenders. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.16, 2.17 and 2.18 (subject to the requirements and limitations therein, including the requirements under Section 2.18(f) (it being understood and agreed that the documentation required under Section 2.18(f) 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 9.04; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.19 and 2.20 as if it were an assignee under paragraph (b) of this Section 9.04 and (B) shall not be entitled to receive any greater payment under Section 2.16 or 2.18, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law or compliance by any Lender with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at Parent's request and expense, to use reasonable efforts to cooperate with Parent to effectuate the provisions of Section 2.20(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.19(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement or any other Loan Document (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 this Agreement or any other 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, without the consent of Parent or the Administrative Agent, 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 9.04 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.

SECTION 9.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in this Agreement and 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 other Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Arranger, any Lender or any Affiliate of any of the foregoing may have had notice or knowledge of any Default or incorrect representation or warranty at the time this Agreement or any other 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 and so long as the Commitments have not expired or terminated. The provisions of Sections 2.16, 2.17, 2.18, 2.19(e) and 9.03 and Article VIII 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 or the termination of this Agreement or any provision hereof.

SECTION 9.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent or the syndication of the Loans and Commitments 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07 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.

SECTION 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each of the Lenders and each of their respective Affiliates, are 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 and other obligations (in whatever currency) at any time owing by such Lender or its Affiliates to or for the credit or the account of any Loan Party against any of and all the Obligations then due of the Borrower or any such other Loan Party now or hereafter existing under this Agreement or the other Loan Documents held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Loan Parties may be contingent or unmatured or are owed to a branch or office or Affiliate of such Lender different from the branch or office or Affiliate holding such deposit or obligated on such Indebtedness; provided that, in the event that any Non-Funding Lender shall exercise any such right of setoff, (i) all amounts so setoff shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of this Agreement and the other Loan Documents and, pending such payment, shall be segregated by such Non-Funding Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lenders, the Swingline Lender and the Lenders and (ii) the Non-Funding Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Non-Funding Lender as to which it exercised such right of setoff; provided, further, that to the extent prohibited by applicable law as described in the definition of the term "Excluded Swap Obligation", no amount received from, or set off with respect to, any Loan Party shall be applied to any Excluded Swap Obligations of such Loan Party. Each Lender agrees to notify the applicable Loan Parties and the Administrative Agent promptly after any such setoff and application; provided that the failure to give or any delay in giving such notice shall not affect the validity of any such setoff and application. The rights of each Lender and its Affiliates under this Section 9.08 are in addition to other rights and remedies (including other rights of setoff) that such Lender or its respective Affiliates may have.

SECTION 9.09 Governing Law; Jurisdiction; Consent to Service of Process. (ii) This Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby shall be governed by, and construed in accordance with, the law of the State of New York; provided, however, that (i) security interests in any IIA-Funded Know-How shall be granted under security agreements governed by Israeli law, (ii) any such claim, controversy, dispute or cause of action based upon, arising out of or relating to the Research Law, IIA Rights, any IIA Approval or the pledge of any IIA-Funded Know-How or the realization of any such pledge shall be governed by, and construed in accordance with, the laws of the State of Israel (in each case, without regard to the principles of conflict of laws thereof, to the extent that the same are not mandatorily applicable by statute and would require or permit the application of the law of another jurisdiction), (iii) the interpretation of the definition of the term "inContact Material Adverse Effect" (and whether or not an inContact Material Adverse Effect has occurred), (iv) the accuracy of any Specified Acquisition Agreement Representations and whether as a result of any inaccuracy thereof Parent or any of its Affiliates has the right (without regard to any notice requirement) to terminate its obligations (or to refuse to consummate the acquisition) under the Acquisition Agreement and (v) whether the acquisition has been consummated in accordance with the terms of the Acquisition Agreement, in each case in the foregoing clauses (iii), (iv) and (v), shall be governed by, and construed in accordance with, the laws of the State of Delaware (in each case, without regard to the principles of conflict of laws thereof, to the extent that the same are not mandatorily applicable by statute and would require or permit the application of the law of another jurisdiction).

(b) Each of the parties hereto irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against any other party hereto in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts 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, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits, for itself and its property, to the jurisdiction of such courts and agrees that all claims in respect of any action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each party hereto agrees that a final judgment in any such action, litigation 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 party hereto may otherwise have to bring any action, litigation or proceeding related to any Loan Document governed by any law other than the laws of the State of New York against any other party hereto or any of its properties in the courts of the jurisdiction of the law governing such Loan Document. Notwithstanding the foregoing, (i) security interests in IIA-Funded Know-How shall be subject to the exclusive jurisdiction of the courts of Israel and (ii) any action, litigation or proceeding of any kind or description based upon, arising out of or relating to the Research Law, IIA Rights, any IIA Approval or the pledge of any IIA-Funded Know-How or the realization of any such pledge shall be subject to the exclusive jurisdiction of the applicable courts of the State of Israel and each of the parties hereto irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such courts.

(c) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action, litigation or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section 9.09. 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 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law. The Borrower and each other non-Israeli Loan Party hereby irrevocably appoints Parent as its agent for service of process in relation to any proceedings brought before the courts of Israel in connection with any Loan Document.

SECTION 9.10 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 OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (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 AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.10.

SECTION 9.11 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 9.12 Confidentiality. Each of the Administrative Agent, each Issuing Lender and each Lender agrees to maintain the confidentiality of all Information (as defined below), except that Information may be disclosed (a) to its Related Parties, including accountants, legal counsel and other agents and advisors on a need-to-know basis, it being understood and agreed that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential, (b) to the extent required or requested by any regulatory authority having jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners) (in which case such Credit Party agrees (except with respect to any audit or examination conducted by bank accountants or any regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (in which case such Credit Party agrees (except with respect to any audit or examination conducted by bank accountants or any regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable law, rule or regulation, to inform the Borrower promptly thereof prior to disclosure), (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing confidentiality undertakings substantially similar to those of this Section 9.12, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its Related Parties) to any Hedging Agreement relating to Parent or any Subsidiary and its obligations hereunder or under any other Loan Document, (g) on a confidential basis to (i) any rating agency in connection with rating Parent or its Subsidiaries or the credit facilities provided for herein or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities provided for herein, (h) with the consent of Parent or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.12 or (ii) becomes available to the Administrative Agent, any Issuing Lender, any Lender or any Affiliate of any of the foregoing on a nonconfidential basis from a source other than Parent or its Subsidiary. For purposes of this Section 9.12, "Information" means all information received from Parent relating to Parent or any Subsidiary (including any Unrestricted Subsidiary) or their businesses, other than any such information that is available to the Administrative Agent, any Issuing Lender or any Lender on a nonconfidential basis prior to disclosure by Parent or its Subsidiary (including any Unrestricted Subsidiary) and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. Any Person required to maintain the confidentiality of Information as provided in this Section 9.12 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.

SECTION 9.13 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 that are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") that 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. If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower.

SECTION 9.14 Release of Liens and Guarantees. A Loan Party (other than Parent and the Borrower) shall automatically be released from its obligations under the Loan Documents, and all security interests created by the Security Documents in Collateral owned by such Loan Party shall be automatically released, (i) upon the consummation of any transaction permitted by this Agreement as a result of which such Loan Party ceases to be a Subsidiary (or becomes an Excluded Subsidiary (other than solely as a result of such Subsidiary ceasing to be a Significant Subsidiary) or an Unrestricted Subsidiary) and (ii) upon written notice from the Borrower to the Administrative Agent, upon or after such Loan Party becoming an Excluded Subsidiary solely as a result of such Subsidiary ceasing to be a Significant Subsidiary; provided that as of any date upon which a Loan Party (other than Parent and the Borrower) becomes an Excluded Subsidiary and its guarantee of the Obligations is released, the Borrower shall be deemed to have made an Investment in a Person that is not a Loan Party in an amount equal to the fair market value of the assets (net of third-party liabilities and intercompany assets) of such Subsidiary as of such date (as determined reasonably and in good faith by a Financial Officer of Parent).

Upon any sale or other transfer by any Loan Party (other than to Parent or any other Loan Party) of any Collateral in a transaction permitted under this Agreement, or upon the effectiveness of any written consent to the release of the security interest created under any Security Document in any Collateral pursuant to Section 9.02, the security interests in such Collateral created by the Security Documents shall be automatically released. In connection with any termination or release pursuant to this Section 9.14, the Administrative Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release, and shall file (or authorize such Loan Party to file) any termination statements in respect of Uniform Commercial Code financing statements (or similar filings under applicable law). Any execution and delivery of documents pursuant to this Section 9.14 shall be without recourse to or warranty by the Administrative Agent. Each of the Secured Parties irrevocably authorizes the Administrative Agent, at its option and in its discretion, to effect the releases set forth in this Section 9.14.

SECTION 9.15 USA PATRIOT Act Notice. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) 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.

SECTION 9.16 No Fiduciary Relationship. Each of Parent and the Borrower, on behalf of itself and its Subsidiaries, agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, Parent, the Borrower, the Subsidiaries and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the Lenders and their respective Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Arrangers, the Lenders or their Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Administrative Agent, the Arrangers, the Lenders and their respective Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of Parent, the Borrower, the Subsidiaries and their respective Affiliates, and none of the Administrative Agent, the Arrangers, the Lenders or any of their respective Affiliates has any obligation to disclose any of such interests to Parent, the Borrower, the Subsidiaries or any of their respective Affiliates. Each of Parent and the Borrower hereby agrees that neither it nor any of its Affiliates will assert any claim against the Administrative Agent, the Arrangers, the Lenders or any of their respective Affiliates based on alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 9.17 Non-Public Information. (jj) Each Lender acknowledges that all information, including requests for waivers and amendments, furnished by Parent, the Borrower or the Administrative Agent pursuant to or in connection with, or in the course of administering, this Agreement will be syndicate-level information, which may contain MNPI. Each Lender represents to Parent, the Borrower and the Administrative Agent that (i) it has developed compliance procedures regarding the use of MNPI and that it will handle MNPI in accordance with such procedures and applicable law, including federal, state and foreign securities laws, and (ii) it has identified in its Administrative Questionnaire a credit contact who may receive information that may contain MNPI in accordance with its compliance procedures and applicable law, including federal, state and foreign securities laws.

(b) Each of Parent, the Borrower and each Lender acknowledges that, if information furnished by Parent or the Borrower pursuant to or in connection with this Agreement is being distributed by the Administrative Agent through the Platform, (i) the Administrative Agent may post any information that Parent or the Borrower has indicated as containing MNPI solely on that portion of the Platform designated for Private Side Lender Representatives and (ii) if Parent or the Borrower has not indicated whether any information furnished by it pursuant to or in connection with this Agreement contains MNPI, the Administrative Agent reserves the right to post such information solely on that portion of the Platform as is designated for Private Side Lender Representatives. Each of Parent and the Borrower agrees to clearly designate all information provided to the Administrative Agent by or on behalf of Parent or the Borrower that is suitable to be made available to Public Side Lender Representatives, and the Administrative Agent shall be entitled to rely on any such designation by Parent or the Borrower without liability or responsibility for the independent verification thereof.

SECTION 9.18 Judgment Currency. (kk) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in U.S. Dollars 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 U.S. Dollars 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 each party hereto in respect of any sum due to any other 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 U.S. Dollars, 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 U.S. Dollars with the Judgment Currency; if the amount of U.S. Dollars so purchased is less than the sum originally due to the Applicable Creditor in U.S. Dollars, such party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Applicable Creditor against such deficiency. The obligations of the parties contained in this Section 9.18 shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

SECTION 9.19 Israeli Lenders. (ll) It is hereby acknowledged that it is a condition to any prospective Israeli Lender becoming a party hereto on the Closing Date that the proposed Loans to be made and Letters of Credit to be issued, in each case on the Closing Date, shall not result in such prospective Lender exceeding the limits under Bank of Israel guidelines and directives with respect to single borrowers ("*loveh boded*"), groups of borrowers ("*kvutzat lovim*"), connected persons ("*anashim kshurim*") or any other limit or limitations imposed thereunder ("Israeli Regulatory Guidelines").

(b) Each Israeli Lender that is subject to Israeli Regulatory Guidelines hereby represents, as of the date it becomes a Lender hereunder, that, based on the information that has been made available to it, the making of the Loans by such Lender on the Closing Date or on the date that it becomes a Lender hereunder, as applicable, would not have resulted in such Lender exceeding the limits under Israeli Regulatory Guidelines.

SECTION 9.20 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 any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document 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:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, 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

(iii) 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.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

NICE LTD., as Parent

By: 
Name: Barak Eilam
Title: Chief Executive Officer

By: 
Name: Eran porat
Title: Corporate Vice President, Finance

NICE SYSTEMS INC., as the Borrower

By: 
Name: Jeff Leyenberg
Title: Secretary

[Signature Page to Credit Agreement]

JPMORGAN CHASE BANK, N.A., as Administrative Agent

By: 

Name: Nicolas Gitron - Beer
Title: Vice President

[Signature Page to Credit Agreement]

JPMorgan Chase Bank, N.A., as a Lender

By: 

Name: Nicolas Gitron - Beer
Title: Vice President

[Signature Page to Credit Agreement]

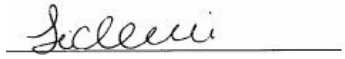
ROYAL BANK OF CANADA, as Syndication Agent and as a Lender

By: 

Name: Theodore Brown
Title: Authorized Signatory

[Signature Page to Credit Agreement]

CITIBANK N.A., as Co-Documentation Agent and as a Lender

By: 

Name: Nurit Leiderman
Title: Director

[Signature Page to Credit Agreement]

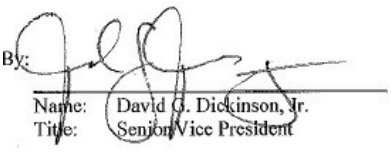
BMO HARRIS BANK, N.A., as Co-Documentation Agent and as a Lender

By: 

Name: Michael Kus
Title: Managing Director

[Signature Page to Credit Agreement]

WELLS FARGO BANK, N.A., as Co-Documentation Agent and as a Lender

By: 

Name: David G. Dickinson, Jr.
Title: Senior Vice President

[Signature Page to Credit Agreement]

CAPITAL ONE, NATIONAL ASSOCIATION, as Co-Documentation Agent and as a Lender

By: 

Name: Nirmal Bivek
Title: Duly Authorized Signatory

[Signature Page to Credit Agreement]

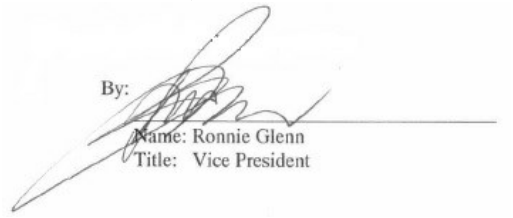
TD BANK, N.A., as Co-Documentation Agent and as a Lender

By: 

Name: Shivani Agarwal
Title: Senior Vice President

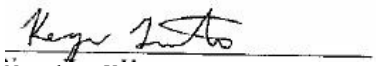
[Signature Page to Credit Agreement]

BARCLAYS BANK PLC, as a Lander



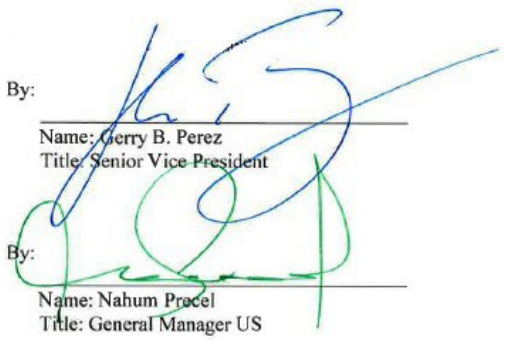
[Signature Page to Credit Agreement]

MORGAN STANLEY SENIOR FUNDING, INC.,
as a Lender

By: 
Name: kenya Yamamoto
Title: Vice President

[Signature Page to Credit Agreement]

Mizrahi Tefahot Bank Ltd., as a Lender



By: _____
Name: Gerry B. Perez
Title: Senior Vice President

By: _____
Name: Nahum Precel
Title: General Manager US

[Signature Page to Credit Agreement]

Exhibit 4.16

NICE SYSTEMS INC.,

as Issuer

AND

NICE LTD.,

as Guarantor

AND

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

INDENTURE

Dated as of January 18, 2017

1.25% Exchangeable Senior Notes due 2024

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EXHIBITS

INDENTURE dated as of January 18, 2017 among NICE Systems Inc., a Delaware corporation, as issuer (the "**Company**", as more fully set forth in Section 1.01), NICE Ltd., an Israeli corporation, as guarantor ("**NICE**"), and U.S. Bank National Association, as trustee (the "**Trustee**", as more fully set forth in Section 1.01).

W I T N E S S E T H:

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the issuance of its 1.25% Exchangeable Senior Notes due 2024 (the "**Notes**"), initially in an aggregate principal amount of $287,500,000, and NICE has duly authorized its issuance of the Guarantee, and in order to provide the terms and conditions upon which the Notes are to be authenticated, issued and delivered, the Company and NICE have duly authorized the execution and delivery of this Indenture; and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, and the Form of Notice of Exchange, the Form of Fundamental Change Prepayment Notice and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided; and

WHEREAS, all acts and things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Trustee or a duly authorized authenticating agent, as provided in this Indenture, the valid, binding and legal obligations of the Company, and this Indenture the valid, binding and legal obligations of the Company and NICE, have been done and performed, and the execution of this Indenture and the issuance hereunder of the Notes and the Guarantee have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the Holders thereof, each of the Company and NICE covenants and agrees with the Trustee for the equal and proportionate benefit of the respective Holders from time to time of the Notes (except as otherwise provided below), as follows:

ARTICLE 1
Definitions

Section 1.01. *Definitions.* The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words "herein," "hereof," "hereunder," and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article include the plural as well as the singular.

"**Additional ADSs**" shall have the meaning specified in Section 14.03(a).

"**Additional Amounts**" shall have the meaning specified in Section 4.07(a).

"**Additional Interest**" means all amounts, if any, payable pursuant to Section 4.06(d), Section 4.06(e) and Section 6.03, as applicable.

"**ADS**" means an American Depositary Share, issued pursuant to the Deposit Agreement and deposited with the ADS Custodian or the ADS Depositary, representing as of the date of this Indenture one Ordinary Share.

"**ADS Custodian**" means the "Custodian," as defined in the Deposit Agreement.

"**ADS Depositary**" means JPMorgan Chase Bank, N.A., a national banking association organized under the laws of the United States of America acting in its capacity as depositary for the ADSs.

"**ADS Price**" shall have the meaning specified in Section 14.03(c).

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Applicable Procedures**" means, with respect to a Depositary, as to any matter at any time, the policies and procedures of such Depositary, if any, that are applicable to such matter at such time.

"**Bankruptcy Law**" means Title 11, U.S. Code, as amended, or any similar federal, state or foreign law for the relief of debtors.

"**Bid Solicitation Agent**" means the Person appointed by the Company to solicit bids for the Trading Price of the Notes in accordance with Section 14.01(b)(i). The Company shall initially act as the Bid Solicitation Agent.

"**Board of Directors**" means, with respect to the Company or NICE, the board of directors of the Company or NICE, as the case may be, or a committee of such board duly authorized to act for it hereunder.

"**Board Resolution**" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company or NICE, as the case may be, to have been duly adopted by the applicable Board of Directors, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"**Capital Stock**" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity; *provided* that debt securities that are convertible into or exchangeable for Capital Stock shall not constitute Capital Stock prior to their conversion or exchange, as the case may be.

"**Cash Settlement**" shall have the meaning provided in Section 14.02(a).

"**Certificated Notes**" means permanent certificated Notes in registered form issued in denominations of $1,000 principal amount and multiples thereof.

"**Change in Tax Law**" shall have the meaning specified in Section 16.01.

"**Clause A Distribution**" shall have the meaning specified in Section 14.04(c).

"**Clause B Distribution**" shall have the meaning specified in Section 14.04(c).

"**Clause C Distribution**" shall have the meaning specified in Section 14.04(c).

"**close of business**" means 5:00 p.m. (New York City time).

"**Combination Settlement**" shall have the meaning provided in Section 14.02(a).

"**Commission**" means the U.S. Securities and Exchange Commission.

"**Common Equity**" of any Person means Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

"**Company**" shall have the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 11, shall include its successors and assigns.

"**Company Order**" means a written order of the Company, signed by an Officer of the Company.

"**Corporate Trust Office**" means the corporate trust office of the Trustee located at 333 Commerce Street, Suite 800, Nashville, Tennessee 37201, or such other office, designated by the Trustee by written notice to the Company, at which at any particular time its corporate trust business shall be administered; *provided*, *however*, for purposes of Sections 2.05 and 4.02, such address shall be 333 Commerce Street, Suite 800, Nashville, Tennessee 37201, Attention: Global Corporate Trust Services.

"**Custodian**" means the Trustee, as custodian for The Depository Trust Company, with respect to the Global Notes, or any successor entity thereto.

"**Daily Exchange Value**" means, for each of the 60 consecutive VWAP Trading Days during the relevant Observation Period, 1/60th of the product of (i) the Exchange Rate on such VWAP Trading Day and (ii) the Daily VWAP for such VWAP Trading Day.

"**Daily Measurement Value**" shall have the meaning specified in the definition of "Daily Settlement Amount."

"**Daily Settlement Amount**," for each of the 60 consecutive VWAP Trading Days during the relevant Observation Period, shall consist of:

(a) cash in an amount equal to the lesser of (i) the Specified Dollar Amount, if any, *divided by* 60 (such quotient, the "**Daily Measurement Value**") and (ii) the Daily Exchange Value for such VWAP Trading Day; and

(b) if the Daily Exchange Value on such VWAP Trading Day exceeds the Daily Measurement Value, a number of ADSs equal to (i) the difference between the Daily Exchange Value and the Daily Measurement Value, *divided by* (ii) the Daily VWAP for such VWAP Trading Day.

"**Daily VWAP**" means, for each of the 60 consecutive VWAP Trading Days during the relevant Observation Period, the per ADS volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "NICE <equity> AQR" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or if such volume-weighted average price is unavailable, the market value of one ADS on such VWAP Trading Day determined, using a volume-weighted average method, by a U.S. nationally recognized independent investment banking firm retained for this purpose by the Company). The "**Daily VWAP**" shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

"**Default**" means any event that is, or after notice or passage of time, or both, would be, an Event of Default.

"**Defaulted Amounts**" means any amounts on any Note (including, without limitation, the Redemption Price, Fundamental Change Prepayment Price, cash exchange consideration due upon exchange, principal and interest) that are payable but are not punctually paid or duly provided for.

"**Deposit Agreement**" means the Deposit Agreement, dated as of April 6, 2015, among NICE, the ADS Depositary and all holders from time to time of the ADSs issued thereunder, as supplemented by the Restricted Deposit Agreement, dated as of January 18, 2017, among NICE, the ADS Depositary and all holders from time to time of the ADSs issued thereunder and, if further amended or supplemented as provided therein, as so amended or supplemented.

"**Depositary**" means, with respect to each Global Note, the Person specified in Section 2.05(b) as the Depositary with respect to such Notes, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, "**Depositary**" shall mean or include such successor.

"**Designated Financial Institution**" shall have the meaning specified in Section 14.02(j).

"**Distributed Property**" shall have the meaning specified in Section 14.04(c).

"**effective date**" means the first date on which the ADSs trade on the Relevant Stock Exchange, regular way, reflecting the relevant share split or share combination, as applicable.

"**Effective Date**" means, for purposes of Section 14.03, the meaning specified in Section 14.03(c).

"**Event of Default**" shall have the meaning specified in Section 6.01.

"**Ex-Dividend Date**" means the first date on which the ADSs trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from NICE or, if applicable, from the seller of the ADSs on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Exchange Agent**" shall have the meaning specified in Section 4.02.

"**Exchange Consideration**" shall have the meaning specified in Section 14.02(j).

"**Exchange Date**" shall have the meaning specified in Section 14.02(c).

"**Exchange Election**" shall have the meaning specified in Section 14.02(j).

"**Exchange Obligation**" shall have the meaning specified in Section 14.01(a).

"**Exchange Price**" means as of any date, $1,000, *divided by* the Exchange Rate as of such date.

"**Exchange Rate**" shall have the meaning specified in Section 14.01(a).

"**Expiration Date**" shall have the meaning specified in Section 14.04(e).

"**Expiration Time**" shall have the meaning specified in Section 14.04(e).

"**FATCA**" shall have the meaning specified in Section 4.07(a)(i)(D).

"**Form of Assignment and Transfer**" shall mean the "Form of Assignment and Transfer" attached as Attachment 3 to the Form of Note attached hereto as Exhibit A.

"**Form of Fundamental Change Prepayment Notice**" shall mean the "Form of Fundamental Change Prepayment Notice" attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

"**Form of Notice of Exchange**" shall mean the "Form of Notice of Exchange" attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

"**Fundamental Change**" shall be deemed to have occurred at the time after the Notes are originally issued if any of the following occurs:

(a) any person, including any syndicate or group deemed to be a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than NICE, its Wholly-Owned Subsidiaries and their respective employee benefit plans makes a filing under the Exchange Act disclosing that it has become, directly or indirectly, the "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of Ordinary Shares (including Ordinary Shares held in the form of ADSs) representing more than 50% of the voting power of the Ordinary Shares;

(b) the consummation of (A) any recapitalization, reclassification or change of the Ordinary Shares or the ADSs (other than changes resulting from a subdivision or combination) as a result of which the Ordinary Shares or the ADSs would be converted into, or exchanged for, stock, other securities, or other property or assets; (B) any share exchange, consolidation, merger or statutory scheme of arrangement of NICE pursuant to which the Ordinary Shares or the ADSs will be converted into cash, securities, other property or assets (including cash or any combination thereof); or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of NICE and its Subsidiaries, taken as a whole, to any Person other than one or more of NICE's direct or indirect Wholly-Owned Subsidiaries; *provided*, *however*, that a transaction described in clause (A) or (B) in which the holders of all classes of NICE Common Equity immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of the Common Equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction in substantially the same proportions (vis-a-vis each other) as such ownership immediately prior to such transaction shall not be a Fundamental Change pursuant to this clause (b);

(c) the Company ceases to be a direct or indirect Wholly-Owned Subsidiary of NICE; *provided* that no Fundamental Change shall be deemed to have occurred if the Company merges with one of NICE's Wholly-Owned Subsidiaries;

(d) the shareholders of NICE approve any plan or proposal for the liquidation or dissolution of NICE; or

(e) the ADSs (or other Common Equity or ADSs in respect of Common Equity for which the Notes are then exchangeable) cease to be listed or admitted or approved for trading on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors);

provided, *however*, that a transaction or transactions described in clause (a) or (b) above shall not constitute a Fundamental Change if at least 90% of the consideration received or to be received by the holders of the ADSs, excluding cash payments for fractional ADSs and cash payments made pursuant to dissenters' or appraisal rights, in connection with such transaction or transactions consists of shares of Common Equity or ADSs in respect of Common Equity that are listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions, and as a result of such transaction or transactions such consideration becomes the Reference Property for the Notes (subject to the provisions set forth in Section 14.02).

Any event, transaction or series of related transactions that constitute a Fundamental Change under both clause (a) and clause (b) above (determined without regard to the proviso in clause (b) above) shall be deemed to be a Fundamental Change solely under clause (b) above.

"**Fundamental Change Company Notice**" shall have the meaning specified in Section 15.02(c).

"**Fundamental Change Prepayment Date**" shall have the meaning specified in Section 15.02(a).

"**Fundamental Change Prepayment Notice**" shall have the meaning specified in Section 15.02(b)(i).

"**Fundamental Change Prepayment Price**" shall have the meaning specified in Section 15.02(a).

"**Global Note**" shall have the meaning specified in Section 2.05(a).

"**Guarantee**" means the guarantee of the Company's payment obligations under this Indenture and the Notes, issued by NICE pursuant to Article 13 of this Indenture.

"**Holder**," as applied to any Note, or other similar terms (but excluding the term "beneficial holder"), shall mean any person in whose name at the time a particular Note is registered on the Note Register.

"**Indenture**" means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

"**Interest Payment Date**" means January 15 and July 15 of each year, beginning on July 15, 2017.

"**Issue Date**" means January 18, 2017.

"**Last Reported Sale Price**" of the ADSs on any date means:

(a) the closing sale price per ADS (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on such date as reported in composite transactions for the Relevant Stock Exchange;

(b) if the ADSs are not listed for trading on a Relevant Stock Exchange on such date, the last quoted bid price per ADS for the ADSs in the over-the-counter market on such date as reported by OTC Markets Group Inc. or a similar organization; and

(c) if the ADSs are not so quoted, the average of the mid-point of the last bid and ask prices per ADS for the ADSs on such date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

"**Make-Whole Fundamental Change**" means any transaction or event that constitutes a Fundamental Change, after giving effect to any exceptions to or exclusions from the definition thereof, but without regard to the *proviso* in clause (b) of the definition thereof.

"**Make-Whole Fundamental Change Company Notice**" shall have the meaning specified in Section 14.03(b).

"**Market Disruption Event**" means:

(a) a failure by the Relevant Stock Exchange to open for trading during its regular trading session; or

(b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the ADSs for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the Relevant Stock Exchange or otherwise) in the ADSs or in any options contracts or futures contracts relating to the ADSs.

"**Maturity Date**" means January 15, 2024.

"**Measurement Period**" shall have the meaning specified in Section 14.01(b)(i).

"**NICE**" shall have the meaning specified in the first paragraph of the recitals of this Indenture.

"**No Redemption Notice**" shall have the meaning specified in Section 16.04.

"**Note**" or "**Notes**" shall have the meaning specified in the first paragraph of the recitals of this Indenture.

"**Note Register**" shall have the meaning specified in Section 2.05.

"**Note Registrar**" shall have the meaning specified in Section 2.05.

"**Notice of Exchange**" shall have the meaning specified in Section 14.02(b)(ii).

"**Notice of Tax Redemption**" shall have the meaning specified in Section 16.02(a).

"**Observation Period**" with respect to any Note surrendered for exchange means:

(a) if the relevant Exchange Date occurs prior to September 15, 2023, the 60 consecutive VWAP Trading Day period beginning on, and including, the third VWAP Trading Day immediately succeeding such Exchange Date; and

(b) if the relevant Exchange Date occurs on or after September 15, 2023, the 60 consecutive VWAP Trading Day period beginning on, and including, the 62nd Scheduled Trading Day immediately preceding the Maturity Date.

"**Offering Memorandum**" means the preliminary offering memorandum, dated January 10, 2017, relating to the offering and sale of the Notes, as supplemented by the related pricing term sheet.

"**Officer**" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Assistant Secretary, any Executive Vice President or any Corporate Vice President of such Person.

"**Officer's Certificate**" means a certificate signed on behalf of the Company by an Officer of the Company or NICE, as the case may be, that meets the requirements of Section 17.06.

"**open of business**" means 9:00 a.m. (New York City time).

"**Opinion of Counsel**" means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 17.06. The counsel may be an employee of or counsel to the Company or NICE or any Subsidiary of NICE.

"**Ordinary Shares**" means the ordinary shares of NICE, par value NIS 1.00 per share, subject to Section 14.07.

"**outstanding**," when used with reference to Notes, shall, subject to the provisions of Section 8.04, mean, as of any particular time, all Notes authenticated and delivered by the Trustee under this Indenture, except:

(a) Notes theretofore canceled by the Trustee or accepted by the Trustee for cancellation;

(b) Notes, or portions thereof, that have become due and payable and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent);

(c) Notes in lieu of which, or in substitution for which, other Notes shall have been authenticated and delivered pursuant to the terms of Section 2.06 unless proof satisfactory to the Trustee is presented that any such Notes are held by protected purchasers in due course;

(d) Notes surrendered for prepayment in accordance with Article 15 for which the Paying Agent holds money sufficient to pay the Fundamental Change Prepayment Price, in accordance with Section 15.04(b);

(e) Notes exchanged pursuant to Article 14 and required to be cancelled pursuant to Section 2.08; and

(f) Notes redeemed or repurchased by the Company.

"**Paying Agent**" shall have the meaning specified in Section 4.02.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"**Physical Settlement**" shall have the meaning provided in Section 14.02(a).

"**Predecessor Note**" of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.06 in lieu of or in exchange for a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note that it replaces.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Ordinary Shares (directly or in the form of ADSs) have the right to receive any cash, securities or other property or in which the Ordinary Shares (directly or in the form of ADSs) are exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Ordinary Shares (directly or in the form of ADSs) entitled to receive such cash, securities or other property (whether such date is fixed by NICE's Board of Directors, statute, contract or otherwise).

"**Redemption Price**" means, for any Notes to be redeemed pursuant to Section 16.01, 100% of the principal amount of such Notes, *plus* accrued and unpaid interest, if any, to, but not including, the Tax Redemption Date (unless the Tax Redemption Date falls after a Regular Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case NICE or the Company will pay the full amount of accrued and unpaid interest to the Holder as of the close of business of such Regular Record Date and the Redemption Price will be equal to 100% of the principal amount of Notes to be redeemed). For the avoidance of doubt, the Redemption Price shall include all Additional Amounts (if any) with respect to such Redemption Price.

"**Redemption Reference Date**" means, for any exchange of Notes in connection with a Tax Redemption, the date of the Notice of Tax Redemption.

"**Redemption Reference Price**" means, for any exchange of Notes in connection with a Tax Redemption, the average of the Last Reported Sale Prices of the ADSs over the five Trading Day period ending on, and including, the Trading Day immediately preceding the Redemption Reference Date.

"**Reference Property**" shall have the meaning specified in Section 14.07(a).

"**Regular Record Date**," with respect to any Interest Payment Date, shall mean the January 1 or July 1 (whether or not such day is a Business Day), as the case may be, immediately preceding such Interest Payment Date.

"**Relevant Date**" means, with respect to any payment due from the Company or NICE, whichever is the later of (i) the date on which such payment first becomes due and (ii) the date on which payment thereof is duly provided.

"**Relevant Stock Exchange**" means The NASDAQ Global Select Market or, if the ADSs (or other security for which a Last Reported Sale Price or the Daily VWAP, as the case may be, must be determined) are not then listed on The NASDAQ Global Select Market, the principal other U.S. national or regional securities exchange on which the ADSs (or such other security) are then listed.

"**Relevant Taxing Jurisdiction**" shall have the meaning specified in Section 4.07(a).

"**Resale Restriction Termination Date**" shall have the meaning specified in Section 2.05(b).

"**Responsible Officer**" means, with respect to the Trustee, any officer assigned to the Corporate Trust Division – Corporate Finance Unit (or any successor division or unit) of the Trustee located at the Corporate Trust Office of the Trustee having direct responsibility for the administration of this Indenture or to whom any corporate trust matter relating to this Indenture is referred because of such person's knowledge of and familiarity with the particular subject.

"**Restricted Securities**" shall have the meaning specified in Section 2.05(b).

"**Rule 144A**" means Rule 144A as promulgated under the Securities Act.

"**Scheduled Trading Day**" means a day that is scheduled to be a Trading Day on the Relevant Stock Exchange. If the ADSs are not so listed or admitted for trading on a Relevant Stock Exchange, "Scheduled Trading Day" means a "Business Day."

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Separation Event**" shall have the meaning specified in Section 14.11.

"**Settlement Amount**" has the meaning specified in Section 14.02(a)(iii).

"**Settlement Method**" means, with respect to any exchange of Notes, Physical Settlement, Cash Settlement or Combination Settlement, as elected (or deemed to have been elected) by the Company.

"**Significant Subsidiary**" means a Subsidiary of NICE that is a "significant subsidiary" as defined under Rule 1-02(w) of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date; *provided* that, in the case of a Subsidiary that meets the criteria of clause (3) of the definition thereof but not clause (1) or (2) thereof, such Subsidiary shall not be deemed to be a Significant Subsidiary unless the Subsidiary's income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle exclusive of amounts attributable to any non-controlling interests for the last completed fiscal year prior to the date of such determination exceeds $60,000,000.

"**Specified Corporate Event**" shall have the meaning specified in Section 14.07(a).

"**Specified Dollar Amount**" means, with respect to any exchange of Notes, the maximum cash amount per $1,000 principal amount of Notes to be received upon exchange as specified by the Company (or deemed specified) in the notice specifying the Company's chosen Settlement Method.

"**Spin-Off**" shall have the meaning specified in Section 14.04(c).

"**Subsidiary**" means, with respect to any specified Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

"**Successor Company**" shall have the meaning specified in Section 11.01(a)(i).

"**Tax Redemption**" shall have the meaning specified in Section 16.01.

"**Tax Redemption Date**" shall have the meaning specified in Section 16.02(a).

"**Trading Day**" means a day on which:

(a) trading in the ADSs (or other security for which a Last Reported Sale Price must be determined) generally occurs on the Relevant Stock Exchange or, if the ADSs (or such other security) are not then listed on a Relevant Stock Exchange, on the principal other market on which the ADSs (or such other security) are then traded; and

(b) a Last Reported Sale Price for the ADSs (or Last Reported Sale Price for such other security) is available on the Relevant Stock Exchange or such other market;

provided, that, if the ADSs (or such other security) are not so listed or traded, "Trading Day" means a "Business Day."

"**Trading Price**" per $1,000 principal amount of the Notes on any date of determination means the average of the secondary market bid quotations obtained in writing by the Bid Solicitation Agent for $5,000,000 principal amount of Notes at approximately 3:30 p.m. (New York City time) on such determination date from three independent U.S. nationally recognized securities dealers the Company selects for this purpose; *provided* that if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of such two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, that one bid shall be used. If the Bid Solicitation Agent cannot reasonably obtain at least one bid for $5,000,000 principal amount of Notes from an independent U.S. nationally recognized securities dealer, then the Trading Price per $1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the ADSs and the Exchange Rate on such day.

"**transfer**" shall have the meaning specified in Section 2.05(b).

"**Trigger Event**" shall have the meaning specified in Section 14.04(c).

"**Trust Indenture Act**" means the Trust Indenture Act of 1939, as amended, as it was in force at the date of execution of this Indenture.

"**Trustee**" means the Person named as the "**Trustee**" in the first paragraph of this Indenture until a successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "**Trustee**" shall mean or include each Person who is then a Trustee hereunder.

"**Unit of Reference Property**" shall have the meaning specified in Section 14.07(a).

"**Valuation Period**" shall have the meaning specified in Section 14.04(c).

"**VAT**" means the Israeli value added tax imposed pursuant to the Israel Value Added Tax Law of 1975 (including any successor law).

"**VWAP Trading Day**" means a day on which:

(a) there is no Market Disruption Event; and

(b) trading in the ADSs generally occurs on the Relevant Stock Exchange.

If the ADSs are not so listed or admitted for trading on any Relevant Stock Exchange, "VWAP Trading Day" means a "Business Day."

"**Wholly-Owned Subsidiary**" of any Person means a Subsidiary of such Person, except that, solely for purposes of this definition, the reference to "more than 50%" in the definition of "Subsidiary" shall be deemed replaced by a reference to "100%", the calculation of which shall exclude (x) nominal amounts of the voting power of shares of Capital Stock or other interests in the relevant Subsidiary as may be required to satisfy local minority interest requirements outside of the United States and (y) directors' qualifying ADSs and/or Ordinary Shares.

Section 1.02. *References to Interest.* Unless the context otherwise requires, any reference to interest on, or in respect of, any Note in this Indenture shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to any of Section 4.06(d), Section 4.06(e) and Section 6.03. Unless the context otherwise requires, any express mention of Additional Interest in any provision hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made.

ARTICLE 2
Issue, Description, Execution, Registration and Exchange of Notes

Section 2.01. *Designation and Amount.* The Notes shall be designated as the "1.25% Exchangeable Senior Notes due 2024." The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to $287,500,000, subject to Section 2.10 and except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of other Notes pursuant to Section 2.05, Section 2.06, Section 2.07, Section 10.04, Section 14.02 and Section 15.04.

Section 2.02. *Form of Notes.* The Notes and the Trustee's certificate of authentication to be borne by such Notes shall be substantially in the respective forms set forth in Exhibit A, the terms and provisions of which shall constitute, and are hereby expressly incorporated in and made a part of this Indenture. To the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby.

Any Global Note may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Custodian or the Depositary, or as may be required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Notes may be listed or traded or designated for issuance or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Notes are subject.

Any of the Notes may have such letters, numbers or other marks of identification and such notations, legends or endorsements as any Officer executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, or to conform to usage or to indicate any special limitations or restrictions to which any particular Notes are subject.

Each Global Note shall represent such principal amount of the outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be increased or reduced to reflect prepayments, purchases, cancellations, exchanges for cash, ADSs or a combination thereof, transfers or exchanges permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Notes in accordance with this Indenture. Payment of principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, and accrued and unpaid interest on, a Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

Section 2.03. *Date and Denomination of Notes; Payments of Interest and Defaulted Amounts.* (a) The Notes shall be issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. Each Note shall be dated the date of its authentication and shall bear interest from the date specified on the face of the form of Note attached as Exhibit A hereto. Accrued interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for a partial month, on the basis of the number of days actually elapsed in a 30-day month.

(b) The Person in whose name any Note (or its Predecessor Note) is registered on the Note Register at the close of business on the Regular Record Date immediately preceding the relevant Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date. Interest shall be payable at the office or agency of the Company maintained by the Company for such purposes, which shall initially be the Corporate Trust Office. The Company shall pay interest:

(i) on any Certificated Notes (A) to Holders holding Certificated Notes having an aggregate principal amount of $1,000,000 or less, by check mailed to the Holders of these Notes at their address as it appears in the Note Register and (B) to Holders holding Certificated Notes having an aggregate principal amount of more than $1,000,000, either by check mailed to such Holders or, upon application by such a Holder to the Note Registrar not later than the relevant Regular Record Date, by wire transfer in immediately available funds to that Holder's account within the United States, which application shall remain in effect until the Holder notifies the Note Registrar to the contrary in writing; and

(ii) on any Global Note by wire transfer of immediately available funds to the account of the Depositary or its nominee.

(c) Any Defaulted Amounts shall forthwith cease to be payable to the Holder on the relevant payment date but shall accrue interest per annum at the rate borne by the Notes from, and including, such relevant payment date, and such Defaulted Amounts together with such interest thereon shall be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Amounts to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a special record date for the payment of such Defaulted Amounts, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of the Defaulted Amounts proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Amounts or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Amounts as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Amounts which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment, and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such special record date and the Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Amounts and the special record date therefor to be sent to each Holder at its address as it appears in the Note Register, not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Amounts and the special record date therefor having been sent, such Defaulted Amounts shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (ii) of this Section 2.03(c).

(ii) The Company may make payment of any Defaulted Amounts in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, and upon such notice as may be required by such exchange or automated quotation system and the Depositary, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed satisfactory to the Trustee.

Section 2.04. *Execution, Authentication and Delivery of Notes.* The Notes shall be signed in the name and on behalf of the Company by the manual or facsimile signature of at least one of its Officers.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes, without any further action by the Company hereunder.

Only such Notes as shall bear thereon a certificate of authentication substantially in the form set forth on the form of Note attached as Exhibit A hereto, executed manually by an authorized signatory of the Trustee (or an authenticating agent appointed by the Trustee as provided by Section 17.11), shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee (or such an authenticating agent) upon any Note executed by the Company shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

In case any Officer of the Company who shall have signed any of the Notes shall cease to be such Officer before the Notes so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Notes nevertheless may be authenticated and delivered or disposed of as though the Person who signed such Notes had not ceased to be such Officer of the Company; and any Note may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Note, shall be an Officer of the Company, although at the date of the execution of this Indenture any such Person was not such an Officer.

Section 2.05. *Exchange and Registration of Transfer of Notes; Restrictions on Transfer; Depositary.* The Company shall cause to be kept at the Corporate Trust Office a register (the register maintained in such office or in any other office or agency of the Company designated pursuant to Section 4.02, the "**Note Register**") in which, subject to such reasonable regulations or procedures as it may prescribe, the Company shall provide for the registration of Notes and transfers of Notes. Such register shall be in written form or in any form capable of being converted into written form within a reasonable period of time. The Trustee is hereby initially appointed the "**Note Registrar**" for the purpose of registering Notes and transfers of Notes as herein provided. The Company may appoint one or more co-Note Registrars in accordance with Section 4.02.

Upon surrender for registration of transfer of any Note to the Note Registrar or any co-registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.05, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denominations and of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture.

Notes may be exchanged for other Notes of any authorized denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at any such office or agency maintained by the Company pursuant to Section 4.02. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Notes presented or surrendered for registration of transfer or for exchange, prepayment or exchange for cash, ADSs or a combination thereof shall (if so required by the Company, the Trustee, the Note Registrar or any co-Note Registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed, by the Holder thereof or its attorney-in-fact duly authorized in writing.

No service charge shall be imposed by the Company, the Trustee, the Note Registrar or any co-Note Registrar for any registration of transfer of Notes or exchange of Notes for other Notes, but the Company or the Trustee may require a Holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required by law or permitted pursuant to Section 14.02(d) or Section 14.02(e).

None of the Company, the Trustee, the Note Registrar or any co-Note Registrar shall be required to exchange or register a transfer of (i) any Notes surrendered for exchange for cash, ADSs or a combination thereof or, if a portion of any Note is surrendered for exchange for cash, ADSs or a combination thereof, such portion thereof surrendered for exchange for cash, ADSs or a combination thereof, (ii) any Notes, or a portion of any Note, surrendered for prepayment (and not withdrawn) in accordance with Article 15 or (iii) any Notes, or a portion of any Note, surrendered for redemption in accordance with Article 16.

All Notes issued upon any registration of transfer or exchange of Notes in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(a) So long as the Notes are eligible for book-entry settlement with the Depositary, unless otherwise required by law, subject to the fourth paragraph from the end of Section 2.05(b) all Notes shall be represented by one or more Notes in global form (each, a "**Global Note**") registered in the name of the Depositary or the nominee of the Depositary. The transfer and exchange of beneficial interests in a Global Note that does not involve the issuance of a Certificated Note, shall be effected through the Depositary (but not the Trustee or the Custodian) in accordance with this Indenture (including the restrictions on transfer set forth herein) and the Applicable Procedures.

