FORM 10-K

Upland Software, Inc. - UPLD

Filed: March 30, 2017 (period: December 31, 2016)

Annual report with a comprehensive overview of the company

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

☒ **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**

Commission File Number 001-36720

Upland Software, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**27-2992077**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**

401 Congress Ave., Suite 1850

Austin, Texas 78701

(512) 960-1010

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

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

Title of each class	Name of each exchange on which registered
Common Stock, par value $0.0001 per share	The NASDAQ Global Market

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

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. 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 (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

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

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

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

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant was approximately $41.1 million based upon the closing price of $7.62 of such common stock on The NASDAQ Global Market on June 30, 2016 (the last business day of the registrant's most recently completed second fiscal quarter). Shares of common stock held as of June 30, 2016 by each director and executive officer of the registrant, as well as shares held by each holder of 10% of the common stock known to the registrant, have been excluded for purposes of the foregoing calculation. This determination of affiliate status is not a conclusive determination for other purposes.

As of March 22, 2017, 17,817,672 shares of the registrant's Common Stock were outstanding.

Documents incorporated by reference:

Certain portions, as expressly described in this Annual Report on Form 10-K, of the registrant's Proxy Statement for the 2016 Annual Meeting of the Stockholders, to be filed not later than 120 days after the end of the year covered by this Annual Report, are incorporated by reference into Part III of this Annual Report where indicated.

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PART I

Special Note Regarding Forward Looking Statements

This Annual Report on Form 10-K contains "forward-looking statements" within the meaning of Section 27A of the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Forward-looking statements generally relate to future events or our future financial or operating performance. Forward-looking statements may be identified by the use of forward-looking words such as "anticipate," "believe," "may," "will," "continue," "seek," "estimate," "intend," "hope," "predict," "could," "should," "would," "project," "plan," "expect" or the negative or plural of these words or similar expressions, although not all forward-looking statements contain these words. These forward-looking statements include, but are not limited to, statements concerning the following:

- our financial performance and our ability to achieve or sustain profitability or predict future results;
- our ability to attract and retain customers;
- our ability to deliver high-quality customer service;
- the growth of demand for enterprise work management applications;
- our plans regarding, and our ability to effectively manage, our growth;
- our plans regarding future acquisitions and our ability to consummate and integrate acquisitions;
- maintaining our senior management team and key personnel;
- our ability to maintain and expand our direct sales organization;
- the performance of our resellers;
- our ability to obtain financing in the future on acceptable terms or at all;
- our ability to adapt to changing market conditions and competition;
- our ability to successfully enter new markets and manage our international expansion;
- the operation and reliability of our third-party data centers;
- our ability to adapt to technological change and continue to innovate;
- economic and financial conditions;
- our ability to integrate our applications with other software applications;
- maintaining and expanding our relationships with third parties;
- costs associated with defending intellectual property infringement and other claims;
- our ability to maintain, protect and enhance our brand and intellectual property;
- our ability to comply with privacy laws and regulations;
- our expectations with respect to revenue, cost of revenue and operating expenses in future periods;
- our expectations with regard to trends, such as seasonality, which affect our business;
- our expectations as to the payment of dividends;
- our expectations with regard to revenue from perpetual licenses and professional services;
- our beliefs regarding the sufficient duration of our patents;
- our plans with respect to foreign currency exchange risk and inflation;
- our beliefs regarding how our applications benefit customers and what our competitive strengths are; and
- other risk factors included under "Risk Factors" in this Annual Report on Form 10-K.

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this Annual Report on Form 10-K primarily on our current expectations and projections about future events and trends that we believe may affect our business, financial condition, results of operations, and prospects. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties, and other factors, including those described in the section titled "Risk Factors" and elsewhere in this Annual Report on Form 10-K. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this Annual Report on Form 10-K. We cannot assure you that the results, events, and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events, or circumstances could differ materially from those described in the forward-looking statements.

The forward-looking statements made in this Annual Report on Form 10-K relate only to events as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements made in this Annual Report on Form 10-K to reflect events or circumstances after the date of this Annual Report on Form 10-K or to reflect new information or the occurrence of unanticipated events, except as required by law. We may not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements and you should not place undue reliance on our forward-looking statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures, or investments we may make.

All references to "Upland," "we," "us" or "our" mean Upland Software, Inc.

Item 1. Business

We provide cloud-based enterprise work management software. We define enterprise work management software as software that enables organizations to effectively plan, manage, and execute projects and work. Our software applications address enterprise work challenges in the following categories:

- *Project & Information Technology (IT) Management*. Enables users to manage their organization's projects, professional workforce, and IT costs.
- *Workflow Automation*. Enables users to automate document-intensive workflow business processes across their enterprise and supply chain.
- *Digital Engagement*. Enables users to more effectively engage with their customers, prospects, and community via the web and mobile technologies.