(b) Every Note that bears or is required under this Section 2.05(b) to bear the legend set forth in this Section 2.05(b) (together with any ADSs delivered upon exchange of the Notes and required to bear the legend set forth in Section 2.05(c), collectively, the "**Restricted Securities**") shall be subject to the restrictions on transfer set forth in this Section 2.05(b) (including the legend set forth below), unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and the Holder of each such Restricted Security, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.05(b) and Section 2.05(c), the term "**transfer**" encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Until the date (the "**Resale Restriction Termination Date**") that is the later of (1) the date that is one year after the Issue Date, or such shorter period of time as permitted by Rule 144 under the Securities Act or any successor provision thereto, and (2) such later date, if any, as may be required by applicable law, any certificate evidencing such Note (and all securities issued in exchange therefor or substitution thereof, other than ADSs, if any, delivered upon exchange thereof, which shall bear the legend set forth in Section 2.05(c), if applicable) shall bear a legend in substantially the following form (unless such Notes have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or unless otherwise agreed by the Company in writing, with notice thereof to the Trustee):

THIS SECURITY, THE AMERICAN DEPOSITARY SHARES OF NICE LTD., IF ANY, DELIVERABLE UPON EXCHANGE OF THIS SECURITY AND THE ORDINARY SHARES REPRESENTED THEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT AND THAT IT AND ANY SUCH ACCOUNT IS NOT AN AFFILIATE OF NICE LTD., AND

(2) AGREES FOR THE BENEFIT OF NICE SYSTEMS INC. (THE "COMPANY") AND NICE LTD. THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO NICE LTD. OR ANY SUBSIDIARY THEREOF (INCLUDING THE COMPANY), OR

(B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OF THE COMPANY AND/OR NICE LTD. THAT COVERS THE RESALE OF THIS SECURITY, THE AMERICAN DEPOSITARY SHARES OF NICE LTD. AND/OR THE ORDINARY SHARES REPRESENTED THEREBY, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT THAT IS NOT AN AFFILIATE OF NICE LTD., OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, THE COMPANY, NICE LTD., THE TRUSTEE AND THE DEPOSITARY RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR NICE LTD. AND NO PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR NICE LTD. DURING THE THREE IMMEDIATELY PRECEDING MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR OWN THIS SECURITY OR A BENEFICIAL INTEREST HEREIN.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE ORDINARY SHARES UNDERLYING THIS SECURITY MAY NOT BE DEPOSITED INTO ANY UNRESTRICTED DEPOSITARY RECEIPT FACILITY IN RESPECT OF THE ORDINARY SHARES ESTABLISHED OR MAINTAINED BY A DEPOSITARY BANK, UNLESS AND UNTIL SUCH TIME AS THE ORDINARY SHARES ARE NO LONGER RESTRICTED SECURITIES UNDER THE SECURITIES ACT OF 1933. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OF 1933 FOR RESALE OF THE ORDINARY SHARES OR THE AMERICAN DEPOSITARY SHARES.

No transfer of any Note prior to the Resale Restriction Termination Date will be registered by the Note Registrar unless the applicable box on the Form of Assignment and Transfer has been checked.

Any Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Note for exchange to the Note Registrar in accordance with the provisions of this Section 2.05, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the restrictive legend required by this Section 2.05(b) and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the Custodian in writing to so surrender any Global Note as to which such restrictions on transfer shall have expired in accordance with their terms for exchange, and, upon such instruction, the Custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the restrictive legend specified in this Section 2.05(b) and shall not be assigned a restricted CUSIP number. The Company shall promptly notify the Trustee upon the occurrence of the Resale Restriction Termination Date and promptly after a registration statement, if any, with respect to the Notes or any ADSs (including Ordinary Shares represented thereby) delivered upon exchange of the Notes has been declared effective under the Securities Act.

Notwithstanding any other provisions of this Indenture (other than the provisions set forth in this Section 2.05(b)), a Global Note may not be transferred as a whole or in part except (i) by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary and (ii) for transfers of portions of a Global Note in certificated form made upon request of a member of, or a participant in, the Depositary (for itself or on behalf of a beneficial owner) by written notice given to the Trustee by or on behalf of the Depositary in accordance with Applicable Procedures and in compliance with this Section 2.05(b).

The Depositary shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as the "**Depositary**" with respect to each Global Note. Initially, each Global Note shall be issued to the Depositary, registered in the name of Cede & Co., as the nominee of the Depositary, and deposited with the Trustee as custodian for Cede & Co.

If:

(x) the Depositary (i) notifies the Company at any time that the Depositary is unwilling or unable to continue as depositary for the Global Notes and a successor depositary is not appointed within 90 days or (ii) ceases to be a clearing agency registered under the Exchange Act and a successor depositary is not appointed within 90 days; or

(y) there has occurred and is continuing an Event of Default and a beneficial owner of any Note requests through the Depositary that its beneficial interest therein be issued in a Certificated Note,

the Company shall execute, and the Trustee, upon receipt of an Officer's Certificate, an Opinion of Counsel and a Company Order for the authentication and delivery of Notes, shall authenticate and deliver Certificated Notes to each beneficial owner of the related Global Notes (or a portion thereof) in an aggregate principal amount equal to the aggregate principal amount of such Global Notes in exchange for such Global Notes, and upon delivery of the Global Notes to the Trustee such Global Notes shall be canceled.

Certificated Notes issued in exchange for all or a part of the Global Note pursuant to this Section 2.05(b) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver such Certificated Notes to the Persons in whose names such Certificated Notes are so registered.

At such time as all interests in a Global Note have been exchanged, canceled, prepaid, purchased or transferred, such Global Note shall be, upon receipt thereof, canceled by the Trustee in accordance with Applicable Procedures and existing instructions between the Depositary and the Custodian. At any time prior to such cancellation, if any interest in a Global Note is exchanged for Certificated Notes, exchanged, canceled, prepaid, purchased or transferred to a transferee who receives Certificated Notes therefor or any Certificated Note is exchanged or transferred for part of such Global Note, the principal amount of such Global Note shall, in accordance with the Applicable Procedures and instructions existing between the Depositary and the Custodian, be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such Global Note, by the Trustee or the Custodian, at the direction of the Trustee, to reflect such reduction or increase.

Neither the Company, NICE, the Trustee nor any agent of the Company, NICE or the Trustee shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Note or maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Neither the Company, NICE nor the Trustee shall have any responsibility or liability for any act or omission of the Depositary.

(c) Until the Resale Restriction Termination Date, any stock certificate representing ADSs (including the Ordinary Shares represented thereby) delivered upon exchange of a Note shall bear a legend in substantially the following form (unless the Note or such ADSs (including the Ordinary Shares represented thereby) have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or unless otherwise agreed by the Company in writing, with notice thereof to the Trustee and any transfer agent for the ADSs):

THIS SECURITY AND THE ORDINARY SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT AND THAT IT AND ANY SUCH ACCOUNT IS NOT AN AFFILIATE OF NICE LTD., AND

(2) AGREES FOR THE BENEFIT OF NICE SYSTEMS INC. (THE "COMPANY") AND NICE LTD. THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE OF THE NOTE UPON THE EXCHANGE OF WHICH THIS SECURITY WAS DELIVERED OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO NICE LTD. OR ANY SUBSIDIARY THEREOF (INCLUDING THE COMPANY), OR

(B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OF NICE LTD. AND, IF APPLICABLE, THE COMPANY THAT COVERS THE RESALE OF THIS SECURITY AND THE ORDINARY SHARES REPRESENTED HEREBY, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT THAT IS NOT AN AFFILIATE OF NICE LTD., OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, THE COMPANY, NICE LTD. AND THE DEPOSITARY RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR NICE LTD. AND NO PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR NICE LTD. DURING THE THREE IMMEDIATELY PRECEDING MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR OWN THIS SECURITY OR A BENEFICIAL INTEREST HEREIN.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE ORDINARY SHARES UNDERLYING THIS SECURITY MAY NOT BE DEPOSITED INTO ANY UNRESTRICTED DEPOSITARY RECEIPT FACILITY IN RESPECT OF THE ORDINARY SHARES ESTABLISHED OR MAINTAINED BY A DEPOSITARY BANK, UNLESS AND UNTIL SUCH TIME AS THE ORDINARY SHARES ARE NO LONGER RESTRICTED SECURITIES UNDER THE SECURITIES ACT OF 1933. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OF 1933 FOR RESALE OF THE ORDINARY SHARES OR THIS SECURITY.

(d) Any such ADSs as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of the certificates representing such ADSs for exchange in accordance with the procedures of the transfer agent for the ADSs, be exchanged for a new certificate or certificates for a like aggregate number of ADSs, which shall not bear the restrictive legend required by Section 2.05(c).

(e) Any Note or ADS delivered upon the exchange of a Note that is purchased or owned by an Affiliate of the Company (or any Person who was an Affiliate of the Company at any time during the three months preceding) may not be resold by such Affiliate unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Note or ADS, as the case may be, no longer being a "restricted security" (as defined under Rule 144 under the Securities Act). The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among members of, or participants in, the Depositary or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(f) Neither the Trustee nor any agent of the Trustee shall have any responsibility for any actions taken or not taken by the Depositary.

Section 2.06. *Mutilated, Destroyed, Lost or Stolen Notes*. In case any Note shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its written request the Trustee or an authenticating agent appointed by the Trustee shall authenticate and deliver, a new Note, bearing a registration number not contemporaneously outstanding, in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. In every case the applicant for a substituted Note shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be reasonably required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Trustee and, if applicable, to such authenticating agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

The Trustee or such authenticating agent may authenticate any such substituted Note and deliver the same upon the receipt of such security or indemnity as the Trustee, the Company and, if applicable, such authenticating agent may reasonably require. Upon the issuance of any substitute Note, the Company or the Trustee may require the payment by the Holder of a sum sufficient to cover any tax, assessment or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. In case any Note that has matured or is about to mature, is subject to Tax Redemption, or has been surrendered for mandatory prepayment or is about to be exchanged in accordance with Article 14 shall become mutilated or be destroyed, lost or stolen, the Company may, in its sole discretion, instead of issuing a substitute Note, pay or authorize the payment of or exchange or authorize the exchange of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or exchange shall furnish to the Company, to the Trustee and, if applicable, to any Paying Agent or Exchange Agent such security or indemnity as may be reasonably required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such payment or exchange, and, in every case of destruction, loss or theft, evidence satisfactory to the Company, the Trustee and, if applicable, any Paying Agent or Exchange Agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

Every substitute Note issued pursuant to the provisions of this Section 2.06 by virtue of the fact that any Note is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder. To the extent permitted by law, all Notes shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment or exchange or repurchase of mutilated, destroyed, lost or stolen Notes and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment or exchange of negotiable instruments or other securities without their surrender.

Section 2.07. *Temporary Notes.* Pending the preparation of Certificated Notes, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed). Temporary Notes shall be issuable in any authorized denomination, and substantially in the form of the Certificated Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the Certificated Notes. Without unreasonable delay, the Company shall execute and deliver to the Trustee or such authenticating agent Certificated Notes (other than any Global Note) and thereupon any or all temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.02 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of Certificated Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Certificated Notes authenticated and delivered hereunder.

Section 2.08. *Cancellation of Notes Paid, Exchanged, Etc.* The Company shall cause all Notes surrendered for the purpose of payment, prepayment, redemption, repurchase (but excluding Notes repurchased pursuant to cash-settled swaps or other derivatives), registration of transfer or exchange, or exchange for cash, ADSs or a combination thereof (subject to the provisions of Section 14.02(j)), if surrendered to any Person other than the Trustee (including any of the Company's agents or Subsidiaries), to be delivered to the Trustee for cancellation, and such Notes shall no longer be considered outstanding for purposes of this Indenture upon their payment, prepayment, redemption, repurchase, registration of transfer or exchange, or exchange for cash, ADSs or a combination thereof (subject to the provisions of Section 14.02(j)). All Notes delivered to the Trustee shall be canceled promptly by it. No Notes shall be authenticated in exchange for any Notes cancelled, except as expressly permitted by any of the provisions of this Indenture. The Trustee shall dispose of canceled Notes in accordance with its customary procedures. If NICE, the Company or any of NICE's Subsidiaries shall acquire any of the Notes, such acquisition shall not operate as a purchase or satisfaction of the indebtedness represented by such Notes unless and until the same are delivered to the Trustee for cancellation.

Section 2.09. *CUSIP Numbers.* The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in all notices issued to Holders as a convenience to such Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or on such notice and that reliance may be placed only on the other identification numbers printed on the Notes. The Company shall promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

Section 2.10. *Additional Notes; Purchases.* (a) The Company may, from time to time, without the consent of, or notice to, the Holders, issue additional Notes under this Indenture with the same terms and with the same CUSIP number as the Notes issued on the Issue Date (other than differences in the issue price and interest accrued prior to the issue date of such additional Notes) in an unlimited aggregate principal amount; *provided* that if any such additional Notes are not fungible with the Notes issued on the Issue Date for U.S. federal income tax purposes, such additional Notes shall have a separate CUSIP number. Such Notes issued on the Issue Date and the additional Notes shall rank equally and ratably and shall be treated as a single series for all purposes under this Indenture. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order, an Officer's Certificate and an Opinion of Counsel, such Officer's Certificate and Opinion of Counsel to cover such matters, in addition to those required by Section 17.06, as the Trustee shall reasonably request.

(b) The Company may, to the extent permitted by law and without the consent of Holders, directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by NICE, the Company or NICE's other Subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives. The Company shall cause any Notes so repurchased (but excluding Notes repurchased pursuant to cash-settled swaps or other derivatives) to be surrendered to the Trustee for cancellation in accordance with Section 2.08, and they will no longer be considered outstanding under this Indenture upon this repurchase.

Section 2.11. *Ranking.* The Notes constitute a senior general unsecured obligation of the Company, ranking senior in right of payment to all future indebtedness of the Company that is expressly made subordinate to the Notes by the terms of such indebtedness and ranking equally in right of payment with all existing and future indebtedness of the Company that is not so subordinated.

ARTICLE 3
Satisfaction and Discharge

Section 3.01. *Satisfaction and Discharge.* This Indenture and the Notes shall upon request of the Company contained in an Officer's Certificate cease to be of further effect (except as set forth in the last paragraph of this Section 3.01), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture, when:

(i) either:

(A) all Notes theretofore authenticated and delivered (other than (x) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.06 and (y) Notes for whose payment money has theretofore been deposited in trust with the Trustee or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.04(d)) have been delivered to the Trustee for cancellation; or

(B) the Company or NICE has deposited with the Paying Agent or delivered to Holders, as applicable, after all of the outstanding Notes have (i) become due and payable, whether at the Maturity Date, upon a Tax Redemption or at any Fundamental Change Prepayment Date, and/or (ii) have been exchanged (and the related Settlement Amounts have been determined), cash or cash and/or ADSs (solely to satisfy the Company's Exchange Obligations), as applicable, sufficient to pay all of the outstanding Notes and/or satisfy all exchanges, as the case may be, and pay all other sums due and payable under this Indenture by the Company and NICE; and

(ii) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company and NICE to the Trustee under Section 7.06 and, if cash or ADSs shall have been deposited with the Paying Agent pursuant to Section 3.01(i)(B), Section 4.04 shall survive such satisfaction and discharge.

ARTICLE 4
Particular Covenants of the Company and NICE

Section 4.01. *Payment of Principal and Interest.* The Company shall pay or cause to be paid the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, the Settlement Amounts owed on exchange of, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, Settlement Amounts and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or NICE, holds as of 10:00 a.m., New York City time, on the due date money deposited by the Company or NICE in immediately available funds and designated for and sufficient to pay all principal, Settlement Amounts and interest then due. Unless such Paying Agent is the Trustee, the Company will promptly notify the Trustee of any failure to take such action.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) and overdue Settlement Amounts owed on exchange to the extent they include cash, at the rate equal to the interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period), at the same rate to the extent lawful.

Section 4.02. *Maintenance of Office or Agency.* The Company shall maintain an office or agency (which may be an office of the Trustee or an Affiliate of the Trustee) where Notes may be presented or surrendered for registration of transfer or exchange or for payment, prepayment, redemption or repurchase ("**Paying Agent**") or for exchange ("**Exchange Agent**") and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. The Company shall, at all times, maintain an office or agency in the continental United States to serve as the Company's Paying Agent and Exchange Agent for the Notes. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. Further, if at any time there shall be no such office or agency in the continental United States where the Notes may be presented or surrendered for payment, the Company shall forthwith designate and maintain such an office or agency in the continental United States, in order that the Notes shall at all times be payable in the continental United States. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms "**Paying Agent**" and "**Exchange Agent**" include any such additional or other offices or agencies, as applicable.

The Company hereby appoints the Trustee as Paying Agent, Note Registrar, Custodian and Exchange Agent and designates the Corporate Trust Office of the Trustee as one such office or agency of the Company.

Section 4.03. *Appointments to Fill Vacancies in Trustee's Office.* The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.09, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 4.04. *Provisions as to Paying Agent.* (a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 4.04:

(i) that it will hold all sums held by it as such agent for the payment of the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, the Settlement Amounts owed on exchange to the extent they include cash, and accrued and unpaid interest on, the Notes in trust for the benefit of the Holders of the Notes;

(ii) that it will give the Trustee prompt notice of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, the Settlement Amounts owed on exchange to the extent they include cash, and accrued and unpaid interest on, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, the Settlement Amounts owed on exchange to the extent they include cash, and accrued and unpaid interest on, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable), cash portion of the Settlement Amounts and accrued and unpaid interest so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, the Settlement Amounts owed on exchange to the extent they include cash, or accrued and unpaid interest on, the Notes when the same shall become due and payable.

(c) Anything in this Section 4.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 4.04, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts.

(d) Subject to applicable escheat laws, any money and ADSs deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, the Settlement Amounts owed on exchange to the extent they include cash, and accrued and unpaid interest on, any Note (or, in the case of ADSs, in satisfaction of the Exchange Obligation) and remaining unclaimed for two years after such principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable), the Settlement Amounts owed on exchange to the extent they include cash, or interest has become due and payable (or such ADSs have become due and deliverable) shall be paid (or delivered, as the case may be) to the Company on request of the Company contained in an Officer's Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company and NICE for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money and ADSs, and all liability of the Company as trustee thereof, shall thereupon cease.

Section 4.05 . *[Reserved]*.

Section 4.06. *Rule 144A Information Requirement; Reporting; and Additional Interest.* (a) For as long as any Notes are outstanding hereunder, at any time NICE is not subject to Sections 13 and 15(d) of the Exchange Act, NICE shall, so long as any of the Notes, the ADSs deliverable upon exchange of the Notes, if any, or the Ordinary Shares represented thereby shall, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, promptly provide to the Trustee and shall, upon written request, provide to any Holder, beneficial owner or prospective purchaser of such Notes or the ADSs deliverable upon exchange of such Notes, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or such ADSs, as the case may be, pursuant to Rule 144A under the Securities Act (as such rule may be amended from time to time).

(b) The Company shall provide to the Trustee within 15 days after the same are required to be filed with the Commission (after giving effect to any grace period provided by Rule 12b-25 under the Exchange Act or any successor rule under the Exchange Act), copies of any documents or reports that NICE is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (excluding any such information, documents or reports, or portions thereof, subject to confidential treatment and any correspondence with the Commission). Notwithstanding the foregoing, the Company shall in no event be required to file with, or otherwise provide or disclose to, the Trustee or any Holder any information for which NICE is requesting (assuming such request has not been denied), or has received, confidential treatment from the Commission. Any such document or report that NICE files with the Commission via the Commission's EDGAR system (or any successor thereto) shall be deemed to be provided to the Trustee for purposes of this Section 4.06(b) as of the time such documents are filed via the EDGAR system (or such successor).

(c) Delivery of the reports, information and documents described in Section 4.06(b) to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's and/or NICE's compliance with any of the Company's and/or NICE's covenants hereunder (as to which the Trustee is entitled to conclusively rely on an Officer's Certificate). The Trustee shall not be obligated to monitor or confirm, on a continuing basis or otherwise, the Company's and/or NICE's compliance with the covenants or with respect to any reports or other documents filed with the Commission or the Commission's EDGAR system or any website under this Indenture, or participate in any conference calls.

(d) Subject to Section 4.06(f) and Section 6.03(b), if, at any time during the six-month period beginning on, and including, the date that is six months after the Issue Date, NICE fails to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (other than reports on Form 6-K), or the Notes are not otherwise freely tradable by Holders other than the Company's Affiliates or Holders that were the Company's Affiliates at any time during the three months immediately preceding (as a result of restrictions pursuant to U.S. securities laws), the Company shall pay Additional Interest on the Notes from, and including, the later of the date that is six months after the Issue Date and the first date on which such failure to file occurs, until the earlier of (i) the one-year anniversary of the Issue Date and (ii) the date on which such failure to file has been cured (if applicable). Such Additional Interest shall accrue on the Notes at a rate equal to 0.50% per annum of the principal amount of the Notes outstanding for each day during such period described in the preceding sentence.

(e) Subject to Section 4.06(f) and Section 6.03(b), if, and for so long as, the restrictive legend on the Notes specified in Section 2.05(b) has not been removed, the Notes are assigned a restricted CUSIP or the Notes are not otherwise freely tradable by Holders other than the Company's Affiliates or Holders that were the Company's Affiliates at any time during the three months immediately preceding without restrictions pursuant to U.S. securities law or the terms of this Indenture or the Notes as of the 365th day after the Issue Date, the Company shall pay Additional Interest on the Notes at a rate equal to 0.50% per annum of the principal amount of Notes outstanding until the restrictive legend on the Notes has been removed, the Notes are assigned an unrestricted CUSIP and the Notes are freely tradable by such Holders.

(f) Additional Interest will be payable in arrears on each Interest Payment Date following accrual in the same manner as regular interest on the Notes and shall be in addition to any Additional Interest that may accrue, at the Company's election, as the sole remedy relating to the failure to comply with the Company's obligations under Section 4.06(b). In no event, however, will Additional Interest accrue on any day (taking into consideration any Additional Interest payable as described in Section 4.06(d), Section 4.06(e) or Section 6.03(a)) at a rate in excess of 0.50% per annum, regardless of the number of events or circumstances giving rise to the requirement to pay such Additional Interest.

(g) If Additional Interest is payable by the Company pursuant to Section 4.06(d), Section 4.06(e) or Section 6.03(a), the Company shall deliver to the Trustee an Officer's Certificate to that effect stating (i) the amount of such Additional Interest that is payable and (ii) the date on which such Additional Interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Additional Interest is payable.

Section 4.07. *Additional Amounts*.

(a) All payments and deliveries made by, or on behalf of, NICE under or with respect to the Guarantee, including, but not limited to, payments of principal (including, if applicable, the Redemption Price and the Fundamental Change Prepayment Price), payments of interest and payments of cash and/or deliveries of ADSs (together with payments of cash in lieu of a fractional ADS) upon exchange, shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Israel, or any other jurisdiction in which NICE is organized or resident for tax purposes or from or through which payments by or on behalf of NICE are made, or by or within any political subdivision thereof or any authority therein or thereof having power to tax other than the United States or any state thereof (each, excluding the United States or any state thereof, a "**Relevant Taxing Jurisdiction**"), unless such withholding or deduction is required by law or by regulation or governmental policy having the force of law. In the event that any such taxes, duties, assessments or governmental charges imposed or levied by or on behalf of a Relevant Taxing Jurisdiction are required to be withheld or deducted from any payments made by NICE or the Paying Agent, NICE shall pay to each Holder such additional amounts ("**Additional Amounts**") as may be necessary to ensure that the net amount received after such withholding or deduction (and after deducting any taxes on the Additional Amounts) shall equal the amounts that would have been received had no such withholding or deduction been required; *provided* that no Additional Amounts shall be payable:

(i) for or on account of:

(A) any tax, duty, assessment or other governmental charge that would not have been imposed but for:

(1) the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of power over, the relevant Holder or beneficial owner, if the relevant Holder or beneficial owner is an estate, nominee, trust, partnership, limited liability company or corporation) and the Relevant Taxing Jurisdiction, other than merely holding or enforcing rights under such Note or the receipt of payments thereunder;

(2) the presentation of such Note (in cases in which presentation is required) more than 30 days after the Relevant Date, except to the extent that the Holder or beneficial owner or such other person would have been entitled to Additional Amounts on presenting the Note for payment on any date during such 30-day period; or

(3) the failure of the Holder or beneficial owner to comply with a timely request from NICE to provide certification, information, documents or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with the Relevant Taxing Jurisdiction, or to make any declaration of non-residence or any other claim or filing for exemption to which it is entitled or satisfy any other reporting requirement relating to such matters, if and to the extent that the Holder or beneficial owner is able to comply with such request without undue hardship and due and timely compliance with such request is required by statute, regulation or administrative practice of the Relevant Taxing Jurisdiction in order to reduce or eliminate any withholding or deduction as to which Additional Amounts would have otherwise been payable to such Holder or beneficial owner;

(B) any estate, inheritance, gift, use, sales, transfer, excise, personal property or similar tax, assessment or other governmental charge;

(C) any tax, duty, assessment or other governmental charge that is payable otherwise than by withholding from payments under or with respect to the Notes;

(D) any tax, assessment, withholding or deduction required by sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended ("**FATCA**"), any current or future U.S. Treasury Regulations or rulings promulgated thereunder, any law, regulation or other official guidance enacted in any jurisdiction implementing FATCA, any intergovernmental agreement between the United States and any other jurisdiction to implement FATCA or any law enacted by such other jurisdiction to give effect to such agreement, or any agreement with the U.S. Internal Revenue Service under FATCA;

(E) any tax, assessment or other governmental charge that is required to be deducted or withheld on a payment to a Holder or beneficial owner and that is required to be made pursuant to the European Council Directive 2003/48/EC of June 3, 2003, Directive 2014/48/EU of March 24, 2014, or any other directive implementing the conclusions of the ECOFIN Council meeting of November 26 and 27, 2000 on taxation of savings income or any law implementing or complying with, or introduced in order to conform to such directives;

(F) any tax, assessment or other governmental charge imposed in connection with a Note presented for payment (where presentation is required for payment) by or on behalf of a Holder or beneficial owner who would have been able to avoid such tax, assessment or governmental charge by presenting the relevant Note to, or otherwise accepting payment from, another Paying Agent; or

(G) any combination of taxes referred to in the preceding clauses (A), (B), (C), (D), (E) and (F); or

(ii) with respect to any payment of the principal of (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) and interest on such Note or the payment of cash and/or delivery of ADSs (together with payment of cash in lieu of a fractional ADS) upon exchange of such Note to a Holder, if the Holder is a fiduciary, partnership or person other than the sole beneficial owner of that payment to the extent that such payment would be required to be included in the income under the laws of the Relevant Taxing Jurisdiction, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a partner or member of that partnership or a beneficial owner who would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner, member or beneficial owner been the Holder thereof.

(b) If NICE is required to make any deduction or withholding from any payments with respect to the Notes, NICE will deliver to the Trustee official tax receipts evidencing the remittance to the relevant tax authorities of the amounts so withheld or deducted. Copies of such receipts shall be made available to Holders of the Notes upon request.

(c) Whenever there is mentioned in any context the payment of principal of (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable), the payment of interest on, or the payment of cash and/or the delivery of ADSs (together with payment of cash in lieu of a fractional ADS) upon exchange of, any Note or any other amount payable with respect to such Note, such mention shall be deemed to include payment of Additional Amounts provided for in this Indenture to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

(d) The Company shall promptly pay when due any present or future stamp, court or documentary taxes or any other excise or property taxes, charges or similar levies that arise in any jurisdiction from the execution, delivery or registration of each Note or any other document or instrument referred to herein or therein, excluding any such taxes, charges or similar levies imposed by any jurisdiction outside of Israel or the United States and except as provided in Section 2.06, Section 14.02(d) and Section 14.02(e).

(e) All payments and deliveries made under or with respect to the transactions contemplated herein are exclusive of VAT and, accordingly, if VAT is or becomes due then NICE and the Company must pay all such VAT to the relevant tax authorities.

Section 4.08. *Stay, Extension and Usury Laws.* Each of the Company and NICE covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.09. *Compliance Certificate; Statements as to Defaults.*

(a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year (beginning with the year ended December 31, 2017), an Officer's Certificate stating whether the signers thereof have knowledge of any Default that occurred during the previous year and is then continuing and, if so, specifying each such failure and the nature thereof and what action the Company is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee an Officer's Certificate within 30 days after an Officer of the Company becomes aware of the occurrence of any event that would constitute a Default or Event of Default, specifying each such event, the status thereof and what action the Company is taking or proposes to take with respect thereto.

ARTICLE 5
[Reserved]

ARTICLE 6
Defaults and Remedies

Section 6.01. *Events of Default.* The following events shall be "**Events of Default**" with respect to the Notes:

(a) default in any payment of interest on any Note when due and payable, and the default continues for a period of 30 days;

(b) default in the payment of principal of any Note when due and payable on the Maturity Date, upon any mandatory prepayment, upon a Tax Redemption, upon declaration of acceleration or otherwise;

(c) failure by the Company to comply with its obligation to exchange the Notes in accordance with this Indenture upon exercise of a Holder's exchange right and such failure continues for three Business Days;

(d) failure by the Company to issue a Fundamental Change Company Notice in accordance with Section 15.02(c) or notice of a specified corporate transaction in accordance with Section 14.01(b)(ii) or (iii) or a Make-Whole Fundamental Change Company Notice in accordance with Section 14.03(b) or a Notice of Tax Redemption in accordance with Section 16.02, in each case when due, and such failure continues for three Business Days;

(e) failure by the Company or NICE to comply with its obligations under Article 11;

(f) failure by the Company or NICE for 60 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Notes then outstanding has been received by the Company and the Trustee to comply with any of the other agreements of the Company or NICE contained in the Notes or this Indenture;

(g) default by NICE, the Company and/or any of NICE's Significant Subsidiaries with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed having a principal amount in excess of $60,000,000 (or its foreign currency equivalent) in the aggregate of NICE, the Company and/or any of NICE's Significant Subsidiaries, whether such indebtedness exists on the Issue Date or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable or (ii) constituting a failure to pay the principal or interest of any such indebtedness when due and payable at its stated maturity, upon mandatory prepayment, upon declaration of acceleration or otherwise, and, in each case, such acceleration shall not have been rescinded or annulled or such failure to pay shall not have been cured or waived, as the case may be, within 30 days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount of the Notes then outstanding has been received;

(h) NICE, the Company or any Significant Subsidiary of NICE pursuant to or within the meaning of Bankruptcy Law:

(i) commences a voluntary case;

(ii) consents in writing to the entry of an order for relief against it in an involuntary case;

(iii) consents in writing to the appointment of a custodian, receiver, trustee, liquidator or similar officer (temporary or permanent) of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors;

(v) admits in writing in a public report or release or bondholder report it generally is not paying its debts as they become due; or

(vi) applies for the granting of a freeze order (*hakpaat halichim*) under the Israeli Companies Law, 5759-1999;

(i) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against NICE, the Company or any Significant Subsidiary of NICE in an involuntary case;

(ii) appoints a custodian, receiver, trustee, liquidator or similar officer (temporary or permanent) of NICE, the Company or any Significant Subsidiary of NICE or for all or substantially all of the property of NICE, the Company or any Significant Subsidiary of NICE;

(iii) orders the liquidation of the Company or any Significant Subsidiary of NICE; or

(iv) grants a freeze order (*hakpaat halichim*) under the Israeli Companies Law, 5759-1999;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(j) a final judgment or judgments for the payment of $60,000,000 (or its foreign currency equivalent) or more (excluding any amounts covered by insurance) in the aggregate rendered against NICE, the Company and/or any Significant Subsidiary of NICE, which judgments are not paid, discharged, waived, bonded or stayed within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished; or

(k) the Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect or NICE, or any Person acting on behalf of NICE, denies or disaffirms its obligations under its Guarantee.

Section 6.02. *Acceleration*. In case one or more Events of Default shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), then, and in each and every such case (other than an Event of Default specified in Section 6.01(h) or Section 6.01(i) with respect to NICE or the Company), either the Trustee by notice in writing to the Company, or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by notice in writing to the Company and the Trustee, may declare 100% of the principal of, and accrued and unpaid interest, if any, on, all the Notes to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable. If an Event of Default specified in Section 6.01(h) or Section 6.01(i) with respect to NICE or the Company occurs and is continuing, 100% of the principal of, and accrued and unpaid interest, if any, on, all Notes shall become and shall automatically be immediately due and payable.

Section 6.03. *Additional Interest*.

(a) Notwithstanding anything in this Indenture or in the Notes to the contrary, to the extent the Company elects, the sole remedy for an Event of Default relating to the Company's failure to comply with its obligations as set forth in Section 4.06(b) shall, after the occurrence of such an Event of Default, consist exclusively of the right to receive Additional Interest on the Notes (subject to Section 4.06(f) and Section 6.03(b)) at a rate equal to:

(i) 0.25% per annum of the principal amount of the Notes outstanding for each day during the period beginning on, and including, the date on which such Event of Default first occurred and ending on the earlier of (x) the date on which such Event of Default is cured or validly waived and (y) the 90th day immediately following, and including, the date on which such Event of Default first occurred; and

(ii) if such Event of Default has not been cured or validly waived prior to the 91st day immediately following, and including, the date on which such Event of Default first occurred, 0.50% per annum of the principal amount of the Notes outstanding for each day during the period beginning on, and including, the 91st day immediately following, and including, the date on which such Event of Default first occurred and ending on the earlier of (x) the date on which such Event of Default is cured or validly waived and (y) the 180th day immediately following, and including, the date on which such Event of Default first occurred.

(b) Any Additional Interest payable pursuant to Section 6.03(a) above shall be in addition to any Additional Interest that may accrue pursuant to Sections 4.06(d) and 4.06(e). Notwithstanding anything in this Indenture to the contrary, in no event, however, shall Additional Interest accrue on any day (taking into consideration any Additional Interest payable pursuant to Section 6.03(a) above, together with Additional Interest payable pursuant to Sections 4.06(d) and 4.06(e)) at a rate in excess of 0.50% per annum, regardless of the number of events or circumstances giving rise to the requirement to pay such Additional Interest.

(c) If the Company elects to pay Additional Interest pursuant to Section 6.03(a), such Additional Interest shall be payable in the same manner and on the same dates as the stated interest payable on the Notes and will accrue on all Notes then outstanding from, and including, the date on which the Event of Default relating to the Company's failure to comply with its obligations as set forth in Section 4.06(b) first occurs to, but not including, the 181st day thereafter (or such earlier date on which such Event of Default is cured or waived by the Holders of a majority in principal amount of the Notes then outstanding). On the 181st day after such Event of Default (if such Event of Default is not cured or waived prior to such 181st day), such Additional Interest will cease to accrue and the Notes will be subject to acceleration as provided in Section 6.02. In the event the Company does not elect to pay Additional Interest following an Event of Default relating to the Company's failure to comply with its obligations as set forth in Section 4.06(b) in accordance with this Section 6.03, or the Company has elected to make such payment but does not pay the Additional Interest when due, the Notes shall immediately be subject to acceleration as provided in Section 6.02. For the avoidance of doubt, the provisions of this Section 6.03 shall not affect the rights of Holders in the event of the occurrence of any other Event of Default.

(d) In order to elect to pay Additional Interest as the sole remedy during the first 180 days after the occurrence of an Event of Default relating to the Company's failure to comply with its obligations as set forth in Section 4.06(b), the Company must notify all Holders of the Notes, the Trustee and the Paying Agent (if other than the Trustee) of such election on or before the close of business on the date on which such Event of Default first occurs. Upon the Company's failure to timely give such notice, the Notes shall be immediately subject to acceleration as provided in Section 6.02.

Section 6.04. *Payments of Notes on Default; Suit Therefor*. If an Event of Default described in clause (a), (b) or (c) of Section 6.01 shall have occurred and the Notes have become due and payable pursuant to Section 6.02, the Company shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of the Notes, the whole amount then due and payable on the Notes for principal (including the Redemption Price or the Fundamental Change Prepayment Price, if applicable), satisfaction of the Exchange Obligation with respect to all Notes that have been exchanged, and interest, if any, with (to the extent that payment of such interest shall be legally enforceable) interest on any such overdue amounts, at the rate borne by the Notes, and, in addition thereto, such further amount as shall be sufficient to cover any amounts due to the Trustee under Section 7.06. If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company, NICE or any other obligor upon the Notes and collect the monies adjudged or decreed to be payable in the manner provided by law out of the property of the Company, NICE or any other obligor upon the Notes, wherever situated.

In the event there shall be pending proceedings for the bankruptcy or for the reorganization of NICE or the Company under Bankruptcy Law, or any other applicable law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of NICE or the Company, or the property of NICE or the Company, or in the event of any other judicial proceedings relative to NICE or the Company, or to the creditors or property of NICE or the Company, the Trustee, irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 6.04, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid interest, if any, in respect of the Notes, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceedings relative to NICE or the Company, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Holders to make such payments to the Trustee, as administrative expenses, and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for reasonable compensation, expenses, advances and disbursements, including agents and counsel fees, and including any other amounts due to the Trustee under Section 7.06, incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property that the Holders of the Notes may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting such Holder or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Notes, and it shall not be necessary to make any Holders of the Notes parties to any such proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of any waiver, rescission or annulment pursuant to Section 6.09 or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, NICE, the Holders, and the Trustee shall, subject to any determination in such proceeding, be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Holders, and the Trustee shall continue as though no such proceeding had been instituted.

Section 6.05. *Application of Monies Collected by Trustee.* Any monies collected by the Trustee pursuant to this Article 6 with respect to the Notes shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies, upon presentation of the several Notes, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

FIRST: to the payment of all amounts due the Trustee under Section 7.06;

SECOND: to the payment of the amounts then due and unpaid for principal of, the Redemption Price (if applicable) and the Fundamental Change Prepayment Price (if applicable) of, and/or satisfaction of the Exchange Obligation with respect to all Notes that have been exchanged, and interest on the Notes in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Notes; and

THIRD: to the Company.

Section 6.06. *Proceedings by Holders.* Except to enforce the right to receive payment of principal (including, if applicable, the Redemption Price and the Fundamental Change Prepayment Price) or interest when due, or the right to receive payment and/or delivery of the consideration due upon exchange of any Note, no Holder of any Note shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless:

(a) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

(b) the Holders of at least 25% in principal amount of the then outstanding Notes have requested the Trustee in writing to pursue the remedy;

(c) such Holders have offered the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of such security or indemnity; and

(e) the Holders of a majority in principal amount of the then outstanding Notes have not given the Trustee a direction that, in the opinion of the Trustee, is inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder, it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any actions or forbearances by a Holder are unduly prejudicial to other Holders.

Notwithstanding any other provision of this Indenture and any provision of any Note, the right of any Holder to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon exchange of, such Note, on or after the respective due dates expressed or provided for in such Note or in this Indenture, or to institute suit against the Company for the enforcement of any such payment or delivery, as the case may be, and such right to receive such payment or delivery, as the case may be, on or after such respective dates shall not be impaired or affected without the consent of such Holder.

Section 6.07. *Proceedings by Trustee.* In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as are necessary to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 6.08. *Remedies Cumulative and Continuing.* Except as provided in the last paragraph of Section 2.06, all powers and remedies given by this Article 6 to the Trustee or to the Holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the Holders of the Notes, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any Holder of any of the Notes to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or Event of Default or any acquiescence therein; and, subject to the provisions of Section 6.06, every power and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders.

Section 6.09. *Direction of Proceedings and Waiver of Defaults by Majority of Holders.*

(a) The Holders of a majority of the aggregate principal amount of the Notes at the time outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to Notes; *provided*, *however*, that (i) such direction shall not be in conflict with any rule of law or with this Indenture, and (ii) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. The Trustee may refuse to follow any direction that conflicts with any rule of law or with this Indenture, it determines is unduly prejudicial to the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial to such Holders) or that would involve the Trustee in personal liability.

(b) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default hereunder and rescind any acceleration with respect to the Notes and its consequences hereunder except:

(i) a default in the payment of the principal (including any Redemption Price and any Fundamental Change Prepayment Price, if applicable) of, or accrued and unpaid interest, if any, on the Notes; or

(ii) a failure by the Company to deliver the consideration due upon exchange of the Notes;

provided that, in the case of the rescission of any acceleration with respect to the Notes, (1) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) all existing Events of Default (other than the nonpayment of the principal of and interest on the Notes that have become due solely by such declaration of acceleration) have been cured or waived and all amounts owing to the Trustee have been paid.

Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 6.09, said Default or Event of Default shall for all purposes of the Notes and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.10. *Notice of Defaults.* If a Default occurs and is continuing and is actually known to a Responsible Officer of the Trustee, the Trustee shall send to all Holders as the names and addresses of such Holders appear upon the Note Register notice of such Default within 90 days after it occurs. Except in the case of a Default in the payment of principal of (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) or accrued and unpaid interest, if any, on any Note or a Default in the payment or delivery of the consideration due upon exchange, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders.

Section 6.11. *Undertaking to Pay Costs.* All parties to this Indenture agree, and each Holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided* that the provisions of this Section 6.11 (to the extent permitted by law) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Notes at the time outstanding, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (including, but not limited to, the Redemption Price and the Fundamental Change Prepayment Price with respect to the Notes being redeemed or prepaid as provided in this Indenture) or accrued and unpaid interest, if any, on any Note on or after the due date expressed or provided for in such Note or to any suit for the enforcement of the payment or delivery of consideration due upon exchange.

ARTICLE 7
Concerning the Trustee

Section 7.01. *Duties and Responsibilities of Trustee.*

(a) Prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default that may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on the part of the Trustee, unless a Responsible Officer has actual knowledge to the contrary, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations).

(b) In the event an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) this subsection shall not be construed to limit the effect of subsection (a) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the written direction of the Holders of not less than a majority of the aggregate principal amount of the Notes at the time outstanding determined as provided in Section 8.04 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section 7.01.

Section 7.02. *Certain Rights of the Trustee*.

(a) The Trustee may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, coupon or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company or NICE, as the case may be;

(c) the Trustee may consult with counsel of its selection and require an Opinion of Counsel and any advice of such counsel or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, at a reasonable time on any Business Day, to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(e) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through duly authorized agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed by it with due care hereunder;

(f) the permissive rights of the Trustee enumerated herein shall not be construed as duties;

(g) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(h) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of Officers authorized at such time to take specified actions pursuant to this Indenture;

(i) in no event shall the Trustee be liable for any special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(j) the Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by the Company or by any Holder of the Notes at the Corporate Trust Office of the Trustee;

(k) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent (if other than the Trustee) or any records maintained by any co-Note Registrar with respect to the Notes;

(l) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred, unless such Responsible Officer of the Trustee had actual knowledge of such event;

(m) in the absence of written investment direction from the Company, all cash received by the Trustee shall be placed in a non-interest bearing trust account, and in no event shall the Trustee be liable for the selection of investments or for investment losses, fees, taxes or other charges incurred thereon or for losses incurred as a result of the liquidation of any such investment prior to its maturity date or the failure of the party directing such investments prior to its maturity date or the failure of the party directing such investment to provide timely written investment direction, and the Trustee shall have no obligation to invest or reinvest any amounts held hereunder in the absence of such written investment direction from the Company;

(n) the rights and protections afforded to the Trustee pursuant to this Article 7 shall also be afforded to the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder;

(o) subject to this Article 7, if an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability and expense which might be incurred by it in compliance with such request or direction;

(p) the Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture; and

(q) under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes.

Section 7.03. *No Responsibility for Recitals, Etc.* The recitals contained herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the provisions of this Indenture.

Section 7.04. *Trustee, Paying Agents, Exchange Agents, Bid Solicitation Agent or Note Registrar May Own Notes.* The Trustee, any Paying Agent, any Exchange Agent, the Custodian, Bid Solicitation Agent or Note Registrar, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee, Paying Agent, Exchange Agent, Custodian, Bid Solicitation Agent or Note Registrar.

Section 7.05. *Monies and ADSs To Be Held in Trust.* All monies and ADSs received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money and ADSs held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law or as expressly provided herein. The Trustee shall be under no liability for interest on any money or ADSs received by it hereunder except as may be agreed from time to time by the Company and the Trustee.

Section 7.06. *Compensation and Expenses of Trustee.* The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to in writing between the Trustee and the Company, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any of the provisions of this Indenture in any capacity hereunder (including the reasonable compensation and the expenses and disbursements of its agents and counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as shall have been caused by the Trustee's negligence or willful misconduct. The Company and NICE, jointly and severally, covenant to indemnify the Trustee (which for purposes of this Section 7.06 shall include its officers, directors, employees and agents) in any capacity under this Indenture and any other document or transaction entered into in connection herewith and its agents and any authenticating agent for, and to hold them harmless against, any loss, claim, damage, liability or expense incurred without negligence or willful misconduct on the part of the Trustee, its officers, directors, agents or employees, or such agent or authenticating agent, as the case may be, and arising out of or in connection with the acceptance or administration of this Indenture or in any other capacity hereunder, including the costs and expenses of defending themselves against any claim (whether asserted by the Company, a Holder or any other Person) of liability in the premises. The obligations of the Company and NICE under this Section 7.06 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by the Trustee, except, subject to the effect of Section 6.05, funds held in trust herewith for the benefit of the Holders of particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.06 shall not be subordinate to any other liability or indebtedness of the Company. The obligations of the Company and NICE under this Section 7.06 shall survive the satisfaction and discharge of this Indenture, final payment of the Notes and the earlier resignation or removal of the Trustee. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The indemnification provided in this Section 7.06 shall extend to the officers, directors, agents and employees of the Trustee.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee and its agents and any authenticating agent incur expenses or render services after an Event of Default specified in Section 6.01(h) or Section 6.01(i) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

Section 7.07. *Officer's Certificate as Evidence.* Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence, willful misconduct and recklessness on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such Officer's Certificate, in the absence of negligence, willful misconduct and recklessness on the part of the Trustee, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 7.08. *Eligibility of Trustee.* There shall at all times be a Trustee hereunder which shall be a Person that is eligible pursuant to the Trust Indenture Act (as if the Trust Indenture Act were applicable hereto) to act as such and has a combined capital and surplus of at least $50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section 7.08, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 7.