We sell our software applications primarily through a direct sales organization comprised of inside sales and field sales personnel. In addition to our direct sales organization, we have an indirect sales organization that sells to distributors and value-added resellers. We employ a land-and-expand go-to-market strategy. After we demonstrate the value of an initial application to a customer, our sales and account management teams work to expand the adoption of that initial application across the customer, and cross-sell additional applications to address other enterprise work management needs of the customer. Our customer success organization supports our direct sales efforts by managing the post-sale customer lifecycle.

Our subscription agreements are typically sold either on a per-seat basis or on a minimum contracted volume basis with overage fees billed in arrears, depending on the application being sold. Contract terms typically range from one to three years and are prepaid annually in advance. We service customers ranging from large global corporations and government agencies to small- and medium-sized businesses. We have more than 2,500 customers with over 250,000 users across a broad range of industries, including financial services, retail, technology, manufacturing, education, consumer goods, media, telecommunications, government, food and beverage, healthcare, and life sciences.

Through a series of acquisitions and integrations, we have established a family of software applications under the Upland brand. For the twelve months ended December 31, 2016, compared to the twelve months ended December 31, 2015, our total revenue grew from $69.9 million to $74.8 million, representing an 7% period-over-period growth rate. For the twelve months ended December 31, 2016, compared to the twelve months ended December 31, 2015, our subscription and support revenue grew from $57.2 million to $65.6 million, representing a 15% period-over-period growth rate. On a constant currency basis, subscription and support revenue increased by $9.0 million, or 16%. See Note 15 of the Notes to Consolidated Financial Statements for more information regarding our revenue as it relates to domestic and foreign operations.

Our operating results in a given period can fluctuate based on the mix of subscription and support, perpetual license, and professional services revenue. For the twelve months ended December 31, 2016 and 2015, our subscription and support revenue accounted for 88% and 82% of total revenue, respectively. Historically, we have sold certain of our applications under perpetual licenses, which also are paid in advance. For the twelve months ended December 31, 2016 and 2015, our perpetual license revenue accounted for 2% and 4% of total revenue, respectively. The support agreements related to our perpetual licenses are typically one-year in duration and entitle the customer to support and unspecified upgrades. The revenue related to such support agreements is included as part of our subscription and support revenue. Professional services revenue consists of fees related to implementation, data extraction, integration and configuration, and training on our applications. For the twelve months ended December 31, 2016 and 2015, our professional services revenue accounted for 10% and 14% of total revenue, respectively.

To support continued growth, we intend to pursue acquisitions of complementary technologies, products and businesses. This will expand our product families, and customer base and market access resulting in increased benefits of scale. We will prioritize acquisitions within the product categories we currently serve, including Project & IT Management, Workflow Automation, and Digital Engagement. Consistent with our growth strategy, we have made a total of twelve acquisitions in the five years ending December 31, 2016, and made one additional acquisition in January 2017.

We completed our initial public offering in November 2014 and our common stock is listed on the NASDAQ Global Market under the symbol "UPLD."

Industry Background

The continued growth of an information-based economy driven by technological innovation and globalization is changing the business environment and the way work is done. These changes have given rise to a large and growing group of knowledge workers who operate in dynamic work settings as part of geographically dispersed and virtual teams. To be successful, these knowledge workers must quickly synthesize, analyze and act on large amounts of information, and collaborate effectively at any time, from anywhere and on multiple devices.

Many organizations continue to utilize manual processes and traditional tools, such as paper-based techniques, spreadsheets, and email, as well as legacy on-premise enterprise systems, to manage knowledge work. The limitations of these processes and systems include siloed and disparate information, limited visibility and transparency, poor collaboration among teams, lost productivity, and misalignment of work efforts and overall business objectives. In addition, legacy on-premise enterprise systems can be expensive and time intensive to implement, inflexible and difficult to use, and costly to upgrade and maintain. Today, legacy processes and systems are being disrupted and replaced by cloud-based enterprise software that combines improved visibility, collaboration, and productivity with rapid speed-to-value, low total cost of ownership, and reduced financial risk.

The Upland Approach

Our family of cloud-based software applications deliver the functionality required to plan, manage and execute projects and work. Our cloud-based enterprise software applications can increase work capacity and productivity by reducing manual processes and isolated silos of information, and by enhancing collaboration across organizations. Our applications allow our customers to effectively manage the rapid pace of change and complexity in today's work environment. Our customers currently use our applications in the following functional areas:

- *Information Technology*. Information technology departments use our applications to manage a variety of information technology activities and resources, such as projects and application portfolios. Our applications help information technology departments ensure they are delivering against the objectives of the business by helping to select and prioritize the right investments, gain greater control of resource demand and allocation, and track and report benefit realization. Our applications enable executives to gain better insight into information technology spending to help prevent cost overruns and understand the nature of consumption. By enabling information technology teams to make more informed decisions with real-time visibility across the complete information technology portfolio, our applications empower information technology departments to shift from a cost center to a more strategic enterprise function.
- *Process Excellence and Operations*. Process excellence, Lean Six Sigma, and similar functional groups within customers use our applications to facilitate critical process improvement efforts. Our applications help provide high-level visibility and tracking of process excellence programs, automate processes and streamline workflows while improving process governance. Process improvement and similar business transformation initiatives continue to be a key driver of corporate performance, especially among large global corporations.
- *Finance*. Finance departments use our applications as a cost allocation tool to assess and validate proposed investments and initiatives of a particular line-of-business, as well as increase the visibility and governance of capital expenditures and cost-cutting projects and deepen the understanding of actual resource utilization and costs. Our applications help improve collaboration between finance departments and particular lines of business, in addition to streamlining compliance and accounting workflows.
- *Professional Services*. Professional services organizations, such as consulting or software development firms, employ our applications to streamline service delivery and optimize utilization of billable

resources. In addition, service-oriented departments within customers, such as customer service and support teams, utilize our applications to more effectively budget, plan, and track provision of services and improve capacity planning and forecasting.

- *Marketing*. Marketing teams employ our applications to enhance their overall marketing effectiveness. We offer applications that help customers build their online and mobile brand presence, engage their target audiences, collaborate on the creation and publication of content, and gain increased control over marketing workflows, activities and budgets. Our applications empower marketing and communications organizations to more effectively manage the influx of projects, information, processes, and systems necessary to meet today's modern marketing requirements.

We believe our applications benefit customers in the following ways:

- Our applications enable our customers to more effectively align programs, initiatives, investments, and projects with overall business objectives, helping ensure the right work is done at the right time. This alignment drives increased productivity and optimizes the allocation and utilization of people, time and money within organizations.
- Our applications help customers to more effectively manage projects and tasks by enabling real-time visibility, collaboration, structured workflows, and access to the right content and information. This provides teams of distributed workers with clarity into priorities and expectations as well as the tools to execute effectively, resulting in increased productivity, transparency, accountability, and the ability to respond rapidly to change.
- Our applications collect and make available real-time data regarding the planning, management, and execution of projects and work processes across teams and business units which enables a more complete view of teams, projects, and resources at anytime from anywhere.
- Our applications provide analytics and reporting capabilities that transform disparate data in real-time into actionable intelligence, enabling users to make better informed business decisions. Our applications enable customers to conduct dynamic and sophisticated "what-if" and scenario analyses that can improve their ability to respond effectively to changing business conditions.
- Customers can easily access our cloud-based applications with an Internet browser. Our applications do not require large up-front software expenditures or significant ongoing infrastructure or information technology support. In addition, our applications have a modern look and feel that helps provide a consistent user experience across our platform.
- Our applications are highly configurable, which provides us with flexibility to meet the unique business requirements of individual customers. Our applications are also scalable and are able to support large deployments while maintaining required performance levels. We provide tools to help our customers manage the critical elements of application security, including authentication, authorization, and regulatory compliance.

Our Competitive Strengths

We believe the following competitive strengths are keys to our success:

- *Large, diversified customer base*. Our customer base is highly diverse and spans a broad array of industries, including financial services, retail, technology, manufacturing, education, consumer goods, media, telecommunications, government, food and beverage, healthcare and life sciences. We service customers of varying size, ranging from large global corporations and government agencies to small- and medium-sized businesses. We have over 2,500 customers, with no customer accounting for more than 3% of our revenue.
- *Diversified family of software applications*. We offer a family of software applications that addresses a broad range of enterprise needs. We believe this benefits our customers as compared to many of our cloud-based competitors who offer only a single point solution for a more limited and discrete need. Our current applications address the information technology, process excellence, finance, professional

services, and marketing functions within organizations.

- *Recurring revenue model with high visibility*. We believe we have a an attractive operating model due to the recurring nature of our subscription revenue, which results in greater visibility and predictability of future revenue and enhances our ability to effectively manage our business. In addition, the cloud-based nature of our model accommodates significant additional business volume with limited incremental costs, providing us with opportunities to improve our operating margins.
- *Proven M&A capability*. We have a proven ability to successfully identify, acquire and integrate complementary businesses to grow our company, as evidenced by the twelve acquisitions we have completed since the beginning of 2012, which excludes one additional acquisition closed in January 2017. We believe that our acquisition experience and strategy gives us a competitive advantage in identifying additional opportunities to expand our family of software applications to better serve our customers.
- *Experienced, proven management team*. Our management team has significant operating experience and previously occupied key leadership roles at both private and public companies. In addition, our management's extensive knowledge of the industry and experience in building businesses has enabled us to quickly establish a leading position within the enterprise software market.
- *Cloud-based delivery*. We deliver our software applications and functionality primarily through the cloud, with no hardware or software installation required by our customers. This delivery model allows us to provide reliable, cost-effective applications to our customers, add subscribers with minimal incremental expense and deploy new functionality and upgrades quickly and efficiently. We believe our cloud-based delivery model provides us with a competitive advantage over legacy processes and on-premise systems.
- *Commitment to customer success*. We have a dedicated customer success organization whose mission is to drive adoption, value realization, retention, and loyalty across our customer base. Our focus on enabling our customers' success is a key reason our annual net dollar retention rate was 95% as of December 31, 2016. Our commitment to customer success has enabled us to expand our footprint within customers and facilitate the ongoing adoption of our enterprise software applications. We utilize Net Promoter Score (NPS) methodology to track our progress and drive continuous improvement.