Section 7.09. *Resignation or Removal of Trustee.* The Trustee may at any time resign by giving written notice of such resignation to the Company and by mailing notice thereof to the Holders at their addresses as they shall appear on the Note Register. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after the mailing of such notice of resignation to the Holders, the resigning Trustee may, at the expense of the Company, upon ten Business Days' notice to the Company and the Holders, petition any court of competent jurisdiction for the appointment of a successor trustee, or any Holder who has been a bona fide holder of a Note or Notes for at least six months may, subject to the provisions of Section 6.11, on behalf of itself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(a) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with Section 7.13 within a reasonable time after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months;

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.08 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may by a Board Resolution remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.11, any Holder who has been a bona fide holder of a Note or Notes for at least six months may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(b) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may at any time remove the Trustee and nominate a successor trustee that shall be deemed appointed as successor trustee unless within ten days after notice to the Company of such nomination the Company objects thereto. If no successor trustee shall have been so appointed and have accepted appointment within 30 days after removal of the Trustee by the Holders, the Trustee may, at the expense of the Company, upon ten Business Days' notice to the Company and the Holders, petition any court of competent jurisdiction for the appointment of a successor trustee.

(c) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 7.09 shall become effective upon (i) payment of all fees and expenses owing to the Trustee and (ii) acceptance of appointment by the successor trustee as provided in Section 7.10.

Section 7.10. *Acceptance by Successor Trustee.* Any successor trustee appointed as provided in Section 7.09 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the predecessor trustee shall, upon payment of any amounts then due it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by such trustee as such pursuant to this Indenture, except for funds held in trust for the benefit of Holders of particular Notes, to secure any amounts then due it pursuant to the provisions of Section 7.06.

No successor trustee shall accept appointment as provided in this Section 7.10 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 7.08.

Upon acceptance of appointment by a successor trustee as provided in this Section 7.10, each of the Company and the successor trustee, at the written direction and at the expense of the Company shall send or cause to be sent notice of the succession of such trustee hereunder to the Holders at their addresses as they shall appear on the Note Register. If the Company fails to mail such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Company.

Section 7.11. *Succession by Merger, Etc.* Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the administration of this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that in the case of any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee such corporation or other entity shall be eligible under the provisions of Section 7.08.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or an authenticating agent appointed by such successor trustee may authenticate such Notes either in the name of any predecessor trustee hereunder or in the name of the successor trustee; and in all such cases such certificates of authentication shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of authentication of the Trustee shall have; *provided*, *however*, that the right to adopt the certificate of authentication of any predecessor trustee or to authenticate Notes in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12. *Trustee's Application for Instructions from the Company.* Any application by the Trustee for written instructions from the Company (other than with regard to any action proposed to be taken or omitted to be taken by the Trustee that affects the rights of the Holders of the Notes under this Indenture) may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than ten Business Days after the date any Officer actually receives such application, unless any such Officer shall have consented in writing to any earlier date), unless, prior to taking any such action (or the effective date in the case of any omission), the Trustee shall have received written instructions in accordance with this Indenture in response to such application specifying the action to be taken or omitted.

Section 7.13. *Conflicting Interests of Trustee.* If the Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of this Indenture.

Section 7.14. *Limitation on Trustee's Liability.* Except as provided in this Article, in accepting the trusts hereby created, the entities acting as Trustee are acting solely as Trustee hereunder and not in their individual capacity and, except as provided in this Article, all Persons having any claim against the Trustee by reason of the transactions contemplated by this Indenture or any Note shall look only to the Company and NICE for payment or satisfaction thereof.

ARTICLE 8
Concerning the Holders

Section 8.01. *Action by Holders.* Whenever in this Indenture it is provided that the Holders of a specified percentage of the aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the Holders of such specified percentage have joined therein may be evidenced (i) by any instrument or any number of instruments of similar tenor executed by Holders in person or by agent or proxy appointed in writing, or (ii) by the record of the Holders voting in favor thereof at any meeting of Holders duly called and held, or (iii) by a combination of such instrument or instruments and any such record of such a meeting of Holders. Whenever the Company or the Trustee solicits the taking of any action by the Holders of the Notes, the Company or the Trustee may, but shall not be required to, fix in advance of such solicitation, a date as the record date for determining Holders entitled to take such action. The record date if one is selected shall be not more than fifteen days prior to the date of commencement of solicitation of such action.

Section 8.02. *Proof of Execution by Holders.* Subject to the provisions of Section 7.01 and Section 7.02, proof of the execution of any instrument by a Holder or its agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Notes shall be proved by the Note Register or by a certificate of the Note Registrar.

Section 8.03. *Who Are Deemed Absolute Owners.* The Company, the Trustee, any authenticating agent, any Paying Agent, any Exchange Agent and any Note Registrar may deem the Person in whose name a Note shall be registered upon the Note Register to be, and may treat it as, the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of ownership or other writing thereon made by any Person other than the Company or any Note Registrar) for the purpose of receiving payment of or on account of the principal of and (subject to Section 2.03) accrued and unpaid interest on such Note, for exchange of such Note and for all other purposes; and neither the Company nor the Trustee nor any Paying Agent nor any Exchange Agent nor any Note Registrar shall be affected by any notice to the contrary. All such payments or deliveries so made to any Holder, or upon its order, shall be valid, and, to the extent of the sums or ADSs so paid or delivered, effectual to satisfy and discharge the liability for monies payable or ADSs deliverable upon any such Note. Notwithstanding anything to the contrary in this Indenture or the Notes following an Event of Default, any holder of a beneficial interest in a Global Note may directly enforce against the Company, without the consent, solicitation, proxy, authorization or any other action of the Depositary or any other Person, such holder's right to exchange such beneficial interest for a Note in certificated form in accordance with the provisions of this Indenture.

Section 8.04. *Company-Owned Notes Disregarded.* In determining whether the Holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under this Indenture, Notes that are owned by the Company or by any Affiliate of the Company shall be disregarded (from both the numerator and the denominator) and deemed not to be outstanding for the purpose of any such determination; *provided* that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Responsible Officer actually knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 8.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company or any Affiliate of the Company. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 7.01, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

Section 8.05. *Revocation of Consents; Future Holders Bound.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the Holders of the percentage of the aggregate principal amount of the Notes specified in this Indenture in connection with such action, any Holder of a Note that is shown by the evidence to be included in the Notes the Holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Note. Except as aforesaid, any such action taken by the Holder of any Note shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Note and of any Notes issued in exchange or substitution therefor or upon registration of transfer thereof, irrespective of whether any notation in regard thereto is made upon such Note or any Note issued in exchange or substitution therefor or upon registration of transfer thereof.

ARTICLE 9
[Reserved]

ARTICLE 10
Supplemental Indentures

Section 10.01. *Supplemental Indentures Without Consent of Holders.* Notwithstanding Section 10.02, without the consent of any Holder, the Company, NICE and the Trustee may amend or supplement this Indenture, the Notes and the Guarantee to:

(a) cure any ambiguity, omission, defect or inconsistency in this Indenture or in the Notes in a manner that does not adversely affect any Holder in any material respect as set forth in an Officer's Certificate;

(b) provide for the assumption by a Successor Company of the obligations of the Company or NICE, as applicable, under this Indenture, the Notes or the Guarantee in accordance with Article 11;

(c) add additional guarantees with respect to the Notes;

(d) [Reserved];

(e) secure the Notes or the Guarantee;

(f) add to the covenants or Events of Default of the Company or NICE that NICE's Board of Directors considers to be for the benefit of the Holders or make changes that would provide additional rights to Holders or surrender any right or power conferred upon the Company or NICE;

(g) make any change that does not adversely affect the rights of any Holder, as determined by the Board of Directors of NICE and evidenced by a Board Resolution of NICE delivered to the Trustee;

(h) in connection with any Specified Corporate Event, provide that the Notes are exchangeable for Reference Property, subject to Section 14.02, and make certain related changes to the terms of this Indenture and the Notes to the extent expressly required by this Indenture;

(i) evidence and provide for the acceptance of an appointment under this Indenture of a successor Trustee; *provided* that the successor Trustee is otherwise qualified and eligible to act as such under the terms of this Indenture as set forth in an Officer's Certificate;

(j) conform the provisions of this Indenture or the Notes to the "Description of notes" section of the Offering Memorandum; or

(k) provide for the issuance of additional Notes in accordance with Section 2.10(a).

The Trustee is hereby authorized to join with the Company and NICE in the execution of any such amendment, supplement or waiver, to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to, but may in its discretion, enter into any amendment, supplement or waiver that adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 10.02. *Supplemental Indentures with Consent of Holders*. Except as provided above in Section 10.01 and below in this Section 10.02, the Company, NICE and the Trustee may from time to time and at any time amend or supplement this Indenture, the Notes and the Guarantee with the consent (evidenced as provided in Article 8) of the Holders of at least a majority of the aggregate principal amount of the Notes then outstanding (determined in accordance with Article 8 and including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes), and any existing Default or Event of Default (other than (i) a Default or Event of Default in the payment of the principal (including any Redemption Price and any Fundamental Change Prepayment Price, if applicable) of, or accrued and unpaid interest, if any, on the Notes, except a payment default resulting from an acceleration that has been rescinded, and (ii) a Default or Event of Default as a result of a failure by the Company to deliver the consideration due upon exchange of the Notes) or compliance with any provision of this Indenture, the Notes or the Guarantee may be waived with the consent (evidenced as provided in Article 8) of the Holders of at least a majority of the aggregate principal amount of the Notes then outstanding (determined in accordance with Article 8 and including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes); *provided*, *however*, that, without the consent of each Holder of an outstanding Note affected, no such amendment shall:

(a) reduce the amount of Notes whose Holders must consent to an amendment;

(b) reduce the rate of or extend the stated time for payment of interest on any Note;

(c) reduce the principal of or extend the Maturity Date of any Note;

(d) reduce the amount of principal payable upon acceleration of the maturity of the Notes;

(e) impair or adversely affect the right of Holders to exchange Notes or otherwise modify the provisions with respect to exchange, or reduce the Exchange Rate (subject to such modifications as are required under this Indenture);

(f) reduce the Redemption Price or Fundamental Change Prepayment Price of any Note or amend or modify in any manner adverse to the Holders the Company's obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(g) make any Note payable in a money, or at a place of payment, other than that stated in the Note;

(h) change the ranking of the Notes;

(i) impair the right of any Holder to institute suit for the enforcement of any payment of principal (including the Redemption Price and the Fundamental Change Prepayment Price, if applicable) of, accrued and unpaid interest, if any, on, and consideration due upon exchange of, its Notes, on or after the respective due dates expressed or provided for in this Indenture;

(j) make any change in Section 4.07 that adversely affects the Holders;

(k) make any change in this Article 10 or in the waiver provisions (including in Section 6.09), in each case, that requires each Holder's consent; or

(l) modify the Guarantee in any manner adverse to the Holders.

Upon the written request of the Company, and upon the filing with the Trustee of evidence of the consent of Holders as aforesaid and subject to Section 10.05, the Trustee shall join with the Company and NICE in the execution of such amendment, supplement or waiver unless such amendment, supplement or waiver adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amendment, supplement or waiver.

Holders do not need under this Section 10.02 to approve the particular form of any proposed amendment, supplement or waiver of this Indenture. It shall be sufficient if such Holders approve the substance thereof. After any such amendment, supplement or waiver becomes effective, the Company shall send to the Holders a notice briefly describing such amendment, supplement or waiver. However, the failure to give such notice to all the Holders, or any defect in the notice, will not impair or affect the validity of the amendment, supplement or waiver.

Section 10.03. *Effect of Amendment, Supplement and Waiver*. Upon the execution of any amendment, supplement or waiver of this Indenture pursuant to the provisions of this Article 10, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company, NICE and the Holders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such amendment or supplement shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 10.04. *Notation on Notes.* Notes authenticated and delivered after the execution of any amendment, supplement or waiver to this Indenture pursuant to the provisions of this Article 10 may, at the Company's expense, bear a notation in form approved by the Trustee as to any matter provided for in such amendment, supplement or waiver. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors of NICE, to any modification of this Indenture contained in any such amendment, supplement or waiver may, at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an authenticating agent duly appointed by the Trustee pursuant to Section 17.11) and delivered in exchange for the Notes then outstanding, upon surrender of such Notes then outstanding. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 10.05. *Evidence of Compliance of Amendment, Supplement or Waiver To Be Furnished To Trustee.* In addition to the documents required by Section 17.06, the Trustee shall receive and may rely on an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any amendment, supplement or waiver to this Indenture executed pursuant hereto complies with the requirements of this Article 10 and is permitted or authorized by this Indenture and is the legal, valid and binding obligation of the Company, enforceable in accordance with its terms.

ARTICLE 11
Consolidation, Merger and Sale

Section 11.01. *Company and NICE May Consolidate, Etc. on Certain Terms.*

(a) Neither the Company nor NICE shall consolidate with or merge with or into or otherwise combine with another Person, or sell, lease or otherwise transfer or dispose of all or substantially all of its consolidated assets, taken as a whole, to another Person (other than, in the case of a sale, lease or other transfer or disposition, to one or more of NICE's direct or indirect Subsidiaries), unless:

(i) (1) NICE or the Company, as applicable, is the surviving corporation or (2) (x) the resulting, surviving or transferee Person (if not NICE or the Company, as applicable) (the "**Successor Company**") (A) is a corporation organized and existing under the laws of Israel, the United States of America, any State thereof, the District of Columbia, the Islands of Bermuda, the Cayman Islands, Canada, Germany, Guernsey, Jersey, France, the Netherlands, Belgium, Switzerland, Luxembourg, the Republic of Ireland or the United Kingdom, and (B) expressly assumes by supplemental indenture all of NICE's or the Company's obligations, as applicable, under the Notes, this Indenture and the Guarantee, as the case may be (including, for the avoidance of doubt, the obligation to pay Additional Amounts) and (y) in the event of a consolidation, merger, combination, sale, lease or other transfer or disposition of NICE, the Board of Directors of NICE and the board of directors of the surviving Person each determine that there is no reasonable concern that, as a result of such consolidation, merger, combination, sale, lease or other transfer or disposition, the surviving Person will not be able to satisfy its obligations to its creditors; and

(ii) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing under this Indenture.

For purposes of this Section 11.01, any sale, lease or other transfer or disposition of the assets of one or more Subsidiaries of NICE (other than the Company) to another Person that would, if such assets were held directly by NICE instead of such Subsidiaries, have constituted the sale, lease or other transfer or disposition of all or substantially all of the consolidated assets of NICE and its Subsidiaries, taken as a whole, shall be deemed to be the sale, lease or other transfer or disposition of the assets of all or substantially all of the consolidated assets of NICE and its Subsidiaries, taken as a whole, to another Person.

(b) Upon any such consolidation, merger, combination, sale, lease or other transfer or disposition and upon the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and accrued and unpaid interest on all of the Notes (including, for the avoidance of doubt, any Additional Amounts), the due and punctual delivery and/or payment, as the case may be, of any consideration due upon exchange of the Notes (including, for the avoidance of doubt, any Additional Amounts) and the due and punctual performance of all of the covenants and conditions of this Indenture, the Notes and the Guarantee to be performed by the Company or NICE, as applicable, such Successor Company (if not the Company or NICE, as applicable) shall succeed to, and may exercise every right and power of and be substituted for, the Company or NICE, as applicable, with the same effect as if it had been named herein as the party of the first part, and the Company or NICE, as applicable, shall be discharged from its obligations under the Notes, this Indenture and the Guarantee, as applicable, except in the case of a lease. Such Successor Company (instead of the Company, if applicable) thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by an Officer of the Company to the Trustee for authentication, and any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such consolidation, merger, sale, transfer or disposition (but not in the case of a lease), upon compliance with this Article 11, the Person named as the "Company" or the "Guarantor" in the first paragraph of this Indenture shall be released from its respective liabilities as obligor or guarantor and maker of the Notes (in the case of the Company) and from its obligations under this Indenture, the Notes and the Guarantee.

(c) In the event of any such consolidation, merger, combination or sale, lease or other transfer or disposition involving the Company, if the relevant Successor Company is organized or resident for tax purposes in a jurisdiction outside of the United States, and any payments or deliveries made by such Successor Company under or with respect to the Notes are subject to withholding or deduction for or on account of any taxes, duties, assessments or other governmental charges imposed by such jurisdiction or any other jurisdiction from or through which payments by such Successor Company are made or, in each case, any political subdivision thereof or any authority therein or thereof having power to tax, such Successor Company will be required to pay Additional Amounts with respect to such taxes, duties, assessments or other governmental charges in a manner corresponding to the obligation of NICE to pay Additional Amounts as set forth in Section 4.07 (and for such purpose, as well as for purposes of any Tax Redemption, the applicable jurisdiction imposing such taxes, duties, assessments or other governmental charges shall be a "Relevant Taxing Jurisdiction").

Section 11.02. *[Reserved]*.

Section 11.03. *Opinion of Counsel and Officer's Certificate To Be Given to Trustee.* No consolidation, merger, combination or sale, lease or other transfer or disposition shall be effective unless the Trustee shall receive an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any such consolidation, merger, combination or sale, lease or other transfer or disposition and any such assumption complies with the provisions of this Article 11 and, if a supplemental indenture is required in connection with such transaction, an Opinion of Counsel, which shall state that the Indenture, the Guarantee and the Notes, as applicable, constitute legal, valid and binding obligations of any Successor Company, as applicable, subject to customary exceptions.

ARTICLE 12
Immunity of Incorporators, Stockholders, Officers and Directors

Section 12.01. *Indenture, Notes and Guarantee Solely Corporate Obligations*. No recourse for the payment of the principal of or accrued and unpaid interest on, or the payment or delivery of consideration due upon Exchange of, any Note or the Guarantee, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company or NICE in this Indenture or in any supplemental indenture or in any Note or the Guarantee, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, Officer or director or Subsidiary (other than the Company), as such, past, present or future, of the Company or NICE or of any of their respective successor corporations or other entities, either directly or through the Company, NICE or any of their respective successor corporations or other entities, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issue of the Notes and the Guarantee.

ARTICLE 13
Guarantee

Section 13.01 . *Guarantee.*

(a) Subject to this Article 13, NICE hereby fully and unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes held thereby and the obligations of the Company hereunder and thereunder, that: (i) the principal of and interest on the Notes will be promptly paid in full when due, subject to any applicable grace period, whether at the Maturity Date, by acceleration, upon redemption, upon prepayment or otherwise, and interest on the overdue principal of and (to the extent permitted by law) interest on the Notes, and the Settlement Amounts upon exchange will be promptly paid and/or delivered in full when due upon exchange, and all other payment obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full and performed, all in accordance with the terms hereof and thereof; and (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, subject to any applicable grace period, whether at the Maturity Date, by acceleration, upon redemption, upon prepayment or otherwise. Failing payment when so due of any amount so guaranteed for whatever reason, NICE will be obligated to pay the same immediately. An Event of Default with respect to the Notes under this Indenture shall constitute an event of default under the Guarantee, and shall entitle the Holders to accelerate the obligations of NICE hereunder in the same manner and to the same extent as the obligations of the Company.

(b) NICE hereby agrees that its obligation hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of NICE. NICE further, to the extent permitted by law, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture, or pursuant to Section 13.03.

(c) NICE also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee or any Holder in enforcing any rights under this Section 13.01.

(d) If any Holder or the Trustee is required by any court or otherwise to return to the Company, NICE, or any Custodian, Trustee or other similar official acting in relation to either the Company or NICE, any amount paid by the Company or NICE to the Trustee or such Holder, the Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(e) NICE further agrees that, as between NICE, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of this Indenture for the purposes of its Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed thereby, and (b) in the event of any declaration of acceleration of such obligations as provided in Article 6 of this Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by NICE for the purpose of its Guarantee.

(f) The Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or the Guarantee, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(g) In case any provision of the Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(h) Each payment to be made by NICE in respect of its Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature (*provided* that Additional Amounts payable pursuant to Section 4.07 shall remain payable).

(i) For the avoidance of doubt, the Guarantee with respect to a Note is not exchangeable and shall automatically terminate when such Note is exchanged in accordance with this Indenture.

Section 13.02 . *Execution and Delivery*.

The Guarantee shall be evidenced by the execution and delivery of this Indenture or a supplement to this Indenture and no notation of the Guarantee need be endorsed on any Note. NICE hereby agrees that its Guarantee set forth in Section 13.01 shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of NICE.

Section 13.03 . *[Reserved]*.

Section 13.04 . *Limitation on NICE's Liability.*

NICE, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee not constitute a fraudulent conveyance or a fraudulent transfer for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to the Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and NICE hereby irrevocably agree that the obligations of NICE under the Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of NICE, result in the obligations of NICE under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

Section 13.05 . *Subrogation.*

NICE shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by NICE pursuant to the provisions of Section 13.01; *provided* that, if an Event of Default has occurred and is continuing, NICE shall not be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture or the Notes shall have been paid in full.

Section 13.06 . *Benefits Acknowledged.*

NICE acknowledges that it will receive benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to the Guarantee are knowingly made in contemplation of such benefits.

Section 13.07 . *Ranking.*

The Guarantee of NICE constitutes a senior general unsecured obligation, ranking equally in right of payment with all existing and future unsecured liabilities of NICE that are not subordinated and ranking senior in right of payment to all future indebtedness of NICE that is expressly made subordinate to such Guarantee by the terms of such indebtedness.

Section 13.08 . *"Trustee" to Include Paying Agent.*

In case at any time any Paying Agent other than the Trustee shall have been appointed by the Company and be then acting hereunder, the term "Trustee" as used in this Article 13 shall in each case (unless the context shall otherwise require) be construed as extending to, and including, such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this Article 13 in place of the Trustee.

ARTICLE 14
Exchange of Notes

Section 14.01 . *Exchange Privilege.*

(a) Subject to and upon compliance with the provisions of this Article 14, each Holder of a Note shall have the right, at such Holder's option, to exchange all or any portion (if the portion to be exchanged is $1,000 principal amount or an integral multiple thereof) of such Note:

(i) subject to satisfaction of the conditions described in Section 14.01(b), at any time prior to the close of business on the Business Day immediately preceding September 15, 2023 under the circumstances and during the periods set forth in Section 14.01(b);

(ii) on or after September 15, 2023, at any time prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date;

in each case, at an initial exchange rate of 12.0260 ADSs (subject to adjustment as provided in Section 14.04 and, if applicable, Section 14.03, the "**Exchange Rate**") per $1,000 principal amount of Notes (subject to the settlement provisions of Section 14.02, the "**Exchange Obligation**").

(b) (i) Prior to the close of business on the Business Day immediately preceding September 15, 2023, a Holder may surrender all or any portion of its Notes (that is $1,000 principal amount or an integral multiple thereof) for exchange at any time during the five Business Day period after any ten consecutive Trading Day period (the "**Measurement Period**") in which the Trading Price per $1,000 principal amount of Notes, as determined following a request by a Holder of Notes in accordance with the procedures described below in this subsection (b)(i), for each Trading Day of the Measurement Period was less than 98% of the product of the Last Reported Sale Price of the ADSs and the Exchange Rate on each such Trading Day.

(A) The Bid Solicitation Agent (if other than the Company) shall have no obligation to determine the Trading Price per $1,000 principal amount of the Notes unless the Company has requested such determination, and the Company shall have no obligation to make such request (or, if the Company is acting as Bid Solicitation Agent, the Company shall have no obligation to determine the Trading Price) unless a Holder of at least $1,000,000 principal amount of Notes requests in writing that the Company makes such a determination and provides the Company with reasonable evidence that the Trading Price per $1,000 principal amount of Notes would be less than 98% of the product of the Last Reported Sale Price of the ADSs and the Exchange Rate on such Trading Day. At such time, the Company shall instruct the Bid Solicitation Agent (if other than the Company) to determine, or if the Company is acting as Bid Solicitation Agent, the Company shall determine, the Trading Price per $1,000 principal amount of the Notes beginning on the Trading Day following the receipt of such evidence and on each successive Trading Day until the Trading Price per $1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the ADSs and the Exchange Rate on such Trading Day.

(B) If the Trading Price condition has been met, the Company shall promptly so notify the Holders, the Trustee and the Exchange Agent (if other than the Trustee) in writing. If, at any time after the Trading Price condition has been met, the Trading Price per $1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the ADSs and the Exchange Rate on such Trading Day, the Company shall promptly so notify the Holders, the Trustee and the Exchange Agent (if other than the Trustee) in writing.

(C) If the Company does not, when it is required to, instruct the Bid Solicitation Agent to (or, if the Company is acting as Bid Solicitation Agent, it does not) obtain bids, or if the Company gives such instruction to the Bid Solicitation Agent and the Bid Solicitation Agent fails to make such determination (or, if the Company is acting as Bid Solicitation Agent, it fails to make such determination), then, in either case, the Trading Price per $1,000 principal amount of the Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the ADSs and the Exchange Rate on each Trading Day of such failure.

(ii) If, prior to the close of business on the Business Day immediately preceding September 15, 2023, NICE elects to:

(A) issue to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) any rights, options or warrants (other than any issuance pursuant to a shareholder's rights agreement or rights plan) entitling them, for a period of not more than 60 calendar days after the announcement date of such issuance, to subscribe for or purchase Ordinary Shares (directly or in the form of ADSs), at a price per ADS that is less than the average of the Last Reported Sale Prices of the ADSs for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, *divided by* the number of Ordinary Shares then represented by one ADS; or

(B) distribute to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) NICE's assets, securities or rights, options or warrants to purchase securities of NICE (in each case, other than any distribution pursuant to a shareholder's rights agreement or rights plan), which distribution has a per Ordinary Share value, as reasonably determined by NICE's Board of Directors, exceeding 10% of (i) the Last Reported Sale Price of the ADSs on the Trading Day immediately preceding the date of announcement of such distribution, *divided by* (ii) the number of Ordinary Shares then represented by one ADS,

then, in either case, the Company shall notify all Holders of the Notes, the Trustee and the Exchange Agent (if other than the Trustee) at least 70 Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution. Once the Company has given such notice, the Holders may surrender all or any portion of their Notes (that is $1,000 in principal amount or an integral multiple thereof) for exchange at any time until the earlier of (1) the close of business on the Business Day immediately preceding the Ex-Dividend Date for such issuance or distribution and (2) NICE's announcement that such issuance or distribution will not take place.

No Holder may exchange any of its Notes pursuant to this Section 14.01(b)(ii) if such Holder otherwise participates in such issuance or distribution, at the same time and upon the same terms as holders of the ADSs and as a result of holding Notes, without having to exchange its Notes as if such Holder held a number of ADSs equal to (x) the applicable Exchange Rate *multiplied by* (y) the principal amount (expressed in thousands) of Notes held by such Holder.

(iii) If, prior to the close of business on the Business Day immediately preceding September 15, 2023:

(A) a Fundamental Change occurs;

(B) a Make-Whole Fundamental Change occurs; or

(C) NICE is a party to a consolidation, merger, or other combination, statutory scheme of arrangement, statutory share exchange or sale, lease or other transfer or disposition of all or substantially all of the consolidated assets of NICE and its Subsidiaries taken as a whole, in each case, pursuant to which the Ordinary Shares (directly or in the form of ADSs) would be exchanged for stock, other securities, other property or assets (including cash or any combination thereof),

then, in each case, the Holders may surrender all or any portion of their Notes (that is $1,000 in principal amount or an integral multiple thereof) for exchange at any time from or after the open of business on the Business Day immediately following the day NICE publicly announces such transaction (even if such transaction has not yet occurred) until the close of business on the 35th Trading Day after the actual effective date of such transaction or, if such transaction constitutes a Fundamental Change, until the close of business on the Business Day immediately preceding the related Fundamental Change Prepayment Date.

The Company shall notify Holders, the Trustee and the Exchange Agent (if other than the Trustee) of the effective date of any such transaction as promptly as practicable following the date NICE publicly announces such transaction, and the Company shall use commercially reasonable efforts to notify Holders prior to such effective date, if practicable.

(iv) Prior to the close of business on the Business Day immediately preceding September 15, 2023, a Holder may surrender all or any portion of its Notes (that is $1,000 in principal amount or an integral multiple thereof) for exchange during any calendar quarter commencing after the calendar quarter ending on March 31, 2017 (and only during such calendar quarter), if the Last Reported Sale Price of the ADSs for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on the last Trading Day of the immediately preceding calendar quarter is greater than or equal to 130% of the Exchange Price on each applicable Trading Day. The Company shall determine whether the Notes are exchangeable and provide written notice to the Holders, the Trustee and the Exchange Agent (if other than the Trustee).

Section 14.02. *Exchange Procedure; Settlement Upon Exchange*

(a) Subject to this Section 14.02, Section 14.03(b) and Section 14.07(a), upon exchange of any Note, the Company shall, at its election, pay or deliver, as the case may be, to the exchanging Holder, in full satisfaction of its Exchange Obligation, cash ("**Cash Settlement**"), ADSs ("**Physical Settlement**") or a combination of cash and ADSs ("**Combination Settlement**"), as set forth in this Section 14.02.

(i) All exchanges for which the relevant Exchange Date occurs on or after September 15, 2023, and all exchanges occurring after the date of the Company's issuance of a Notice of Tax Redemption and prior to the close of business on the second Business Day immediately preceding the related Tax Redemption Date, shall be settled using the same Settlement Method (including the same relative proportion of cash and/or ADSs). Except for any exchanges for which the relevant Exchange Date occurs on or after September 15, 2023, or after the date of the Company's issuance of a Notice of Tax Redemption and prior to the close of business on the second Business Day immediately preceding the related Tax Redemption Date, the Company shall use the same Settlement Method (including the same relative proportion of cash and/or ADSs) for all exchanges with the same Exchange Date, but the Company shall not have any obligation to use the same Settlement Method with respect to exchanges with different Exchange Dates.

(ii) If the Company elects a Settlement Method, the Company shall deliver notice to Holders through the Exchange Agent of such Settlement Method the Company has selected no later than the close of business on the second Trading Day immediately following the related Exchange Date (or (i) in the case of any exchanges for which the relevant Exchange Date occurs on or after September 15, 2023, no later than September 15, 2023 or (ii) in the case of any exchanges occurring after the date of issuance of a Notice of Tax Redemption and prior to the close of business on the second Business Day immediately preceding the related Tax Redemption Date, in such Notice of Tax Redemption). If the Company does not timely elect a Settlement Method, the Company shall no longer have the right to elect Cash Settlement or Physical Settlement with respect to that Exchange Date and the Company shall be deemed to have elected Combination Settlement in respect of its Exchange Obligation, and the Specified Dollar Amount per $1,000 principal amount of Notes shall be equal to $1,000. If the Company elects Combination Settlement in respect of any exchange but does not specify in its election a Specified Dollar Amount per $1,000 principal amount of Notes, or the Company is deemed to have elected Combination Settlement, the Specified Dollar Amount shall be deemed to be $1,000.

(iii) The cash, ADSs or combination of cash and ADSs payable or deliverable by the Company in respect of any exchange of Notes (the "**Settlement Amount**") shall be computed by the Company as follows:

(A) if the Company elects to satisfy its Exchange Obligation in respect of such exchange by Physical Settlement, the Company shall deliver to the exchanging Holder in respect of each $1,000 principal amount of Notes being exchanged a number of ADSs equal to the Exchange Rate on the Exchange Date (plus cash in lieu of any fractional ADS deliverable upon exchange);

(B) if the Company elects to satisfy its Exchange Obligation in respect of such exchange by Cash Settlement, the Company shall pay to the exchanging Holder in respect of each $1,000 principal amount of Notes being exchanged cash in an amount equal to the sum of the Daily Exchange Values for each of the 60 consecutive VWAP Trading Days during the related Observation Period; and

(C) if the Company elects (or is deemed to have elected) to satisfy its Exchange Obligation in respect of such exchange by Combination Settlement, the Company shall pay or deliver, as the case may be, to the exchanging Holder in respect of each $1,000 principal amount of Notes being exchanged a Settlement Amount equal to the sum of the Daily Settlement Amounts for each of the 60 consecutive VWAP Trading Days during the related Observation Period (plus cash in lieu of any fractional ADS deliverable upon exchange).

If more than one Note shall be surrendered for exchange at any one time by the same Holder, the Exchange Obligation with respect to such Notes shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted hereby) so surrendered.

(iv) The Daily Settlement Amounts (if applicable) and the Daily Exchange Values (if applicable) shall be determined by the Company promptly following the last VWAP Trading Day of the related Observation Period. Promptly after such determination of the Daily Settlement Amounts or the Daily Exchange Values, as the case may be, and, if applicable, the amount of cash payable in lieu of any fractional ADS, the Company shall notify the Trustee and the Exchange Agent (if other than the Trustee) of the Daily Settlement Amounts or the Daily Exchange Values, as the case may be, and, if applicable, the amount of cash payable in lieu of fractional ADSs. The Trustee and the Exchange Agent (if other than the Trustee) shall have no responsibility for any such determination.

(b) (i) To exchange a beneficial interest in a Global Note (which exchange is irrevocable), the holder of such beneficial interest must:

(A) comply with the Applicable Procedures;

(B) if applicable, pay a fee of up to $0.05 per ADS, if any, deliverable upon such exchange, as well as any applicable fees, costs and expenses prescribed under the Deposit Agreement;

(C) if required, pay all transfer or similar taxes; and

(D) if required, pay funds equal to any interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in Section 14.02(g); and

(ii) To exchange a Certificated Note, the Holder must:

(A) complete, manually sign and deliver an irrevocable notice to the Exchange Agent as set forth in the Form of Notice of Exchange (or a facsimile thereof) (a "**Notice of Exchange**") and such Note to the Exchange Agent;

(B) if required, furnish appropriate endorsements and transfer documents;

(C) if applicable, pay a fee of up to $0.05 per ADS, if any, deliverable upon such exchange, as well as any applicable fees, costs and expenses prescribed under the Deposit Agreement;

(D) if required, pay all transfer or similar taxes; and

(E) if required, pay funds equal to any interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in Section 14.02(g).

The Trustee (and if different, the Exchange Agent) shall notify the Company of any exchange pursuant to this Article 14 on the Exchange Date for such exchange.

If a Holder has already delivered a Fundamental Change Prepayment Notice with respect to a Note, such Holder may not surrender such Note for exchange until such Holder has validly withdrawn such Fundamental Change Prepayment Notice (or, in the case of a Global Note, has complied with the Applicable Procedures with respect to such a withdrawal) in accordance with the terms of Section 15.03. If a Holder has already delivered a Fundamental Change Prepayment Notice, such Holder's right to withdraw such notice and exchange the Notes that are subject to prepayment will terminate at the close of business on the Business Day immediately preceding the relevant Fundamental Change Prepayment Date.

(c) A Note shall be deemed to have been exchanged immediately prior to the close of business on the date (the "**Exchange Date**") that the Holder has complied with the requirements set forth in Section 14.02(b) above.

Subject to the provisions of Section 14.03(b) and Section 14.07(a), the Company shall pay or deliver, as the case may be, the Settlement Amount due in respect of the Exchange Obligation on:

(i) the third Business Day immediately following the relevant Exchange Date, if the Company elects Physical Settlement; or

(ii) the third Business Day immediately following the last VWAP Trading Day of the relevant Observation Period, if the Company elects Cash Settlement or if the Company elects (or is deemed to have elected) Combination Settlement.

If any ADSs are due to exchanging Holders, the Company shall issue or cause to be issued, and deliver to such Holder, or such Holder's nominee or nominees, certificates or a book-entry transfer through the Depositary, as the case may be, for the full number of ADSs to which such Holder shall be entitled in satisfaction of the Company's Exchange Obligation.

(d) In case any Certificated Note shall be surrendered for partial exchange, in $1,000 principal amount or an integral multiple thereof, the Company shall execute and the Trustee shall authenticate and deliver to or upon the written order of the Holder so surrendered a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unexchanged portion of the surrendered Note, without payment of any service charge by the exchanging Holder but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer tax or similar governmental charge required by law or that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange being different from the name of the Holder of the old Notes surrendered for such exchange.

(e) If a Holder submits a Note for exchange, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the issuance or delivery of any ADSs upon exchange of such Note (or the issuance of the underlying Ordinary Shares), unless the tax is due because the Holder requests such ADSs (or the Ordinary Shares) to be issued in a name other than the Holder's name, in which case the Holder shall pay that tax.

(f) Upon the exchange of an interest in a Global Note, the Trustee, or the Custodian of the Global Note at the direction of the Trustee, shall make a notation in the books and records of the Trustee and Depositary as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any exchange of Notes effected through any Exchange Agent other than the Trustee.

(g) Upon exchange of a Note, the exchanging Holder shall not receive any separate cash payment representing accrued and unpaid interest, if any, except as set forth in the paragraph below. The Company's payment or delivery, as the case may be, of the Settlement Amount upon exchange of any Note shall be deemed to satisfy in full its obligation to pay the principal amount of the Note and accrued and unpaid interest, if any, to, but not including, the relevant Exchange Date. As a result, accrued and unpaid interest, if any, to, but not including, the relevant Exchange Date shall be deemed to be paid in full rather than canceled, extinguished or forfeited. Upon an exchange of Notes into a combination of cash and ADSs, accrued and unpaid interest shall be deemed to be paid first out of the cash paid upon such exchange.

Notwithstanding the immediately preceding paragraph, if Notes are exchanged after the close of business on a Regular Record Date for the payment of interest, but prior to the open of business on the immediately following Interest Payment Date, Holders of such Notes at the close of business on such Regular Record Date shall receive the full amount of interest payable on such Notes on the corresponding Interest Payment Date notwithstanding the exchange. Notes surrendered for exchange during the period from the close of business on any Regular Record Date to the open of business on the immediately following Interest Payment Date must be accompanied by funds equal to the amount of interest payable on the Notes so exchanged on the corresponding Interest Payment Date (regardless of whether the exchanging Holder was the Holder of record on the corresponding Regular Record Date); *provided* that no such payment need be made:

(i) if the Notes are surrendered for exchange following the Regular Record Date immediately preceding the Maturity Date;

(ii) if the Notes are subject to Tax Redemption by the Company on a Tax Redemption Date that is after a Regular Record Date and on or prior to the Business Day immediately following the corresponding Interest Payment Date;

(iii) if the Company has specified a Fundamental Change Prepayment Date that is after a Regular Record Date and on or prior to the Business Day immediately following the corresponding Interest Payment Date; or

(iv) to the extent of any overdue interest, if any overdue interest exists at the time of exchange with respect to such Note.

Therefore, for the avoidance of doubt, all Holders of record on the Regular Record Date immediately preceding the Maturity Date, any Tax Redemption Date as described in clause (ii) above and any Fundamental Change Prepayment Date as described in clause (iii) above shall receive and retain the full interest payment due on the Maturity Date or other applicable Interest Payment Date regardless of whether their Notes have been exchanged following such Regular Record Date.

(h) The Person in whose name any ADSs delivered upon exchange is registered shall become the holder of record of such ADSs as of the close of business on (i) the relevant Exchange Date if the Company elects Physical Settlement or (ii) the last VWAP Trading Day of the relevant Observation Period if the Company elects or is deemed to elect Combination Settlement. Upon an exchange of Notes, such Person shall no longer be a Holder of such Notes surrendered for exchange; *provided* that (a) the exchanging Holder shall have the right to receive the Settlement Amount due upon exchange and (b) in the case of an exchange between a Regular Record Date and the corresponding Interest Payment Date, the Holder of record as of the close of business on such Regular Record Date shall have the right to receive the interest payable on such Interest Payment Date, in accordance with Section 14.02(g).

(i) The Company shall not issue any fractional ADSs upon exchange of the Notes and shall instead pay cash in lieu of any fractional ADS deliverable upon exchange in an amount based on (i) the Daily VWAP on the relevant Exchange Date if the Company elects Physical Settlement or (ii) the Daily VWAP on the last VWAP Trading Day of the relevant Observation Period if the Company elects or is deemed to elect Combination Settlement. For each Note surrendered for exchange, if the Company has elected (or is deemed to elect) Combination Settlement, the full number of ADSs that shall be issued upon exchange thereof shall be computed on the basis of the aggregate Daily Settlement Amounts for the relevant Observation Period and, if applicable, any fractional ADS remaining after such computation shall be paid in cash.

(j) Upon surrender by a Holder of its Notes for exchange, the Company may, at its election (an "**Exchange Election**"), direct the Exchange Agent to surrender, on or prior to the scheduled Trading Day immediately preceding the first VWAP Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, on or prior to the second Business Day immediately following the relevant Exchange Date), such Notes to a financial institution chosen by the Company (the "**Designated Financial Institution**") for exchange in lieu of exchange by the Company. In order to accept any Notes surrendered to the Company for exchange, the Designated Financial Institution must agree to pay and/or deliver, as the case may be, in exchange for such Notes, all of the cash, ADSs or combination thereof due upon exchange, all as provided in Section 14.02(a) (the "**Exchange Consideration**"). By the close of business on the scheduled Trading Day immediately preceding the first VWAP Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, the Company shall, by the close of business on the second Business Day immediately following the relevant Exchange Date), the Company shall notify the Holder surrendering Notes for exchange that the Company has directed the Designated Financial Institution to make a third party exchange in lieu of an exchange by the Company.

If the Designated Financial Institution accepts any Notes as described above, it will pay and/or deliver, as the case may be, the cash, ADSs or a combination thereof due upon exchange to the Exchange Agent, and the Exchange Agent shall pay and/or deliver such cash and/or ADSs to such Holder on the third Business Day immediately following the last VWAP Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, on the third Business Day immediately following the relevant Exchange Date). Any Notes exchanged by the Designated Financial Institution shall remain outstanding. If the Designated Financial Institution agrees to accept any Notes for exchange but does not timely pay and/or deliver the related cash, ADSs or a combination thereof, as the case may be, or if such Designated Financial Institution does not accept the Notes for exchange, the Company shall exchange the Notes and pay and/or deliver, as the case may be, the cash, ADSs or a combination thereof due upon exchange on the third Business Day immediately following the last VWAP Trading Day of the applicable Observation Period (or, if the Company has elected Physical Settlement, on the third Business Day immediately following the relevant Exchange Date) as described in Section 14.02.

The Company's designation of a Designated Financial Institution does not require such Designated Financial Institution to accept any Notes (unless such Designated Financial Institution has separately made an agreement with the Company). The Company may, but shall not be obligated to, enter into a separate agreement with any Designated Financial Institution that would compensate it for any such transaction.

Section 14.03. *Increase in Exchange Rate Upon Exchange in Connection with a Make-Whole Fundamental Change.* (a) If the Effective Date of a Make-Whole Fundamental Change occurs prior to the Maturity Date and a Holder elects to exchange its Notes in connection with such Make-Whole Fundamental Change, the Company shall, under the circumstances described below, increase the Exchange Rate for the Notes so surrendered for exchange by a number of additional ADSs (the "**Additional ADSs**"), as described below. An exchange of Notes shall be deemed for these purposes to be "in connection with" such Make-Whole Fundamental Change if the relevant Exchange Date occurs during the period from the open of business on the Effective Date of the Make-Whole Fundamental Change to the close of business on the Business Day immediately preceding the related Fundamental Change Prepayment Date (or in the case of a Make-Whole Fundamental Change that would have been a Fundamental Change but for the proviso in clause (b) of the definition thereof, the 35th Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change).

(b) Upon surrender of Notes for exchange in connection with a Make-Whole Fundamental Change, the Company shall, at its option, satisfy its Exchange Obligation by Physical Settlement, Cash Settlement or Combination Settlement in accordance with Section 14.02; *provided*, *however*, that, if the consideration for the ADSs in any Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change is composed entirely of cash, for any exchange of Notes following the Effective Date of such Make-Whole Fundamental Change, the Exchange Obligation shall be calculated based solely on the ADS Price for the transaction and shall be deemed to be an amount of cash per $1,000 principal amount of exchanged Notes equal to (i) the Exchange Rate (including any increase to reflect the Additional ADSs as described in this Section 14.03), *multiplied by* (ii) such ADS Price. In such event, the Exchange Obligation shall be determined and paid to Holders in cash on the third Business Day following the Exchange Date. The Company shall notify Holders, the Trustee and the Exchange Agent (if other than the Trustee) of the Effective Date of any Make-Whole Fundamental Change and NICE will issue a press release announcing such Effective Date and publish the information on its website or through such other public medium as NICE may use at that time no later than five Business Days after such Effective Date (the "**Make-Whole Fundamental Change Company Notice**").

(c) The number of Additional ADSs, if any, by which the Exchange Rate shall be increased shall be determined by reference to the table below, based on the date on which the Make-Whole Fundamental Change occurs or becomes effective (the "**Effective Date**") and the price (the "**ADS Price**") paid (or deemed to be paid) per ADS in the Make-Whole Fundamental Change. If the holders of the ADSs receive only cash in a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the ADS Price shall be the cash amount paid per ADS. Otherwise, the ADS Price shall be the average of the Last Reported Sale Prices of the ADSs over the five Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change.

(d) The ADS Prices set forth in the column headings of the table below shall be adjusted as of any date on which the Exchange Rate is otherwise adjusted. The adjusted ADS Prices shall equal (i) the ADS Prices applicable immediately prior to such adjustment, *multiplied by* (ii) a fraction, the numerator of which is the Exchange Rate immediately prior to such adjustment giving rise to the ADS Price adjustment and the denominator of which is the Exchange Rate as so adjusted. The number of Additional ADSs set forth in the table below shall be adjusted in the same manner and at the same time as the Exchange Rate as set forth in Section 14.04.

(e) The following table sets forth the number of Additional ADSs by which the Exchange Rate shall be increased per $1,000 principal amount of Notes pursuant to this Section 14.03 for each ADS Price and Effective Date set forth below:

	ADS Price												
Effective Date	$ 67.88	$ 70.00	$ 75.00	$ 80.00	$ 83.15	$ 90.00	$ 100.00	$ 110.00	$ 120.00	$ 130.00	$ 150.00	$ 175.00	$ 225.00
January 18, 2017	2.7058	2.5930	2.1840	1.8508	1.6722	1.3509	1.0043	0.7578	0.5787	0.4459	0.2693	0.1444	0.0366
January 15, 2018	2.7058	2.5073	2.0916	1.7556	1.5766	1.2572	0.9174	0.6801	0.5106	0.3871	0.2266	0.1166	0.0233
January 15, 2019	2.7058	2.4504	2.0202	1.6754	1.4932	1.1712	0.8347	0.6048	0.4444	0.3302	0.1861	0.0912	0.0149
January 15, 2020	2.7058	2.4046	1.9522	1.5935	1.4057	1.0781	0.7438	0.5224	0.3728	0.2696	0.1447	0.0668	0.0079
January 15, 2021	2.7058	2.3673	1.8812	1.5009	1.3045	0.9678	0.6360	0.4263	0.2915	0.2028	0.1022	0.0441	0.0030
January 15, 2022	2.7058	2.2979	1.7647	1.3557	1.1488	0.8047	0.4850	0.2994	0.1904	0.1249	0.0582	0.0235	0.0000
January 15, 2023	2.7058	2.2740	1.5963	1.1323	0.9071	0.5554	0.2715	0.1384	0.0767	0.0472	0.0225	0.0097	0.0000
January 15, 2024	2.7058	2.2600	1.3073	0.4740	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact ADS Price and/or Effective Date may not be set forth in the table above, in which case:

(i) if the ADS Price is between two ADS Prices in the table or the Effective Date is between two Effective Dates in the table, the number of Additional ADSs by which the Exchange Rate shall be increased shall be determined by a straight-line interpolation between the number of Additional ADSs set forth for the higher and lower ADS Prices and the earlier and later Effective Dates, as applicable, based on a 365-day year or 366-day year, as applicable;

(ii) if the ADS Price is greater than $225.00 per ADS (subject to adjustment in the same manner as the ADS Prices set forth in the column headings of the table above), no Additional ADSs shall be added to the Exchange Rate; and

(iii) if the ADS Price is less than $67.88 per ADS (subject to adjustment in the same manner as the ADS Prices set forth in the column headings of the table above), no Additional ADSs shall be added to the Exchange Rate.

Notwithstanding the foregoing, in no event shall the Exchange Rate per $1,000 principal amount of Notes exceed 14.7318 ADSs, subject to adjustment in the same manner as the Exchange Rate pursuant to Section 14.04.

(f) Nothing in this Section 14.03 shall prevent an adjustment to the Exchange Rate pursuant to Section 14.04 in respect of a Make-Whole Fundamental Change.

Section 14.04. *Adjustment of Exchange Rate.* If the number of Ordinary Shares represented by the ADSs is changed, after the date of this Indenture, for any reason other than one or more of the events described in this Section 14.04, the Company shall make an appropriate adjustment to the Exchange Rate such that the number of Ordinary Shares represented by the ADSs upon which the exchange of the Notes is based remains the same.

Notwithstanding the adjustment provisions described in this Section 14.04, if NICE distributes to holders of the Ordinary Shares any cash, rights, options, warrants, shares of Capital Stock or similar equity interests, evidences of indebtedness or other assets or property of NICE and a corresponding distribution is not made to holders of the ADSs, but, instead, the ADSs shall represent, in addition to Ordinary Shares, such cash, rights, options, warrants, shares of Capital Stock or similar equity interests, evidences of indebtedness or other assets or property of NICE, then an adjustment to the Exchange Rate described in this Section 14.04 shall not be made until and unless a corresponding distribution (if any) is made to holders of the ADSs, and such adjustment to the Exchange Rate shall be based on the distribution made to the holders of the ADSs and not on the distribution made to the holders of the Ordinary Shares.

For the avoidance of doubt, if any event described in this Section 14.04 results in a change to the number of Ordinary Shares represented by the ADSs, then such change shall be deemed to satisfy the Company's obligation to effect the relevant adjustment to the Exchange Rate on account of such event to the extent such change produces the same economic effect as the relevant adjustment to the Exchange Rate would have produced in the absence of the change to the number of Ordinary Shares represented by the ADSs.

The Exchange Rate shall be adjusted from time to time by the Company if any of the following events occurs, except that the Company shall not make any adjustments to the Exchange Rate if Holders of the Notes participate (other than in the case of a share split or share combination), at the same time and upon the same terms as holders of the ADSs and solely as a result of holding the Notes, in any of the transactions described in this Section 14.04, without having to exchange their Notes, as if they held a number of ADSs equal to (i) the Exchange Rate, *multiplied by* (ii) the principal amount (expressed in thousands) of Notes held by such Holder.

(a) If NICE exclusively issues Ordinary Shares as a dividend or distribution on the Ordinary Shares, or if NICE effects a share split or share combination of the Ordinary Shares, the Exchange Rate shall be adjusted based on the following formula:

$$ER_1 = ER_0 \times \frac{OS_1}{OS_0}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the open of business on the effective date of such share split or share combination, as applicable;

ER_1 = the Exchange Rate in effect immediately after the open of business on such Ex-Dividend Date or effective date, as applicable;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the open of business on such Ex-Dividend Date or effective date, as applicable, before giving effect to such dividend, distribution, share split or share combination; and

OS_1 = the number of Ordinary Shares outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this Section 14.04(a) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the effective date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this Section 14.04(a) is declared and results in an adjustment under this Section 14.04(a) but is not so paid or made, the Exchange Rate shall be immediately readjusted, effective as of the date NICE's Board of Directors determines not to pay such dividend or distribution, to the Exchange Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If NICE issues to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs) any rights, options or warrants (other than any issuance pursuant to a shareholder's rights agreement or rights plan) entitling them, for a period of not more than 60 calendar days after the announcement date of such issuance, to subscribe for or purchase Ordinary Shares (directly or in the form of ADSs) at a price per Ordinary Share that is less than the average of the Last Reported Sale Prices of the ADSs for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, *divided by* the number of Ordinary Shares then represented by one ADS, the Exchange Rate shall be increased based on the following formula:

$$ER_1 = ER_0 \times \frac{(OS_0 + X)}{(OS_0 + Y)}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such issuance;

ER_1 = the Exchange Rate in effect immediately after the open of business on such Ex-Dividend Date;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the open of business on such Ex-Dividend Date;

X = the total number of Ordinary Shares (directly or in the form of ADSs) deliverable pursuant to such rights, options or warrants; and

Y = the number of Ordinary Shares equal to (i) the aggregate price payable to exercise such rights, options or warrants, *divided by* (ii) the quotient of (a) the average of the Last Reported Sale Prices of the ADSs over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of the issuance of such rights, options or warrants, *divided by* (b) the number of Ordinary Shares then represented by one ADS.

Any increase made under this Section 14.04(b) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the open of business on the Ex-Dividend Date for such issuance. To the extent that the Ordinary Shares (directly or in the form of ADSs) are not delivered after the exercise of such rights, options or warrants, the Exchange Rate shall be decreased to the Exchange Rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of Ordinary Shares actually delivered (directly or in the form of ADSs). If such rights, options or warrants are not so issued, the Exchange Rate shall be decreased, effective as of the date NICE's Board of Directors determines not to issue such rights, options or warrants, to the Exchange Rate that would then be in effect if such Ex-Dividend Date for such issuance had not occurred.

For purposes of this Section 14.04(b) and Section 14.01(b)(ii)(A), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase Ordinary Shares (directly or in the form of ADSs) at less than such average of the Last Reported Sale Prices of the ADSs over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, *divided by* the number of Ordinary Shares represented by one ADS, and in determining the aggregate offering price of such Ordinary Shares (directly or in the form of ADSs), there shall be taken into account any consideration received by NICE for such rights, options or warrants and any amount payable on exercise or exchange thereof, the value of such consideration, if other than cash, to be determined by NICE's Board of Directors.

(c) If NICE distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs), excluding:

(i) dividends, distributions or issuances (including share splits) described in Section 14.04(a) or Section 14.04(b);

(ii) dividends or distributions paid exclusively in cash described in Section 14.04(d);

(iii) except in the case of a Separation Event, any dividend or distribution pursuant to a shareholder's rights agreement or rights plan (as described in this Section 14.04(c));

(iv) any dividends and distributions in connection with a Specified Corporate Event described below under Section 14.07; and

(v) Spin-Offs as to which the provisions set forth below in this Section 14.04(c) shall apply;

(any of such shares of Capital Stock, evidences of indebtedness, other assets or property or rights, options or warrants to acquire Capital Stock or other securities of NICE, the "**Distributed Property**"), then the Exchange Rate shall be increased based on the following formula:

$$ER_1 = ER_0 \times \frac{SP_0}{(SP_0 - FMV)}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

ER_1 = the Exchange Rate in effect immediately after the open of business on such Ex-Dividend Date;

SP_0 = the average of the Last Reported Sale Prices of the ADSs over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution, *divided by* the number of Ordinary Shares then represented by one ADS; and

FMV = the fair market value (as determined by NICE's Board of Directors) of the Distributed Property so distributed with respect to each outstanding Ordinary Share (directly or in the form of ADSs) on the Ex-Dividend Date for such distribution.

Any increase made under the portion of this Section 14.04(c) above shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Exchange Rate shall be decreased, effective as of the date NICE's Board of Directors determines not to pay or make such distribution, to be the Exchange Rate that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each $1,000 principal amount thereof, at the same time and upon the same terms as holders of the ADSs receive the Distributed Property, the amount and kind of Distributed Property that such Holder would have received if such Holder owned a number of ADSs equal to the Exchange Rate in effect on the Ex-Dividend Date for the distribution.

With respect to an adjustment pursuant to this Section 14.04(c) where there has been a payment of a dividend or other distribution on the Ordinary Shares (directly or in the form of ADSs) of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of NICE, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange (directly or in the form of ADSs) (a "**Spin-Off**"), the Exchange Rate shall be increased based on the following formula:

$$ER_1 = ER_0 \times \frac{(FMV_0 + MP_0)}{MP_0}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

ER_1 = the Exchange Rate in effect immediately after the open of business on the Ex-Dividend Date for such distribution;

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Ordinary Shares (directly or in the form of ADSs) applicable to one Ordinary Share (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references therein to the ADSs were to such Capital Stock or similar equity interest) over the first 10 consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the "**Valuation Period**"); and

MP_0 = the average of the Last Reported Sale Prices of the ADSs over the Valuation Period, *divided by* the number of Ordinary Shares then represented by one ADS.

Any adjustment to the Exchange Rate under the preceding paragraph shall be made immediately after the close of business on the last Trading Day of the Valuation Period, but will be given effect as of the open of business on the Ex-Dividend Date for the Spin-Off. Because the Company will make the adjustment to the Exchange Rate at the end of the Valuation Period with retroactive effect, the Company will delay the settlement of any exchange of Notes where the Exchange Date (in the case of Physical Settlement) or the final day of the related Observation Period (in the case of Cash Settlement or Combination Settlement) occurs during the Valuation Period. In such event, the Company shall deliver the consideration due upon exchange on the third Business Day immediately following the last Trading Day of the Valuation Period. If such Spin-Off does not occur, the Exchange Rate shall be decreased to be the Exchange Rate that would then be in effect if such dividend or distribution had not been declared, effective as of the date on which NICE's Board of Directors determines not to consummate such Spin-Off.

For purposes of this Section 14.04(c) (and subject in all respects to Section 14.11), rights, options or warrants distributed by NICE to all holders of the Ordinary Shares (directly or in the form of ADSs) entitling them to subscribe for or purchase shares of NICE's Capital Stock, including Ordinary Shares (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("**Trigger Event**"):

(i) are deemed to be transferred with such Ordinary Shares (directly or in the form of ADSs);

(ii) are not exercisable; and

(iii) are also issued in respect of future issuances of the Ordinary Shares (directly or in the form of ADSs),

shall be deemed not to have been distributed for purposes of this Section 14.04(c) (and no adjustment to the Exchange Rate under this Section 14.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Exchange Rate shall be made under this Section 14.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Exchange Rate under this Section 14.04(c) was made:

(A) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Exchange Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Exchange Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per Ordinary Share redemption or purchase price received by a holder or holders of Ordinary Shares (directly or in the form of ADSs) with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Ordinary Shares (directly or in the form of ADSs) as of the date of such redemption or purchase, and

(B) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Exchange Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 14.04(a), Section 14.04(b) and this Section 14.04(c), any dividend or distribution to which this Section 14.04(c) is applicable that also includes one or both of:

(i) a dividend or distribution of shares of Ordinary Shares (directly or in the form of ADSs) to which Section 14.04(a) is applicable (the "**Clause A Distribution**"); or

(ii) a dividend or distribution of rights, options or warrants to which Section 14.04(b) is applicable (the "**Clause B Distribution**"),

then:

(A) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 14.04(c) is applicable (the "**Clause C Distribution**") and any Exchange Rate adjustment required by this Section 14.04(c) with respect to such Clause C Distribution shall then be made; and

(B) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Exchange Rate adjustment required by Section 14.04(a) and Section 14.04(b) with respect thereto shall then be made, except that, if determined by the Company (I) the "Ex-Dividend Date" of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any Ordinary Shares (directly or in the form of ADSs) included in the Clause A Distribution or Clause B Distribution shall be deemed not to be "outstanding immediately prior to the open of business on such Ex-Dividend Date or effective date" within the meaning of Section 14.04(a) or "outstanding immediately prior to the open of business on such Ex-Dividend Date" within the meaning of Section 14.04(b).

(d) If any cash dividend or distribution is made to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs), the Exchange Rate shall be increased based on the following formula:

$$ER_1 = ER_0 \times \frac{SP_0}{(SP_0 - C)}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

ER_1 = the Exchange Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

SP_0 = the Last Reported Sale Price of the ADSs on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution, *divided by* the number of Ordinary Shares then represented by one ADS; and

C = the amount in cash per Ordinary Share NICE distributes to all or substantially all holders of the Ordinary Shares (directly or in the form of ADSs).

Any adjustment made pursuant to this Section 14.04(d) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Exchange Rate shall be decreased, effective as of the date NICE's Board of Directors determines not to make or pay such dividend or distribution, to the Exchange Rate that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each $1,000 principal amount of Notes, at the same time and upon the same terms as holders of the ADSs, the amount of cash that such Holder would have received if such Holder owned a number of ADSs equal to the Exchange Rate on the Ex-Dividend Date for such cash dividend or distribution.

(e) If NICE or any of its Subsidiaries makes a payment in respect of a tender or exchange offer for the Ordinary Shares (directly or in the form of ADSs) (other than an odd-lot tender offer), to the extent that the cash and value of any other consideration included in the payment per Ordinary Share exceeds the average of the Last Reported Sale Prices of the ADSs over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (such date, the "**Expiration Date**"), *divided by* the number of Ordinary Shares then represented by one ADS, the Exchange Rate shall be increased based on the following formula:

$$ER_1 = ER_0 \times \frac{(AC + (SP_1 \times OS_1))}{(OS_0 \times SP_1)}$$

where,

ER_0 = the Exchange Rate in effect immediately prior to the open of business on the Trading Day next succeeding the Expiration Date;

ER_1 = the Exchange Rate in effect immediately after the open of business on the Trading Day next succeeding the Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined by NICE's Board of Directors) paid or payable for Ordinary Shares or ADSs, as the case may be, purchased in such tender or exchange offer;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the time (the "**Expiration Time**") such tender or exchange offer expires (prior to giving effect to the purchase of all Ordinary Shares accepted for purchase or exchange, or represented by all ADSs accepted for purchase or exchange, as the case may be, in such tender or exchange offer);

OS_1 = the number of Ordinary Shares outstanding immediately after the Expiration Time (after giving effect to the purchase of all Ordinary Shares accepted for purchase or exchange, or represented by all ADSs accepted for purchase or exchange, as the case may be, in such tender or exchange offer, without duplication); and

SP_1 = the average of the Last Reported Sale Prices of the ADSs over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Expiration Date, *divided by* the number of Ordinary Shares then represented by one ADS.

Any adjustment to the Exchange Rate under this Section 14.04(e) shall be made at the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the Expiration Date, but will be given effect as of the open of business on the Trading Day succeeding the Expiration Date. Because the Company shall make the adjustment to the Exchange Rate at the end of the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Expiration Date with retroactive effect, the Company shall delay the settlement of any exchange of Notes where the Exchange Date (in the case of Physical Settlement) or the final day of the related Observation Period (in the case of Cash Settlement or Combination Settlement) occurs during the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Expiration Date. In such event, the Company will deliver the consideration due upon exchange the third Business Day immediately following the last Trading Day of the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Expiration Date.

In the event that NICE or one of its Subsidiaries is obligated to purchase Ordinary Shares or ADSs, as the case may be, pursuant to any such tender or exchange offer, but NICE or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all or a portion of such purchases are rescinded, then the Exchange Rate shall again be adjusted to be the Exchange Rate that would then be in effect if such tender or exchange offer had not been made or had been made only in respect of the purchases that have been effected.

(f) Notwithstanding anything to the contrary in this Section 14.04 or any other provision of this Indenture or the Notes, if an Exchange Rate adjustment becomes effective on any Ex-Dividend Date and a Holder that has exchanged its Notes on or after such Ex-Dividend Date and on or prior to the related Record Date would be treated as the record holder of the ADSs as of the related Exchange Date as described under Section 14.02(h) based on an adjusted Exchange Rate for such Ex-Dividend Date, then, notwithstanding the Exchange Rate adjustment provisions in this Section 14.04, the Exchange Rate adjustment relating to such Ex-Dividend Date shall not be made for such exchanging Holder. Instead, such Holder shall be treated as if such Holder were the record owner of the ADSs on an unadjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(g) All calculations and other determinations under this Article 14 shall be made by the Company and all adjustments to the Exchange Rate shall be made to the nearest one-ten thousandth (1/10,000th) of an ADS. In no event will the Exchange Rate be adjusted such that the Exchange Price shall be less than the par value per Ordinary Share. Notwithstanding anything in this Article 14 to the contrary, the Company shall not be required to adjust the Exchange Rate unless the adjustment would result in a change of at least 1% to the Exchange Rate. However, the Company shall carry forward any adjustment that is less than 1% of the Exchange Rate, take such carried-forward adjustments into account in any subsequent adjustment, and make such carried-forward adjustments, regardless of whether the aggregate adjustment is less than 1%, (i) annually on the anniversary of the Issue Date, (ii) in the case of any Note to which Physical Settlement applies, upon the Exchange Date, (iii) in the case of any Note to which Cash Settlement or Combination Settlement applies, on each VWAP Trading Day of the applicable Observation Period, (iv) on the date of a Notice of Tax Redemption and (v) on the effective date of any Fundamental Change or the Effective Date of a Make-Whole Fundamental Change.

(h) In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 14.04, and to the extent permitted by applicable law and subject to the applicable rules of The NASDAQ Global Select Market, the Company from time to time may increase the Exchange Rate by any amount for a period of at least 20 Business Days if NICE's Board of Directors determines that such increase would be in the Company's and/or NICE's best interest. In addition, to the extent permitted by applicable law and subject to the applicable rules of The NASDAQ Global Select Market, the Company may also (but is not required to) increase the Exchange Rate to avoid or diminish any income tax to the holders of Ordinary Shares or the ADSs or rights to purchase Ordinary Shares or ADSs in connection with a dividend or distribution of Ordinary Shares or ADSs (or rights to acquire Ordinary Shares or ADSs) or similar event. Whenever the Exchange Rate is increased pursuant to either of the preceding two sentences, the Company shall send to the Holder of each Note at its last address appearing on the Note Register a notice of the increase at least 15 days prior to the date the increased Exchange Rate takes effect, and such notice shall state the increased Exchange Rate and the period during which it will be in effect.

(i) Except as stated herein, the Company shall not adjust the Exchange Rate for the issuance of Ordinary Shares or ADSs or any securities convertible into or exchangeable for Ordinary Shares or ADSs or the right to purchase Ordinary Shares or ADSs or such convertible or exchangeable securities. In addition, notwithstanding anything to the contrary in this Article 14, the Exchange Rate shall not be adjusted:

(i) upon the issuance of any Ordinary Shares or ADSs pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on NICE's securities and the investment of additional optional amounts in Ordinary Shares or ADSs under any plan;

(ii) upon the issuance of any Ordinary Shares or ADSs or options or rights to purchase those Ordinary Shares or ADSs pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by NICE or any of its Subsidiaries;

(iii) upon the issuance of any Ordinary Shares or ADSs pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (ii) of this subsection and outstanding as of the date the Notes were first issued;

(iv) for ordinary course of business repurchases of Ordinary Shares (directly or in the form of ADSs) that are not tender or exchange offers referred to in Section 14.04(e), including structured or derivative transactions or pursuant to a repurchase program approved by NICE's Board of Directors;

(v) solely for a change in the par value of the Ordinary Shares; or

(vi) for accrued and unpaid interest, if any.

(j) [Reserved]

(k) Whenever the Exchange Rate is adjusted as herein provided, the Company shall promptly file with the Trustee (and the Exchange Agent if not the Trustee) an Officer's Certificate setting forth the Exchange Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officer's Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Exchange Rate and may assume without inquiry that the last Exchange Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Exchange Rate setting forth the adjusted Exchange Rate and the date on which each adjustment becomes effective and shall send such notice of such adjustment of the Exchange Rate to each Holder at its last address appearing on the Note Register of this Indenture. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(l) [Reserved]

(m) For purposes of this Section 14.04, the number of ADSs or Ordinary Shares at any time outstanding shall not include shares held in the treasury of NICE, so long as NICE does not pay any dividend or make any distribution on ADSs or Ordinary Shares held in the treasury of NICE, but shall include ADSs or Ordinary Shares issuable in respect of scrip certificates issued in lieu of fractions of ADSs or Ordinary Shares.

Section 14.05. *Adjustments of Prices.* Whenever any provision of this Indenture requires the Company to calculate the Last Reported Sale Prices, the Daily VWAPs, the Daily Exchange Values or the Daily Settlement Amounts over a span of multiple days (including, without limitation, an Observation Period and the period for determining the ADS Price for purposes of a Make-Whole Fundamental Change or a Tax Redemption), the Company shall make appropriate adjustments, in good faith, to each to account for any adjustment to the Exchange Rate that becomes effective, or any event requiring an adjustment to the Exchange Rate where the Ex-Dividend Date, effective date or Expiration Date of the event occurs at any time during the period when the Last Reported Sale Prices, the Daily VWAPs, the Daily Exchange Values or the Daily Settlement Amounts or ADS Prices are to be calculated.

Section 14.06. *Ordinary Shares To Be Fully Reserved; Approval of and Registration on the Tel-Aviv Stock Exchange.* NICE shall have reserved and provide, free from preemptive rights, out of its authorized but unissued Ordinary Shares, the maximum number of Ordinary Shares underlying the ADSs exchangeable under the Notes (including the maximum number of Additional ADSs that could be included in the Exchange Rate for an exchange in connection with a Make-Whole Fundamental Change). NICE shall have received an approval from the Tel-Aviv Stock Exchange for the registration for trading of the maximum number of Ordinary Shares underlying the ADSs exchangeable under the Notes (including the maximum number of Additional ADSs that could be included in the Exchange Rate for an exchange in connection with a Make-Whole Fundamental Change) on the Tel-Aviv Stock Exchange. Following any exchange, NICE shall promptly register the Ordinary Shares pursuant to Section 14.08(f).

Section 14.07. *Effect of Recapitalizations, Reclassifications and Changes of the ADSs.*

(a) In the case of:

(i) any recapitalization, reclassification or change of the Ordinary Shares (other than changes in par value or resulting from a subdivision or combination);

(ii) any consolidation, merger or other combination involving NICE; or

(iii) any sale, lease or other transfer or disposition to a third party of all or substantially all of the consolidated assets of NICE and its Subsidiaries, taken as a whole;

(iv) any statutory scheme of arrangement; or

(v) any statutory share exchange,

in each case, as a result of which the ADSs would be converted into, or exchanged for stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "**Specified Corporate Event**" and any such stock, other securities, other property or assets (including cash or any combination thereof), "**Reference Property**" and the amount of Reference Property that a holder of one ADS immediately prior to such Specified Corporate Event would have been entitled to receive upon the occurrence of such Specified Corporate Event, a "**Unit of Reference Property**"), then the Company, or the successor or purchasing corporation, as the case may be, will execute with the Trustee, without the consent of the Holders, a supplemental indenture providing that, at and after the effective time of the Specified Corporate Event, the right to exchange each $1,000 principal amount of Notes for ADSs will be changed into a right to exchange such principal amount of Notes for ADSs for the kind and amount of Reference Property that a holder of a number of ADSs equal to the Exchange Rate immediately prior to such Specified Corporate Event would have been entitled to receive upon such Specified Corporate Event; *provided*, *however*, that at and after the effective time of the Specified Corporate Event:

(A) the Company shall continue to have the right to determine the form of consideration to be paid or delivered, as the case may be, upon exchange of Notes in accordance with Section 14.02; and

(B) (I) any amount payable in cash upon exchange of the Notes in accordance with Section 14.02 shall continue to be payable in cash, (II) any ADSs that would have been deliverable upon exchange of the Notes in accordance with Section 14.02 shall instead be deliverable in the Units of Reference Property that a holder of that number of ADSs would have received in such Specified Corporate Event and (III) the Daily VWAP shall be calculated based on the value of a Unit of Reference Property; *provided*, however, that if the holders of ADSs receive only cash in such Specified Corporate Event, then for all exchanges that occur after the effective date of such Specified Corporate Event (x) the consideration due upon exchange of each $1,000 principal aggregate amount of Notes shall be solely cash in an amount equal to the Exchange Rate in effect on the Exchange Date (as may be increased by any Additional Shares pursuant to Section 14.03), *multiplied by* the price paid per ADS in such Specified Corporate Event and (y) the Company shall satisfy the Exchange Obligation by paying such cash to the exchanging Holder on the third Business Day immediately following the Exchange Date.

If the Specified Corporate Event causes the ADSs to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of holder election), then the Reference Property used to calculate the Daily VWAP shall be deemed to be based on: (A) the weighted average of the types and amounts of consideration received by the holders of ADSs that affirmatively make such an election; and (B) if no holder of ADSs affirmatively make such an election, the types and amounts of consideration actually received by the holder of ADSs. The Company shall notify Holders, the Trustee and the Exchange Agent (if other than the Trustee) of the weighted average as soon as practicable after such determination.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for anti-dilution and other adjustments that shall be as nearly equivalent as is possible to the adjustments provided for in this Article 14. If the Reference Property in respect of any Specified Corporate Event includes shares of stock, other securities or other property or assets (including any combination thereof) of an entity other than NICE or the Company or the successor or purchasing corporation, as the case may be, in such Specified Corporate Event, then such other entity, if it is party to such Specified Corporate Event, shall also execute such supplemental indenture, and such supplemental indenture shall contain such additional provisions to protect the interests of the Holders, including the right of Holders to require the Company to prepay their Notes upon a Fundamental Change in accordance with Article 15, as the Board of Directors of NICE shall reasonably consider necessary by reason of the foregoing.

(b) In the event the Company shall execute a supplemental indenture pursuant to Section 14.07(a), the Company shall promptly file with the Trustee an Officer's Certificate briefly stating the reasons therefor, the kind or amount of cash, securities or other assets (including any combination thereof) that will comprise the Reference Property after any such Specified Corporate Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly send notice thereof to all Holders. The Company shall cause notice of the execution of such supplemental indenture to be sent to each Holder, at its address appearing on the Note Register provided for in this Indenture, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(c) If the Notes become exchangeable for Reference Property, the Company shall notify the Trustee and NICE shall issue a press release containing the relevant information and publish the information on its website or through such other public medium as it may use at that time.

(d) The Company and NICE shall not become a party to any Specified Corporate Event unless its terms are consistent with this Section 14.07. None of the foregoing provisions shall affect the right of a Holder to exchange its Notes into cash, ADSs or a combination of cash and ADSs, as applicable, as set forth in Section 14.01 and Section 14.02 prior to the effective date of such Specified Corporate Event.

(e) The above provisions of this Section shall similarly apply to successive Specified Corporate Events.

Section 14.08. *Certain Covenants.*

(a) NICE covenants that all ADSs delivered upon exchange of Notes, and all Ordinary Shares represented by such ADSs, shall be duly authorized, fully paid and non-assessable and free from all preemptive or similar rights of any securityholder of NICE and free from all taxes, liens, charges and adverse claims as the result of any action by NICE.

(b) [Reserved]

(c) The Company and NICE shall comply with all applicable U.S. federal and state securities laws and Israeli securities laws regulating the offer and delivery of ADSs upon exchange of the Notes, or any Ordinary Shares represented by such ADSs, including that if any ADSs to be provided for the purpose of exchange of Notes hereunder, or any Ordinary Shares represented by such ADSs, require registration with or approval of any governmental authority under any U.S. federal or state law or Israeli law before such ADSs may be validly issued upon exchange, NICE shall, to the extent then permitted by the rules and interpretations of the Commission, secure such registration or approval, as the case may be.

(d) The Company and NICE further covenant that if at any time the ADSs shall be listed on any national securities exchange or automated quotation system, NICE shall list and keep listed, so long as the ADSs shall be so listed on such exchange or automated quotation system, any ADSs deliverable upon exchange of the Notes.

(e) NICE further covenants to use commercially reasonable efforts to take all actions and obtain all approvals and registrations with respect to the exchange of the Notes for ADSs and the issuance and deposit into the ADS facility of the Ordinary Shares represented by such ADSs. NICE shall also undertake to maintain, as long as the Notes are outstanding, the effectiveness of a registration statement on Form F-6 relating to the ADSs and an adequate number of ADSs available for issuance thereunder such that ADSs can be delivered in accordance with the terms of this Indenture, the Notes and the Deposit Agreement, as the case may be, upon exchange of the Notes.

(f) To the extent that, on the date any ADSs are issued and delivered upon any exchange of Notes, the Ordinary Shares are listed for trading on the Tel-Aviv Stock Exchange, NICE shall promptly register the Ordinary Shares underlying the ADSs so issued and delivered for trading on the Tel-Aviv Stock Exchange.

Section 14.09. *Responsibility of Trustee.* The Trustee and any other Exchange Agent shall not at any time be under any duty or responsibility to any Holder to determine the Exchange Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Exchange Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Exchange Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any ADSs, or of any securities, property or cash that may at any time be issued or delivered upon the exchange of any Note; and the Trustee and any other Exchange Agent make no representations with respect thereto. Neither the Trustee nor any Exchange Agent shall be responsible for any failure of the Company to issue, transfer or deliver any ADSs or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of exchange or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article. Without limiting the generality of the foregoing, neither the Trustee nor any Exchange Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 14.07 relating either to the kind or amount of ADSs or the Ordinary Shares or securities or property (including cash) receivable by Holders upon the exchange of their Notes after any event referred to in such Section 14.07 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor the Exchange Agent shall be responsible for determining whether any event contemplated by Section 14.01(b) has occurred that makes the Notes eligible for exchange or no longer eligible therefor until the Company has delivered to the Trustee and the Exchange Agent the notices referred to in Section 14.01(b) with respect to the commencement or termination of such exchange rights, on which notices the Trustee and the Exchange Agent may conclusively rely, and the Company agrees to deliver such notices to the Trustee and the Exchange Agent immediately after the occurrence of any such event or at such other times as shall be provided for in Section 14.01(b). The parties hereto agree that all notices to the Trustee or the Exchange Agent under this Article 14 shall be in writing.

Section 14.10. *Notice to Holders Prior to Certain Actions*. In case of any:

(a) action by NICE or one of its Subsidiaries that would require an adjustment in the Exchange Rate pursuant to Section 14.04 or Section 14.11;

(b) Specified Corporate Event or any consolidation, merger, sale, assignment, lease, conveyance or other transfer or disposition of all or substantially all assets in accordance with Article 11; or

(c) voluntary or involuntary dissolution, liquidation or winding-up of NICE or the Company;

then, in each case (unless notice of such event is otherwise required pursuant to another provision of this Indenture), the Company shall cause to be filed with the Trustee and the Exchange Agent (if other than the Trustee) and to be sent to each Holder at its address appearing on the Note Register, as promptly as possible but in any event at least 20 days prior to the date on which such action, Specified Corporate Event, any consolidation, merger, sale, assignment, lease, conveyance or other transfer or disposition of all or substantially all assets in accordance with Article 11, or any dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of ADSs or Ordinary Shares, as the case may be, of record shall be entitled to exchange their ADSs or Ordinary Shares, as the case may be, for securities or other property deliverable upon such Specified Corporate Event, consolidation, merger, sale, assignment, lease, conveyance or other transfer or disposition of all or substantially all assets in accordance with Article 11, dissolution, liquidation or winding-up; *provided*, *however*, that if on such date, neither the Company nor NICE has knowledge of such event or the adjusted Exchange Rate cannot be calculated, the Company shall deliver such notice as promptly as practicable upon obtaining knowledge of such event or information sufficient to make such calculation, as the case may be, and in no event later than the effective date of such adjustment. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such action by the Company, NICE or one of NICE's Subsidiaries, Specified Corporate Event, or any consolidation, merger, sale, assignment, lease, conveyance or other transfer or disposition of all or substantially all assets in accordance with Article 11, dissolution, liquidation or winding-up.

Section 14.11. *Stockholder Rights Plans.* If NICE has a shareholder's rights agreement or rights plan in effect upon exchange of the Notes, Holders that exchange their Notes shall receive, in addition to any ADSs received in connection with such exchange, the appropriate number of rights under such rights agreement or rights plan (either directly or in respect of the Ordinary Shares underlying such ADSs), if any, and any certificate representing the ADS (either directly or in respect of the Ordinary Shares underlying such ADSs) issued upon such exchange shall bear such legends, if any, in each case as may be provided by the terms of any such rights agreement or rights plan, as the same may be amended from time to time. However, if prior to any exchange, the rights have separated from the Ordinary Shares underlying the ADSs in accordance with the provisions of the applicable shareholder's rights agreement or rights plan (a "**Separation Event**"), the Exchange Rate shall be adjusted at the time of separation as if NICE distributed to all or substantially all holders of Ordinary Shares, Distributed Property pursuant to Section 14.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

Section 14.12. *Termination of Depositary Receipt Program.* If the Ordinary Shares cease to be represented by ADSs issued under a depositary receipt program sponsored by NICE, each reference in this Indenture to the ADSs shall be deemed to have been replaced by a reference to the number of Ordinary Shares (and other property, if any) represented by the ADSs on the last day on which the ADSs represented the Ordinary Shares and as if such Ordinary Shares and other property had been distributed to holders of the ADSs on that day. In addition, all references to the Daily VWAP or the Last Reported Sale Price of the ADSs shall be deemed to refer to the Daily VWAP or the Last Reported Sale Price of the Ordinary Shares (determined by reference to the definition of Daily VWAP or Last Reported Sale Price, as the case may be, as set forth in Section 1.01 as if references therein to the ADSs were to the Ordinary Shares), and other appropriate adjustments, including adjustments to the Exchange Rate, shall be made to reflect such change. In making such adjustments, where currency translations between U.S. dollars and any other currency are required, the currency exchange rate in effect on the date of determination shall apply.

ARTICLE 15
Prepayment of Notes at Option of Holders

Section 15.01. *Intentionally Omitted.*

Section 15.02. *Mandatory Prepayment at Option of Holders Upon a Fundamental Change.* (a) If a Fundamental Change occurs at any time prior to the Maturity Date, each Holder shall have the right, at such Holder's option, to require the Company to prepay for cash all of such Holder's Notes, or any portion of the principal thereof that is equal to $1,000 or an integral multiple of $1,000 thereof, on the date (the "**Fundamental Change Prepayment Date**") specified by the Company that is not less than 20 or more than 35 calendar days following the date of the Fundamental Change Company Notice (subject to extension if required to comply with law), at a prepayment price equal to 100% of the principal amount thereof, *plus* accrued and unpaid interest thereon to, but not including, the Fundamental Change Prepayment Date (the "**Fundamental Change Prepayment Price**"), unless the Fundamental Change Prepayment Date falls after a Regular Record Date but on or prior to the Interest Payment Date to which such Regular Record Date relates, in which case the Company shall instead pay the full amount of accrued and unpaid interest to Holders of record as of such Regular Record Date, and the Fundamental Change Prepayment Price shall be equal to 100% of the principal amount of Notes to be prepaid pursuant to this Article 15.

(b) Prepayments of Notes under this Section 15.02 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Paying Agent by a Holder of a duly completed notice (the "**Fundamental Change Prepayment Notice**") in the form set forth in Attachment 2 to the Form of Note attached hereto as Exhibit A, if the Notes are Certificated Notes, or in compliance with the Applicable Procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case, on or before the close of business on the Business Day immediately preceding the Fundamental Change Prepayment Date; and

(ii) delivery of the Notes, if the Notes are Certificated Notes, to the Paying Agent on or before the close of business on the Business Day immediately preceding the Fundamental Change Prepayment Date (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the Applicable Procedures, in each case, such delivery being a condition to receipt by the Holder of the Fundamental Change Prepayment Price therefor.

The Fundamental Change Prepayment Notice in respect of any Notes to be prepaid shall state:

(A) in the case of Certificated Notes, the certificate numbers of the Notes to be delivered for prepayment;

(B) the portion of the principal amount of Notes to be prepaid, which must be $1,000 or an integral multiple thereof; and

(C) that the Notes are to be prepaid by the Company pursuant to the applicable provisions of the Notes and this Indenture;

provided, *however*, that if the Notes are Global Notes, the Fundamental Change Prepayment Notice must comply with the Applicable Procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Prepayment Notice contemplated by this Section 15.02 shall have the right to withdraw, in whole or in part, such Fundamental Change Prepayment Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Prepayment Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 15.03.

If a Holder has already delivered a Fundamental Change Prepayment Notice with respect to a Note, such Holder may not surrender such Note for exchange until such Holder has validly withdrawn such Fundamental Change Prepayment Notice (or, in the case of a Global Note, has complied with the Applicable Procedures with respect to such a withdrawal) in accordance with the terms of Section 15.03.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Prepayment Notice or written notice of withdrawal thereof.

(c) On or before the 20th Business Day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of Notes and the Trustee and the Paying Agent (if other than the Trustee) a notice (the "**Fundamental Change Company Notice**") of the occurrence of the Fundamental Change and of the prepayment right at the option of the Holders arising as a result thereof. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the date of the Fundamental Change;

(iii) the last date on which a Holder may exercise the prepayment right pursuant to this Article 15;

(iv) the Fundamental Change Prepayment Price;

(v) the Fundamental Change Prepayment Date;

(vi) the name and address of the Paying Agent and the Exchange Agent;

(vii) the Exchange Rate and any adjustments to the Exchange Rate;

(viii) that the Notes with respect to which a Fundamental Change Prepayment Notice has been delivered by a Holder may be exchanged only if the Holder withdraws the Fundamental Change Prepayment Notice in accordance with the terms of this Indenture (or, in the case of a Global Note, complies with the Applicable Procedures with respect to such a withdrawal); and

(ix) the procedures that Holders must follow to require the Company to prepay their Notes.

Simultaneously with providing such Fundamental Change Company Notice, NICE shall issue a press release containing the information in such Fundamental Change Company Notice and publish the information on its website or through such other public medium as NICE may use at that time.

At the Company's written request, the Trustee shall give such notice in the Company's and NICE's names and at the Company's expense; *provided*, *however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company and/or NICE. In such a case, the Company shall deliver such notice to the Trustee at least two Business Days prior to the date that the notice is required to be given to the Holders (unless a shorter notice period shall be agreed to by the Trustee), together with an Officer's Certificate requesting that the Trustee give such notice.

Such notice shall be delivered to the Trustee, to the Paying Agent (if other than the Trustee) and to each Holder at its address shown in the Note Register (and to the beneficial owner as required by applicable law) or, in the case of Global Notes, in accordance with the Applicable Procedures.

No failure of the Company and/or NICE to give the foregoing notices and no defect therein shall limit the Holders' prepayment rights or affect the validity of the proceedings for the prepayment of the Notes pursuant to this Section 15.02.

(d) Notwithstanding the foregoing, no Notes may be prepaid by the Company on any date at the option of the Holders in connection with a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Prepayment Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Certificated Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Prepayment Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the Applicable Procedures shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Prepayment Notice with respect thereto shall be deemed to have been withdrawn.

(e) Notwithstanding the foregoing, the Company shall not be required to prepay, or to make an offer to prepay, the Notes upon a Fundamental Change if a third party makes such an offer in the same manner, at same time and otherwise in compliance with the requirements for an offer made by the Company pursuant to this Article 15 and such third party purchases all Notes properly surrendered and not validly withdrawn under its offer in the same manner, at the same time and otherwise in compliance with the requirements for an offer made by the Company on the Fundamental Change Prepayment Date.

Section 15.03. *Withdrawal of Fundamental Change Prepayment Notice.* A Fundamental Change Prepayment Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Paying Agent in accordance with this Section 15.03 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Prepayment Date, specifying:

(a) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which portion must be in principal amounts of $1,000 or an integral multiple thereof,

(b) if Certificated Notes have been issued, the certificate number of the Notes in respect of which such notice of withdrawal is being submitted, and

(c) the principal amount, if any, of such Notes that remains subject to the original Fundamental Change Prepayment Notice, which portion must be in principal amounts of $1,000 or an integral multiple thereof;

provided, *however*, that if the Notes are Global Notes, the withdrawal notice must comply with the Applicable Procedures.

Section 15.04. *Deposit of Fundamental Change Prepayment Price.* (a) The Company shall deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) on or prior to 10:00 a.m., New York City time, on the Fundamental Change Prepayment Date an amount of money sufficient to prepay all of the Notes to be prepaid at the appropriate Fundamental Change Prepayment Price. Subject to receipt of funds by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for prepayment (and not validly withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Prepayment Date) will be made on the later of (i) the Fundamental Change Prepayment Date with respect to such Note (*provided* the Holder has satisfied the conditions in Section 15.02) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 15.02, by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; *provided*, *however*, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Prepayment Price.

(b) If by 10:00 a.m. New York City time, on the Fundamental Change Prepayment Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be prepaid on such Fundamental Change Prepayment Date or any applicable extension thereof, then, with respect to Notes that have been properly tendered and not validly withdrawn:

(i) such Notes shall cease to be outstanding and interest shall cease to accrue on such Notes (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent); and

(ii) all other rights of the Holders of such Notes will terminate on the Fundamental Change Prepayment Date (other than (x) the right to receive the Fundamental Change Prepayment Price and (y) if the Fundamental Change Prepayment Date falls after a Regular Record Date but on or prior to the related Interest Payment Date, the right of the Holder on such Regular Record Date to receive the accrued and unpaid interest to, but not including, the Fundamental Change Prepayment Date).

(c) Upon surrender of a Note that is to be prepaid in part pursuant to Section 15.02, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Note in an authorized denomination equal in principal amount to the portion of the Note surrendered that is not to be prepaid, without payment of any service charge.

Section 15.05. *Covenant to Comply with Applicable Laws Upon Prepayment of Notes*. In connection with any prepayment offer, the Company will, if required:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable;

(b) file a Schedule TO or any other required schedule under the Exchange Act;

(c) otherwise comply with all federal and state securities laws in connection with any offer by the Company to prepay the Notes; and

(d) comply with the provisions of the Israeli Companies Law, 1999;

in each case, so as to permit the rights and obligations under this Article 15 to be exercised in the time and in the manner specified in this Article 15, subject to extension if required to comply with law. To the extent that any securities laws and regulations conflict with the provisions of this Indenture with respect to the prepayment of Notes, the Company is required to comply with such securities laws and regulations and shall not be deemed to be in breach of this Indenture as a result thereof.

ARTICLE 16
Redemption Only for Taxation Reasons

Section 16.01. *No Redemption Except for Taxation Reasons*. The Notes shall not be redeemable by the Company prior to the Maturity Date, except as described in this Article 16, and no sinking fund is provided for the Notes. The Notes may be redeemed, for cash, at the Company's option, as a whole but not in part (a "**Tax Redemption**"), at the Redemption Price, if (w) on the next date on which any amount would be payable in respect of the Notes, NICE or the Company is or would be required to pay Additional Amounts, (x) NICE or the Company cannot avoid any such payment obligation by taking commercially reasonable measures available to it (*provided* that changing the jurisdiction of incorporation of NICE or the Company shall be deemed not to be a commercially reasonable measure), (y) in the case of NICE, NICE would be unable, for reasons outside its control, to procure payment by the Company and (z) the requirement arises as a result of:

(1) any amendment to, or change in, the laws or any regulations or rulings promulgated thereunder of a Relevant Taxing Jurisdiction, which change or amendment is announced on or after the Issue Date (or, if the Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction on a date after the Issue Date, such later date); or

(2) any amendment to, or change in, an official interpretation or application or administration of such laws, regulations or rulings (including by virtue of a holding, judgment, order by a court or competent jurisdiction or a change in published administrative practice) which amendment or change is announced on or after the Issue Date (or, if the applicable Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction on a date after the Issue Date, such later date) (each of the foregoing clauses (1) and (2), a "**Change in Tax Law**").

Section 16.02. *Notice of Tax Redemption*.

(a) In the event that the Company exercises its Tax Redemption Right pursuant to Section 16.01, it shall fix a date for redemption (the "**Tax Redemption Date**") and it or, at its written request received by the Trustee not less than five Business Days prior to the date on which notice is sent to the Holders (or such shorter period of time as may be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall mail or cause to be mailed a notice of such Tax Redemption (a "**Notice of Tax Redemption**") not less than 30 nor more than 60 calendar days prior to the Tax Redemption Date to each Holder of Notes so to be redeemed at its last address as the same appears on the Note Register; *provided, however*, that (i) the Company may not give a Notice of Tax Redemption on or after May 15, 2023, and (ii) if the Company shall give a Notice of Tax Redemption, it shall also give a written notice of the Tax Redemption Date to the Trustee and the Paying Agent. The Tax Redemption Date must be a Business Day.

(b) The Company shall not give any Notice of Tax Redemption earlier than 60 calendar days prior to the earliest date on which NICE would be obligated to make such payment or withholding, if a payment in respect of the Notes were then due. Simultaneously with providing a Notice of Tax Redemption, NICE will issue a press release containing the relevant information and make the press release available on its website (or through such other public medium as NICE may use at that time). Prior to the publication or, where relevant, sending of any Notice of Tax Redemption of the Notes pursuant to the foregoing, the Company shall deliver to the Trustee (i) an Officer's Certificate stating the obligation to pay such Additional Amounts cannot be avoided by taking commercially reasonable measures available to the Company or NICE; and (ii) a written opinion of an independent tax counsel of recognized standing to the effect that NICE has or will become obligated to pay such Additional Amounts as a result of a Change in Tax Law. The Trustee shall accept and rely upon such Officer's Certificate and opinion (without further investigation or inquiry) and it shall be conclusive and binding on the Holders.

(c) The Notice of Tax Redemption, if mailed in the manner provided herein, shall be conclusively presumed to have been given duly, whether or not the Holder receives such notice. In any case, failure to give such Notice of Tax Redemption by mail or any defect in the Notice of Tax Redemption to the Holder of any Note designated for redemption shall not affect the validity of the proceedings for the redemption of any other Note.