Our Strategy for Growth

We believe the key elements of our strategy for growth are as follows:

- *Increase sales to existing customers*. We believe there is a significant opportunity to expand the adoption of our applications within existing customers, particularly within divisions or departments that have not previously used our applications. We also intend to cross-sell additional applications to our existing customers, as very few of our customers currently use more than one of our applications. In addition, we intend to add new applications to our family of applications that will address additional functions within the enterprise spectrum. We believe these initiatives will significantly increase the value of our platform to our customers, further strengthen our competitive position, and drive increased adoption of multiple applications by our customers.
- *Add new customers*. We maintain direct sales and marketing capabilities in order to further grow our customer base. We also maintain indirect sales channels through alliances with strategic partners that can leverage our applications with complementary services and technologies they provide. In addition, we continue to expand the range of integrations between our software and third-party applications and platforms, which we believe make our applications more attractive to a broader audience of potential customers.
- *Acquire complementary software businesses*. We intend to pursue acquisitions of complementary technologies, products, and businesses to expand our product families and customer base and provide access to new markets and increased benefits of scale. Our dedicated and experienced corporate

development team continually monitors a pipeline of potential acquisition candidates, many of which are smaller in scale or address only limited enterprise challenges, which often operate outside the scope of some of our larger competitors. We believe that our acquisition experience and strategy gives us a competitive advantage in identifying additional opportunities to expand our family of cloud-based applications to better serve our customers. We intend to prioritize acquisitions within the product families we currently offer, including Project & IT Management, Workflow Automation and Digital Engagement.

- *Expand globally*. We believe there is an opportunity to grow sales of our applications globally. In fiscal 2016, 2015, and 2014, approximately 16%, 19%, and 22%, respectively, of our revenue was derived from sales outside the United States. Over the next several years, we plan to continue to evaluate growth opportunities outside the United States through selective acquisitions, the hiring of additional sales personnel, and entering into strategic partnerships.
- *Improve and enhance applications*. We intend to continue to invest in research and development and work closely with our customers to identify and improve new applications, features and functionalities that address customer requirements across the enterprise spectrum. We also intend to continue to expand the breadth of our applications with additional analytics, third-party integrations, and social and mobile capabilities to meet the evolving needs of today's knowledge workers.

Our Products

We provide a family of cloud-based enterprise software applications under the Upland brand. Our applications are easy-to-deploy, highly configurable, scalable, flexible, and secure. We provide applications in three product families: Project & IT Management, Workflow Automation, and Digital Engagement. Our Project & IT Management product family enables users to manage their projects, professional workforce, and IT costs. Our Workflow Automation product family enables users to automate document-intensive organizational workflows. Our Digital Engagement product family enables users to effectively engage with their customers, prospects, and community via the web and mobile technologies.

Project & IT Management

Project and Portfolio Management. Our program and portfolio management applications are used by our customers to gain high-level visibility across their organizations and improve their top-down and bottom-up governance of programs, initiatives, investments, and projects. Our customers use these capabilities to:

- gather, develop, and assess ideas and proposed investments;
- prioritize and select projects and investments according to business value and strategic fit;
- more effectively allocate resources in alignment with business objectives;
- respond quickly to change with real-time visibility into status and the ability to evaluate the impact of potential changes; and
- gauge performance against strategic objectives, execution-level indicators, and financial metrics.

Our program and portfolio management applications are currently used within the information technology, finance and process excellence functions of customers and in the healthcare and education industries.

Professional Services Automation. Our professional services automation applications are used by customers to more effectively manage their project and service-based knowledge workers to better manage employee-related expenses and client billing while improving scheduling, utilization, and alignment of human capital. Our customers use these capabilities to:

- create resource capacity plans;
- align available skills, expertise and capacity with project requirements;
- more efficiently plan and schedule projects;

- track resource and expense allocation for specific projects, activity types or budget categories;
- analyze workforce performance;
- streamline timesheet review, approval, and reporting processes;
- manage time, travel, and entertainment expenses; and
- streamline project cost reporting, billing, and revenue recognition processes.

Our professional services automation applications currently are used within the information technology, marketing, finance, and professional services functions of customers.

IT Financial Management. Our financial management application is used by our customers to gain visibility into the cost, quality, and value of services the information technology and finance functions deliver to organizations. This increased transparency helps our customers improve alignment during planning and budgeting processes, and validate proposed investments and initiatives of a particular line of business. Our customers use these capabilities to:

- quantify and understand the total cost of ownership of information technology applications and services;
- establish product and unit-costing metrics for benchmarking and/or chargeback;
- provide information technology and finance departments with the ability to chargeback business units for applications and services, including cloud services, based on metered consumption;
- provide business managers with insights into their consumption of information technology services to better utilize information technology services with business goals and objectives;
- leverage utilization and capacity metrics for "what-if" analysis and modeling;
- analyze fixed versus variable information technology-related costs to identify opportunities for savings; and
- support demand-based budgeting and forecasting processes.

Our financial management application is currently used within the information technology and finance functions of customers.

Workflow Automation

Enterprise Secure Document Capture and Fax. Our secure document capture and fax application is used by our customers to enable secure document process automation through an all-in-one platform that accelerates paper and electronic document-intensive workflows and communications. Our customers use these capabilities to:

- empower organizations with one extensible, easy-to-use platform that takes documents and puts them into a single, highly-accessible archive;
- increase customer satisfaction and save time through automated processes, go digital with increased accessibility, allowing for better management of customer interactions and improve overall service response times;
- lower total costs by consolidating fax infrastructure by relying on Fax over IP technology that enables least cost routing;
- reduce risk though highly-scalable, reliable infrastructure that seamlessly supports a wide range of industries;
- streamline mission-critical document workflows such as, e-filing, scanning to document management systems (DMS), and managing sensitive intellectual property, while maintaining high levels of document integrity and security; and
- protect sensitive data thanks to the ability to set custom business rules, such as holding documents until authorized users can access them.

Our enterprise secure document capture and fax applications are currently used in healthcare as well as legal, financial, and other document-centric functions of customers.

Workflow Automation and Enterprise Content Management. Our workflow automation and enterprise content management applications are used by our customers to automate document-based workflows by capturing, storing and routing content, assigning work tasks and creating audit trails for operations such as healthcare records, loan processing, human resource processes, and accounts receivable and payable processing. Our customers use these capabilities to:

- empower collaboration by providing a way for employees, suppliers, and partners to access, share, and update content from anywhere;
- streamline workflows by creating custom rules to process and route content for approval;
- automatically capture, index, classify, and organize enterprise content in a secure, central repository with document retention policies to meet business and compliance requirements; and
- apply and enforce document retention policies to meet business and compliance requirements.

Our workflow automation and enterprise content management applications are currently used within the information technology, finance, marketing, and process excellence functions of customers.

Supply Chain Visibility and Collaboration. Our supply chain collaboration application provides our customers with a single source for supply-chain communication, providing a basis for multi-enterprise, multi-tier, end-to-end supply chain collaboration. Our customers use these capabilities to:

- acquire actionable business intelligence, collaboration, and execution for all aspects of supply chain operations;
- implement a seamless migration to pull-based replenishment resulting in reductions in stock-outs and expensive expediting costs, higher order fulfillment rates, and improved customer service levels; and
- enable a closed-loop manufacturing and supply chain management processes resulting in reductions in raw material, work-in-process and finished goods inventory and reductions to inventory carrying costs.

Our supply chain visibility and collaboration applications are currently used in industrial and diversified manufacturing, healthcare, aerospace and defense, energy, automotive, electronics, sporting goods, and consumer package goods organizations.

Digital Engagement

Digital Engagement Management. Our digital engagement applications are used by customers to connect and communicate with their target markets in order to build brand relationships or drive a particular program outcome via website and mobile devices, providing a timely and highly relevant customer experience. Additionally, our digital engagement management applications are used by enterprise marketers and media companies to create, maintain, and deliver websites that enhance and influence customer engagement. These applications empower non-technical staff to create, manage, publish, analyze, and refine content and social media assets without information technology intervention. Our customers use these capabilities to:

- streamline the process for creating and managing website content;
- deliver more relevant, personalized content to website visitors based on the tracking of individual visitor behavior;
- convert website visits to actionable sales leads;
- integrate user-generated content, such as polls, surveys, blogs, ratings, and comments, into their websites;
- engage entire target audiences with one-on-one text message conversations to achieve optimal results;
- reach the correct person at exactly the right moment through list segmentation and scheduling;
- provide timely alerts and reminders on important events based on user preferences;

- respond to users instantly, answering questions via text message;
- manage all mobile communications from a single place, keeping track of all users and actions;
- analyze campaign performance at all levels and every action;
- run surveys, polls, and quizzes to gather information and engage users; and
- ensure security and privacy of information through comprehensive policies, procedures, and technical controls.