(d) Each Notice of Tax Redemption shall specify:

(i) the Tax Redemption Date;

(ii) the Redemption Price;

(iii) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(iv) that on the Tax Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that the interest thereon, if any, shall cease to accrue on and after the Tax Redemption Date;

(v) that Holders may surrender their Notes called for redemption for exchange at any time from the date of the Notice of Tax Redemption to the close of business on the second Business Day immediately preceding the Tax Redemption Date or, if the Company fails to pay the Redemption Price, such later date on which the Company pays or duly provides for the Redemption Price;

(vi) the procedures an exchanging Holder must follow to exchange its Notes called for redemption and, if the Company chooses to elect a Settlement Method for any such exchanges, the relevant Settlement Method;

(vii) that Holders have the right to elect not to have their Notes redeemed by delivering to the Trustee written notice to that effect not later than the 15th calendar day prior to the Tax Redemption Date;

(viii) that Holders who wish to elect not to have their Notes redeemed must satisfy the requirements set forth herein and in the Indenture;

(ix) that, on and after the Tax Redemption Date, Holders who elect not to have their Notes redeemed will not receive any Additional Amounts on any payments with respect to such Notes solely as a result of such Change in Tax Law (whether upon exchange, prepayment, maturity or otherwise, and whether in cash, ADSs or otherwise), and all subsequent payments with respect to the Notes will be subject to the deduction or withholding of such Relevant Taxing Jurisdiction taxes required by law to be deducted or withheld as a result of such Change in Tax Law;

(x) the Exchange Rate and, if applicable, the number of ADSs added to the Exchange Rate in accordance with Section 16.06; and

(xi) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes.

A Notice of Tax Redemption shall be irrevocable. In the case of a Tax Redemption, a Holder may exchange any or all of its Notes called for redemption at any time from the date of the Notice of Tax Redemption to the close of business on the second Business Day immediately preceding the Tax Redemption Date or, if the Company fails to pay the Redemption Price, such later date on which the Company pays or duly provides for the Redemption Price.

Section 16.03. *Payment of Notes Called for Tax Redemption.*

(a) If any Notice of Tax Redemption has been given in respect of the Notes in accordance with Section 16.02, the Notes shall become due and payable on the Tax Redemption Date at the place or places stated in the Notice of Tax Redemption and at the applicable Redemption Price. On presentation and surrender of the Notes at the place or places stated in the Notice of Tax Redemption, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price.

(b) Prior to 10:00 a.m., New York City time, on the Tax Redemption Date, the Company shall deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) an amount of cash sufficient to pay the Redemption Price of all of the Notes to be redeemed on such Tax Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the Tax Redemption Date for such Notes. The Trustee (or other Paying Agent appointed by the Company) shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Redemption Price.

Section 16.04. *Holders' Right to Avoid Redemption.* Notwithstanding anything to the contrary in this Article 16, if the Company has given a Notice of Tax Redemption as described in Section 16.02, each Holder of Notes shall have the right to elect that all or a part of such Holder's Notes will not be subject to the Tax Redemption. If a Holder elects that its Notes shall not be subject to a Tax Redemption, NICE shall not be required to pay Additional Amounts with respect to payments made in respect of such Notes following the Tax Redemption Date solely as a result of the relevant Change in Tax Law, and all subsequent payments in respect of such Notes shall be subject to any tax required to be withheld or deducted under the laws of a Relevant Taxing Jurisdiction solely as a result of the relevant Change in Tax Law. The obligation to pay Additional Amounts to any electing Holder for payments made in periods prior to the Tax Redemption Date shall remain subject to the exceptions set forth under Section 4.07. Holders must exercise their option to elect to avoid a Tax Redemption by written notice (a "**No Redemption Notice**") to the Trustee no later than the 15th calendar day prior to the Tax Redemption Date; *provided* that a Holder that complies with the requirements for exchange of its Notes as described in Article 14 before the close of business on the second Business Day immediately preceding the Tax Redemption Date (or, if the Company fails to pay the Redemption Price, such later date on which the Company pays or duly provides for the Redemption Price) shall be deemed to have validly delivered a notice of election to avoid a Tax Redemption.

Section 16.05. *Restrictions on Tax Redemption.* The Company may not redeem any Notes on any date if the principal amount of the Notes has been accelerated in accordance with the terms of this Indenture, and such acceleration has not been rescinded, on or prior to the Tax Redemption Date (or, if the Company fails to pay the Redemption Price, such later date on which the Company pays the Redemption Price) (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

Section 16.06. *Increased Exchange Rate Applicable to Certain Notes Called for Redemption Surrendered for Exchange in Connection with a Tax Redemption.*

(a) If a Holder elects to exchange its Notes in connection with a Tax Redemption pursuant to Section 14.01(b)(v) and this Article 16, the Exchange Rate will be increased by a number of additional ADSs as described in this Section 16.06. An exchange of Notes shall be deemed to be "in connection with" a Tax Redemption if the relevant Exchange Date occurs during the period from the open of business on the date of the Notice of Tax Redemption to the close of business on the second Business Day immediately preceding the Tax Redemption Date or, if the Company fails to pay the Redemption Price, such later date on which the Company pays or duly provides for the Redemption Price.

(b) The number of additional ADSs, if any, by which the Exchange Rate shall be increased pursuant to this Section 16.06 if a Holder elects to exchange its Notes in connection with a Tax Redemption shall be determined by reference to the table set forth in Section 14.03(e) based on the Redemption Reference Date and the Redemption Reference Price, but determined for purposes of this Section 16.06 as if (i) the Holder had elected to exchange its Notes in connection with a Make-Whole Fundamental Change, (ii) the Redemption Reference Date were the Effective Date of the relevant Make-Whole Fundamental Change and (iii) the Redemption Reference Price were the ADS Price in respect of such Make-Whole Fundamental Change.

A Holder that elects to exchange its Notes in connection with a Tax Redemption and complies with the requirements for exchange as set forth in Article 14 shall be deemed to have delivered and not withdrawn a No Redemption Notice.

ARTICLE 17
Miscellaneous Provisions

Section 17.01. *Provisions Binding on Company's and NICE's Successors*. All the covenants, stipulations, promises and agreements of each of the Company and NICE contained in this Indenture shall bind its successors and assigns whether so expressed or not.

Section 17.02. *Official Acts by Successor Entity*. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or Officer of the Company or NICE shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful sole successor of the Company or NICE, as the case may be.

Section 17.03. *Addresses for Notices, Etc.* Any notice or demand that by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders on the Company or NICE shall be in writing (including facsimile and electronic mail in PDF format) and shall be deemed to have been sufficiently given or made, for all purposes if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed (until another address is filed by the Company or NICE with the Trustee) to NICE Systems Inc. and NICE Ltd., 13 Zarhin Street, P.O. Box 690, 4310602 Ra'anana, Israel, Attention: Yechiam Cohen, Corporate Vice President, General Counsel & Corporate Secretary. Any notice, direction, request or demand hereunder to or upon the Trustee shall be in writing (including facsimile and electronic mail in PDF format) and shall be deemed to have been sufficiently given or made, for all purposes, if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed to the Corporate Trust Office.

The Trustee, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication delivered or to be delivered to a Holder of Certificated Notes shall be mailed to it by first class mail, postage prepaid, at its address as it appears on the Note Register and shall be sufficiently given to it if so mailed within the time prescribed. Any notice or communication delivered or to be delivered to a Holder of Global Notes shall be delivered in accordance with the Applicable Procedures of the Depositary and shall be sufficiently given to it if so delivered within the time prescribed.

Failure to send a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not the addressee receives it.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to Holders by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

In addition to the foregoing, the Trustee agrees to accept and act upon notice, instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods. If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk or interception and misuse by third parties.

Section 17.04. *Governing Law.* THIS INDENTURE, EACH NOTE AND THE GUARANTEE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE, EACH NOTE AND THE GUARANTEE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 17.05. *Intentionally Omitted.*

Section 17.06. *Evidence of Compliance with Conditions Precedent; Certificates and Opinions of Counsel to Trustee.* Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officer's Certificate and Opinion of Counsel stating that in the opinion of the signors, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied.

Each Officer's Certificate and Opinion of Counsel provided for, by or on behalf of the Company in this Indenture and delivered to the Trustee with respect to compliance with this Indenture (other than the Officer's Certificates provided for in Section 4.09) shall include (i) a statement that the Person making such certificate has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statement contained in such certificate is based; (iii) a statement that, in the judgment of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed judgment as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the judgment of such Person, such covenant or condition has been complied with.

Notwithstanding anything to the contrary in this Section 17.06, if any provision in this Indenture specifically provides that the Trustee shall or may receive an Opinion of Counsel in connection with any action to be taken by the Trustee or the Company hereunder, the Trustee shall be entitled to such Opinion of Counsel.

Section 17.07. *Legal Holidays.* If any Interest Payment Date, Fundamental Change Prepayment Date or Maturity Date is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no interest shall accrue in respect of the delay.

Section 17.08. *No Security Interest Created.* Nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 17.09. *Benefits of Indenture.* Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Custodian, any Bid Solicitation Agent, any Exchange Agent, any authenticating agent, any Note Registrar and their successors hereunder or the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 17.10. *Table of Contents, Headings, Etc.* The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 17.11. *Authenticating Agent.* The Trustee may appoint an authenticating agent that shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Notes in connection with the original issuance thereof and transfers and exchanges of Notes hereunder, including under Section 2.04, Section 2.05, Section 2.06, Section 2.07, Section 10.04 and Section 15.04 as fully to all intents and purposes as though the authenticating agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver Notes. For all purposes of this Indenture, the authentication and delivery of Notes by the authenticating agent shall be deemed to be authentication and delivery of such Notes "by the Trustee" and a certificate of authentication executed on behalf of the Trustee by an authenticating agent shall be deemed to satisfy any requirement hereunder or in the Notes for the Trustee's certificate of authentication. Such authenticating agent shall at all times be a Person eligible to serve as trustee hereunder pursuant to Section 7.08.

Any corporation or other entity into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, consolidation or conversion to which any authenticating agent shall be a party, or any corporation or other entity succeeding to all or substantially all the corporate trust business of any authenticating agent, shall be the successor of the authenticating agent hereunder, if such successor corporation or other entity is otherwise eligible under this Section 17.11, without the execution or filing of any paper or any further act on the part of the parties hereto or the authenticating agent or such successor corporation or other entity.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any authenticating agent shall cease to be eligible under this Section, the Trustee may appoint a successor authenticating agent (which may be the Trustee), shall give written notice of such appointment to the Company and shall mail notice of such appointment to all Holders as the names and addresses of such Holders appear on the Note Register.

The Company agrees to pay to the authenticating agent from time to time reasonable compensation for its services although the Company may terminate the authenticating agent, if it determines such agent's fees to be unreasonable.

The provisions of Section 7.02, Section 7.03, Section 7.04, Section 7.06, Section 8.03 and this Section 17.11 shall be applicable to any authenticating agent.

If an authenticating agent is appointed pursuant to this Section 17.11, the Notes may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

_____,
as Authenticating Agent, certifies that this is one of the Notes described
in the within-named Indenture.

By: _____
Authorized Officer

Section 17.12. *Execution in Counterparts*. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 17.13. *Severability*. In the event any provision of this Indenture or in the Notes shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

Section 17.14. *Waiver of Jury Trial; Submission of Jurisdiction.* EACH OF THE COMPANY, NICE AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE GUARANTEE OR THE TRANSACTIONS CONTEMPLATED HEREBY. THE COMPANY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK OR ANY FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE AND THE NOTES, AND IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, JURISDICTION OF THE AFORESAID COURTS.

NICE IRREVOCABLY CONSENTS AND AGREES, FOR THE BENEFIT OF THE HOLDERS FROM TIME TO TIME OF THE NOTES AND THE GUARANTEE AND THE TRUSTEE, THAT ANY LEGAL ACTION, SUIT OR PROCEEDING AGAINST IT WITH RESPECT TO OBLIGATIONS, LIABILITIES OR ANY OTHER MATTER ARISING OUT OF OR IN CONNECTION WITH THIS INDENTURE, THE GUARANTEE OR THE NOTES MAY BE BROUGHT IN THE STATE OF NEW YORK OR THE COURTS OF THE UNITED STATES LOCATED IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK AND, UNTIL AMOUNTS DUE AND TO BECOME DUE IN RESPECT OF THE NOTES AND THE GUARANTEE HAVE BEEN PAID, HEREBY IRREVOCABLY CONSENTS AND SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF EACH SUCH COURT *IN PERSONAM*, GENERALLY AND UNCONDITIONALLY WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING FOR ITSELF IN RESPECT OF ITS PROPERTIES, ASSETS AND REVENUES. NICE IRREVOCABLY APPOINTS THE COMPANY AS ITS AUTHORIZED AGENT UPON WHICH PROCESS MAY BE SERVED IN ANY SUCH ACTION, SUIT OR PROCEEDING, AND AGREES THAT SERVICE OF PROCESS UPON SUCH AUTHORIZED AGENT, AND WRITTEN NOTICE OF SUCH SERVICE TO NICE BY THE PERSON SERVING THE SAME TO THE ADDRESS PROVIDED IN SECTION 17.03, SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON NICE IN ANY SUCH ACTION, SUIT OR PROCEEDING. NICE HEREBY REPRESENTS AND WARRANTS THAT SUCH AUTHORIZED AGENT HAS ACCEPTED SUCH APPOINTMENT AND HAS AGREED TO ACT AS SUCH AUTHORIZED AGENT FOR SERVICE OF PROCESS. NICE FURTHER AGREES TO TAKE ANY AND ALL ACTION AS MAY BE NECESSARY TO MAINTAIN SUCH DESIGNATION AND APPOINTMENT OF SUCH AUTHORIZED AGENT IN FULL FORCE AND EFFECT FOR AS LONG AS THE NOTES REMAIN OUTSTANDING.

NICE IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS, SUITS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS INDENTURE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR THE COURTS OF THE UNITED STATES LOCATED IN THE BOROUGH OF MANHATTAN OF THE CITY OF NEW YORK AND HEREBY FURTHER IRREVOCABLY AND UNCONDITIONALLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

Section 17.15. *Force Majeure.* In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 17.16. *Calculations*. Except as otherwise provided herein, the Company shall be responsible for making all calculations called for under the Notes or this Indenture. These calculations include, but are not limited to, determinations of the ADS Price or Trading Price, the Last Reported Sale Prices of the ADSs, the Daily VWAPs, the Daily Exchange Values, the Daily Settlement Amounts, accrued interest payable on the Notes and the Exchange Rate of the Notes. The Company shall make all these calculations in good faith and, absent manifest error, such calculations shall be final and binding on Holders of Notes. The Company shall provide a schedule of its calculations to each of the Trustee and the Exchange Agent, and each of the Trustee and Exchange Agent is entitled to rely conclusively upon the accuracy of such calculations without independent verification. The Trustee will forward the Company's calculations to any Holder of Notes upon the written request of that Holder at the sole cost and expense of the Company. In no event shall the Trustee or the Exchange Agent be charged with knowledge of or have any duty to monitor ADS Price or Observation Period. Neither the Trustee nor the Exchange Agent shall have any responsibility for calculations or determinations of amounts (other than as expressly provided with respect to its role as Bid Solicitation Agent), determining whether events requiring or permitting exchanges have occurred, determining whether any adjustment is required to be made with respect to exchange rights and, if so, how much, or for the delivery of ADSs.

Section 17.17. *U.S.A. Patriot Act.* The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as is required to satisfy the requirements of the U.S.A. Patriot Act.

Section 17.18. *Tax Withholding*. Notwithstanding any other provision of this Indenture, the Trustee shall be entitled to make a deduction or withholding from any payment which it makes under this Indenture for or on account of any present or future taxes, duties or charges if and to the extent so required by any applicable law and any current or future regulations or agreements thereunder or official interpretations thereof or any law implementing an intergovernmental approach thereto or by virtue of the relevant Holder failing to satisfy any certification or other requirements in respect of the Notes, in which event the Trustee shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount so withheld or deducted and shall have no obligation to gross up any payment hereunder or pay any additional amount as a result of such withholding tax.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

NICE SYSTEMS INC.

By: _____
Name: Yoram Harke
Title: President

NICE LTD.

By: _____
Name: Beth Gespich
Title: CFO

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Name: Wally Jones
Title: Vice President

[Signature Page to Indenture]

Exhibit 4.17

EXECUTION VERSION

AGREEMENT AND PLAN OF MERGER

dated as of

May 17, 2016

among

INCONTACT, INC.,

NICE-SYSTEMS LTD.

and

VICTORY MERGER SUB INC.

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this "**Agreement**") dated as of May 17, 2016 among inContact, Inc., a Delaware corporation (the "**Company**"), NICE-Systems Ltd., a company organized under the laws of the State of Israel ("**Parent**"), and Victory Merger Sub Inc., a Delaware corporation and a wholly owned indirect subsidiary of Parent ("**Merger Subsidiary**").

W I T N E S S E T H :

WHEREAS, on the terms and subject to the conditions set forth herein, Parent will acquire the Company by means of a merger of Merger Subsidiary with and into the Company in accordance with Delaware Law, with the Company surviving the Merger as a wholly owned indirect subsidiary of Parent;

WHEREAS, the Board of Directors of the Company has, upon the terms and subject to the conditions set forth herein, unanimously (i) determined that the Merger and the other transactions contemplated by this Agreement are fair to and in the best interests of the Company and its stockholders, (ii) approved and declared advisable this Agreement, the Merger and the other transactions contemplated hereby in accordance with Delaware Law and (iii) subject to the terms and conditions of this Agreement, resolved to recommend that the Company's stockholders approve and adopt this Agreement; and

WHEREAS, the respective Boards of Directors of Parent and Merger Sub have, upon the terms and subject to the conditions set forth herein, (i) determined that the Merger and the other transactions contemplated by this Agreement are fair to and in the best interests of Parent and Merger Sub and their respective stockholders and (ii) approved and declared advisable this Agreement, the Merger and the other transactions contemplated hereby;

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.01 *Definitions.* (a) As used herein, the following terms have the following meanings:

"**Acquisition Proposal**" means, other than the transactions contemplated by this Agreement, any offer, proposal or inquiry relating to, or any Third Party indication of interest in, (i) any acquisition or purchase, direct or indirect, of (A) 25% or more of the consolidated assets of the Company and its Subsidiaries or (B) 25% or more of any class of equity or voting securities of the Company, (ii) any tender offer (including a self-tender offer) or exchange offer that, if consummated, would result in such Third Party beneficially owning 25% or more of any class of equity or voting securities of the Company or (iii) a merger, consolidation, share exchange, business combination, sale of substantially all the assets, reorganization, recapitalization, liquidation, dissolution or other similar transaction involving the Company or any of its Subsidiaries whose assets, individually or in the aggregate, constitute 25% or more of the consolidated assets of the Company.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person; *provided, however*, that the Persons set forth on Section 1.01(a) of the Company Disclosure Schedule shall not be considered "Affiliates" of the Company or any of its Subsidiaries.

"**Applicable Law**" means, with respect to any Person, any federal, state or local law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to such Person, as amended unless expressly specified otherwise.

"**Business Day**" means a day, other than Friday, Saturday, Sunday or other day on which commercial banks in New York, New York or Tel Aviv, Israel are authorized or required by Applicable Law to be closed.

"**CFIUS**" means the Committee on Foreign Investment in the United States, or any member agency thereof acting in its capacity as a CFIUS member agency.

"**CFIUS Approval**" means (i) a written notice issued by CFIUS that it has concluded a review or investigation of the notification voluntarily provided pursuant to the DPA with respect to the transactions contemplated by this Agreement and has terminated all action under Section 721 of the DPA or (ii) if CFIUS has sent a report to the President of the United States requesting the President's decision, then (A) the President has announced a decision not to take any action to suspend or prohibit the transactions contemplated by this Agreement or (B) having received a report from CFIUS requesting the President's decision, the President has not taken any action after 15 days from the date the President received such report from CFIUS.

"**Code**" means the Internal Revenue Code of 1986.

"**Collective Bargaining Agreement**" means any agreement, memorandum of understanding or other contractual obligation between the Company or any of its Subsidiaries and any labor organization or other authorized employee representative representing Service Providers.

"**Company Balance Sheet**" means the consolidated balance sheet of the Company as of March 31, 2016 and the footnotes thereto set forth in the Company 10-K.

"**Company Balance Sheet Date**" means March 31, 2016.

"**Company Disclosure Schedule**" means the disclosure schedule dated the date hereof regarding this Agreement that has been provided by the Company to Parent and Merger Subsidiary.

"**Company Notes**" means the 2.50% Convertible Senior Notes due 2022 issued by the Company pursuant to the Company Notes Indenture.

"**Company Notes Indenture**" means the Indenture, dated as of March 30, 2015, between the Company, as Issuer, and Wells Fargo Bank, National Association, as Trustee.

"**Company Restricted Stock**" means a share of the common stock, $0.0001 par value, of the Company subject to forfeiture restrictions granted under any Company Stock Plan.

"**Company Revolving Credit Facility**" means the Revolving Credit Loan Agreement between the Company and Zions First National Bank, dated July 16, 2009, as amended.

"**Company RSU**" means a restricted stock unit in respect of one or more shares of Company Stock granted under any Company Stock Plan.

"**Company Stock**" means the common stock, $0.0001 par value, of the Company, other than shares of Company Restricted Stock.

"**Company Stock Option**" means an option to purchase one or more shares of Company Stock granted under any Company Stock Plan.

"**Company Stock Plans**" means, collectively, (i) the Long-Term Stock Incentive Plan, as amended through October 4, 2000, (ii) the 2008 Equity Incentive Plan, as amended through June 10, 2015, and (iii) the Inducement Stock Option Agreement set forth on Section 1.01(a)(i) of the Company Disclosure Schedule.

"**Company 10-K**" means the Company's annual report on Form 10-K for the fiscal year ended December 31, 2015.

"**Contract**" means any legally binding contract, agreement, arrangement or understanding, whether written or oral.

"**Debt Commitment Letters**" means one or more commitment letters entered into by Parent or any of its Subsidiaries with certain financial institutions with respect to certain debt facilities, the proceeds of which, among other uses, will be used by Parent to fund all or a portion of the Merger Consideration.

"**Debt Financing Parties**" means, in its capacity as such, any lender providing a commitment pursuant to any Debt Commitment Letter and any Affiliate of any such lender.

"**Delaware Law**" means the General Corporation Law of the State of Delaware.

"**Department of Labor**" means the United Stated Department of Labor.

"**DPA**" means Section 721 of the Defense Production Act of 1950, including the implementing regulations thereof codified at 31 C.F.R. Part 800.

"**Employee Plan**" means any (i) "employee benefit plan" as defined in Section 3(3) of ERISA, (ii) compensation, employment, consulting, severance, termination protection, change in control, transaction bonus, retention or similar plan, agreement, arrangement, program or policy or (iii) other plan, agreement, arrangement, program or policy providing for compensation, bonuses, profit-sharing, equity or equity-based compensation or other forms of incentive or deferred compensation, vacation benefits, insurance (including any self-insured arrangement), medical, dental, vision, prescription or fringe benefits, life insurance, relocation or expatriate benefits, perquisites, disability or sick leave benefits, employee assistance program, supplemental unemployment benefits or post-employment or retirement benefits (including compensation, pension, health, medical or insurance benefits), in each case whether or not written (x) that is sponsored, maintained, administered, contributed to or entered into by the Company or any of its Affiliates for the current or future benefit of any current or former Service Provider or (y) for which the Company or any of its Subsidiaries has any direct or indirect liability. For the avoidance of doubt, a Collective Bargaining Agreement shall constitute an agreement for purposes of clauses (ii) and (iii).

"**Environmental Laws**" means any Applicable Laws or any agreement with any Governmental Authority or other Third Party, relating to human health and safety, the environment or to Hazardous Substances.

"**Environmental Permits**" means all permits, licenses, franchises, certificates, approvals and other similar authorizations of Governmental Authorities relating to or required by Environmental Laws and affecting, or relating to, the business of the Company or any of its Subsidiaries as currently conducted.

"**Equity Award Exchange Ratio**" means the quotient obtained by dividing (i) the Merger Consideration by (ii) the average, rounded to the nearest one ten-thousandth, of the closing sale prices of Parent ADSs on The NASDAQ Global Select Market for the ten full trading days ending on (and including) the trading day immediately preceding the Closing Date, rounded to the nearest one ten-thousandth.

"**ERISA**" means the Employee Retirement Income Security Act of 1974.

"**ERISA Affiliate**" with respect to any entity means any other entity that, together with such first entity, would be treated as a single employer under Section 414(b), (c), (m) or (o) of the Code.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**FCC**" means the United States Federal Communications Commission established pursuant to the Communications Act of 1934.

"**GAAP**" means generally accepted accounting principles in the United States.

"**Government Contract**" means any Contract between the Company or any of its Subsidiaries, on the one hand, and (i) a Governmental Authority, (ii) any prime contractor to a Governmental Authority in its capacity as a prime contractor or (iii) any subcontractor with respect to any agreement described in clauses (ii) or (ii) above, on the other hand.

"**Governmental Authority**" means any transnational, domestic or foreign federal, state or local governmental, regulatory or administrative authority, department, court, agency or official, including any political subdivision thereof.

"**Hazardous Substance**" means any pollutant, contaminant, waste or chemical or any toxic, radioactive, ignitable, corrosive, reactive or otherwise hazardous substance, waste or material, or any substance, waste or material having any constituent elements displaying any of the foregoing characteristics, including any substance, waste or material regulated under any Environmental Law.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"**Intellectual Property Rights**" means any and all intellectual property or similar proprietary rights throughout the world, including any and all (i) trademarks, service marks, brand names, certification marks, trade dress, domain names and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application, (ii) inventions and discoveries, whether patentable or not, in any jurisdiction, patents, applications for patents (including divisions, continuations, provisionals, non-provisionals, continuations in part and renewal applications), and any renewals, extensions or reissues thereof, in any jurisdiction, (iii) Trade Secrets, (iv) writings and other works, whether copyrightable or not, in any jurisdiction, and any and all copyright rights, whether registered or not, and registrations or applications for registration of copyrights in any jurisdiction, and any renewals or extensions thereof, (v) computer software (including source code, object code, firmware, operating systems and specifications), (vi) databases and data collections, (vii) moral rights, database rights, design rights, industrial property rights, publicity rights and privacy rights and (viii) all rights to sue or recover and retain damages and costs and attorneys' fees for past, present and future infringement or misappropriation of any of the foregoing.

"**International Plan**" means any Employee Plan that is not a US Plan.

"**IRS**" means the Internal Revenue Service.

"**IT Assets**" means computers, computer software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines and all other information technology equipment, and all associated documentation owned by the Company or any of its Subsidiaries or licensed or leased by the Company or any of its Subsidiaries.

"**Key Employee**" means an employee of the Company or any of its Subsidiaries set forth on Section 1.01(a)(iii) of the Company Disclosure Schedule.

"**knowledge**" means, with respect to the Company, the actual knowledge after due inquiry of the individuals set forth on Section 1.01(a)(iv) of the Company Disclosure Schedule and, with respect to Parent, the actual knowledge after due inquiry of Parent's officers.

"**Licensed Intellectual Property Rights**" means any and all Intellectual Property Rights owned by a third party and licensed or sublicensed, or purported to be licensed or sublicensed, to either the Company or any Subsidiary or for which the Company or any of its Subsidiaries has obtained a covenant not to be sued.

"**Lien**" means, with respect to any property or asset, any mortgage, lien, pledge, charge, option, restriction, right, security interest, encumbrance or other adverse claim of any kind in respect of such property or asset. For purposes of this Agreement, a Person shall be deemed to own subject to a Lien any property or asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such property or asset.

"**Marketing Period**" means a period not to exceed 15 consecutive Specified Business Days commencing no later than the date that is the later of (x) the date that is 15 Specified Business Days after the date hereof and (y) the date of receipt of the delivery of the Required Financial Information; *provided* that (i) any such period must end on or prior to August 19, 2016, or commence on or as promptly as practicable after September 6, 2016 and (ii) each of July 1, 2016 and November 25, 2016 shall not be considered a Specified Business Day for the purposes of the Marketing Period (but, for the avoidance of doubt, such exclusion shall not restart the Marketing Period).

"**Material Adverse Effect**" " means, with respect to any Person, a material adverse effect on (i) the condition (financial or otherwise), business, assets or results of operations of such Person and its Subsidiaries, taken as a whole, excluding any effect resulting from (A) changes in the financial or securities markets or general economic or political conditions in the United States not having a materially disproportionate effect on such Person and its Subsidiaries, taken as a whole, relative to other participants in the industry in which such Person and its Subsidiaries operate, (B) changes in GAAP, (C) changes (including changes of Applicable Law) or conditions generally affecting the industry in which such Person and its Subsidiaries operate and not specifically relating to or having a materially disproportionate effect on such Person and its Subsidiaries, taken as a whole, relative to other participants in the industry in which such Person and its Subsidiaries operate, (D) acts of war, sabotage or terrorism or natural disasters not having a materially disproportionate effect on such Person and its Subsidiaries, taken as a whole, relative to other participants in the industry in which such Person and its Subsidiaries operate, (E) the announcement, pendency or consummation of the transactions contemplated by this Agreement (including any loss of, or adverse change in, the relationship of such Person or any of its Subsidiaries with its employees, customers, distributors, partners, suppliers or other business partners resulting therefrom; provided that this clause (E) shall not apply with respect to any representation or warranty, or any condition to consummation of the Merger to the extent related thereto, that by its terms addresses the consequences of the announcement or consummation of the transactions contemplated by this Agreement), (F) any failure by such Person and its Subsidiaries to meet any internal or published budgets, projections, forecasts or predictions of financial performance for any period (it being understood that this clause (F) shall not prevent a party from asserting that any fact, change, event, occurrence or effect that may have contributed to such failure independently constitutes or contributes to a Material Adverse Effect), (G) any actions taken by the Company at the express written request of Parent or (H) any legal proceedings made or brought by any of the current or former stockholders of the Company (on their own behalf or on behalf of the Company) against the Company or its directors for breaches of fiduciary duties or as class action claims arising out of the Merger or in connection with any other transactions contemplated by this Agreement; or (ii) such Person's ability to consummate the transactions contemplated by this Agreement.

"**Owned Intellectual Property Rights**" means any and all Intellectual Property Rights owned or purported to be owned by the Company or any of its Subsidiaries.

"**Parent ADSs**" means the American Depositary Shares, each representing one share of Parent Stock, of Parent.

"**Parent SEC Documents**" means all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed with or furnished to the SEC by Parent (together with any exhibits and schedules thereto and other information incorporated therein).

"**Parent Stock**" means the ordinary shares, par value one New Israeli Shekel per share, of Parent.

"**Permitted Lien**" means (i) Liens for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings and, if required by GAAP, for which adequate reserves have been established in the Company Balance Sheet, (ii) Liens in favor of vendors, carriers, warehousemen, repairmen, mechanics, workmen, materialmen, construction or similar statutory Liens imposed by operation of Applicable Law and arising in the ordinary course of business with respect to amounts not yet due and payable or which are being contested in good faith by appropriate proceedings and, if required by GAAP, for which adequate reserves have been established in the Company Balance Sheet and (iii) any other Liens arising in the ordinary course of business which, individually or in the aggregate, do not, and would not be reasonably expected to, materially detract from the value, or materially interfere or impair with any present or intended use, of such property or assets.

"**Person**" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"**Representatives**" means, with respect to any Person, such Person's Affiliates and such Person's and its Affiliates' respective directors, officers, employees, investment bankers, attorneys, accountants and other advisors or representatives.

"**Repurchase Agreements**" means the repurchase agreements with respect to the Company's repurchase rights governing certain shares of Company Stock set forth on Schedule 1.01(a)(ii).

"**Required Financial Information**" means the financial statements referred to in Section 1.01(a) of the Company Disclosure Schedule.

"**Sarbanes-Oxley Act**" means the Sarbanes-Oxley Act of 2002.

"**SEC**" means the Securities and Exchange Commission.

"**Securities Act**" means the Securities Act of 1933.

"**Service Provider**" means any director, officer, employee of the Company or any of its Subsidiaries or any individual independent contractor directly retained by the Company or any of its Subsidiaries.

"**Specified Business Day**" means a day, other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by applicable law to be closed.

"**State and Local Authorities**" means, collectively, all state utility commissions or similar state or local Governmental Authorities set forth in Section 1.01(b) of the Company Disclosure Schedule.

"**Subsidiary**" means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at any time directly or indirectly owned by such Person.

"**Team Telecom**" means, collectively, the United States Departments of Defense, Justice (including the Federal Bureau of Investigation) and Homeland Security.

"**Third Party**" means any Person, including as defined in Section 13(d) of the Exchange Act, other than Parent or any of its Affiliates.

"**Trade Secrets**" means trade secrets and confidential information and rights in any jurisdiction to limit the use or disclosure thereof by any Person.

"**Triggering Event**" means an event that will be deemed to have occurred if: (i) the Company's Board of Directors effects an Adverse Recommendation Change (whether or not in compliance with Section 6.03); (ii) an Acquisition Proposal has been publicly disclosed (other than by the commencement of a tender offer or exchange offer), and the Company's Board of Directors shall have failed to publicly reaffirm the Company Board Recommendation within five Business Days after Parent's written request therefor; (iii) a tender offer or exchange offer for securities of the Company is commenced and the Company's Board of Directors shall have failed to recommend against acceptance by the Company's stockholders of such tender offer or exchange offer within ten Business Days of such commencement; or (v) the Company's Board of Directors publicly announces its intention to take any of the foregoing actions.

"**US Plan**" means any Employee Plan that covers Service Providers located primarily within the United States.

"**WARN**" means the Worker Adjustment and Retraining Notification Act and any comparable foreign, state or local law.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Adjusted Restricted Stock	2.04(e)
Adjusted RSU	2.04(d)
Adjusted Stock Option	2.04(b)
Adverse Recommendation Change	6.03(a)(iii)
Agreement	Preamble
Certificates	2.03(a)(i)
CFIUS Turndown	8.01(d)
Clearance Date	6.02(b)
Closing	2.01(b)
Closing Date	2.01(b)
Company	Preamble
Company Board Recommendation	4.02(b)
Company FCC Authorizations	4.21(a)
Company PUC Authorizations	4.21(a)
Company RFI Notice	6.08(c)
Company RFI Support	6.08(c)
Company RFI Support Deficiency	6.08(c)
Company SEC Documents	4.07(a)
Company Securities	4.05(b)
Company Stockholder Approval	4.02(a)
Company Stockholder Meeting	6.02(c)
Company Subsidiary Securities	4.06(b)
Confidentiality Agreement	6.03(b)(i)
Covered Employee	7.03(a)
Debt Financing	8.01(a)

Term	Section
D&O Insurance	7.02(b)
Effective Time	2.01(c)
e-mail	11.01
End Date	10.01(b)(i)
ESPP	7.03(e)
Exchange Agent	2.03(a)
Indemnification Agreements	7.02(e)
Indemnified Person	7.02(a)
Insurance Policies	4.20
Intervening Event	6.03(f)
Leased Real Property	4.14(b)
Material Contract	4.19(a)(xiv)
Maximum Amount	7.02(b)
Merger	2.01(b)
Merger Consideration	2.02(a)
Merger Subsidiary	Preamble
NASDAQ	4.07(i)
Negotiation Period	6.03(d)
Parent	Preamble
Parent Plan	7.03(b)
Preferred Stock	4.05(ii)
Proxy Statement	4.09
Superior Proposal	6.03(e)
Surviving Corporation	2.01(b)
Takeover Statute	4.25
Tax	4.16(q)
Tax Asset	4.16(q)
Taxing Authority	4.16(q)
Tax Return	4.16(q)
Tax Sharing Agreements	4.16(q)
Termination Fee	11.04(b)(i)
Uncertificated Shares	2.03(a)(ii)
Unvested Option	2.04(b)
Unvested RSU	2.04(d)
Vested Option	2.04(a)
Vested RSU	2.04(c)

Section 1.02 *Other Definitional and Interpretative Provisions.* The words "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections and Schedules are to Articles, Sections, and Schedules of this Agreement unless otherwise specified. All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import. "Writing", "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any statute shall be deemed to refer to such statute as amended from time to time and to any rules or regulations promulgated thereunder. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof; *provided* that with respect to any agreement or contract listed on any schedules hereto, all such amendments, modifications or supplements must also be listed in the appropriate schedule. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to "law", "laws" or to a particular statute or law shall be deemed also to include any Applicable Law. References to "$" are to United States dollars. References to anything having been "made available" to Parent shall include information filed or furnished on the SEC's Edgar system or the posting of such information or material, prior to the date hereof, in an electronic data room to which Parent (or its Representatives) has been provided access, so long as such information and material is clearly and specifically identified in the data room index.

ARTICLE 2
THE MERGER

Section 2.01 *The Merger.* (a) At the Effective Time, Merger Subsidiary shall be merged (the "**Merger**") with and into the Company in accordance with Delaware Law, whereupon the separate existence of Merger Subsidiary shall cease, and the Company shall be the surviving corporation (the "**Surviving Corporation**").

(b) Subject to the provisions of Article 9, the closing of the Merger (the "**Closing**") shall take place in New York City at the offices of Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York, 10017 as soon as possible, but in any event no later than three Business Days after the date the conditions set forth in Article 9 (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent permissible, waived by the party or parties entitled to the benefit of such conditions, or at such other place, at such other time or on such other date as Parent and the Company may mutually agree; *provided* that, subject to the provisions of Article 9, if the Marketing Period has not ended at the time of the satisfaction or waiver of the conditions set forth in Article 9 (other than conditions that by their nature are to be satisfied at the Closing), unless mutually agreed by the Company and the Parent, the Closing shall take place on the second Business Day immediately following the final day of the Marketing Period. The date on which the Closing occurs is referred to herein as the "**Closing Date**".

(c) At the Closing, the Company and Merger Subsidiary shall file a certificate of merger with the Delaware Secretary of State and make all other filings or recordings required by Delaware Law in connection with the Merger. The Merger shall become effective at such time (the "**Effective Time**") as the certificate of merger is duly filed with the Delaware Secretary of State (or at such later time as may be specified in the certificate of merger).

(d) From and after the Effective Time, the Surviving Corporation shall possess all the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions and disabilities of the Company and Merger Subsidiary, all as provided under Delaware Law.

Section 2.02 *Conversion of Shares.* At the Effective Time:

(a) except as otherwise provided in Section 2.02(b), Section 2.02(d) or Section 2.05, each share of Company Stock outstanding immediately prior to the Effective Time shall be converted into the right to receive $14.00 in cash, without interest (the "**Merger Consideration**"). As of the Effective Time, all such shares of Company Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and shall thereafter represent only the right to receive the Merger Consideration, in each case to be issued or paid in accordance with Section 2.03, without interest;

(b) each share of Company Stock held by the Company as treasury stock or owned by Parent immediately prior to the Effective Time shall be canceled, and no payment shall be made with respect thereto;

(c) each share of common stock of Merger Subsidiary outstanding immediately prior to the Effective Time shall be converted into and become one share of common stock of the Surviving Corporation with the same rights, powers and privileges as the shares so converted; and

(d) each share of Company Stock held by any Subsidiary of either the Company or Parent immediately prior to the Effective Time shall be converted into such number of shares of stock of the Surviving Corporation such that each such Subsidiary owns the same percentage of Surviving Corporation immediately following the Effective Time as such Subsidiary owned in the Company immediately prior to the Effective Time.

Section 2.03 *Surrender and Payment.* (a) Prior to the Effective Time, Parent shall appoint an agent (the "**Exchange Agent**") for the purpose of exchanging for the Merger Consideration (i) certificates representing shares of Company Stock (the "**Certificates**") and (ii) uncertificated shares of Company Stock (the "**Uncertificated Shares**"). Parent shall cause NICE Systems Inc. to make available to the Exchange Agent, as needed, the Merger Consideration to be paid in respect of the Certificates and the Uncertificated Shares. Promptly after the Effective Time, Parent shall send, or shall cause the Exchange Agent to send, to each holder of shares of Company Stock at the Effective Time a letter of transmittal and instructions (which shall specify that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates or transfer of the Uncertificated Shares to the Exchange Agent) for use in such exchange.

(b) Each holder of shares of Company Stock that have been converted into the right to receive the Merger Consideration shall be entitled to receive, upon (i) surrender to the Exchange Agent of a Certificate, together with a properly completed letter of transmittal, or (ii) receipt of an "agent's message" by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request) in the case of a book-entry transfer of Uncertificated Shares, the Merger Consideration in respect of the Company Stock represented by a Certificate or Uncertificated Share. Until so surrendered or transferred, as the case may be, each such Certificate or Uncertificated Share shall represent after the Effective Time for all purposes only the right to receive such Merger Consideration.

(c) If any portion of the Merger Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate or the transferred Uncertificated Share is registered, it shall be a condition to such payment that (i) either such Certificate shall be properly endorsed or shall otherwise be in proper form for transfer or such Uncertificated Share shall be properly transferred and (ii) the Person requesting such payment shall pay to the Exchange Agent any transfer or other taxes required as a result of such payment to a Person other than the registered holder of such Certificate or Uncertificated Share or establish to the satisfaction of the Exchange Agent that such tax has been paid or is not payable.

(d) After the Effective Time, there shall be no further registration of transfers of shares of Company Stock. If, after the Effective Time, Certificates or Uncertificated Shares are presented to the Surviving Corporation or the Exchange Agent, they shall be canceled and exchanged for the Merger Consideration provided for, and in accordance with the procedures set forth, in this Article 2.

(e) Any portion of the Merger Consideration made available to the Exchange Agent pursuant to Section 2.03(a) that remains unclaimed by the holders of shares of Company Stock six months after the Effective Time shall be returned to Parent, upon demand, and any such holder who has not exchanged shares of Company Stock for the Merger Consideration in accordance with this Section 2.03 prior to that time shall thereafter look only to Parent for payment of the Merger Consideration, in respect of such shares without any interest thereon. Notwithstanding the foregoing, Parent shall not be liable to any holder of shares of Company Stock for any amounts paid to a public official pursuant to applicable abandoned property, escheat or similar laws. Any amounts remaining unclaimed by holders of shares of Company Stock two years after the Effective Time (or such earlier date, immediately prior to such time when the amounts would otherwise escheat to or become property of any Governmental Authority) shall become, to the extent permitted by Applicable Law, the property of Parent free and clear of any claims or interest of any Person previously entitled thereto.

Section 2.04 *Treatment of Equity Awards.* (a) At the Effective Time, each vested Company Stock Option that is outstanding and unexercised immediately prior to the Effective Time (a "**Vested Option**") shall, by virtue of the Merger and without any action on the part of the holder thereof, be cancelled and converted into and shall become a right to receive an amount in cash, without interest, equal to the product obtained by multiplying (x) the number of shares of Company Stock subject to the Vested Option by (y) the excess, if any, of the amount of the Merger Consideration over the exercise price per share of the Vested Option (with the aggregate payment rounded down to the nearest cent), less applicable Tax withholding. For the avoidance of doubt, each Vested Option with an exercise price that is equal to or greater than the Merger Consideration shall be canceled without any consideration to the holder thereof. All such amounts payable with respect to the Vested Options shall be paid by Parent or the Surviving Corporation as soon as practicable (and in any event within ten Business Days) following the Effective Time.

(b) At the Effective Time, each unvested Company Stock Option that is outstanding and unexercised immediately prior to the Effective Time (an "**Unvested Option**"), shall, by virtue of the Merger and without any action on the part of the holder thereof, cease to represent a right to acquire shares of Company Stock and shall be converted automatically into an option to purchase the number of Parent ADSs (each, an "**Adjusted Stock Option**") equal to the product obtained by multiplying (x) the total number of shares of Company Stock subject to such Unvested Option immediately prior to the Effective Time by (y) the Equity Award Exchange Ratio, with any fractional Parent ADSs rounded down to the next lower whole number of Parent ADSs. Each Adjusted Stock Option shall have an exercise price per Parent ADS (rounded up to the nearest whole cent) equal to (1) the per share exercise price for the shares of Company Stock subject to such Unvested Option divided by (2) the Equity Award Exchange Ratio. Each Adjusted Stock Option shall otherwise be subject to the same terms and conditions applicable to the converted Company Stock Option under the Company Stock Plans and the agreements evidencing grants thereunder, including as to vesting. Notwithstanding anything to the contrary in the foregoing, in all cases, the exercise price of, and the number of Parent ADSs subject to, each Adjusted Stock Option shall be determined as necessary to comply with Section 409A of the Code, and for any Unvested Option to which Section 421 of the Code applies by reason of its qualification under any of Sections 422 through 424 of the Code, the option price, the number of Parent ADS subject to such option and the terms and conditions of exercise of such option shall be determined in order to comply with Section 424 of the Code.

(c) At the Effective Time, each vested Company RSU that is outstanding immediately prior to the Effective Time (a "**Vested RSU**"), shall, by virtue of the Merger and without any action on the part of the holder thereof, be cancelled and converted into and shall become a right to receive an amount in cash, without interest, equal to the product obtained by multiplying (x) the number of shares of Company Stock subject to the Vested RSU, as applicable, by (y) the amount of the Merger Consideration, less applicable Tax withholding. All such amounts payable with respect to the Vested RSUs shall be paid by Parent or the Surviving Corporation as soon as practicable (and in any event within ten Business Days) following the Effective Time.

(d) At the Effective Time, each unvested Company RSU (an "**Unvested RSU**") that is outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, cease to represent a right with respect to shares of Company Stock and shall be converted automatically into a restricted stock unit with respect to a number of Parent ADSs (each, an "**Adjusted RSU**") equal to the product obtained by multiplying (x) the total number of shares of Company Stock subject to the Unvested RSU immediately prior to the Effective Time by (y) the Equity Award Exchange Ratio, with any fractional Parent ADSs rounded down to the next lower whole number of shares. Each Adjusted RSU shall otherwise be subject to the same terms and conditions applicable to the converted Company RSU under the Company Stock Plans and the agreements evidencing grants thereunder, including as to vesting and settlement.