Our Digital Engagement applications currently are used within the marking function of our customers.

Customers

We have more than 2,500 customers with over 250,000 users. Our customers operate in a wide variety of industries, including financial services, retail, technology, manufacturing, education, consumer goods, media, and telecommunications, government, food and beverage, healthcare and life sciences, chemicals, and travel and hospitality. No customer represented more than 3% of our revenue as of December 31, 2016.

Sales

We sell our software applications primarily through a direct sales organization comprised of inside sales and field sales personnel. We employ a land-and-expand go-to-market strategy. After we demonstrate the value of an initial application to a customer, our sales and account management teams work to expand the adoption of that initial application across the customer, as well as cross-sell additional applications to address other enterprise needs of the customer.

Marketing

Our marketing activities are designed to build awareness of the Upland brand and the individual product brands, generate thought leadership and create demand, resulting in leads and opportunities for our sales organizations. We focus a significant portion of our marketing activities on our existing installed base of customers in order to drive expansion and cross-sell opportunities. Our marketing programs target decision makers and influencers participating in a buying cycle, including the chief information officer, the chief marketing officer, the chief financial officer, the director of process excellence and other key technology and business managers. Our principal marketing programs include:

- use of our website to provide information about us and our software applications, as well as educational opportunities for potential customers;
- field marketing events for customers and prospective customers;
- participation in, and sponsorship of, executive events, trade shows, and industry events;
- our online virtual user conferences;
- integrated digital marketing campaigns, including email, online advertising, blogs, and webinars;
- public relations, analyst relations, and social media initiatives; and
- sales representatives who respond to incoming leads to convert them into new sales opportunities.

Customer Success

Our customer success organization is structured to manage all aspects of our post-sale customer lifecycle. This organization consists of dedicated teams with a mission to drive adoption of our applications, value realization, retention, and loyalty across our customer base. Our customer success organization has four core functional areas with strategic focus on customer relationship management:

- *Customer Care*. Our customer care team assists customers throughout their lifecycle with the Upland family of applications by making service offerings available to all customers as part of their standard customer agreements, including webinars, virtual user conferences, and online community engagement.

- *Professional Services*. Our professional services team is responsible for coordinating all activities relating to the implementation, transition, and on-boarding of new customers and assisting new customers with the addition of new applications to their accounts. Typical professional services engagements vary in length from a few weeks to several months depending on the size and scope of the engagement and are in addition to services provided under our standard customer agreement and are fee-based. In addition, our project managers and consultants work closely with our customers to provide services that help customers maximize the utility of our applications.
- *Account Management*. We assign each customer an account team with a relationship manager who functions as the customer's single point of contact and advocate within Upland. Our account management teams are trained on all of our applications and work closely with the relationship manager to ensure that our customers receive high-quality consultative service.
- *Customer Support*. We offer support from all of our office locations to help our customers maximize the return on their investment in our applications. We provide 24/7 customer support around the world through our online customer support portal. In addition, our customer support team manages and administers the Upland customer community forum and knowledge base repository.

Our customer success organization manages programs to reinforce the ongoing business value of our applications and promote the Upland "customer for life" program. These service offerings include:

- *Health Checks and Program Reviews*: Engages core users and business buyer sponsors to deliver a detailed scorecard and recommendation report.
- *Advisory and Retained Services*: Provides access to a specific customer success contact with priority scheduling and periodic checkpoints.
- *System Deployment and Adoption Analysis*: Analyzes system configuration and usage patterns, resulting in best practice recommendations on improving user adoption and compliance.
- *Consumption Review and Recommendations*: Delivers best practice recommendations for implementation strategy and a roadmap proposal for aligning the system with customers' evolving process maturity to increase application usage.
- *Premier Success Plans*: Provides a bundled services, support, and product experience offering with three tiers (standard, gold and platinum) designed to provide maximum customer value.

Technology and Operations

Our cloud-based family of applications utilizes a multi-tenant architecture and our customers access our applications using a secure Internet connection through a standard web browser. Our applications are easy to deploy, highly configurable, scalable, flexible, and secure and provide our customers with a modern and intuitive user experience.

We presently use storage area network hardware at our data center locations that has been designed for high performance and data-loss prevention, but have commenced an initiative to migrate our data centers to Amazon Web Services or an equivalent hosting facility. We believe this transition will lead to operational efficiencies for our business that will enable us to better serve our customers.

With our data that is stored at our data center locations, we employ a modular application architecture to balance customer workloads across multiple servers and to provide a flexible method for scaling customers without impacting other parts of the server environment. This architecture is designed to allow us to provide the high levels of uptime required by our customers. We employ capacity planning techniques to ensure we have required capacity for our forecasted growth. We believe that our move to a single, full-service hosting facility will enable us to more easily ensure the balance of customer workloads, scalability, and high levels of uptime.

Our applications offer high levels of security by segregating each customer's data from the data of other customers and by limiting access to our platform to only those individuals authorized by our customers after they have been authenticated and validated. We maintain a formal and comprehensive security program designed to ensure the security and integrity of customer data, protect against security threats or data breaches, and prevent unauthorized access to the data of our customers. At our data centers, we strictly regulate and limit all access to servers and networks at our production and remote backup facilities, and we engage a third party to conduct periodic security audits on our data and access security, including firewall penetration testing and vulnerability scans. In addition, sensitive customer data is encrypted and encrypted backup files are transmitted over secure connections to a redundant server storage device in a secondary data center. Our data center facilities employ advanced measures to ensure physical integrity, including redundant power and cooling systems, and advanced fire and flood prevention.

Our applications that are presently hosted at data centers are secure, third-party, American National Standards Institute Tier 3 data center facilities, located in the United States and other countries. Our data centers are designed to host computer systems with fully redundant subsystems and compartmentalized security zones. While we procure and operate all infrastructure equipment delivering our applications, third parties operate the data centers that we use. These facilities provide 24/7 security, biometric access controls, systems security, redundant networking, N+1 power and environmental controls. We expect that our initiative to consolidate our data centers to Amazon Web Services or equivalent hosting facilities for higher efficiency will be complete in 2018.

Research and Development

We focus our research and development efforts on customer-driven innovation, third-party integrations and continually enhancing the performance, reliability, security, usability, and scalability of our applications.

In addition to internal resources, we utilize partners, contractors, and offshore resources to improve efficiencies and our ability to deliver. Our research and development expenses were $14.9 million, $15.8 million, $26.2 million in fiscal years 2016, 2015, and 2014, respectively. See audited financial statement Note 16 Related Party Transactions regarding an $11.2 million charge to research and development costs in fiscal 2014.

Competition

The overall markets we serve are rapidly evolving and subject to changing technology, shifting customer needs, and frequent introductions of new applications. The intensity and nature of our competition varies significantly across our range of enterprise applications. We face competition both from point solution providers, including legacy on-premise enterprise systems, and other cloud-based software vendors that may address one or more of the functional elements of our applications. In addition, we face competition from manual processes and traditional tools, such as paper-based techniques, spreadsheets, and email.

We believe the principal competitive factors in our market include the following:

- breadth and depth of application functionality;
- ease of deployment and use of applications;
- total cost of ownership;
- levels of customer support satisfaction;
- brand awareness and reputation;
- capability for configurability, integration, scalability, and reliability of applications;
- ability to innovate and respond to customer needs rapidly; and
- level of integration among applications and with other enterprise systems.

We believe that we compete favorably on the basis of these factors. Our ability to remain competitive will largely depend on the strength of our applications, the effectiveness of our sales and marketing efforts, the quality of our customer success organization, and our ability to acquire complementary technologies, products, and businesses to enhance the features and functionality of our applications.

Intellectual Property and Proprietary Rights

We rely on a combination of trademark, copyright, trade secret, and patent laws in the United States and other jurisdictions as well as confidentiality procedures and contractual provisions to protect our intellectual property.

Employees

As of December 31, 2016, we had 251 employees, with the majority of our employees located in the United States or Canada. None of our employees are covered by a collective bargaining agreement. We have never experienced a strike or similar work stoppage, and we consider our relations with our employees to be good.

Legal Proceedings

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that we believe would, individually or taken together, have a material adverse effect on our business, operating results, financial condition or cash flows.

Information about Segment and Geographic Revenue

We operate and manage our business as a single operating segment. See our consolidated financial statements for a discussion of revenues, operating loss, net loss, and total assets. Our revenues are principally generated in the United States, which accounted for 84%, 81%, and 78% of consolidated revenues for the years ended December 31, 2016, 2015, and 2014, respectively. Revenues from international business accounted for 16%, 19%, and 22% of consolidated revenues for the years ended December 31, 2016, 2015, and 2014, respectively. See Note 15 of the Notes to Condensed Consolidated Financial Statements for more information regarding our revenue as it relates to domestic and foreign operations.

Available Information

We were incorporated in Delaware in 2010. Our principal executive offices are located at 401 Congress Avenue, Suite 1850, Austin, TX 78701. Our telephone number at that location is (855) 944-7526. Our website address is www.uplandsoftware.com. Information on our website is not part of this report and should not be relied upon in determining whether to make an investment decision. The inclusion of our website address in this report does not include or incorporate by reference into this report any information on our website.

Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, are available free of charge through our website as soon as reasonably practicable after they are electronically filed with or furnished to the SEC. The public may read and copy the materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Additionally the SEC maintains an internet site that contains reports, proxy and information statements and other information. The address of the SEC's website is www.sec.gov.