(e) At the Effective Time, each unvested share of Company Restricted Stock that is outstanding immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, cease to represent a share of Company Stock and shall be converted automatically into a number of restricted Parent ADSs (collectively, the "**Adjusted Restricted Stock**") equal to the product obtained by multiplying (x) a share of Company Restricted Stock by (y) the Equity Award Exchange Ratio, with any fractional shares rounded down to the next lower whole number of shares. Each share of Adjusted Restricted Stock shall otherwise be subject to the same terms and conditions applicable to the converted Company Restricted Stock under the Company Stock Plans and the agreements evidencing grants thereunder, including as to vesting.

(f) At or prior to the Effective Time, the Company, the Board of Directors of the Company or the compensation committee of the Board of Directors of the Company, as applicable, shall adopt any resolutions and take any actions which are reasonably necessary to effectuate the provisions of this Section 2.04 and Parent, Parent's Board of Directors and its compensation committee, as applicable, shall take such actions as are reasonably necessary for the assumption by Parent of the Adjusted Stock Options, Adjusted RSUs and Adjusted Restricted Stock; provided that no action taken by the Company, the Board of Directors of the Company or the compensation committee of the Board of Directors of the Company, as applicable, shall be irrevocable until immediately prior to the Effective Time.

(g) Parent shall register that number of Parent ADSs issuable pursuant to the Adjusted Stock Options, Adjusted RSUs and Adjusted Restricted Stock on an effective registration statement on Form S-8 as promptly as practicable after the Closing Date (but in any event not more than thirty calendar days after the Closing Date). Parent shall maintain the effectiveness of such registration statement for so long as such Adjusted Stock Options, Adjusted RSUs and Adjusted Restricted Stock remain outstanding and shall reserve a sufficient number of shares of Parent ADSs for issuance upon exercise or settlement thereof.

Section 2.05 *Dissenting Shares*. Notwithstanding Section 2.02, shares of Company Stock outstanding immediately prior to the Effective Time and held by a holder who has not voted in favor of the Merger or consented thereto in writing and who has demanded appraisal for such shares in accordance with Delaware Law shall not be converted into the right to receive the Merger Consideration, unless such holder fails to perfect, withdraws or otherwise loses the right to appraisal. If, after the Effective Time, such holder fails to perfect, withdraws or otherwise loses the right to appraisal, such shares shall be treated as if they had been converted as of the Effective Time into the right to receive the Merger Consideration. The Company shall give Parent prompt notice of any demands received by the Company for appraisal of shares, and Parent shall have the right to direct all negotiations and proceedings with respect to such demands. Except with the prior written consent of Parent, the Company shall not make any payment with respect to, or offer to settle or settle, any such demands.

Section 2.06 *Withholding Rights.* Notwithstanding any provision contained herein to the contrary, each of the Exchange Agent, the Surviving Corporation and Parent shall be entitled to deduct and withhold from the consideration otherwise payable to any Person pursuant to this Article 2 such amounts as it is required to deduct and withhold with respect to the making of such payment under any provision of federal, state, local or foreign Tax law. If the Exchange Agent, the Surviving Corporation or Parent, as the case may be, so withholds amounts, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which the Exchange Agent, the Surviving Corporation or Parent, as the case may be, made such deduction and withholding.

Section 2.07 *Lost Certificates.* If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such Person of a bond, in such reasonable amount as the Surviving Corporation may direct, as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue, in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration to be paid in respect of the shares of Company Stock represented by such Certificate, as contemplated by this Article 2.

ARTICLE 3
THE SURVIVING CORPORATION

Section 3.01 *Certificate of Incorporation*. The certificate of incorporation of the Company in effect at the Effective Time shall be the certificate of incorporation of the Surviving Corporation until amended in accordance with Applicable Law.

Section 3.02 *Bylaws.* The bylaws of the Company in effect at the Effective Time shall be the bylaws of the Surviving Corporation until amended in accordance with Applicable Law.

Section 3.03 *Directors and Officers.* From and after the Effective Time, until successors are duly elected or appointed and qualified in accordance with Applicable Law, (i) the directors of Merger Subsidiary at the Effective Time shall be the directors of the Surviving Corporation and (ii) the officers of the Company at the Effective Time shall be the officers of the Surviving Corporation.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Subject to Section 11.05, except as disclosed in any Company SEC Document filed or furnished after December 31, 2014 and before the date of this Agreement or as set forth in the Company Disclosure Schedule, the Company represents and warrants to Parent that:

Section 4.01 *Corporate Existence and Power.* The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate powers and all governmental licenses, franchises, authorizations, permits, certificates, consents and approvals required to carry on its business as now conducted, except for those licenses, franchises, authorizations, permits, certificates, consents and approvals the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. The Company is duly qualified to do business as a foreign corporation and is in good standing (with respect to jurisdictions that have the concept of good standing) in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. The Company has heretofore made available to Parent true and complete copies of the certificate of incorporation and bylaws of the Company as in effect on the date hereof.

Section 4.02 *Corporate Authorization.* (a) The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby are within the Company's corporate powers and, except for the required approval of the Company's stockholders in connection with the consummation of the Merger, have been duly authorized by all necessary corporate action on the part of the Company. The affirmative vote of the holders of a majority of the outstanding shares of Company Stock is the only vote of the holders of any of the Company's capital stock necessary in connection with the consummation of the Merger (the "**Company Stockholder Approval**"). This Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(b) At a meeting duly called and held, the Company's Board of Directors has (i) unanimously determined that this Agreement and the transactions contemplated hereby are fair to and in the best interests of the Company and its stockholders, (ii) unanimously approved and declared advisable this Agreement and the transactions contemplated hereby and (iii) unanimously resolved, subject to Section 6.03(b), to recommend approval and adoption of this Agreement by its stockholders (such recommendation, the "**Company Board Recommendation**").

Section 4.03 *Governmental Authorization.* The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby require no action by or in respect of, or filing with, any Governmental Authority other than (i) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which the Company is qualified to do business, (ii) compliance with any applicable requirements of the HSR Act and of laws analogous to the HSR Act existing in foreign jurisdictions and set forth on Section 4.03 of the Company Disclosure Schedule, (iii) compliance with any applicable requirements of NASDAQ, the Securities Act, the Exchange Act, and any other applicable state or federal securities laws, (iv) filings as may be required with, submissions as may be necessary or advisable to, and permits, authorizations, consents and approvals as may be required from, the FCC (including any review by Team Telecom), (v) filings as may be required with, submissions as may be necessary or advisable to, and clearances, permits, authorizations, consents and approvals as may be required from, State and Local Authorities, including those related to any financing contemplated under this Agreement, (vi) filings as may be required with, submissions as may be necessary or advisable to, and clearances, permits, authorizations, consents and approvals as may be required from, CFIUS in order to obtain the CFIUS Approval and (vii) any actions or filings the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company.

Section 4.04 *Non-contravention.* The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not (i) contravene, conflict with, or result in any violation or breach of any provision of the certificate of incorporation or bylaws of the Company, (ii) assuming compliance with the matters referred to in Section 4.03, contravene, conflict with or result in a violation or breach of any provision of any Applicable Law with respect to the Company or any of its Subsidiaries, (iii) assuming compliance with the matters referred to in Section 4.03, require any consent or other action by any Person under, constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default, under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Company or any of its Subsidiaries is entitled under any provision of any agreement or other instrument binding upon the Company or any of its Subsidiaries or any license, franchise, authorization, permit, certificate, consent, approval or other similar authorization affecting, or relating in any way to, the assets or business of the Company and its Subsidiaries or (iv) result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of the Company or any of its Subsidiaries, with only such exceptions, in the case of each of clauses (ii) through (iv), as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company.

Section 4.05 *Capitalization.* The authorized capital stock of the Company consists of (i) 100,000,000 shares of Company Stock and (ii) 15,000,000 shares of preferred stock, $0.0001 par value (the "**Preferred Stock**"). As of May 16, 2016, there were outstanding (A) 61,959,236 shares of Company Stock, (B) no shares of Preferred Stock and (C)(1) Company Stock Options to purchase an aggregate of 2,753,608 shares of Company Stock (of which Company Stock Options to purchase an aggregate of 1,338,021 shares of Company Stock were exercisable), (2) Company RSUs relating to an aggregate of 2,285,913 shares of Company Stock, (3) an aggregate of 212,109 shares of Company Restricted Stock, and (4) an aggregate of 42,771 shares of restricted common stock of the Company subject to the Repurchase Agreements. As of May 16, 2016, there were (x) 850,455 shares of Company Stock reserved for issuance under the Company Stock Plans and (y) 358,703 shares of Company Stock reserved for issuance under the ESPP. As of May 16, 2016, there was outstanding $115,000,000 principal amount of Company Notes and the conversion rate applicable to the Company Notes pursuant to the Company Notes Indenture (without giving effect to any "make-whole amount") was 70.2790 shares of Company Stock per $1,000 principal amount of Company Notes. Section 4.05 of the Company Disclosure Schedule sets forth the "make-whole amounts" applicable under the Company Notes Indenture. All outstanding shares of capital stock of the Company have been, and all shares that may be issued pursuant to any employee stock option or other compensation plan or arrangement will be, when issued in accordance with the respective terms thereof, duly authorized and validly issued, fully paid and nonassessable and free of preemptive rights. Section 4.05 of the Company Disclosure Schedule contains a complete and correct list of all Company Stock Options, Company RSUs, Company Restricted Stock and the shares of Company Stock subject to the Repurchase Agreements, including with respect to each such award, as applicable, the holder, date of grant, exercise price (if applicable), vesting schedule, expiration date and number of shares of Company Stock subject thereto. Five Business Days prior to the Closing Date, the Company shall provide Parent with a revised version of Section 4.05 of the Company Disclosure Schedule, updated as of such date.

(b) Other than the Company Notes, there are no outstanding bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Company may vote. Except as set forth in this Section 4.05 and for changes since May 16, 2016 resulting from the exercise of Company Stock Options outstanding on such date, exercise of purchase rights under the ESPP outstanding on such date and settlement of Company RSUs outstanding on such date, there are no issued, reserved for issuance or outstanding (i) shares of capital stock or other voting securities of or ownership interests in the Company, (ii) securities of the Company convertible into or exchangeable for shares of capital stock or other voting securities of or ownership interests in the Company or (iii) warrants, calls, options or other rights to acquire from the Company, or other obligation of the Company to issue, any capital stock, voting securities, other ownership interests or securities convertible into or exchangeable for capital stock or voting securities of or ownership interests in the Company or (iv) restricted shares, stock appreciation rights, performance units, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or voting securities of or other ownership interests in the Company (the items in clauses (i) through (iv) being referred to collectively as the "**Company Securities**"). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Securities. Neither the Company nor any of its Subsidiaries is a party to any voting agreement with respect to the voting of any Company Securities.

(c) The Company does not have in place, nor is it subject to, a stockholder rights plan, "poison pill" or similar plan or instrument.

(d) No Company Securities are owned by any Subsidiary of the Company.

Section 4.06 *Subsidiaries*. (a) Each Subsidiary of the Company has been duly organized, is validly existing and (where applicable) in good standing under the laws of its jurisdiction of organization and has all organizational powers and all governmental licenses, franchises, authorizations, permits, certificates, consents and approvals required to carry on its business as now conducted, except for those licenses, franchises, authorizations, permits, certificates, consents and approvals the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. Each such Subsidiary is duly qualified to do business as a foreign entity and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company. All Subsidiaries of the Company and their respective jurisdictions of organization are identified in the Company 10-K.

(b) All of the outstanding capital stock or other voting securities of or other ownership interests in each Subsidiary of the Company is owned by the Company, directly or indirectly, free and clear of any Lien and free of any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other voting securities or ownership interests). There are no issued, reserved for issuance or outstanding (i) securities of the Company or any of its Subsidiaries convertible into, or exchangeable for, shares of capital stock or other voting securities of or ownership interests in any Subsidiary of the Company, (ii) warrants, calls, options or other rights to acquire from the Company or any of its Subsidiaries, or other obligations of the Company or any of its Subsidiaries to issue, any capital stock or other voting securities of or other ownership interests in or any securities convertible into, or exchangeable for, any capital stock or other voting securities of or other ownership interests in, any Subsidiary of the Company or (iii) restricted shares, stock appreciation rights, performance units, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or other voting securities of or other ownership interests in any Subsidiary of the Company (the items in clauses (i) through (iii) being referred to collectively as the "**Company Subsidiary Securities**"). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Subsidiary Securities. Except for the capital stock or other voting securities of or ownership interests in its Subsidiaries, the Company does not own, directly or indirectly, any capital stock or other voting securities of, or ownership interests in, any Person.

Section 4.07 *SEC Filings and the Sarbanes-Oxley Act.* (a) The Company has timely filed with or furnished to the SEC, and made available to Parent, all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by the Company since January 1, 2013 (collectively, together with any exhibits and schedules thereto and other information incorporated therein, the "**Company SEC Documents**").

(b) As of its filing date (or, if amended, as of the date of the last such amendment), each Company SEC Document complied as to form in all material respects with the applicable requirements of the Securities Act and the Exchange Act, as the case may be, each as in effect on the date so filed.

(c) As of its filing date (or, if amended or superseded by a filing prior to the date hereof, on the date of such filing), each Company SEC Document filed pursuant to the Exchange Act did not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(d) Each Company SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the Securities Act, as of the date such registration statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(e) There are no outstanding or unresolved comment letters received from the SEC staff with respect to any of the Company SEC Documents.

(f) The Company has established and maintains disclosure controls and procedures (as defined in Rule 13a-15 under the Exchange Act). Such disclosure controls and procedures are designed to ensure that material information relating to the Company, including its consolidated Subsidiaries, is made known to the Company's principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the Exchange Act are being prepared. Such disclosure controls and procedures are effective in timely alerting the Company's principal executive officer and principal financial officer to material information required to be included in the Company's periodic and current reports required under the Exchange Act. For purposes of this Agreement, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(g) The Company and its Subsidiaries have established and maintained a system of internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) designed to provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of Company financial statements for external purposes in accordance with GAAP. The Company has disclosed, based on its most recent evaluation of internal controls prior to the date hereof, to the Company's auditors and audit committee (i) any significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in internal controls over financial reporting. The Company has made available to Parent a summary of any such disclosure made by management to the Company's auditors and audit committee, since January 1, 2013.

(h) There are no outstanding loans or other extensions of credit made by the Company or any of its Subsidiaries to any executive officer (as defined in Rule 3b-7 under the Exchange Act) or director of the Company. The Company has not, since the enactment of the Sarbanes-Oxley Act, taken any action prohibited by Section 402 of the Sarbanes-Oxley Act.

(i) Since January 1, 2013, the Company has complied in all material respects with the applicable listing and corporate governance rules and regulations of the NASDAQ Capital Market (the "**NASDAQ**").

(j) Since January 1, 2013, each of the principal executive officer and principal financial officer of the Company (or each former principal executive officer and principal financial officer of the Company, as applicable) have made all certifications required by Rule 13a-14 and 15d-14 under the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act and any related rules and regulations promulgated by the SEC and the NASDAQ, and the statements contained in any such certifications are complete and correct.

(k) There have been no, nor as of the date of this Agreement are there any proposed, securitization transactions or other off-balance sheet arrangements (as defined in Item 303 of Regulation S-K of the SEC) that existed or were effected by the Company or its Subsidiaries that would be required to be disclosed under Item 303 of Regulation S-K of the SEC.

(l) Since January 1, 2013, there has been no transaction, or series of similar transactions, Contracts, arrangements or understandings, nor is there any proposed transaction as of the date of this Agreement, or series of similar transactions, agreements, arrangements or understandings to which the Company or any of its Subsidiaries was or is to be a party, that would be required to be disclosed under Item 404 of Regulation S-K promulgated under the Securities Act that has not been so disclosed.

Section 4.08 *Financial Statements.* The audited consolidated financial statements and unaudited consolidated interim financial statements of the Company (collectively, the "**Company Financial Statements**") included or incorporated by reference in the Company SEC Documents fairly present in all material respects, in conformity with GAAP (except, in the case of unaudited statements, as permitted by the rules and regulations of the SEC) applied on a consistent basis (except as may be indicated in the notes thereto), the consolidated financial position of the Company and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations and cash flows for the periods then ended (subject to normal and recurring year-end audit adjustments and the absence of footnotes, in each case the effect of which would not be material in the case of any unaudited interim financial statements and except as indicated in the notes to such Company Financial Statements or, in the case of unaudited statements, as permitted by Form 10-Q of the SEC).

Section 4.09 *Disclosure Documents.* At the time the proxy statement of the Company to be filed with the SEC in connection with the Merger (the "**Proxy Statement**") or any amendments or supplements thereto is first mailed to the stockholders of the Company and at the time of the Company Stockholder Approval, the Proxy Statement, as supplemented or amended, if applicable, will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The representations and warranties contained in this Section 4.09 will not apply to statements or omissions included or incorporated by reference in the Proxy Statement based upon information supplied by Parent, Merger Subsidiary or any of their respective Representatives or advisors specifically for use or incorporation by reference therein.

Section 4.10 *Absence of Certain Changes.* (a) Since December 31, 2015, except for the execution and performance of this Agreement and the discussions and negotiations related thereto, the business of the Company and its Subsidiaries has been conducted in all material respects in the ordinary course consistent with past practices and there has not been any event, occurrence, development or state of circumstances or facts that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company.

(b) From the Company Balance Sheet Date until the date hereof, there has not been any action taken by the Company or any of its Subsidiaries that, if taken during the period from the date of this Agreement through the Effective Time without Parent's consent, would constitute a breach of Sections 6.01(b), (c), (e), (f), (g), (h), (i), (j), (k), (l) or (m).

Section 4.11 *No Undisclosed Material Liabilities.* There are no liabilities or obligations of the Company or any of its Subsidiaries of the type required to be disclosed in the liabilities column of a balance sheet prepared in accordance with GAAP, whether accrued, contingent, absolute, determined, determinable or otherwise, other than: (i) liabilities or obligations disclosed on, reserved against or provided for in the Company Balance Sheet or in the notes thereto; (ii) liabilities or obligations incurred in the ordinary course of business since the Company Balance Sheet Date which have not had or would not reasonably be expected to have a material and adverse effect on the Company and its Subsidiaries, taken as a whole; (iii) liabilities or obligations incurred under this Agreement or in connection with the transactions contemplated hereby and (iv) liabilities or obligations that would not reasonably be expected to be, individually or in the aggregate, material and adverse to the Company and its Subsidiaries, taken as a whole.

Section 4.12 *Compliance with Laws and Court Orders*. The Company and each of its Subsidiaries is and has been in compliance with, and to the knowledge of the Company is not under investigation with respect to and has not been threatened to be charged with or given notice of any violation of, any Applicable Law, except for failures to comply or violations that would not reasonably be expected to be, individually or in the aggregate, material to the Company and its Subsidiaries, taken as a whole. There is no judgment, decree, injunction, rule or order of any arbitrator or Governmental Authority outstanding against the Company or any of its Subsidiaries that would reasonably be expected to be, individually or in the aggregate, material to the Company and its Subsidiaries, taken as a whole, or that in any manner seeks to prevent, enjoin, alter or materially delay the Merger or any of the other transactions contemplated hereby.

Section 4.13 *Litigation.* There is no action, suit, investigation or proceeding pending against, or, to the knowledge of the Company, threatened against the Company, any of its Subsidiaries, any present or former executive officer, director or Key Employee of the Company or any of its Subsidiaries, in their capacities as such or any of their respective properties before (or, in the case of threatened actions, suits, investigations or proceedings, that would be before) or by (or, in the case of threatened actions, suits, investigations or proceedings, that would be by) any Governmental Authority or arbitrator that (i) seeks or alleges monetary damages in excess of $50,000 (individually or in the aggregate for related claims), (ii) seeks any form of non-monetary remedies that, if granted, would reasonably be expected to be, individually or in the aggregate, material to the Company and its Subsidiaries, taken as a whole, or (iii) in any manner seeks to prevent, enjoin, alter or materially delay the Merger or any of the other transactions contemplated hereby.

Section 4.14 *Properties.* (a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, the Company and its Subsidiaries have good title to, or valid leasehold interests in, all property and assets reflected on the Company Balance Sheet or acquired after the Balance Sheet Date, except as have been disposed of since the Company Balance Sheet Date in the ordinary course of business consistent with past practice, in each case free and clear of all Liens, other than Permitted Liens. Notwithstanding the foregoing, it is understood and agreed that matters regarding the infringement or violation of Intellectual Property Rights of a Third Party are addressed solely in Section 4.15 and not in this Section 4.14.

(b) Section 4.14(b) of the Company Disclosure Schedule sets forth an accurate and complete list of all real property leased, subleased, licensed or sublicensed by the Company or any of its Subsidiaries (collectively, the "**Leased Real Property**"). Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company, the Company and its Subsidiaries have good and valid leasehold interests in all Leased Real Property, in each case, free and clear of all Liens, other than Permitted Liens.

(c) Neither the Company nor any of its Subsidiaries owns any real property or are party to any agreement or option to purchase any real property.

Section 4.15 *Intellectual Property.* (a) Section 4.15(a) of the Company Disclosure Schedule sets forth a true and complete list of all registrations, applications for registration and filings made or taken pursuant to the Applicable Laws by the Company and each of its Subsidiaries to record, perfect or protect any Owned Intellectual Property Rights.

(b) The Company and its Subsidiaries are sole owners of all Owned Intellectual Property Rights and hold all right, title and interest in and to all Owned Intellectual Property Rights free and clear of any Liens. Effective written assignments constituting an unbroken, complete chain-of-title, for each of the registrations and applications identified inSection 4.15(a), from each original creator, owner or inventor to the Company or its Subsidiaries have been obtained with respect to all Owned Intellectual Property Rights and have been duly recorded with any applicable Governmental Authority.

(c) The Company and its Subsidiaries own, are licensed or have a valid and enforceable right to use, all of the Intellectual Property Rights used or held for use in, the conduct of the business of the Company and each of its Subsidiaries as presently conducted.

(d) To the knowledge of the Company, the conduct of the business of the Company and each of its Subsidiaries as presently and formerly conducted and the products, processes and services of the Company and each of its Subsidiaries have not infringed, misappropriated or otherwise violated, and do not infringe, misappropriate or otherwise violate, the Intellectual Property Rights of any other Person. To the knowledge of the Company, no Person has challenged, infringed, misappropriated or otherwise violated any Owned Intellectual Property Rights. Neither the Company nor any of its Subsidiaries has received any written notice of or, to the knowledge of the Company, is there threatened, any claim, action, suit, order or proceeding with respect to any Intellectual Property Rights used by the Company or any of its Subsidiaries alleging that any services provided, processes used or products manufactured, used, imported, offered for sale or sold by the Company or any of its Subsidiaries infringes, misappropriates or otherwise violates any Intellectual Property Rights of any other Person.

(e) None of the Owned Intellectual Property Rights have been adjudged invalid or unenforceable in whole or part, and, to the knowledge of the Company, all such Owned Intellectual Property Rights are valid and enforceable.

(f) The consummation of the transactions contemplated by this Agreement will not alter, encumber, impair or extinguish any Owned Intellectual Property Rights or impair the right of the Company or any of its Subsidiaries to develop, use, sell, license or dispose of, or to bring any action for the infringement of, any Owned Intellectual Property Rights.

(g) No government funding, facilities of a university, college, other educational institution or research center or funding from third parties (in each case, either directly or indirectly) was used or is presently being used in the development of any Intellectual Property Rights included in the Owned Intellectual Property Rights or any exclusively Licensed Intellectual Property Rights that would in any way limit or impair the worldwide use or exploitation of such Intellectual Property Rights following the Merger or any of the other transaction contemplated hereby. No government funding, facilities of a university, college, other educational institution or research center or funding from third parties (in each case, either directly or indirectly) presently being used in the development of any Owned Intellectual Property Rights will be cancelled, discontinued, withdrawn or otherwise become not available to the Company or its Subsidiaries as a result of the Merger or any of the other transactions contemplated hereby.

(h) The Company and its Subsidiaries have taken reasonable steps in accordance with normal industry practice to maintain, enforce and protect all Owned Intellectual Property Rights, including the confidentiality of all Trade Secrets owned, used or held for use by the Company or any of its Subsidiaries and no such Trade Secrets have been disclosed other than to employees, Representatives and agents of the Company or any of its Subsidiaries all of whom are bound by confidentiality obligations.

(i) Section 4.15(i) of the Company Disclosure Schedule contains a true and complete list of any and all software code included in the Owned Intellectual Property Rights or distributed by the Company or any of its Subsidiaries that is licensed under any terms or conditions that require that any software code be (i) made available or distributed in source code form, (ii) licensed for the purpose of making derivative works, (iii) licensed under terms that allow reverse engineering, reverse assembly or disassembly of any kind or (iv) redistributable at no charge, including with respect to any such software code, the list containing, (A) the applicable "open source" or similar license agreement pursuant to which it is licensed (including version number) and (B) a description of how such software code is being used or distributed by the Company or any of its Subsidiaries.

(j) No Person other than the Company or its Subsidiaries possesses any current or contingent rights to any source code that is part of the Owned Intellectual Property Rights.

(k) It is the practice of Company and its Subsidiaries to scan with commercially available virus scan software the software used in the business of the Company and its Subsidiaries as presently conducted that are capable of being scanned for viruses. None of the software included in the Owned Intellectual Property Rights or Licensed Intellectual Property Rights that is used or held for use in the conduct of the business of the Company and its Subsidiaries as presently conducted contains any (i) computer code designed to disrupt, disable or harm in any manner the operation of any software or hardware; or (ii) worm, bomb, backdoor, clock, timer, or other disabling device code, design or routine which can cause software to be erased, inoperable, or otherwise incapable of being used, either automatically or upon command by any person.

(l) The IT Assets operate and perform in a manner that permits the Company and each of its Subsidiaries to conduct its business as presently conducted. Each of the Company and its Subsidiaries and, to the knowledge of the Company, its third party vendors or service providers, have taken commercially reasonable actions to protect the confidentiality, integrity and security of the IT Assets and all data, information and transactions stored or contained therein or transmitted thereby against any unauthorized use, access, interruption, modification or corruption, including the implementation of commercially reasonable (i) data backup, (ii) disaster avoidance and recovery procedures, (iii) plans for business continuity, and (iv) encryption and other security protocol technology. To the knowledge of the Company, there have been no breaches, interruptions, or corruptions of the IT Assets or any data, information or transactions stored or contained therein or transmitted thereby.

(m) The Company and its Subsidiaries have at all times complied in all material respects with all Applicable Law relating to privacy, data protection and the collection and use of personal information and user information gathered or accessed in the course of the operations of the Company or any of its Subsidiaries. The Company and its Subsidiaries have at all times complied in all material respects with all rules, policies and procedures established by the Company or any of its Subsidiaries from time to time with respect to the foregoing. No claims have been asserted or threatened against the Company or any of its Subsidiaries, and to the knowledge of Company, no such claims are likely to be asserted or threatened against the Company or any of its Subsidiaries, by any person or entity alleging a violation of such person's or entity's privacy, personal or confidentiality rights under any such Applicable Law. The consummation of the transactions contemplated by this Agreement will not breach or otherwise cause any violation of any such Applicable Law.

(n) With respect to all personal and user information referred to in Section 4.15(m), the Company and each of its Subsidiaries have at all times taken all steps reasonably necessary, including implementing and monitoring compliance with adequate measures with respect to technical and physical security, to ensure that the information is protected against loss and against unauthorized access, use, modification, disclosure or other misuse. To the knowledge of Company, there has been no unauthorized breach of, access to or other misuse of such personal and user information.

Section 4.16 *Taxes*. (a) All material Tax Returns required by Applicable Law to be filed with any Taxing Authority by, or on behalf of, the Company or any of its Subsidiaries have been filed when due in accordance with all Applicable Law, and all such material Tax Returns are, or shall be at the time of filing, true and complete in all material respects.

(b) Each of the Company and its Subsidiaries has paid or has withheld and remitted to the appropriate Taxing Authority all Taxes due and payable, or, where payment is not yet due, has established in accordance with GAAP an adequate accrual for all material Taxes through the end of the last period for which the Company and its Subsidiaries ordinarily record items on their respective books.

(c) Except as set forth on Section 4.16(c) of the Company Disclosure Schedule, The U.S. Federal and state and foreign income and franchise Tax Returns of the Company and its Subsidiaries through the Tax year ended December 31, 2011 have been examined and closed or are Tax Returns with respect to which the applicable period for assessment under Applicable Law, after giving effect to extensions or waivers, has expired.

(d) The Company and its Subsidiaries (i) duly and timely collected all material amounts on account of sales or transfer Taxes, including goods and services, harmonized, sales, value added and federal, provincial, state or territorial sales Taxes, required by Applicable Law to be collected by them and have duly and timely remitted to the appropriate Governmental Authority any such material amounts required by Applicable Law to be remitted by them, (ii) have complied with all Applicable Law relating to information reporting and record retention with respect to any Tax (including, without limitation, to the extent necessary to claim any exemption from sales Tax collection and maintaining adequate and current resale certificates to support any such claimed exemptions), and (iii) except as permitted by Applicable Law, do not hold any amounts collected as sales Taxes from any Person.

(e) There is no claim, audit, action, suit, proceeding or investigation now pending or threatened in writing (or otherwise to the knowledge of the Company) against or with respect to the Company or its Subsidiaries in respect of any Tax or Tax Asset.

(f) During the two-year period ending on the date hereof, neither the Company nor any of its Subsidiaries was a distributing corporation or a controlled corporation in a transaction intended to be governed by Section 355 of the Code.

(g) Neither the Company nor any of its Subsidiaries owns an interest in real property in any jurisdiction in which a Tax is imposed, or the value of the interest is reassessed, on the transfer of an interest in real property and which treats the transfer of an interest in an entity that owns an interest in real property as a transfer of the interest in real property.

(h) Section 4.16(h) of the Company Disclosure Schedule contains a list of all jurisdictions (whether foreign or domestic) in which the Company or any of its Subsidiaries currently files Tax Returns.

(i) Neither the Company nor any of its Subsidiaries (i) is, or has been, a party to any Tax Sharing Agreement (other than an agreement exclusively between or among the Company and its Subsidiaries or among the Company's Subsidiaries) pursuant to which it will have any obligation to make any payments for Taxes after the Effective Time, (ii) has been a member of a group filing a consolidated, combined or unitary Tax Return that includes any Person other than the Company or any of its Subsidiaries, or (iii) has any liability for the payment of any Tax imposed on any Person (other than the Company or any of its Subsidiaries) as a transferee or successor.

(j) No jurisdiction in which neither the Company nor any of its Subsidiaries files Tax Returns has made a claim in writing within the last three years which has not been resolved that the Company or any of its Subsidiaries is or may be liable for Tax in that jurisdiction.

(k) Neither the Company nor any of its Subsidiaries has waived any statute of limitations in respect of U.S. federal or state or foreign income or franchise Taxes or agreed to any extension of time with respect to a U.S. federal or state or foreign income or franchise Tax assessment or deficiency, which waiver or extension is currently effective, other than in connection with an extension of time for filing a Tax Return.

(l) Section 4.16(l) of the Company Disclosure Schedule contains a complete and accurate description of the U.S. federal income Tax Assets of the Company or any of its Subsidiaries for the taxable year ended December 31, 2015 and the years in which such Tax Assets (or portions thereof) were generated.

(m) The Company and each of its Subsidiaries are in compliance in all material respects with all applicable transfer pricing laws and regulations, including the execution and maintenance of contemporaneous documentation substantiating the transfer pricing practices and methodology of the Company and its Subsidiaries. All related party transactions involving the Company or any of its Subsidiaries are at arm's length in compliance with Section 482 of the Code, the Treasury Regulations promulgated thereunder, and any similar provision of state, local or non-U.S. law.

(n) Neither the Company nor any of its Subsidiaries has been a party to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(o) Section 4.16(o) of the Company Disclosure Schedule contains a correct and complete list of all non-U.S. Subsidiaries of the Company that are disregarded entities for U.S. federal income tax purposes. With respect to each such non-U.S. Subsidiary, a valid entity classification election to treat such Subsidiary as a disregarded entity has been made as of the date of its formation.

(p) Neither the Company nor any of its Subsidiaries will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period beginning after the Closing Date as a result of any installment sale, open transaction or any change of method of accounting.

(q) To the knowledge of the Company, no Tax Asset of the Company or any of its Subsidiaries is currently subject to limitation on its use pursuant to Section 382 or Section 383 of the Code or comparable provisions of state or foreign law.

(r) "**Tax**" means (i) any tax, governmental fee or other like assessment or charge of any kind whatsoever (including withholding on amounts paid to or by any Person), together with any interest, penalty, addition to tax or additional amount imposed by any Governmental Authority (a "**Taxing Authority**") responsible for the imposition of any such tax (domestic or foreign), and any liability for any of the foregoing as transferee, (ii) in the case of the Company or any of its Subsidiaries, liability for the payment of any amount of the type described in clause (i) as a result of being or having been before the Effective Time a member of an affiliated, consolidated, combined or unitary group, or a party to any agreement or arrangement, as a result of which liability of the Company or any of its Subsidiaries to a Taxing Authority is determined or taken into account with reference to the activities of any other Person, and (iii) liability of the Company or any of its Subsidiaries for the payment of any amount as a result of being party to any Tax Sharing Agreement or with respect to the payment of any amount imposed on any Person of the type described in (i) or (ii) as a result of any existing express or implied agreement or arrangement (including an indemnification agreement or arrangement). "**Tax Return**" means any report, return, document, declaration or other information or filing required to be supplied to any Taxing Authority with respect to Taxes, including information returns, any documents with respect to or accompanying payments of estimated Taxes, or with respect to or accompanying requests for the extension of time in which to file any such report, return, document, declaration or other information. "**Tax Sharing Agreements**" means all existing agreements or arrangements (whether or not written) binding the Company or any of its Subsidiaries that provide for the allocation, apportionment, sharing or assignment of any Tax liability or benefit, or the transfer or assignment of income, revenues, receipts, or gains for the purpose of determining any Person's Tax liability (excluding any indemnification agreement or arrangement pertaining to the sale or lease of assets or subsidiaries). "**Tax Asset**" means any net operating loss, net capital loss, investment tax credit, foreign tax credit, charitable deduction or any other credit or tax attribute that could be carried forward or back to reduce Taxes (including without limitation deductions and credits related to alternative minimum Taxes).

Section 4.17 *Employees and Employee Benefit Plans.* (a) Section 4.17(a) of the Company Disclosure Schedule contains a correct and complete list identifying each material Employee Plan and specifies whether such plan is a US Plan or an International Plan. For each material US Plan, the Company has provided to Parent (i) a copy of such plan (or a description, if such plan is not written) and all amendments thereto, as applicable, (ii) all trust agreements, insurance contracts or other funding arrangements and amendments thereto, (iii) the current prospectus or summary plan description and all summaries of material modifications thereto, (iv) the most recent favorable determination or opinion letter from the IRS, (v) the most recently filed annual return/report (Form 5500) and accompanying schedules and attachments thereto, (vi) the most recently prepared actuarial report and financial statements. For each material International Plan (other than such plans that are maintained by a Governmental Authority), the Company has provided to Parent documents that are substantially comparable (taking into account differences in Applicable Law and practices) to the documents required to be provided in clauses (i) through (vi).

(b) The Company has provided to Parent a schedule that sets forth, for each employee of the Company or any of its Subsidiaries, his or her name (or employee identification number), title, annual base salary, most recent annual bonus received and current annual bonus opportunity. Not later than ten days after the date hereof, the Company will provide Parent with a revised version of such schedule that sets forth the information specified in the immediately preceding sentence and each such employee's employer, hire date, location, whether full- or part-time and whether active or on leave (and, if on leave, the nature of the leave and the expected return date). Five Business Days prior to the Closing Date, the Company will provide Parent with a revised version of the schedule described in the immediately preceding sentence, updated as of ten days prior to the Closing Date. Notwithstanding anything to the contrary in the remainder of this Section 4.17(b), the information provided by the Company regarding employees will be anonymized to the extent reasonably necessary for compliance with Applicable Law. As of the date hereof, no Key Employee has notified the Company or any of its Subsidiaries in writing (or otherwise to the knowledge of the Company) that he or she intends to resign or retire as a result of the transactions contemplated by this Agreement or otherwise within six months after the Closing Date.

(c) With respect to any Employee Plan covered by Subtitle B, Part 4 of Title I of ERISA or Section 4975 of the Code, no non-exempt prohibited transaction has occurred that has caused or would reasonably be expected to cause the Company or any of its Subsidiaries to incur any material liability under ERISA or the Code. Neither the Company nor any of its ERISA Affiliates (nor any predecessor of any such entity) sponsors, maintains, administers or contributes to (or has any obligation to contribute to), or has in the past six years sponsored, maintained, administered or contributed to (or had any obligation to contribute to), or has or is reasonably expected to have any direct or indirect liability with respect to, any plan that is (i) subject to Title IV of ERISA or (ii) a "multiemployer plan" (as defined in Section 3(37) of ERISA).

(d) Each Employee Plan, and any award thereunder, that is or forms part of a "nonqualified deferred compensation plan" within the meaning of Section 409A or 457A of the Code has been timely amended (if applicable) to comply and has been operated in material compliance with, and the Company and its Subsidiaries have materially complied in practice and operation with, all applicable requirements of Section 409A and 457A of the Code, and no amounts currently deferred or to be deferred under any such plan would be not determinable when otherwise includible in income under Section 457A of the Code. Neither the Company nor any of its Subsidiaries has any obligation to gross-up, indemnify or otherwise reimburse any current or former Service Provider for any Tax incurred by such Service Provider, including under Section 409A, 457A or 4999 of the Code.

(e) Each US Plan that is intended to be qualified under Section 401(a) of the Code has been established pursuant to a preapproved prototype plan for which an IRS opinion letter has been obtained, and no circumstances exist that would reasonably be expected to result in any such opinion letter being revoked or the Company's reliance on same being rejected by the IRS or a penalty under the IRS Closing Agreement Program if discovered during an IRS audit or investigation. Each US Plan has been maintained in compliance with its terms and with the requirements of Applicable Law, including ERISA and the Code, except for failures to comply or violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. No events have occurred with respect to any US Plan that could result in payment or assessment by or against the Company of any material excise taxes under ERISA, the Code or other Applicable Law.

(f) Except as would not, individually or in the aggregate, be material to the Company and its Subsidiaries, taken as a whole, all contributions, premiums and payments that are due have been made for each Employee Plan within the time periods prescribed by the terms of such plan and Applicable Law, and all contributions, premiums and payments for any period ending on or before the Closing Date that are not due are properly accrued to the extent required to be accrued under applicable accounting principles. There has been no amendment to, written interpretation of or announcement (whether or not written) by the Company or any of its Subsidiaries relating to, or change in employee participation or coverage under, any Employee Plan that would materially increase the expense of maintaining such plan above the level of expense incurred in respect thereof for the most recently completed fiscal year.

(g) Neither the execution of this Agreement nor the consummation of the transactions contemplated by this Agreement (either alone or together with any other event) will (i) entitle any current or former Service Provider to any payment or benefit, including any bonus, retention, severance, retirement or job security payment or benefit, (ii) enhance any benefits or accelerate the time of payment or vesting or trigger any payment of funding (through a grantor trust or otherwise) of compensation or benefits under, or increase the amount payable or trigger any other obligation under, any Employee Plan or otherwise, or (iii) limit or restrict the right of the Company or any of its Subsidiaries or, after Closing, Parent, to merge, amend or terminate any Employee Plan (for the avoidance of doubt excluding International Plans mandated by Applicable Law). There is no contract, plan or arrangement (written or otherwise) covering any current or former Service Provider that, individually or collectively, could give rise to the payment of any amount that would not be deductible due to the application of Section 280G of the Code.

(h) Neither the Company nor any of its Subsidiaries has any current or projected liability for, and no Employee Plan provides or promises, any post-employment or post-retirement medical, dental, disability, hospitalization, life or similar benefits (whether insured or self-insured) to any current or former Service Provider (other than coverage mandated by Applicable Law, including the Consolidated Omnibus Budget Reconciliation Act of 1985).

(i) There is no action, suit, investigation, audit, proceeding or claim (or any basis therefore) (other than routine claims for benefits) pending against or involving, or, to the Company's knowledge, threatened against or involving any Employee Plan before any arbitrator or any Governmental Authority, including the IRS or the Department of Labor that, if determined or resolved adversely in accordance with the plaintiff's demands, would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Company and its Subsidiaries are, and have been since January 1, 2013, in compliance with all Applicable Laws with respect to labor relations, employment and employment practices, including those relating to labor management relations, wages, hours, overtime, employee classification, discrimination, sexual harassment, civil rights, affirmative action, work authorization, immigration, safety and health, information privacy and security, workers compensation, continuation coverage under group health plans, wage payment and the payment and withholding of Taxes, except for failures to comply or violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(j) Each International Plan (i) has been maintained in compliance with its terms and Applicable Law, except for failures to comply or violations that have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (ii) if intended to qualify for special tax treatment, complies in all material respects with all the requirements for such treatment, and (iii) if required, to any extent, to be funded, book-reserved or secured by an insurance policy, is fully funded, book-reserved or secured by an insurance policy, as applicable, based on reasonable actuarial assumptions in accordance with applicable accounting principles. From and after the Closing Date, Parent and its Affiliates will receive the full benefit of any funds, accruals and reserves under the International Plans for use in accordance with the terms of the applicable plan and Applicable Law.

(k) Neither the Company nor any of its Subsidiaries is or has been party to or subject to, or is currently negotiating in connection with entering into, any Collective Bargaining Agreement. There are no and, during the five-year period ending on the date hereof, there has not been any organizational campaign, petition or other unionization activity seeking recognition of a collective bargaining unit relating to any Service Provider. There are no, and for the five-year period ending on the date hereof there have not been any, labor strikes, slowdowns, stoppages, picketing, interruptions of work or lockouts pending or, to the Company's knowledge, threatened against or affecting the Company or any of its Subsidiaries. There are no material unfair labor practice complaints pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries before the National Labor Relations Board or any other Governmental Authority or any current union representation questions involving Service Providers. The consent or consultation of, or the rendering of formal advice by, any labor or trade union, works council or other employee representative body is not required for the Company to enter into this Agreement or to consummate any of the transactions contemplated hereby.

(l) The Company and each of its Subsidiaries is, and has been, in material compliance with WARN and has no liabilities or other obligations thereunder. Neither the Company nor any of its Subsidiaries has taken any action that would reasonably be expected to cause Parent or any of its Affiliates to have any material liability or other obligation following the Closing Date under WARN as determined without regard to any action taken after the Closing.

Section 4.18 *Environmental Matters.* (a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company:

(i) no written notice, order, complaint or penalty has been received by the Company or any of its Subsidiaries arising out of any Environmental Laws, and there are no judicial, administrative or other actions, suits or proceedings pending or, to the Company's knowledge, threatened which allege a violation by the Company or any of its Subsidiaries of any Environmental Laws;

(ii) the Company and each of its Subsidiaries have all environmental permits necessary for their operations to comply with all applicable Environmental Laws and are in compliance with the terms of such permits; and

(iii) the operations of the Company and each of its Subsidiaries are in compliance with the terms of applicable Environmental Laws.

(b) The consummation of the transactions contemplated hereby require no filings to be made or actions to be taken pursuant to the New Jersey Industrial Site Recovery Act or the "Connecticut Property Transfer Law" (Sections 22a-134 through 22-134e of the Connecticut General Statutes).

(c) For purposes of this Section 4.18, the terms "**Company**" and "**Subsidiaries**" shall include any entity that is, in whole or in part, a predecessor of the Company or any of its Subsidiaries.

Section 4.19 *Material Contracts.* (a) Section 4.19(a) of the Company Disclosure Schedule sets forth an accurate and complete list of each Contract of the following nature to which the Company or any of its Subsidiaries is currently a party or by which the Company or any of its Subsidiaries is currently bound:

(i) any Contract for the purchase of materials, supplies, goods, services, equipment or other assets that resulted in annual payments by the Company and its Subsidiaries of $500,000 or more in any of the last three years or that is expected to result in annual payments by the Company and its Subsidiaries of $500,000 or more in any future year;

(ii) any sales, distribution or other similar Contract providing for the sale by the Company or any of its Subsidiaries of materials, supplies, goods, services, equipment or other assets that resulted in annual payments to the Company and the Subsidiaries of $1,000,000 or more in any of the last three years or that is expected to result in annual payments to the Company and its Subsidiaries of $1,000,000 or more in any future year;

(iii) any agency, reseller or other similar Contract providing for the payment by the Company or any of its Subsidiaries of commissions to any Person in respect of any Contract contemplated by clause (ii);

(iv) any lease or sublease (whether of real or personal property) providing for annual payments of $50,000 or more (not taking into account any free rent or similar concessions);

(v) any Contract relating to the acquisition or disposition of any business (whether by merger, sale of stock, sale of assets or otherwise);

(vi) any partnership, joint venture or other similar Contract;

(vii) any Contract that limits or purports to limit the freedom of the Company or any of its Subsidiaries to sell any products or services or to compete in any line of business or with any Person or in any area or during any period of time or which would so limit the freedom of the Company, Parent or any of their respective Subsidiaries after the Closing Date;

(viii) any Contract relating to indebtedness for borrowed money or the deferred purchase price of property (in either case, whether incurred, assumed, guaranteed or secured by any asset);

(ix) any Contract that grants any Person, including any agent, reseller or partner, "most favored nation" status or any type of special discount rates;

(x) any Contract with any director or officer of the Company or any of its Subsidiaries or with any "associate" or any member of the "immediate family" (as such terms are respectively defined in Rules 12b-2 and 16a-1 of the Exchange Act) of any such director or officer;

(xi) any Contract (including employment agreements and agreements that contain non-competition, non-solicitation or confidentiality covenants) applicable to any Key Employee;

(xii) any Contract pursuant to which the Company or any Subsidiary obtains any license, sublicense, right to use, covenant not to be sued, option, right of first refusal, right of first offer or other similar right with respect to any Intellectual Property Right, other than any commercial off-the-shelf software licensed by the Company or any Subsidiary with an annual license fee of less than $500,000 in the aggregate;

(xiii) any Contract pursuant to which the Company or any Subsidiary grants any license, sublicense, right to use, covenant not to be sued, option, right of first refusal, right of first offer or other similar right with respect to any Intellectual Property Right; and

(xiv) any other Contract not made in the ordinary course of business that is material to the Company and the Subsidiaries, taken as a whole (each contract, agreement, arrangement or understanding of the type described in clauses (i)- (xiii), a "**Material Contract**").

The Company has made available to Parent an accurate and complete copy of each Material Contract.

(b) Except as would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole, (i) each Material Contract is a valid and binding obligation of the Company or its applicable Subsidiary and, to the knowledge of the Company, of the other party or parties thereto enforceable against the Company or its applicable Subsidiary and, to the knowledge of the Company, against the other party or parties thereto in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity); (ii) the Company has performed all obligations required to be performed by it under each Material Contract and, to the knowledge of the Company, each other party to each Material Contract has performed all obligations required to be performed by it under such Material Contract; and (iii) the Company has not received written notice of any violation or default under (nor, to the knowledge of the Company, does there exist any condition which with or without notice or lapse of time or both would cause such a violation of or material default under) any Material Contract. The Company has not received written or, to the knowledge of the Company, non-written notice from any Person that such Person intends to terminate or not renew, or seek renegotiation of the terms of, any Material Contract. Except as set forth on Section 4.19(b) of the Company Disclosure Schedule, there has been no amendment or modification of any Contract set forth on Section 4.19(b) of the Company Disclosure Schedule.

Section 4.20 *Insurance*. The Company has made available to Parent all material insurance policies and fidelity bonds relating to the business, equipment, properties, employees, officers or directors, assets and operations of the Company and its Subsidiaries (collectively, the "**Insurance Policies**"). Except as would not reasonably be expected to have a Material Adverse Effect on the Company, each of the Insurance Policies is in full force and effect, all premiums due and payable thereon have been paid when due and the Company is in compliance in with the terms and conditions of the Insurance Policies. The Company has not received any written notice regarding any invalidation or cancellation of any Insurance Policy that has not been renewed in the ordinary course without any lapse in coverage. There are no pending material claims under any Insurance Policies in respect of which the insurer has issued a notice of denial or a reservation of rights.

Section 4.21 *FCC and State and Local Communications Matters*. (a) The Company or a Subsidiary of the Company is the valid holder of each of the FCC licenses and authorizations listed and described in Section 4.21(a)(i) of the Company Disclosure Schedule ("**Company FCC Authorizations**"), as well as each of the State and Local Authority licenses and authorizations listed and described in Section 4.21(a)(ii) of the Company Disclosure Schedule ("**Company PUC Authorizations**"). The Company FCC Authorizations and Company PUC Authorizations constitute all of the FCC (and state and local communications-related) licenses, authorizations and approvals held by Company and the Subsidiaries of the Company, as well as all of the FCC (and state and local communications-related) licenses, authorizations and approvals otherwise required for the operation of the business of Company and the Subsidiaries of the Company as it is presently conducted, except where the failure to hold any such licenses, authorizations and approvals, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect. The Company FCC Authorizations and Company PUC Authorizations are validly issued and in full force and effect.

(b) The Company FCC Authorizations and Company PUC Authorizations have not been revoked, suspended, canceled, rescinded or terminated, have not expired, and are not subject to any conditions or requirements that have not been imposed upon all similar licenses generally. There is no pending or, to the knowledge of Company, threatened action by or before the FCC or any State and Local Authority to revoke, suspend, cancel, rescind or modify any of the Company FCC Authorizations or Company PUC Authorizations (other than proceedings to amend FCC rules of general applicability), and there is not now issued or outstanding or pending or, to the knowledge of Company, threatened, by or before the FCC or any State and Local Authority, any order to show cause, letter of inquiry, notice of violation, notice of apparent liability, or notice of forfeiture issued to or against Company, a Subsidiary of the Company or the Company FCC Authorizations or Company PUC Authorizations except where the existence of such order, letter or notice, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

(c) The Company and each of its Subsidiaries is in material compliance with all of the terms of the Company FCC Authorizations and Company PUC Authorizations, and has complied in all material respects with the Communications Act of 1934, as amended. All material reports, filings, and disclosures required to be filed by the Company or any of its Subsidiaries with the FCC or a State and Local Authority have been timely filed. All such reports and filings are materially accurate and complete. The Company and each of its Subsidiaries has timely paid all material FCC and State and Local Authority regulatory fees and other applicable material fees required to be paid by holders of such authorizations, in each case.

(d) No Person other than Company and its Subsidiaries has or will have the right to control the use of all or any of the Company FCC Authorizations or Company PUC Authorizations, and Company or any of its Subsidiaries is the sole legal and beneficial holder of each of the Company FCC Authorizations and Company PUC Authorizations. The Company and each of its Subsidiaries has complied with all FCC and State and Local Authority rules regarding transfer of control or changes in ownership (including intracompany reorganizations) of the Company FCC Authorizations and Company PUC Authorizations, except where the failure to comply, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

(e) Section 4.21(e)(i) of the Company Disclosure Schedule contains a complete list, as of the date of this Agreement, of all pending applications for FCC licenses and authorizations that would be Company FCC Authorizations, if issued or granted, or for the modification, extension or renewal of any Company FCC Authorizations. Section 4.21(e)(ii) of the Company Disclosure Schedule contains a complete list, as of the date of this Agreement, of all pending applications for State and Local Authority licenses and authorizations that would be Company PUC Authorizations, if issued or granted, or for the modification, extension or renewal of any Company PUC Authorizations. There is no pending or, to the knowledge of Company, threatened action by or before the FCC or a State and Local Authority to reject or modify any such pending application or for the modification, extension or renewal of any Company FCC Authorizations or Company PUC Authorizations.

(f) The Company and each of its Subsidiaries has paid all Taxes due to any Governmental Authority as a result of their operations pursuant to the Company FCC Authorizations and Company PUC Authorizations.

Section 4.22 *CFIUS and National Security Matters*. (a) All technologies, products, technical data, and any other material manufactured or exported by the Company or any of its Subsidiaries and subject to the United States International Traffic in Arms Regulations or Export Administration Regulations are scheduled on Section 4.22(a) of the Company Disclosure Schedule.

(b) As of the date hereof, (i) neither the Company nor any of its Subsidiaries is, and for the three years prior to the date of this Agreement, neither the Company nor any Company Subsidiary has been, a party to any U.S. federal Government Contract and (ii) neither the Company nor any of its Subsidiaries has, for the five years prior to the date of this Agreement, entered into any Government Contract with respect to a classified program.

(c) Neither the Company nor any of its Subsidiaries stores information that is classified for national security purposes under Executive Order 13256 (or similar law, regulation or order) or holds a facility security clearance.

(d) The Company and each of its Subsidiaries is fully compliant with all applicable obligations under the Communications Assistance to Law Enforcement Act.

Section 4.23 *Finders' Fees.* Except for Jefferies LLC, a copy of whose engagement agreement has been provided to Parent, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of the Company or any of its Subsidiaries who might be entitled to any fee or commission from the Company or any of its Affiliates in connection with the transactions contemplated by this Agreement.

Section 4.24 *Opinion of Financial Advisor.* The Board of Directors of the Company (in its capacity as such) has received the opinion of Jefferies LLC, financial advisor to the Company, to the effect that, as of the date of such opinion and based upon and subject to the various qualifications and assumptions set forth therein, the Merger Consideration to be paid to the holders of shares of Company Stock (other than the Company, Parent or their respective Affiliates) is fair from a financial point of view to such holders. It is understood and agreed by the Parties that such written opinion is for the benefit of the Board of Directors of the Company (in its capacity as such) and may not be relied upon by Parent or Merger Subsidiary. A signed copy of such opinion shall be delivered to Parent as soon as practicable following the date of this Agreement.

Section 4.25 *Antitakeover Statutes.* The Company has taken all action necessary to exempt the Merger, this Agreement and the transactions contemplated hereby from Section 203 of Delaware Law, and, accordingly, neither such Section nor any other antitakeover or similar statute or regulation applies or purports to apply to any such transactions ("**Takeover Statutes**"). No other "control share acquisition," "fair price," "moratorium" or other antitakeover laws enacted under U.S. state or federal laws apply to this Agreement or any of the transactions contemplated hereby.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF PARENT

Subject to Section 11.05, except as disclosed in any Parent SEC Document filed after December 31, 2014 and before the date of this Agreement, Parent represents and warrants to the Company that:

Section 5.01 *Corporate Existence and Power.* Each of Parent and Merger Subsidiary is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all corporate powers and all governmental licenses, franchises, authorizations, permits, certificates, consents and approvals required to carry on its business as now conducted, except for those licenses, franchises, authorizations, permits, certificates, consents and approvals the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent. Since the date of its incorporation, Merger Subsidiary has not engaged in any activities other than in connection with or as contemplated by this Agreement or in connection with arranging any financing required to consummate the transactions contemplated hereby. Merger Subsidiary was incorporated solely for the purpose of engaging in and consummating the Merger and the transactions contemplated hereby. All of the outstanding shares of capital stock of Merger Subsidiary have been validly issued, are fully paid and nonassessable and are owned, and at the Effective Time will be owned, directly or indirectly, by Parent. Parent has heretofore made available to the Company true and complete copies of the certificates of incorporation and bylaws of Parent and Merger Subsidiary as currently in effect.

Section 5.02 *Corporate Authorization.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby are within the corporate powers of Parent and Merger Subsidiary and, have been duly authorized by all necessary corporate action. This Agreement constitutes a valid and binding agreement of each of Parent and Merger Subsidiary, enforceable against Parent and Merger Subsidiary in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

Section 5.03 *Governmental Authorization.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby require no action by or in respect of, or filing with, any Governmental Authority, other than (i) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which Parent is qualified to do business, (ii) compliance with any applicable requirements of the HSR Act and of laws analogous to the HSR Act existing in foreign jurisdictions and set forth on Section 4.03 of the Company Disclosure Schedule, (iii) compliance with any applicable requirements of the Securities Act, the Exchange Act and any other state or federal securities laws, (iv) filings as may be required with, submissions as may be necessary or advisable to, and/or permits, authorizations, consents and approvals as may be required from, the FCC (including any review by Team Telecom), (v) filings as may be required with, submissions as may be necessary or advisable to, and clearances, permits, authorizations, consents and approvals as may be required from, State and Local Authorities, including those related to any financing contemplated under this Agreement, (vi) filings as may be required with, submissions as may be necessary or advisable to, and clearances, permits, authorizations, consents and approvals as may be required from, CFIUS in order to obtain the CFIUS Approval, and (vii) any actions or filings the absence of which would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent.

Section 5.04 *Non-contravention.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby do not and will not (i) contravene, conflict with, or result in any violation or breach of any provision of the certificate of incorporation or bylaws of Parent or Merger Subsidiary, (ii) assuming compliance with the matters referred to in Section 5.03, contravene, conflict with or result in a violation or breach of any provision of any Applicable Law, (iii) assuming compliance with the matters referred to in Section 5.03, require any consent or other action by any Person under, constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default, under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which Parent or any of its Subsidiaries is entitled under any provision of any agreement or other instrument binding upon Parent or any of its Subsidiaries or any license, franchise, permit, certificate, approval or other similar authorization affecting, or relating in any way to, the assets or business of the Parent and its Subsidiaries or (iv) result in the creation or imposition of any Lien on any asset of the Parent or any of its Subsidiaries, with only such exceptions, in the case of each of clauses (ii) through (iv), as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent.

Section 5.05 *Disclosure Documents.* The information supplied by Parent for inclusion in the Proxy Statement will not, at the time the Proxy Statement and any amendments or supplements thereto is first mailed to the stockholders of the Company and at the time of the Company Stockholder Approval contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 5.06 *Finders' Fees.* There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Parent who might be entitled to any fee or commission from the Company or any of its Affiliates in connection with the transactions contemplated by this Agreement.

Section 5.07 *Litigation*. As of the date hereof, there is no action, suit, investigation or proceeding pending against, or, to the knowledge of Parent and Merger Subsidiary, threatened against, or any order, judgment, ruling or decree imposed upon, Parent or Merger Subsidiary or any of their respective Affiliates before (or, in the case of threatened actions, suits, investigations or proceedings, would be before) or by (or, in the case of threatened actions, suits, investigations or proceedings, would be by) any Governmental Authority or arbitrator, that would reasonably be expected to prevent or materially impair or delay the consummation of the Merger or other transactions contemplated by this Agreement.

Section 5.08 *Ownership of Shares*. None of Parent, Merger Subsidiary or any of their respective Affiliates (i) is, or has been at any time during the last three (3) years, an "interested stockholder" of the Company, as defined in Section 203 of Delaware Law or (ii) owns (directly or indirectly, beneficially or of record), or is a party to any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of, any shares of capital stock of the Company other than this Agreement, other than shares over which Parent or its Subsidiaries has no voting or dispositive power and held in investment funds or other managed accounts with Third Party managers.

Section 5.09 *Financing*.

(a) Parent has delivered to the Company duly executed Debt Commitment Letters (and together with any fee letter related thereto, as the same may be amended, modified or replaced in accordance with Section 7.04 and together with all annexes, exhibits, schedules and other attachments thereto, the "**Financing Commitments**") pursuant to which the parties thereto have agreed, subject to the terms and conditions thereof, to provide or cause to be provided the financing contemplated thereby (the "**Debt Financing**"), *provided* that for purposes of this Agreement, the Debt Financing shall also include, after the date hereof, to the extent alternative financing from alternative financial institutions is obtained in accordance with this Agreement, any such alternative financing). There are no conditions precedent or other contingencies related to the investing of the full amount of the Debt Financing, as of the date of this Agreement, other than as set forth in the Financing Commitments. As of the date hereof, there are no side letters or other agreements, contracts or arrangements related to the funding of the Debt Financing, other than as expressly set forth in the Financing Commitments and delivered to the Company on or prior to the date of this Agreement, that could adversely affect the availability of the full amount of the Debt Financing.

(b) As of the date hereof (i) the Financing Commitments are in full force and effect and have not been withdrawn or terminated or otherwise amended, supplemented or modified in any respect; (ii) the Financing Commitments, in the form so delivered, are legal, valid and binding obligations of Parent and Merger Subsidiary and, to the knowledge of Parent and Merger Subsidiary, the other parties thereto (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity); and (iii) no event has occurred to the knowledge of Parent or Merger Subsidiary which, with or without notice, lapse of time or both, would constitute a default or breach on the part of Parent or Merger Subsidiary under any term, or a failure of any condition, of the Financing Commitments or otherwise result in any portion of the Debt Financing contemplated thereby to be unavailable. As of the date hereof, subject to the accuracy of the representations and warranties of the Company contained in Article 4 hereof, and the satisfaction of the conditions set forth in Section 9.01 and Section 9.02 hereof, neither Parent nor Merger Subsidiary has reason to believe that it will be unable to satisfy on a timely basis any term or condition contained in the Financing Commitments required to be satisfied by it or that any portion of the Debt Financing contemplated thereby will be unavailable to Parent and Merger Subsidiary at the Effective Time. Parent and Merger Subsidiary have fully paid any and all commitment fees or other fees in connection with the Financing Commitments that are due and payable on or before the date of this Agreement.

(c) Assuming the Debt Financing is funded in accordance with the Financing Commitments, as of the date hereof, the aggregate net proceeds from the Debt Financing provided under the Financing Commitments are, together with the aggregate cash held by Parent and its Subsidiaries (which funds held by such Subsidiaries will be available to consummate the Merger as of the Closing), sufficient to fund all of the amounts required to be provided by Parent and/or Merger Subsidiary for the consummation of the transactions contemplated hereby, and are sufficient for the satisfaction of all of Parent's and Merger Subsidiary's obligations under this Agreement, including the payment of all amounts required to be paid pursuant to Article 2, any repayment or refinancing of indebtedness of Parent, Merger Subsidiary, the Company or any of their respective Subsidiaries required in connection with the Merger, and the payment of all associated costs and expenses of the Merger and the other transactions contemplated hereby.

(d) The obligations of Parent and Merger Subsidiary under this Agreement are not contingent in any respect upon the funding of the amounts contemplated to be funded pursuant to the Financing Commitments. The obligations of Parent and Merger Subsidiary under this Agreement are not subject to any conditions regarding Parent's, Merger Subsidiary's, their respective Affiliates', or any other Person's ability to obtain financing for the consummation of the transactions contemplated hereby.

Section 5.10 *Vote/Approval Required*. No vote or consent of the holders of any class or series of capital stock of Parent is necessary to approve this Agreement or the Merger or the other transactions contemplated hereby. The vote or consent of NICE Systems Inc. as the sole stockholder of Merger Subsidiary (which shall have occurred prior to the Effective Time) is the only vote or consent of the holders of any class or series of capital stock of Merger Subsidiary necessary to approve this Agreement or the Merger or the other transactions contemplated hereby.

Section 5.11 *Solvency*. Neither Parent nor Merger Subsidiary is entering into the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors. Immediately after giving effect to all of the transactions contemplated by this Agreement, including the payment of the Merger Consideration and all other amounts required to be paid in connection with the consummation of the transactions contemplated by this Agreement, including any repayment or refinancing of indebtedness of the Company required in connection with the Merger, assuming (i) satisfaction of the conditions to the obligation of Parent and Merger Subsidiary to consummate the Merger as set forth herein, (ii) the accuracy in all material respects of the representations and warranties of the Company set forth in Article 4, and (iii) the Company's compliance in all material respects with its covenants under Article 6 and Article 8, the Surviving Corporation will be solvent (as such term is used under Delaware Law).

ARTICLE 6

COVENANTS OF THE COMPANY

The Company agrees that:

Section 6.01 *Conduct of the Company*. From the date hereof until the Effective Time, except (w) as expressly required by this Agreement, (x) as set forth in Section 6.01 of the Company Disclosure Schedule, (y) as required by Applicable Law made available to Parent prior to the date hereof, or (z) with the prior written consent of Parent (which consent shall not be unreasonably withheld, delayed or conditioned), the Company shall, and shall cause each of its Subsidiaries to, conduct its business in the ordinary course consistent with past practice. Without limiting the generality of the foregoing, the Company shall, and shall cause each of its Subsidiaries to, use its reasonable best efforts to (i) preserve intact its present business organization, (ii) maintain in effect all of its material foreign, federal, state and local licenses, permits, consents, franchises, approvals and authorizations, (iii) keep available the services of its officers and Key Employees and (iv) maintain satisfactory relationships with its customers, lenders, suppliers and others having material business relationships with it. Without limiting the generality of the foregoing, except (i) as expressly required by this Agreement, (ii) as set forth in Section 6.01 of the Company Disclosure Schedule, (iii) as required by Applicable Law or (iv) with the prior written consent of Parent (which consent shall not be unreasonably withheld, delayed or conditioned), from the date hereof until the Effective Time or the termination of this Agreement in accordance with its terms, the Company shall not, nor shall it permit any of its Subsidiaries to:

(a) amend its articles of incorporation, bylaws or other similar organizational documents (whether by merger, consolidation or otherwise);

(b) (i) split, combine or reclassify any shares of its capital stock, (ii) declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its capital stock, other than dividends by any of its wholly owned Subsidiaries or (iii) redeem, repurchase or otherwise acquire or offer to redeem, repurchase, or otherwise acquire any Company Securities or any Company Subsidiary Securities, except in connection with repurchases of Company Stock underlying equity awards listed on Section 6.01(b) of the Company Disclosure Schedule granted to Service Providers pursuant to the terms of the Company Stock Plans;

(c) (i) issue, deliver or sell, or authorize the issuance, delivery or sale of, any shares of any Company Securities or Company Subsidiary Securities, other than the issuance of (ii) any Company Subsidiary Securities to the Company or any other Subsidiary of the Company or (iii) any shares of Company Stock upon the exercise of Company Stock Options or the vesting or settlement of Company RSUs that, in each case, are outstanding on the date of this Agreement and as required pursuant to the terms of the Company Stock Plans governing such awards as in effect on the date of this Agreement or (iv) amend any term of any Company Security or any Company Subsidiary Security (in each case, whether by merger, consolidation or otherwise);

(d) incur any capital expenditures or any obligations or liabilities in respect thereof, other than capital expenditures or any obligations or liabilities in respect thereof in an amount not exceeding $500,000 in the aggregate;

(e) acquire (by merger, consolidation, acquisition of stock or assets or otherwise), directly or indirectly, any assets, securities, properties, interests or businesses, other than acquisitions (not including acquisitions of securities, interests or businesses) in the ordinary course of business of the Company and its Subsidiaries in a manner that is consistent with past practice;

(f) sell, lease or otherwise transfer, or create or incur any Lien (other than Permitted Liens) on, any of the Company's or its Subsidiaries' assets, securities, properties, interests or businesses, other than (i) sales of obsolete equipment in the ordinary course of business consistent with past practice, (ii) sales, leases, licenses or other dispositions of assets in the ordinary course of business consistent with past practice that both (x) have a fair market value not in excess of $250,000 in the aggregate and (y) individually or in the aggregate, are not otherwise material to the business of the Company or its Subsidiaries as currently conducted or as proposed to be conducted, or (iii) Contracts specifically disclosed on Section 4.19(a)(ii) or Section 4.19(a)(v) of the Company Disclosure Schedule;

(g) make any loans, advances or capital contributions to, or investments in, any other Person, other than (i) loans, advances or capital contributions to, or investments in, wholly owned Subsidiaries of the Company or (ii) advances to its employees in respect of travel or other related business expenses, in each case in the ordinary course of business consistent with past practice;

(h) create, incur, assume, suffer to exist or otherwise be liable with respect to any indebtedness for borrowed money or guarantees thereof other than under the Company Revolving Credit Facility in the ordinary course of business;

(i) (i) enter into any Contract of the type referred to in Section 4.19(a)(iv) (or exercise any right under any such existing Contract to expand the space currently being leased by the Company) or Section 4.19(a)(vii), (ii) except for changes to pricing terms made in the ordinary course of business consistent with past practices, amend or modify or terminate any Contract set forth on Section 6.01(i)(ii) of the Company Disclosure Schedule or (iii) other than in the ordinary course of business consistent with past practice, enter into, amend or modify in any material respect or terminate any Material Contract or otherwise waive, release or assign any material rights, claims or benefits of the Company or any of its Subsidiaries;

(j) except as required by Applicable Law or the terms of an Employee Plan as in effect on the date hereof, (i) grant or increase any severance, retention or termination pay to, or enter into or amend any retention, termination, employment, consulting, bonus, change in control or severance agreement with, any current or former Service Provider, (ii) increase the compensation or benefits provided to any current or former Service Provider (other than reasonable, market-based increases in base compensation in the ordinary course of business consistent with past practice for employees who are not Key Employees), (iii) grant any equity, equity-based or other incentive awards to, or discretionarily accelerate the vesting or payment of any such awards held by, any current or former Service Provider, (iv) establish, adopt, enter into or amend in any material respect any Employee Plan or Collective Bargaining Agreement, (v) replace any Key Employee (if a Key Employee terminates employment with the Company following the date hereof) or hire any new member of the executive committee of the Company or (vi) terminate the employment of any Key Employees other than for cause;

(k) change the Company's methods of accounting, except as required by concurrent changes in GAAP or in Regulation S-X of the Exchange Act, as agreed to by its independent public accountants;

(l) settle, or offer or propose to settle, (i) any litigation, investigation, arbitration, proceeding or other claim involving or against the Company or any of its Subsidiaries, other than any such settlement (A) involving only the payment of cash in an amount not exceeding $250,000 individually, (B) which does not include any admission of liability of the Company or any of its Subsidiaries and (C) pursuant to which the Company and its Subsidiaries receive a full release of claims or (ii) any litigation, arbitration, proceeding or dispute that relates to the transactions contemplated hereby;

(m) enter into any new line of business; or

(n) agree, resolve or commit to do any of the foregoing.

Notwithstanding the foregoing, nothing contained in this Agreement shall give Parent, directly or indirectly, the right to control or direct the Company's or its Subsidiaries' operations prior to the Effective Time. Prior to the Effective Time, the Company shall exercise, consistent with the terms and conditions of this Agreement, control and supervision over its and its Subsidiaries' respective operations.

Section 6.02 *Proxy Statement; Company Stockholder Meeting*.

(a) The Company shall use its reasonable best efforts to prepare (with Parent's cooperation to the extent required) and file with the SEC a preliminary Proxy Statement that complies in all material respects with the provisions of the Exchange Act and the rules and regulations thereunder and other applicable Law as soon as practicable following the date hereof (and in any event will file the preliminary Proxy Statement no later than twenty Business Days after the date of this Agreement).

(b) The Company shall use its reasonable best efforts to respond promptly to any comments from the SEC or the staff of the SEC on the Proxy Statement. The Company shall use its reasonable best efforts to cause the Proxy Statement to be mailed to its stockholders as promptly as practicable (and in any event within five Business Days) following the later of (i) the resolution of any comments from the SEC or the staff of the SEC with respect to the preliminary Proxy Statement and (ii) the expiration of the ten day waiting period provided in Rule 14a-6(a) promulgated under the Exchange Act (the later of (i) and (ii), the "**Clearance Date**"). The Company shall notify Parent promptly of the receipt of any comments from the SEC or the staff of the SEC and of any request by the SEC or the staff of the SEC for amendments or supplements to the Proxy Statement or for additional information and shall supply Parent with copies of all correspondence between the Company or any of its Representatives, on the one hand, and the SEC or the staff of the SEC, on the other hand, with respect to the Proxy Statement. No filing of, or amendment or supplement to, or written response to staff comments on, the Proxy Statement will be made by the Company, without providing Parent and its counsel a reasonable opportunity to review and comment thereon (which period shall not exceed five Business Days) and giving reasonable consideration in good faith to such comments. If at any time prior to the Company Stockholder Meeting (or any adjournment or postponement thereof) any information relating to the Company or Parent, or any of their respective Affiliates, directors or officers, is discovered by the Company or Parent which is required to be set forth in an amendment or supplement to the Proxy Statement, so that the Proxy Statement would not include any misstatement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, the party that discovers such information shall promptly notify the other parties hereto and the Company shall use its reasonable best efforts to promptly file an appropriate amendment or supplement describing such information with the SEC and, to the extent required by applicable Law, disseminate such amendment or supplement to the stockholders of the Company.

(c) The Company shall use its reasonable best efforts to duly call, establish a record date for, give notice of, convene and hold a meeting of its stockholders, for the purpose of voting upon the adoption of this Agreement (the "**Company Stockholder Meeting**"), so that the Company Stockholder Meeting occurs as soon as possible following the Clearance Date, in accordance with Applicable Law and the Company's certificate of incorporation and bylaws. The Company shall not adjourn, postpone, cancel, recess or reschedule the Company Stockholder Meeting; *provided* that (i) the Company may postpone or adjourn the Company Stockholder Meeting without the prior written consent of Parent (but after consultation with Parent) (A) if as of the time for which the Company Stockholder Meeting is originally scheduled (as set forth in the Proxy Statement) there are insufficient shares of Common Stock represented (either in person or by proxy) to constitute a quorum necessary to conduct the business of the Company Stockholder Meeting or to the extent that at such time the Company has not received proxies sufficient to allow the receipt of the Company Stockholder Approval at the Company Stockholder Meeting, (B) to allow time for the filing and dissemination of, and a sufficient period for evaluation by the Company's stockholders of, any supplemental or amended disclosure document to the extent that the Company's Board of Directors has determined in good faith (after consultation with the Company's outside legal counsel) is necessary or required under applicable Law or (C) as otherwise required by Applicable Law or any court of competent jurisdiction and (ii) the Company shall postpone or adjourn the Company Stockholder Meeting up to two times for up to 30 days each time (but not later than 10 days prior to the End Date) upon the request of Parent to the extent that at such time the Company has not received proxies sufficient to allow the receipt of the Company Stockholder Approval at the Company Stockholder Meeting. Except to the extent that the Company Board shall have effected an Adverse Recommendation Change as permitted by Section 6.03(c), the Company shall use reasonable best efforts to obtain the Company Stockholder Approval and shall include in the Proxy Statement the Company Board Recommendation. Without limiting the generality of the foregoing, unless this Agreement has been terminated in accordance with its terms, the Company shall submit this Agreement for adoption by its stockholders at the Company Stockholder Meeting whether or not an Adverse Recommendation Change shall have occurred; provided that the Proxy Statement shall include, if applicable, the disclosure of the Adverse Recommendation Change.

Section 6.03 *No Solicitation; Other Offers*. (a) General Prohibitions. Neither the Company nor any of its Subsidiaries shall, nor shall the Company or any of its Subsidiaries authorize or permit any of its or their officers, directors, employees, investment bankers, attorneys, accountants, consultants, or other agents or advisors to, directly or indirectly, (i) solicit, initiate or knowingly take any action to facilitate or encourage the submission of any Acquisition Proposal, (ii) enter into or participate in any discussions or negotiations with, furnish any information relating to the Company or any of its Subsidiaries or afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries to, otherwise cooperate in any way with, or knowingly assist, participate in, facilitate or encourage any effort by any Third Party that is seeking to make, or has made, an Acquisition Proposal, (iii) fail to make, withdraw or modify in a manner adverse to Parent the Company Board Recommendation (or recommend an Acquisition Proposal) (any of the foregoing in this clause (iii), an "**Adverse Recommendation Change**"), (iv) fail to enforce or grant any waiver or release under any standstill or similar agreement with respect to any class of equity securities of the Company or any of its Subsidiaries, other than in connection with a bona fide Acquisition Proposal, (v) approve any transaction under, or any Person becoming an "interested stockholder" under, Section 203 of Delaware Law or (vi) enter into any agreement in principle, letter of intent, term sheet, merger agreement, acquisition agreement, option agreement or other similar instrument relating to an Acquisition Proposal. It is agreed that any violation of the restrictions on the Company set forth in this Section by any Representative of the Company or any of its Subsidiaries shall be a breach of this Section by the Company.

(b) Exceptions. Notwithstanding Section 6.03(a), at any time prior to the receipt of the Company Stockholder Approval:

(i) the Company, directly or indirectly through its Representatives, may (A) engage in negotiations or discussions with any Third Party and its Representatives that, subject to the Company's compliance with Section 6.03(a), has made after the date of this Agreement a *bona fide*, written Acquisition Proposal that the Board of Directors of the Company determines in good faith constitutes, or would reasonably be expected to lead to, a Superior Proposal and (B) furnish to such Third Party or its Representatives non-public information relating to the Company or any of its Subsidiaries pursuant to a confidentiality agreement (a copy of which shall be provided for informational purposes only to Parent) with such Third Party with terms in all material respects no less favorable to the Company than those contained in the confidentiality agreement dated November 25, 2014 between the Company and Parent (as amended by Amendment Number 1 dated December 6, 2015, the "**Confidentiality Agreement**"), excluding any standstill provision included therein (*provided* that, in such case, any standstill provision included in the Confidentiality Agreement shall automatically cease to apply and be of no further force and effect); *provided* that all such information (to the extent that such information has not been previously provided or made available to Parent) is provided or made available to Parent, as the case may be, prior to or substantially concurrently with the time it is provided or made available to such Third Party);

(ii) subject to compliance with Section 6.03(d), the Board of Directors of the Company may make an Adverse Recommendation Change (A) following receipt of a Superior Proposal or (B) in response to an Intervening Event; and

(iii) subject to compliance with the procedures set forth in Section 10.01(d)(i) the Company may terminate this Agreement to enter into a definitive agreement with respect to a Superior Proposal;

in each case referred to in the foregoing clauses (i)(ii) and (iii), only if the Board of Directors of the Company determines in good faith, after consultation with its outside legal counsel, that the failure to take such action would be reasonably likely to be inconsistent with its fiduciary duties under Delaware Law.

(c) Required Notices. The Board of Directors of the Company shall not take any of the actions referred to in Section 6.03(b) unless the Company shall have delivered to Parent a prior written notice advising Parent that it intends to take such action, and, after taking such action, the Company shall continue to advise Parent on a prompt basis of the status and terms of any discussions and negotiations with the Third Party. In addition, the Company shall notify Parent promptly (but in no event later than 24 hours) after receipt by the Company (or any of its Representatives) of any written (or, in the case of receipt by the Company or any of its directors, officers or investment bankers, oral) Acquisition Proposal or request for information relating to the Company or any of its Subsidiaries or for access to the business, properties, assets, books or records of the Company or any of its Subsidiaries by any Third Party that has made, or that the Company in good faith believes is considering making, an Acquisition Proposal. The Company shall provide such notice orally and in writing and shall identify the Third Party making, and the terms and conditions of, any such Acquisition Proposal, indication or request. The Company shall keep Parent fully informed, on a current basis, of the status and material terms of any such Acquisition Proposal, indication or request, and shall promptly (but in no event later than 24 hours after receipt) provide to Parent copies of all correspondence and other written materials sent or provided to the Company or any of its Subsidiaries that describes any terms or conditions of any Acquisition Proposal (as well as written summaries of any additional or modified material terms or conditions, to the extent not already provided to Parent, conveyed orally to the Company, within 48 hours of receipt by the Company or any of its Subsidiaries). Any material amendment to any Acquisition Proposal will be deemed to be a new Acquisition Proposal for purposes of the Company's compliance with this Section 6.03(c).

(d) "Last Look". Further, the Board of Directors of the Company shall not make an Adverse Recommendation Change in response to an Acquisition Proposal (or terminate this Agreement pursuant to Section 10.01(d)(i)), unless (i) the Company notifies Parent (which notice shall not constitute an Adverse Recommendation Change), in writing at least four Business Days before taking that action, of its intention to do so (such period, the "**Negotiation Period**"), attaching (A) in the case of an Adverse Recommendation Change to be made following receipt of a Superior Proposal, the most current version of the proposed agreement under which such Superior Proposal is proposed to be consummated and the identity of the Third Party making the Acquisition Proposal, or (B) in the case of an Adverse Recommendation Change to be made in response to an Intervening Event, a reasonably detailed description of the reasons for making such Adverse Recommendation Change, and (ii) Parent does not make, within four Business Days after its receipt of that written notification, an offer that (A) in the case of an Adverse Recommendation Change to be made following receipt of a Superior Proposal, is at least as favorable to the stockholders of the Company from a financial point of view as such Superior Proposal; *provided*, that in the event there is any material modification to the terms of any such Superior Proposal (including any modification in the amount, form or mix of consideration proposed to be payable to the Company's stockholders pursuant to such Superior Proposal), the Company shall have provided to Parent a notice of such modification and such Superior Proposal shall be deemed a new Superior Proposal to which the requirements of this Section 6.03(d) shall apply; *provided*, further that with respect to such new Superior Proposal, the Negotiation Period shall be deemed to be a two Business Day period rather than a four Business Day period (except that such Negotiation Period shall not expire earlier than the original Negotiation Period would have expired) or (B) in the case of an Adverse Recommendation Change to be made in response to an Intervening Event, obviates the need for such recommendation change.

(e) Definition of Superior Proposal. For purposes of this Agreement, "**Superior Proposal**" means a *bona fide* written Acquisition Proposal obtained after the date hereof and not in violation of Section 6.03 that the Board of Directors of the Company determines in good faith, after considering the advice of a financial advisor of nationally recognized reputation and outside legal counsel, taking into account all terms of such Acquisition Proposal that the Company's Board of Directors deems relevant (including any termination or break-up fees and conditions to consummation) and the reasonable likelihood of consummation of such Acquisition Transaction, would be more favorable from a financial point of view to the Company's stockholders (in their capacity as such) than the Merger (taking into account any proposal by Parent to amend the terms of this Agreement pursuant to Section 6.03(d)); *provided* that for purposes of this definition, all references to "25%" in the definition of "Acquisition Proposal" shall be deemed to be "50%."

(f) Definition of Intervening Event. For purposes of this Agreement, "**Intervening Event**" means any material change, event, occurrence or development that occurs, arises or becomes known to the Board of Directors of the Company after the date of this Agreement and prior to obtaining the Company Stockholder Approval, to the extent that such change, event, occurrence or development was unknown to the Board of Directors of the Company and was not reasonably foreseeable, in each case, as of the date of this Agreement; provided that the receipt by the Company, the existence or the terms of an Acquisition Proposal or a Superior Proposal shall not, in any event, be deemed to constitute an Intervening Event.

(g) Obligation to Terminate Existing Discussions. The Company shall, and shall cause its Subsidiaries and its and their Representatives to, cease immediately and cause to be terminated any and all existing activities, discussions or negotiations, if any, with any Third Party and its Representatives conducted prior to the date hereof with respect to any Acquisition Proposal. The Company shall promptly request that each Third Party, if any, that has executed a confidentiality agreement within the 12-month period prior to the date hereof in connection with its consideration of any Acquisition Proposal and that is in possession of confidential information heretofore furnished to such Person by or on behalf of the Company or any of its Subsidiaries to return or destroy all such confidential information (and all analyses and other materials prepared by or on behalf of such Person that contains, reflects or analyzes that information). The Company shall use its reasonable best efforts to secure all such certifications as promptly as practicable.

(h) Nothing contained in this Agreement shall prohibit the Board of Directors of the Company from (i) complying with its disclosure obligations under United States federal or state law with regard to an Acquisition Proposal, including taking and disclosing to its stockholders a position contemplated by Rule 14d-9, 14e-2(a) or Item 1012(a) of Regulation M-A promulgated under the Exchange Act, (ii) making any "stop-look-and-listen" communication to the stockholders of the Company pursuant to Rule 14d-9(f) promulgated under the Exchange Act, it being agreed that the making of such communication shall not be an Adverse Recommendation Change or (iii) making any disclosure to the Company's stockholders that is required by Applicable Law; provided, however, that any such disclosure or communication that constitutes or contains an Adverse Recommendation Change shall only be made in accordance with Section 6.03.

Section 6.04 *Access to Information*. Subject to the last sentence of this Section 6.04, from the date hereof until the Effective Time and subject to Applicable Law and the Confidentiality Agreement, upon reasonable written prior notice, the Company shall (i) give to Parent, its counsel, financial advisors, auditors and other authorized Representatives reasonable access during normal business hours to the offices, properties, books and records of the Company and its Subsidiaries, (ii) furnish to Parent, its counsel, financial advisors, auditors and other authorized Representatives such financial and operating data and other information as such Persons may reasonably request and (iii) instruct its employees, counsel, financial advisors, auditors and other authorized Representatives to cooperate with Parent in its investigation of the Company and its Subsidiaries. Any investigation pursuant to this Section 6.04 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of the Company and its Subsidiaries. No information or knowledge obtained in any investigation pursuant to this Section 6.04 shall affect or be deemed to modify any representation or warranty made by any party hereunder. Notwithstanding anything herein to the contrary, under no circumstances shall the Company, its Subsidiaries or their respective Representatives be required to furnish any person with, or be required to provide access to any person to, information about the Company or any of its Subsidiaries that is prohibited by any Applicable Law or contractual restraint enforceable upon the Company or any of its Subsidiaries, or where such access to information would reasonably be expected to involve the waiver of any attorney-client privilege; *provided* that, in each such case, the Company shall use commercially reasonable efforts to obtain any required consent or develop alternative arrangements (including, in the case of access that would reasonably be expected to involve the waiver of any attorney-client privilege, entry into a joint defense agreement) reasonably acceptable to the Company and Parent so that such information can be furnished to Parent in a manner that does not violate any Applicable Law or contractual restraint or involve the waiver of any attorney-client privilege.

Section 6.05 *Stockholder Litigation*. Until the earlier of the termination of this Agreement in accordance with its terms or the Effective Time, the Company will promptly provide Parent with any pleadings and correspondence relating to any stockholder litigation or dispute against the Company or any of its officers or directors relating to this Agreement or the transactions contemplated hereby (including derivative claims) and will keep Parent reasonably informed regarding the status of any such litigation or dispute. The Company will cooperate with and, to the extent reasonably practicable, give Parent the opportunity to consult and participate with respect to the defense or settlement of any such Proceeding (at Parent's expense), and the Company will not agree to any such settlement without the prior written consent of Parent, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 6.06 *Company Notes*. The Company shall comply with its obligations under the Company Notes Indenture that arise as a result of the execution, delivery or performance by the Company of this Agreement and the consummation of the transactions contemplated hereby, including the delivery of any notices, certificates and opinions required in connection with the transactions contemplated hereby.

Section 6.07 *Tax Matters.* (a) From the date hereof until the Effective Time, neither the Company nor any of its Subsidiaries shall make or change any material Tax election, change any annual tax accounting period, adopt or change any method of tax accounting, file any material amended Tax Returns or claims for material Tax refunds, enter into any material closing agreement, surrender any material Tax claim, audit or assessment, surrender or settle any right to claim a material Tax refund, offset or other reduction in Tax liability, consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment or take or omit to take any other action, if any such action or omission would have the effect of increasing the Tax liability or reducing any Tax Asset of the Company or any of its Subsidiaries.

(b) The Company and each of its Subsidiaries shall establish or cause to be established in accordance with GAAP on or before the Effective Time an adequate accrual for all material Taxes due with respect to any period or portion thereof ending prior to or as of the Effective Time.

(c) The payment of any transfer, documentary, sales, use, stamp, registration, value added and other Taxes and fees (including any penalties and interest) incurred solely by a holder of Company Stock in connection with the Mergers, and the filing of any related Tax Returns and other documentation with respect to such Taxes and fees, shall be the sole responsibility of such holder.

Section 6.08 *Financing Cooperation.*

(a) During the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to Article 10 and the Effective Time, the Company shall, and shall cause its Subsidiaries and the Company's and its Subsidiaries' Representatives to, at Parent's sole expense (solely with respect to reasonable and documented out-of-pocket fees, costs and expenses (including those of its accountants and legal counsel)), reasonably cooperate in connection with the arrangement of the Debt Financing as may be reasonably requested by Parent (provided that such requested cooperation does not unreasonably interfere with the ongoing operations of the Company and its Subsidiaries). Such cooperation by the Company shall include, at the reasonable request of Parent:

(i) agreeing to enter into such agreements and to deliver such officer's certificates as are customary in financings of such type and as are, in the good faith determination of the persons executing such officer's certificates, accurate, and agreeing to enter into credit agreements and to pledge, grant security interests in, and otherwise grant liens on, the Company's and its Subsidiaries' assets pursuant to such agreements;

(ii) providing to the Debt Financing Parties financial and other information regarding the Company and its Subsidiaries that is relevant to the Debt Financing (as determined in the reasonable discretion of the Parent or the Debt Financing Parties) in the Company's or its Subsidiaries' possession or that is reasonably available or that the Company or its Subsidiaries prior to the date hereof in the ordinary course of business would have produced (and in accordance with the timeframe in which such information would have been produced) (including audited and unaudited financial statements and audit reports as of and for periods both before and after the date hereof as are identified in paragraph 8 of Exhibit C of the Debt Commitment Letters and within the time periods set forth therein, provided that such financial statements shall be provided in a manner as is consistent with the Company's existing practices), assisting in the preparation of any pro forma financial information or projections promptly upon request of Parent, making the Company's and its Subsidiaries' senior officers available at reasonable times and for a reasonable number of meetings to assist the Debt Financing Parties (including by way of participation in meetings, presentations, marketing sessions and due diligence sessions with the Debt Financing Parties, prospective lenders and/or rating agencies), and otherwise reasonably cooperating in connection with the consummation of the Debt Financing (including the due diligence process) and reasonable marketing efforts with respect thereto (including assisting with the preparation of materials for rating agency, bank information memoranda (including a bank information memorandum that does not include material non-public information and the delivery of customary authorization letters with respect to the bank information memoranda executed by a senior officer of the Company) and similar documents required or necessary in connection with the Debt Financing);

(iii) using reasonable best efforts to obtain from the Company's and its Subsidiaries' accounting firm accountants' comfort letters and consents customary for debt financings, and assisting Parent and its counsel with information required for customary legal opinions required to be delivered in connection therewith and cooperating in obtaining any necessary valuations;

(iv) at least the later of five Business Days prior to the Closing Date or three Business Days from the date of the request, furnishing all documentation and other information about the Company and its Subsidiaries that the potential financing sources have reasonably requested in connection with applicable "know your customer" and anti-money laundering rules and regulations;

(v) taking all corporate, limited liability company, partnership or other similar actions by the Company and its Subsidiaries that are reasonably necessary to permit the consummation of the Debt Financing;

(vi) using reasonable best efforts to cooperate with Parent to satisfy any conditions precedent to the Debt Financing to the extent within the control of the Company and its Subsidiaries;

(vii) obtaining customary payoff letters, lien terminations and instruments of discharge to be delivered on the Closing to allow for the payoff, discharge and termination in full on the Closing of the Company Revolving Credit Facility; and

(viii) providing customary authorization letters to the Debt Financing Parties authorizing the distribution of information to prospective lenders or investors and containing customary representations to the Debt Financing Parties. Parent shall promptly reimburse the Company for any out-of-pocket expenses and costs reasonably incurred in connection with the Company's or its Affiliates' obligations under this Section 6.08(a) (in accordance with Section 6.09).

(b) Notwithstanding anything in this Agreement to the contrary:

(i) nothing in this Agreement shall require any cooperation to the extent that it would require the Board of Directors of the Company or any of its Subsidiaries to take any action that would be effective prior to the Effective Time or the Company or any of its Subsidiaries or Representatives, as applicable, to waive or amend any terms of this Agreement, agree to pay any commitment or other fees or reimburse any expenses (for which the Company is not promptly reimbursed by Parent prior to the Closing Date or termination of this Agreement) or to approve the execution or delivery of any document or certificate in connection with the Debt Financing (or any alternative financing) prior to the Effective Time;

(ii) no officer of the Company or any of its Subsidiaries who is not reasonably expected to be an officer of the Surviving Corporation shall be obligated to deliver any certificate in connection with the Debt Financing and no counsel for the Company or any of its Subsidiaries shall be obligated to deliver any opinion in connection with the Debt Financing; and

(iii) irrespective of the above, no obligation of the Company or any of its Subsidiaries under any certificate, document or instrument (other than the authorization letters referred to above) shall be effective until the Effective Time (or immediately prior thereto) and none of the Company or any of its Subsidiaries shall be required to take any action under any certificate, document or instrument that is not contingent upon the Closing (including entry into any agreement that is effective before the Effective Time or distribution of any cash by or to the Company that is effective before the Effective Time) or that would be effective prior to the Effective Time (or immediately prior thereto).

(c) If the Company shall in good faith reasonably believe that it has provided all information and assistance required from the Company for Parent to prepare the Required Financial Information (the "**Company RFI Support**"), it may deliver to Parent a written notice to that effect (stating when it believes it completed providing the Company RFI Support) (the "**Company RFI Notice**"), in which case the Company shall be deemed to have completed delivery of the Company RFI Support and the Marketing Period shall commence no later than the later of (x) 30 Specified Business Days after the date hereof and (y) 10 Specified Business Days after delivery of the Company RFI Notice; *provided* that, if Parent in good faith reasonably believes the Company has not completed providing the Company RFI Support, then Parent may, not later than 5:00 p.m. (New York time) four Specified Business Days after the delivery of the Company RFI Notice by the Company, deliver a written notice to the Company to that effect (stating with specificity the extent to which the Company RFI Support has not been provided (the "**Company RFI Support Deficiency**")), in which case the Marketing Period shall commence no later than 10 Specified Business Days after the Company has provided the additional Company RFI Support or corrected the initial Company RFI Support in order to resolve the Company RFI Support Deficiency.

(d) The Company hereby consents to the reasonable use of the Company's and its Subsidiaries' logos in connection with the Debt Financing, *provided* that such logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Company or any of its Subsidiaries or the reputation or good will of the Company or any of its Subsidiaries or any of their logos and on such other customary terms and conditions as the Company shall reasonably impose.

Section 6.09 *Financing Fees and Expenses.* Parent shall promptly, upon the termination of this Agreement in accordance with its terms, reimburse the Company for all reasonable and documented out-of-pocket fees, costs and expenses (including those of its accountants and legal counsel) incurred by or on behalf of the Company or any of its Subsidiaries in connection with their compliance with Section 6.08 and shall indemnify and hold harmless the Company and its Subsidiaries and each of their respective Representatives from and against all losses, damages, claims, fees, costs and expenses suffered or incurred by any of them in connection with the arrangement of the Debt Financing (including any alternative financing) and any information used in connection therewith (except with respect to any information provided by or on behalf of the Company or any of its Subsidiaries or any of their respective Representatives), except in the event such losses, damages, claims, fees, costs or expenses arose out of or result from the fraud, gross negligence, recklessness, bad faith or willful misconduct of the Company, its Subsidiaries or any of their respective Representatives.

ARTICLE 7
COVENANTSOF PARENT

Parent agrees, and solely with respect to Section 7.04, Parent and Merger Subsidiary agree, that:

Section 7.01 *Obligations of Merger Subsidiary.* Parent shall take all action necessary to cause Merger Subsidiary to perform its obligations under this Agreement and to consummate the Merger on the terms and conditions set forth in this Agreement. Immediately following the execution of this Agreement, Parent shall cause NICE Systems Inc. to execute and deliver, in accordance with Section 228 of the Delaware Law and in its capacity as the sole stockholder of Merger Subsidiary, a written consent adopting this Agreement and approve the Merger in accordance with Delaware Law.

Section 7.02 *Director and Officer Liability.* Parent shall cause the Surviving Corporation, and the Surviving Corporation hereby agrees, to do the following:

(a) For six years after the Effective Time, the Surviving Corporation shall indemnify and hold harmless the present and former officers and directors of the Company (each, an "**Indemnified Person**") in respect of acts or omissions occurring at or prior to the Effective Time to the fullest extent permitted by Delaware Law or any other Applicable Law or provided under the Company's certificate of incorporation and bylaws in effect on the date hereof; *provided* that such indemnification shall be subject to any limitation imposed from time to time under Applicable Law.

(b) For six years after the Effective Time, Parent shall cause to be maintained in effect provisions in the Surviving Corporation's certificate of incorporation and bylaws (or in such documents of any successor to the business of the Surviving Corporation) regarding elimination of liability of directors, indemnification of officers, directors and employees and advancement of expenses that are no less advantageous to the intended beneficiaries than the corresponding provisions in existence on the date of this Agreement.

(c) Prior to the Effective Time, the Company shall or, if the Company is unable to, Parent shall cause the Surviving Corporation as of the Effective Time to, obtain and fully pay the premium for the non-cancellable extension of the directors' and officers' liability coverage of the Company's existing directors' and officers' insurance policies and the Company's existing fiduciary liability insurance policies (collectively, "**D&O Insurance**"), in each case for a claims reporting or discovery period of at least six years from and after the Effective Time with respect to any claim related to any period of time at or prior to the Effective Time with terms, conditions, retentions and limits of liability that are no less favorable than the coverage provided under the Company's existing policies with respect to any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty or any matter claimed against a director or officer of the Company or any of its Subsidiaries by reason of him or her serving in such capacity that existed or occurred at or prior to the Effective Time (including in connection with this Agreement or the transactions or actions contemplated hereby); *provided* that the Company shall give Parent a reasonable opportunity to participate in the selection of such tail policy and the Company shall give reasonable and good faith consideration to any comments made by Parent with respect thereto; and *provided further* that in no event shall the Company expend for such policies an aggregate premium amount in excess of 300% of the amount per annum the Company paid in its last full fiscal year, which amount is set forth in Section 7.02(c) of the Company Disclosure Schedule (the "**Maximum Amount**"). If the Company or the Surviving Corporation for any reason fail to obtain such "tail" insurance policies as of the Effective Time, the Surviving Corporation shall continue to maintain in effect, for a period of at least six years from and after the Effective Time, the D&O Insurance in place as of the date hereof with terms, conditions, retentions and limits of liability that are no less favorable than the coverage provided under the Company's existing policies as of the date hereof, or the Surviving Corporation shall purchase comparable D&O Insurance for such six-year period with terms, conditions, retentions and limits of liability that are no less favorable than as provided in the Company's existing policies as of the date hereof; *provided* that in no event shall Parent or the Surviving Corporation be required to expend for such policies pursuant to this sentence an annual premium amount in excess of the Maximum Amount; and *provided further* that if the aggregate premiums of such insurance coverage exceed such amount, the Surviving Corporation shall be obligated to obtain a policy with the greatest coverage available, with respect to matters occurring prior to the Effective Time, for a cost not exceeding such amount.

(d) If Parent, the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this Section 7.02.

(e) The rights of each Indemnified Person under this Section 7.02 shall be in addition to any rights such Person may have under the certificate of incorporation or bylaws of the Company or any of its Subsidiaries, or under Delaware Law or any other Applicable Law or under any agreement of any Indemnified Person with the Company or any of its Subsidiaries (the "**Indemnification Agreements**"). These rights, including the Indemnification Agreements, shall survive consummation of the Merger and are intended to benefit, and shall be enforceable by, each Indemnified Person and shall not be terminated or modified in such a manner as to adversely affect in any material respect any Indemnified Person without the consent of such affected Indemnified Person, subject to Applicable Law.

Section 7.03 *Employee Matters*. (a) During the period beginning at the Effective Time and ending on the first anniversary of the Closing Date (or such shorter period of employment, as the case may be), Parent shall, or shall cause its Subsidiaries to, provide to each employee who is actively employed by the Company or its Subsidiaries at the Effective Time (each, a "**Covered Employee**"), (i) a base salary or rate of pay that is at least equal to such Covered Employee's base salary or rate of pay immediately prior to the Effective Time (except that any such base salary or rate of pay may be reduced in connection with any across the board reduction in base salary or rate of pay of all similarly situated employees of Parent and its Subsidiaries) and (ii) other compensation, severance protections and employee benefits that are substantially comparable in the aggregate to the other compensation and employee benefits (other than equity compensation and other long term incentives, change in control, retention, transition, stay or similar arrangements) that were provided to such Covered Employee under the Employee Plans immediately prior to the Effective Time.

(b) Crediting of Payments. In the event any Covered Employee first becomes eligible to participate under any employee benefit plan, program, policy or arrangement of Parent or any of its Subsidiaries (each, a "**Parent Plan**") following the Effective Time, Parent shall, or shall cause its Subsidiaries to use reasonable best efforts to: (i) waive any preexisting condition exclusions and waiting periods with respect to participation and coverage requirements applicable to such Covered Employee (and any eligible dependents thereof) under any Parent Plan providing medical, dental or vision benefits to the same extent such limitation would have been waived or satisfied under the Employee Plan such Covered Employee participated in immediately prior to coverage under such Parent Plan and (ii) provide such Covered Employee with credit for any copayments, coinsurance and deductibles paid under an Employee Plan prior to such Covered Employee's coverage under any Parent Plan during the calendar year in which such amount was paid, to the same extent such credit was given under the Employee Plan such Covered Employee participated in immediately prior to coverage under such Parent Plan in satisfying any applicable deductible or out-of-pocket requirements under such Parent Plan.

(c) Service Crediting. As of the Effective Time, Parent shall, or shall cause its Subsidiaries to, recognize all service of each Covered Employee prior to the Effective Time with the Company and its Subsidiaries (or any predecessor entities of either to the extent the Company or one of its Subsidiaries provides such past-service credit under a similar Employee Plan) for all purposes including vesting, eligibility and benefit accrual purposes (except for benefit accrual under any defined benefit retirement plan). In no event shall anything contained in this Section 7.03(c) result in any duplication of benefits for the same period of service.

(d) Company 401(k) Plans. At the request of Parent no later than five Business Days prior to the Closing Date, the Company shall take all actions necessary so that effective as of immediately prior to the Effective Time, the Company shall terminate (i) the Company's 401(k) Plan, (ii) the Uptivity 401(k) Plan and (iii) any other 401(k) plan maintained by the Company or its Subsidiaries pursuant to resolutions of the Company's Board of Directors that are reasonably satisfactory to Parent. In connection with any termination of such plans, Parent shall permit each Covered Employee to make rollover contributions of "eligible rollover distributions" (within the meaning of Section 401(a)(31) of the Code, including all participant loans) in cash or notes (in the case of participant loans) in an amount equal to the eligible rollover distribution portion of the account balance distributed to each such Covered Employee from such plan to an "eligible retirement plan" (within the meaning of Section 401(a)(31) of the Code) of Parent or any of its Subsidiaries.

(e) ESPP. Prior to the Effective Time, the Company shall take all actions, including adopting any resolutions or amendments, with respect to the Company's 2005 Employee Stock Purchase Plan (the "**ESPP**") to: (i) cause the Participation Period (as defined in the ESPP) ongoing as of the date of this Agreement to be the final Participation Period under the ESPP and the options under the ESPP to be exercised on the earlier of (x) the scheduled purchase date for such Participation Period and (y) the date that is seven Business Days prior to the Effective Time (with any participant payroll deductions not applied to the purchase of shares returned to the participant), (ii) prohibit participants in the ESPP from increasing their payroll deductions from those in effect on the date of this Agreement and (iii) terminate the ESPP effective immediately prior to the Effective Time.

(f) Employee Plan Termination. Prior to the Closing Date, the Company shall take all actions that may be necessary or appropriate to terminate as of the Closing Date: (i) each Employee Plan set forth in Section 7.03(f) of the Company Disclosure Schedule and (ii) if requested by Parent not later than five (5) Business Days prior to the Closing Date, any Employee Plan that the Company is authorized to unilaterally terminate without the consent of any third party and without payment of any termination fees. All resolutions, notices, participant communications or other documents issued, adopted or executed in connection with the termination of such Employee Plans shall be subject to Parent's reasonable opportunity to review and comment.

(g) Without limiting the generality of Section 11.06, nothing in this Section 7.03, express or implied, (i) is intended to or shall confer upon any Person other than the parties hereto, including any Covered Employee or any former Service Provider, any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, (ii) shall establish, or constitute an amendment, termination or modification of, or an undertaking to amend, establish, terminate or modify, any benefit plan, program, agreement or arrangement, (iii) shall alter or limit the ability of Parent or any of its Subsidiaries (or, following the Effective Time, the Company or any of its Subsidiaries) to amend, modify or terminate any benefit plan, program, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them or (iv) shall create any obligation on the part of Parent or its Subsidiaries (or, following the Effective Time, the Company or any of its Subsidiaries) to employ any Covered Employee for any period following the Closing Date.

Section 7.04 *Financing*.

(a) Subject to the terms and conditions of this Agreement, each of Parent and Merger Subsidiary shall use, and shall cause their Affiliates to use, their respective reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to arrange the Debt Financing as promptly as practicable on the terms and conditions described in the Debt Commitment Letters, including using (and causing their Affiliates to use) their respective reasonable best efforts to: (i) maintain in effect the Financing Commitments, (ii) provide to the Company a list of the information and the assistance required from the Company for Parent to prepare the Required Financial Information as promptly as practicable (and in any event not later than 10 Specified Business Days) after the date hereof; (iii) provide the Required Financial Information to the Debt Financing Sources as promptly as practicable after the date hereof, (iv) negotiate definitive agreements with respect thereto as promptly as practicable after the date hereof substantially on the terms and conditions contained in the Financing Commitments or, with respect to conditions relating to funding, on other terms no less favorable to Parent or Merger Subsidiary, which agreements shall be in effect no later than the Effective Time, (iv) satisfy, or cause their Representatives to satisfy, on a timely basis all conditions applicable to Parent, Merger Subsidiary or their respective Representatives in such definitive agreements to be satisfied by Parent, Merger Subsidiary or their respective Representative, and (v) cause the Debt Financing Parties and any other Persons providing Debt Financing to fund the Debt Financing at or prior to the Effective Time.

(b) Parent shall not agree to, or permit, any amendments or modifications to, or any waivers under, the Financing Commitments without the prior written consent of the Company if such amendments, modifications or waivers would reduce the aggregate amount of the Debt Financing (including by changing the amount of fees to be paid or original issue discount of the Debt Financing) such that after giving effect to such amendment, the Parent would not have sufficient funds under the amended Financing Commitments, together with any cash on hand, to consummate the Merger, or impose new or additional conditions or otherwise expand the then existing conditions precedent to funding of the Debt Financing at or prior to the Effective Time, if such new or additional conditions or such expanded existing conditions would reasonably be expected to (i) prevent or materially delay or impair the ability of Parent to consummate the Merger or (ii) adversely impact the ability of Parent or Merger Subsidiary to enforce its rights against the other parties to the Financing Commitments; provided that, for the avoidance of doubt, each of Parent and Merger Subsidiary may amend the Debt Commitment Letters to add lenders, lead arrangers, bookrunners, syndication agents or similar entities that have not executed the Debt Commitment Letter as of the date hereof; *provided further* that, without derogating from any of the Company's other obligations under Section 6.08, the Company shall have no obligation to comply with Section 6.08 of this Agreement in connection with such amendments.

(c) In the event that Parent determines that any portion of the Debt Financing will not be available in the manner or from the sources contemplated in the Financing Commitments, (i) Parent shall promptly so notify the Company and (ii) Parent and Merger Subsidiary shall use their respective reasonable best efforts to arrange and obtain, and to negotiate and enter into definitive agreements with respect to, alternative financing from alternative financial institutions in an amount sufficient to consummate the transactions contemplated by this Agreement that includes conditions to funding not materially less favorable to Parent than those in the Financing Commitments, as promptly as practicable following the occurrence of such event (and in any event no later than the Effective Time).

(d) Each of Parent and Merger Subsidiary acknowledges and agrees that neither the obtaining of the Debt Financing or any alternative financing, nor the completion of any issuance of securities contemplated by the Debt Financing or any alternative financing, is a condition to the Closing.

(e) Parent shall (i) promptly furnish the Company complete, correct and executed copies of the Financing Commitments and any amendment, modification or replacement of any Financing Commitments promptly upon their execution (provided, that provisions in such fee letter(s) related to fees and pricing may be redacted (none of which redacted provisions adversely affect the availability of, or impose additional conditions on the availability of, the Debt Financing at the closing)), (ii) give the Company prompt written notice of any breach or threatened (in writing) breach by any party of any of the Financing Commitments or the Financing Commitment of which Parent or Merger Subsidiary becomes aware or any termination or threatened (in writing) termination thereof, (iii) after the receipt of any written notice or other written communication received from any Debt Financing Party, give the Company prompt written notice of any material dispute or disagreement between or among any parties to any Financing Commitment that would reasonably be expected to result in a breach under the Financing Commitment, (iv) give the Company prompt written notice if for any reason Parent or Merger Subsidiary has determined in good faith that it will not be able to obtain all or any portion of the Debt Financing on substantially the terms and conditions contemplated by the Financing Commitments, (v) promptly furnish any additional information reasonably requested in writing by the Company relating to the circumstances in clauses (i) through (iv) of this Section 7.04(e)) and (vi) keep the Company reasonably informed of the status of its efforts to arrange the Debt Financing (or any alternative financing).

ARTICLE 8

COVENANTS OF PARENT AND THE COMPANY

The parties hereto agree that:

Section 8.01 *Reasonable Best Efforts.* (a) Subject to the terms and conditions of this Agreement, the Company and Parent shall use their reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under Applicable Law to consummate the transactions contemplated by this Agreement, including (i) preparing and filing as promptly as practicable with any Governmental Authority or other third party all documentation to effect all necessary filings, notices, petitions, statements, registrations, submissions of information, applications and other documents and (ii) obtaining and maintaining all approvals, consents, registrations, permits, authorizations and other confirmations required to be obtained from any Governmental Authority or other third party that are necessary, proper or advisable to consummate the transactions contemplated by this Agreement; *provided* that the parties hereto understand and agree that the reasonable best efforts of Parent shall not be deemed to require Parent to, and, without the prior written consent of Parent, the Company shall not, (A) enter into any settlement, undertaking, consent decree, stipulation or agreement with any Governmental Authority in connection with the transactions contemplated hereby or (B) sell, divest or otherwise hold separate (including by establishing a trust or otherwise), or take any other action (or otherwise agree to do any of the foregoing), in each case of clauses (A) and (B), (1) with respect to any of Parent's or its Subsidiaries' businesses, assets or properties or (2) with respect to any of the Company's or its Subsidiaries' businesses, assets or properties, unless, in the case of this clause (2) only, such action would not reasonably be expected to be, individually or in the aggregate, adverse in any material respect to the Company and its Subsidiaries, taken as a whole. Each of Parent and the Company shall (i) cooperate in all respects and consult with each other in connection with filings, including by allowing the other party to have a reasonable opportunity to review in advance and comment on drafts of filings and submissions, (ii) promptly inform the other party of any communication received by such party from, or given by such party to, Governmental Authorities, by promptly providing copies to the other party of any such written communications and (iii) permit the other party to review in advance any communication that it gives to, and consult with each other in advance of any meeting, substantive telephone call or conference with Governmental Authorities, and to the extent not prohibited by a Governmental Authority, give the other party the opportunity to attend and participate in any in-person meetings with that Governmental Authority.

(b) In furtherance and not in limitation of the terms set forth in Section 8.01(a), each of Parent and the Company shall make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated hereby as promptly as practicable and in any event within 10 Business Days of the date hereof and to supply as promptly as practicable any additional information and documentary material that may be requested pursuant to the HSR Act and to use their reasonable best efforts to take all other actions necessary to cause the expiration or termination of the applicable waiting periods under the HSR Act as soon as practicable.

(c) In furtherance and not in limitation of the terms set forth in Section 8.01(a), Parent and the Company shall use their reasonable best efforts to obtain the approvals of the FCC and State and Local Authorities. Such reasonable best efforts shall include promptly after the date hereof making any filings required in connection with such approvals and providing any information requested by the FCC, Team Telecom, and State and Local Authorities in connection with the transactions contemplated by this Agreement.

(d) In furtherance and not in limitation of the terms set forth in Section 8.01(a), Parent and the Company shall use their reasonable best efforts to obtain the CFIUS Approval. Such reasonable best efforts shall include promptly after the date hereof making any draft and final filings required in connection with the CFIUS Approval in accordance with the DPA, and providing any information requested by CFIUS or any other agency or branch of the U.S. government in connection with the CFIUS review or investigation of the transactions contemplated by this Agreement within the timeframes required by the DPA, unless CFIUS agrees in writing to an extension of such timeframe. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, in the event that CFIUS notifies Parent and the Company that CFIUS (A) has completed its review or investigation and determined it has unresolved national security concerns and (B) intends to send a report to the President of the United States requesting the President's decision because it either (1) recommends that the President act to suspend or prohibit the Merger, (2) is unable to reach a decision on whether to recommend that the President suspend or prohibit the Merger, or (3) requests that the President make a determination with regard to the Merger (a "**CFIUS Turndown**"), Parent may request a withdrawal of the notice filed with CFIUS in connection with the CFIUS Approval and neither Parent nor the Company shall have any further obligation to seek CFIUS Approval.

Section 8.02 *Public Announcements*. Except as otherwise contemplated by Section 6.03 in connection with any Adverse Recommendation Change, Parent, Merger Subsidiary and the Company shall consult with each other before issuing any press release, having any communication with the press (whether or not for attribution), making any other public statement or scheduling any press conference or conference call with investors or analysts with respect to this Agreement or the transactions contemplated hereby and the Company shall not issue any such press release or make any such other public statement or schedule any such press conference or conference call without such consultation; *provided*, *however*, that the restrictions set forth in this Section 8.02 shall not apply to any release or public statement (i) required by Applicable Law or any applicable listing authority (in which case the parties shall use reasonable best efforts to (x) consult with each other prior to making any such disclosure and (y) cooperate (at the other party's expense) in connection with the other party's efforts to obtain a protective order), (ii) made or proposed to be made by the Company in compliance with Section 6.03 with respect to the matters contemplated by Section 6.03 (or by Parent in response thereto) or (iii) in connection with any dispute between the parties regarding this Agreement, the Merger or the other transactions contemplated hereby.

Section 8.03 *Further Assurances.* At and after the Effective Time, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company or Merger Subsidiary, any deeds, bills of sale, assignments or assurances and to take and do, in the name and on behalf of the Company or Merger Subsidiary, any other actions and things to vest, perfect or confirm of record or otherwise in the Surviving Corporation any and all right, title and interest in, to and under any of the rights, properties or assets of the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger.

Section 8.04 *Notices of Certain Events.* Each of the Company and Parent shall promptly notify the other of:

(a) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement;

(b) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement;

(c) any actions, suits, claims, investigations or proceedings commenced or, to its knowledge, threatened against, relating to or involving or otherwise affecting the Company or any of its Subsidiaries or Parent or any of its Subsidiaries, as the case may be, that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to any Section of this Agreement or that relate to the consummation of the transactions contemplated by this Agreement;

(d) any inaccuracy of any representation or warranty contained in this Agreement at any time during the term hereof that could reasonably be expected to cause any condition set forth in Article 9 not to be satisfied; and

(e) any failure of that party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder that could reasonably be expected to cause any condition set forth in Article 9 not to be satisfied;

provided, that the delivery of any notice pursuant to this Section 8.04 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

Section 8.05 *Section 16 Matters.* Prior to the Effective Time, the Company shall take all steps as may be required to cause any dispositions of Company Stock (including derivative securities with respect to Company Stock) resulting from the transactions contemplated by Article 2 of this Agreement by each officer and director of the Company who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company to be exempt under Rule 16b-3 promulgated under the Exchange Act.

Section 8.06 *Stock Exchange De-listing; Exchange Act Deregistration.* Prior to the Effective Time, the Company shall cooperate with Parent and use its reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under Applicable Laws and rules and policies of the NASDAQ to enable the de-listing by the Surviving Corporation of the Company Stock from the NASDAQ and the deregistration of the Company Stock under the Exchange Act as promptly as practicable after the Effective Time.

Section 8.07 *Takeover Statutes*. If any Takeover Statute shall become applicable to the transactions contemplated by this Agreement, each of the Company, Parent and Merger Subsidiary and the respective members of their boards of directors shall, to the extent permitted by Applicable Law, use reasonable best efforts to grant such approvals and to take such actions as are reasonably necessary so that the transactions contemplated by this Agreement may be consummated as promptly as practicable on the terms contemplated herein and otherwise to take all such other actions as are reasonably necessary to eliminate or minimize the effects of any such statute or regulation on the transactions contemplated hereby.

ARTICLE 9
CONDITIONS TO THE MERGER

Section 9.01 *Conditions to the Obligations of Each Party.* The respective obligations of each of the Company, Parent and Merger Subsidiary to consummate the Merger are subject to the satisfaction (or waiver, if permissible under Applicable Law) on or prior to the Closing Date of the following conditions:

(a) the Company Stockholder Approval shall have been obtained in accordance with Delaware Law;

(b) no Applicable Law shall make consummation of the Merger illegal or otherwise prohibited;

(c) any applicable waiting period (and any extension thereof) under the HSR Act relating to the Merger shall have expired or been terminated;

(d) the CFIUS Approval shall have been obtained; and

(e) all actions by or in respect of, or filings with, any Governmental Authority, including the FCC and State and Local Authorities, required to permit the consummation of the Merger, including the actions and filings set forth on Section 4.03 of the Company Disclosure Schedule, shall have been taken, made or obtained.

Section 9.02 *Conditions to the Obligations of Parent and Merger Subsidiary.* The obligations of Parent and Merger Subsidiary to consummate the Merger are subject to the satisfaction (or waiver, if permissible under Applicable Law) on or prior to the Closing Date of the following further conditions:

(a) (i) the Company shall have performed in all material respects all of its obligations hereunder required to be performed by it at or prior to the Effective Time, (ii) (A) the representations and warranties of the Company contained in Section 4.05 (other than the information set forth on Section 4.05 of the Company Disclosure Schedule with respect to the holder and the date of grant) shall be true at and as of the Effective Time as if made at and as of such time, with, in the case of this clause (A), only such exceptions that in the aggregate do not result in a net increase to the total amount of consideration to be paid by Parent pursuant to Article 2 by more than a *de minimis* amount, (B) the representations and warranties of the Company contained in Sections 4.01, 4.02, 4.03, 4.06, and 4.25 (disregarding all materiality and Material Adverse Effect qualifications contained therein) shall be true in all material respects at and as of the Effective Time as if made at and as of such time (other than such representations and warranties that by their terms address matters only as of another specified time, which shall be true in all material respects only as of such time) and (C) the other representations and warranties of the Company contained in this Agreement or in any certificate or other writing delivered by the Company pursuant hereto (disregarding all materiality and Material Adverse Effect qualifications contained therein) shall be true at and as of the Effective Time as if made at and as of such time (other than representations and warranties that by their terms address matters only as of another specified time, which shall be true only as of such time), with, in the case of this clause (C), only such exceptions as have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Company; and (iii) Parent shall have received a certificate signed by an executive officer of the Company to the foregoing effect; and

(b) since December 31, 2015, there shall not have occurred any event, occurrence, revelation or development of a state of circumstances or facts which, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect on the Company.

Section 9.03 *Conditions to the Obligations of the Company.* The obligations of the Company to consummate the Merger are subject to the satisfaction (or waiver, if permissible under Applicable Law) on or prior to the Closing Date of the following further conditions:

(a) (i) each of Parent and Merger Subsidiary shall have performed in all material respects all of its obligations hereunder required to be performed by it at or prior to the Effective Time, (ii) the representations and warranties of Parent and Merger Subsidiary contained in this Agreement or in any certificate or other writing delivered by Parent or Merger Subsidiary pursuant hereto (disregarding all materiality and Material Adverse Effect qualifications contained therein) shall be true and correct at and as of the Effective Time as if made at and as of such time (other than representations and warranties that by their terms address matters only as of another specified time, which shall be true and correct only as of such time), with only such exceptions as have not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on Parent and (iii) the Company shall have received a certificate signed by an executive officer of the Parent to the foregoing effect.

ARTICLE 10
TERMINATION

Section 10.01 *Termination.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time (notwithstanding any approval of this Agreement by the stockholders of the Company):

(a) by mutual written agreement of the Company and Parent;

(b) by either the Company or Parent, if:

(i) the Merger has not been consummated on or before 5:00 p.m. (New York time) on December 31, 2016, (the "**End Date**"); *provided* that, if mutually agreed by Parent and the Company, the End Date may be extended to February 17, 2017 (and if so extended, such later date shall be deemed the "End Date"); *provided, further*, that the right to terminate this Agreement pursuant to this Section 10.01(b)(i) shall not be available to any party whose breach of any provision of this Agreement results in the failure of the Merger to be consummated by such time;

(ii) there shall be any Applicable Law that (A) makes consummation of the Merger illegal or otherwise prohibited or (B) enjoins the Company or Parent from consummating the Merger and such injunction shall have become final and nonappealable;

(iii) there shall have been a CFIUS Turndown; or

(iv) at the Company Stockholder Meeting (including any adjournment or postponement thereof), the Company Stockholder Approval shall not have been obtained upon a vote taken thereon; or

(c) by Parent, if:

(i) a Triggering Event shall have occurred;

(ii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Company set forth in this Agreement shall have occurred that would cause the condition set forth in Section 9.02(a) not to be satisfied, and such condition is incapable of being satisfied by the End Date or, if curable, is not cured by the Company within 30 days of receipt by the Company of written notice of such breach or failure; provided, that Parent shall not have the right to terminate this Agreement pursuant to this Section 10.01(c)(ii) if, at the time of the delivery of such notice, Parent or Merger Subsidiary is in material breach of its or their obligations under this Agreement; or

(iii) any Governmental Authority that is required to take any action to permit the consummation of the Merger will not take such action without imposing conditions that would require Parent, the Company or any of their respective Subsidiaries to take actions that Parent is not required to agree to under Section 8.01(a); or

(d) by the Company, if:

(i) prior to receipt of the Company Stockholder Approval, the Board of Directors of the Company shall have made an Adverse Recommendation Change in compliance with the terms of this Agreement, including Section 6.03(d), in order to enter into a definitive, written agreement concerning a Superior Proposal; *provided*, that (A) concurrently with such termination, the Company shall enter into such definitive, written agreement and (B) the Company shall have paid any amounts due pursuant to Section 11.04(b) prior to, or concurrently with, such termination; or

(ii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Parent or Merger Subsidiary set forth in this Agreement shall have occurred that would cause the condition set forth in Section 9.03(a) not to be satisfied, and such condition is incapable of being satisfied by the End Date or, if curable, is not cured by Parent within 30 days of receipt by Parent of written notice of such breach or failure; provided, that Company shall not have the right to terminate this Agreement pursuant to this Section 10.01(d)(ii) if, at the time of the delivery of such notice, Company is in material breach of its obligations under this Agreement or

(iii) (A) all of the conditions set forth in Section 9.01 and Section 9.02 (other than those conditions that by their terms are to be satisfied at the Closing) have been satisfied or waived, (B) the Company has delivered to Parent an irrevocable written notice confirming that all of the conditions set forth in Section 9.03 have been satisfied (or that the Company is willing to waive any unsatisfied conditions in Section 9.03) and that it is ready, willing and able to consummate the Closing and (C) Parent and Merger Subsidiary fail to complete the Closing within seven (7) Business Days following the date on which the Closing should have occurred pursuant to Section 2.01(b).

The party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a)) shall give notice of such termination to the other party.

Section 10.02 *Effect of Termination.* If this Agreement is terminated pursuant to Section 10.01, this Agreement shall become void and of no effect without liability of any party (or any stockholder, director, officer, employee, agent, consultant or Representative of such party) to the other party hereto; *provided* that, if such termination shall result from the intentional (i) failure of either party to fulfill a condition to the performance of the obligations of the other party, (ii) failure of either party to perform a covenant set forth in this Agreement or (iii) breach by either party of any representation and warranty set forth in this Agreement, such party shall be fully liable for any and all liabilities and damages incurred or suffered by the other party as a result of such failure. The provisions of this Section 10.02 and Sections 6.09 11.04, 11.07, 11.08 and 11.09 and the Confidentiality Agreement shall survive any termination hereof pursuant to Section 10.01.

ARTICLE 11

MISCELLANEOUS

Section 11.01 *Notices.* All notices, requests and other communications to any party hereunder shall be in writing (including facsimile transmission and electronic mail ("**e-mail**") transmission, so long as a receipt of such e-mail is requested and received) and shall be given,

if to Parent or Merger Subsidiary, to:

NICE-Systems Ltd.
13 Zarhin Street
P.O. Box 690
4310602 Ra'anana
Israel
Attention: Yechiam Cohen
E-mail: yechiam.cohen@nice.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: William H. Aaronson
Facsimile: (212) 701-5800
E-mail: william.aaronson@davispolk.com

if to the Company, to:

inContact, Inc.
75 West Towne Ridge Parkway, Tower 1,
Sandy, UT 84070
Attention: Paul Jarman
E-mail: paul.jarman@incontact.com

with a copy to:

Pillsbury Winthrop Shaw Pittman LLP
2550 Hanover Street
Palo Alto, CA 94304-1115
Attention: James J. Masetti
Facsimile: (650) 233-4545
E-mail: jim.masetti@pillsburylaw.com

or to such other address, facsimile number or electronic mail address as such party may hereafter specify for the purpose by notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. on a business day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding business day in the place of receipt.

Section 11.02 *Survival of Representations and Warranties.* The representations and warranties contained herein and in any certificate or other writing delivered pursuant hereto shall not survive the Effective Time.

Section 11.03 *Amendments and Waivers.* (a) Any provision of this Agreement may be amended, supplemented or waived prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval, if, but only if, such amendment, supplement or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective; *provided* that after the Company Stockholder Approval has been obtained there shall be no amendment or waiver that would require the further approval of the stockholders of the Company under Delaware Law without such approval having first been obtained. No amendments or modifications in respect of any provisions of which the Debt Financing Parties are made a third-party beneficiary pursuant to Section 11.06 will be made without the prior written consent of the Debt Financing Parties.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 11.04 *Termination Fee.* (a) General. Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement shall be paid by the party incurring such cost or expense.

(b) Termination Fee.

(i) If this Agreement is terminated by Parent pursuant to Section 10.01(c)(i) (*provided* that if either Parent or the Company terminates this Agreement pursuant to Section 10.01(b)(iv) at a time when Parent would have been entitled to terminate this Agreement pursuant to Section 10.01(c)(i), this Agreement shall be deemed to have been terminated pursuant to Section 10.01(c)(i) for purposes of this Section 11.04) or by the Company pursuant to Section 10.01(d)(i), then the Company shall pay to Parent in immediately available funds $34,140,000 (the "**Termination Fee**"), in the case of a termination by Parent, within three Business Days after such termination and, in the case of a termination by the Company, prior to or concurrently with, and as a condition to, such termination.

(ii) If (A) this Agreement is terminated by Parent or the Company pursuant to Section 10.01(b)(i) or Section 10.01(b)(iv), and (B)(1) with respect to termination under Section 10.01(b)(i), after the date of this Agreement and prior to such termination an Acquisition Proposal shall have been publicly announced and (2) with respect to termination under Section 10.01(b)(iv), after the date of this Agreement and prior to the Company Stockholder Meeting, an Acquisition Proposal shall have been publicly announced to the Company's stockholders and (C) within 12 months following the date of such termination, the Company shall have entered into a definitive agreement with respect to an Acquisition Proposal or an Acquisition Proposal shall have been consummated (regardless of whether such Acquisition Proposal is the same Acquisition Proposal referred to in clause (B) above) (*provided* that for purposes of this clause (C), each reference to "25%" in the definition of Acquisition Proposal shall be deemed to be a reference to "50%"), then the Company shall pay to Parent in immediately available funds, concurrently with the occurrence of the applicable event described in clause (C), the Termination Fee.

(c) Other Costs and Expenses. The Company acknowledges that the agreements contained in Section 11.04(b) are an integral part of the transactions contemplated by this Agreement and that, without these agreements, Parent and Merger Subsidiary would not enter into this Agreement. Accordingly, if the Company fails promptly to pay any amount due to Parent pursuant to Section 11.04(b), it shall also pay any reasonable and documented costs and expenses incurred by Parent or Merger Subsidiary in connection with a legal action to enforce this Agreement that results in a judgment against the Company for such amount, together with interest on the amount of any unpaid fee, cost or expense at the publicly announced prime rate of Citibank, N.A. from the date such fee, cost or expense was required to be paid to (but excluding) the payment date.

(d) Sole Remedy. If this Agreement is terminated under circumstances in which the Company is obligated to pay the Termination Fee pursuant to Section 11.04(b), then Parent's right to receive the Termination Fee pursuant to Section 11.04(b) (together with any interest, costs and expenses pursuant to Section 11.04(c)), shall be the sole and exclusive remedy (whether at law, in equity, in contract, in tort or otherwise) of Parent and Merger Subsidiary against the Company or any Subsidiary of the Company for any loss or damage suffered as a result of any breach of any representation, warranty, covenant or agreement or failure to perform hereunder or other failure of the Merger to be consummated (whether willfully, intentionally, unintentionally or otherwise). If this Agreement is terminated under circumstances in which the Company is obligated to pay the Termination Fee pursuant to Section 11.04(b), then neither the Company nor any of its Subsidiaries shall have any liability for monetary damages of any kind or nature or arising in any circumstance in connection with this Agreement or any of the transactions contemplated by this Agreement, other than the payment by the Company of the Termination Fee pursuant to Section 11.04(b) (together with any interest, costs and expenses pursuant to Section 11.04(c)), and in no event shall any of Parent, Merger Subsidiary or any other Subsidiary of the Parent seek, or permit to be sought, any monetary damages in connection with this Agreement or any of the transactions contemplated by this Agreement, other than from the Company to the extent provided in Section 11.04(b) and Section 11.04(c). Notwithstanding anything to the contrary in this Section 11.04(d), this Section 11.04(d) shall not limit Parent's and Merger Subsidiary's remedies, or release the Company or any of its Subsidiaries from any liability, for (i) fraud or (ii) any intentional (A) failure of the Company to perform a covenant set forth in this Agreement or (B) breach by the Company of any representation and warranty set forth in this Agreement. The parties acknowledge and agree that only one Termination Fee shall be payable by the Company as set forth in Section 11.04(b) and in no event shall any such Termination Fee be payable by the Company on more than one occasion.

Section 11.05 *Disclosure Schedule and SEC Document References.* (a) The parties hereto agree that any reference in a particular section of the Company Disclosure Schedule shall only be deemed to be an exception to (or, as applicable, a disclosure for purposes of) (i) the representations and warranties (or covenants, as applicable) of the relevant party that are contained in the corresponding Section of this Agreement and (ii) any other representations and warranties of such party that is contained in this Agreement, but only if the relevance of that reference as an exception to (or a disclosure for purposes of) such representations and warranties would be readily apparent to a reasonable person who has read that reference and such representations and warranties, without any independent knowledge on the part of the reader regarding the matter(s) so disclosed. Notwithstanding anything in this Agreement to the contrary, the parties hereto agree that the inclusion of an item in either disclosure schedule as an exception thereto will not be deemed an admission that such item represents a material exception or material fact, event or circumstance, that such item is required to be disclosed by this Agreement or that such item has had or would reasonably be expected to have a Material Adverse Effect on the Company.

(b) The parties hereto agree that any information contained in any part of any Company SEC Document or Parent SEC Document shall only be deemed to be an exception to (or a disclosure for purposes of) the applicable party's representations and warranties if the relevance of that information as an exception to (or a disclosure for purposes of) such representations and warranties would be reasonably apparent to a person who has read that information concurrently with such representations and warranties, without any independent knowledge on the part of the reader regarding the matter(s) so disclosed; *provided* that in no event shall any information contained in any part of any Company SEC Document or Parent SEC Document entitled "Risk Factors" or containing a description or explanation of "Forward-Looking Statements" or any other information that is similarly predictive, cautionary or forward-looking in nature be deemed to be an exception to (or a disclosure for purposes of) any representations and warranties of any party contained in this Agreement; and *provided further* that in no event shall any information contained in any part of any Company SEC Document be deemed to be an exception to (or a disclosure for purposes of) any representations and warranties of the Company contained in Sections 4.01, 4.02, 4.03, 4.05, 4.23, 4.24 and 4.25.

Section 11.06 *Binding Effect; Benefit; Assignment.* (a) The provisions of this Agreement shall be binding upon and, except as provided in Section 7.02 and this Section 11.06, shall inure to the benefit of the parties hereto and their respective successors and assigns. Except as provided in Section 7.02 and this Section 11.06, no provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the parties hereto and their respective successors and assigns. Notwithstanding anything to the contrary in this Agreement, the Debt Financing Parties are third party beneficiaries of Sections 11.03, 11.07, 11.08, 11.09 and 11.14.

(b) No party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the written consent of each other party hereto, except that Parent or Merger Subsidiary may transfer or assign its rights and obligations under this Agreement, in whole or from time to time in part, (i) by written notice to the Company, to a wholly-owned direct or indirect Subsidiary of Parent, in which event all references herein to Parent or Merger Subsidiary, as applicable, shall be deemed references to such other Subsidiary; *provided* that any such assignment shall not materially impede or delay the consummation of the Merger and the other transactions contemplated by this Agreement or otherwise materially impair the rights of the Company under this Agreement or relieve Parent of any of its obligations under this Agreement and (ii) after the Effective Time, to any Person; *provided* that such transfer or assignment shall not relieve Parent or Merger Subsidiary of its obligations hereunder or enlarge, alter or change any obligation of any other party hereto or due to Parent or Merger Subsidiary.

Section 11.07 *Governing Law*. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

Section 11.08 *Jurisdiction*. The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby (whether brought by any party or any of its Affiliates or against any party or any of its Affiliates) shall be brought in the Delaware Chancery Court or, if such court shall not have jurisdiction, any federal court located in the State of Delaware or other Delaware state court, and each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 11.01 shall be deemed effective service of process on such party.

Section 11.09 *WAIVER OF JURY TRIAL*. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (INCLUDING THE DEBT FINANCING).

Section 11.10 *Counterparts; Effectiveness*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by all of the other parties hereto. Until and unless each party has received a counterpart hereof signed by the other party hereto, this Agreement shall have no effect and no party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). This Agreement may be executed by facsimile or .pdf signature and a facsimile or .pdf signature shall constitute an original for all purposes.

Section 11.11 *Entire Agreement.* This Agreement and the Confidentiality Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement.

Section 11.12 *Severability*. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 11.13 *Specific Performance*. The parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any federal court located in the State of Delaware or any Delaware state court, in addition to any other remedy to which they are entitled at law or in equity.

Section 11.14 *Debt Financing Parties*. None of the Debt Financing Parties will have any liability to the Company, its Affiliates or their respective Representatives relating to or arising out of this Agreement, the Debt Financing or otherwise, whether at law or equity, in contract, in tort or otherwise, and none of the Company, its Affiliates or their respective Representatives will have any rights or claims against any of the Debt Financing Parties hereunder or under the Debt Financing. In no event shall the Company, its Affiliates or their respective Representatives be entitled to seek the remedy of specific performance of this Agreement against the Debt Financing Parties

[The remainder of this page has been intentionally left blank; the next page is the signature page.]

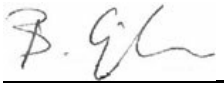
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date set forth on the cover page of this Agreement.

INCONTACT, INC.

By: 

Name: Paul Jarman
Title: Chief Executive Officer

NICE-SYSTEMS LTD.

By: 

Name: Barak Eilam
Title: Chief Executive Officer

VICTORY MERGER SUB INC.

By: 

Name: Barak Eilam
Title: President

[*Signature Page to Merger Agreement*]

Exhibit 8.1

Significant Subsidiaries

The following is a list of our significant subsidiaries, including the name and country of incorporation or residence. Each of our significant subsidiaries is wholly-owned.

Name of Subsidiary	Country of Incorporation or Residence
Nice Systems Australia PTY Ltd.	Australia
NICE Systems Technologies Brasil LTDA	Brazil
NICE Systems Canada Ltd.	Canada
Nice Systems China Ltd.	China
Nice Systems S.A.R.L.	France
NICE Systems GmbH	Germany
NICE APAC Ltd.	Hong Kong
NICE Systems Kft	Hungary
Nice Interactive Solutions India Private Ltd.	India
Nice Technologies Ltd.	Ireland
Actimize Ltd.	Israel
Nice Japan Ltd.	Japan
NICE Technologies Mexico S.R.L.	Mexico
NICE Systems B.V.	Netherlands
Nice Systems (Singapore) Pte. Ltd.	Singapore
Nice Switzerland AG	Switzerland
Actimize UK Limited	United Kingdom
NICE Systems Technologies UK Limited	United Kingdom
NICE Systems UK Limited	United Kingdom
Actimize Inc.	United States
Nice Systems Inc.	United States
Nice Systems Latin America, Inc.	United States
Nice Systems Technologies Inc.	United States
Nexidia Inc.	United States
inContact Inc.	United States
CallCopy Inc.	United States
inContact Bolivia S.R.L.	Bolivia
inContact Limited	United Kingdom
inContact Philippines Inc.	Philippines

Exhibit 12.1

Certification of Principal Executive Officer pursuant to 17 CFR 240.13a-14(a),
as adopted pursuant to §302 of the Sarbanes-Oxley Act

I, Barak Eilam, certify that:

1. I have reviewed this annual report on Form 20-F of NICE Ltd.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;

4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d – 15(f)) for the company and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: April 21, 2017

By: /s/ Barak Eilam
Barak Eilam
Chief Executive Officer

Exhibit 12.2

Certification of Principal Financial Officer pursuant to 17 CFR 240.13a-14(a),
as adopted pursuant to §302 of the Sarbanes-Oxley Act

I, Beth Gaspich, certify that:

1. I have reviewed this annual report on Form 20-F of NICE Ltd.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;

4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d – 15(f)) for the company and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: April 21, 2017

By: /s/ Beth Gaspich
Beth Gaspich
Chief Financial Officer

Exhibit 13.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 20-F of NICE Ltd. (the "Company") for the year ended December 31, 2016 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Barak Eilam, President and Chief Executive Officer of the Company, certifies, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to sec. 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

April 21, 2017

By: /s/ Barak Eilam
Barak Eilam
President and Chief Executive Officer

Exhibit 13.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 20-F of NICE Ltd. (the "Company") for the year ended December 31, 2016 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Beth Gaspich, Chief Financial Officer of the Company, certifies, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to sec. 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

April 21, 2017

By: /s/ Beth Gaspich
Beth Gaspich
Chief Financial Officer

Exhibit 15.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form S-8 (Registration Nos. 333-166364, 333-168100, 333-171165, 333-162795, 333-162110, 333-06784, 333-08146, 333-11842, 333-09350, 333-11154, 333-111112, 333-111113, 333-134355, 333-144589, 333-145981, 333-153230, 333-177510, 333-179408, 333-181375, 333-191176, 333-199904, 333-210341, 333-210343, 333-210344, 333-214584, 333-210341, 333-210343, 333-210344 and 333-214584) of our reports dated April 21, 2017, with respect to the consolidated financial statements of NICE Ltd. and its subsidiaries and the effectiveness of internal control over financial reporting of NICE-Systems Ltd. included in this Annual Report on Form 20-F for the year ended December 31, 2016.

Tel Aviv, Israel
April 21, 2017

/s/ KOST, FORER, GABBAY & KASIERER
KOST, FORER, GABBAY & KASIERER
A Member of Ernst & Young Global