Item 1A. Risk Factors

Risks Related to Our Business

We have a limited operating history and may be unable to achieve or sustain profitability or accurately predict our future results.

We were formed in July 2010 and acquired our first business and commenced operations in September 2011. Prior to September 2011, our business activity was devoted to raising capital, building infrastructure and reviewing potential acquisitions. As such, we have a very limited operating history of selling our products and professional services to third parties. Our limited operating history makes it difficult to evaluate our current business and future prospects and may increase the risk of your investment. We incurred net losses of $13.5 million, $13.7 million and $20.1 million in fiscal 2016, 2015, and 2014, respectively. As of December 31, 2016, we had an accumulated deficit of $62.4 million. Our losses in prior periods and accumulated deficit reflect the investments we have made to date to grow our business. We expect to have significant operating expenses in the future to further support and grow our business, including expanding the range of integrations between our software and third-party applications and platform, expanding our direct and indirect sales capabilities, pursuing acquisitions of complementary businesses, investing in our data center infrastructure and research and development and increasing our international presence, and as a result, we may be unable to achieve or sustain profitability or accurately predict our future results. You should not consider our recent growth in revenue as indicative of our future performance, and we cannot assure you that we will achieve profitability in the future, nor that if we do become profitable, we will sustain profitability.

Our growth depends on our ability to retain existing customers and secure additional subscriptions and cross-sell opportunities from existing customers, and nonrenewals and downgrades could harm our future operating results.

In order for us to improve our operating results, it is important that our customers renew or upgrade their agreements with us when the applicable contract term expires, which is typically one to three years for subscription agreements and one year for perpetual license agreements, and also purchase additional applications from us. Upon expiration, customers can renew their existing subscriptions, upgrade their subscriptions to add more seats or additional minimum contracted volume, downgrade their subscriptions to fewer seats or lower minimum contracted volume or not renew. A renewal constitutes renewing an existing contract for an application under the same terms and an upgrade includes purchasing additional seats or volume under an existing contract. We may also cross-sell additional applications to existing customers. Our ability to grow revenue and achieve profitability depends, in part, on customer renewals, upgrades and cross-sales to existing customers exceeding downgrades and nonrenewals. However, we may not be able to increase our penetration within our existing customer base as anticipated and we may not otherwise retain subscriptions from existing customers. Our customers may choose to not renew or upgrade their subscriptions, or may downgrade, because of several factors, including dissatisfaction with our prices, features or performance relative to competitive offerings, reductions in our customers' spending levels, unused seats or volume or limited adoption or use of our applications. In addition, we may not be successful in cross-selling new applications to our existing customers. If our customers do not upgrade or renew their subscriptions or purchase additional applications from us, or if they downgrade their subscriptions, our revenue may grow more slowly than expected or may decline, and our financial performance may be adversely affected.

Any failure to offer high-quality customer service may adversely affect our relationships with our customers and our financial results.

Our customers depend on our customer success organization to manage the post-sale customer lifecycle, including to implement new applications for our customers, provide training and ongoing education services and resolve technical issues relating to our applications. We may be unable to respond quickly enough to accommodate short-term increases in demand for our customer success services. We also may be unable to modify the format of our customer success services to compete with changes in similar services provided by our competitors. Increased customer demand for these services, without corresponding revenue, could increase costs and adversely affect our operating results. In addition, our sales process is highly dependent on the reliable functional operation of our applications, our business reputation and positive recommendations from our existing customers. Any failure to maintain high-quality customer service, or a market perception that we do not maintain high-quality customer service, could adversely affect our reputation, our ability to sell our applications to existing and prospective customers and our business, operating results and financial position.

If the market for cloud-based enterprise work management applications develops more slowly than we expect, or declines, our business could be adversely affected.

The market for cloud-based enterprise work management applications is not as mature as the market for legacy on-premise enterprise systems, and it is uncertain whether cloud-based applications will achieve and sustain high levels of customer demand and market acceptance. Our success will depend to a substantial extent on increased adoption of cloud-based applications, and of our enterprise work management software applications in particular. Many large organizations have invested substantial personnel and financial resources to integrate legacy on-premise enterprise systems into their businesses, and therefore may be reluctant or unwilling to migrate to cloud-based applications or away from their traditional vendors or to new practices because of the organizational changes often required to successfully implement new enterprise work management systems. In addition, we do not know whether the adoption of enterprise work management software will continue to grow and displace manual processes and traditional tools, such as paper-based techniques, spreadsheets and email. It is difficult to predict customer adoption rates and demand for our applications, the future growth rate and size of the cloud-based software application market or the entry of competitive products. The expansion of the cloud-based software application market depends on a number of factors, including the cost, performance and perceived value associated with cloud-based applications, as well as the ability of cloud-based application companies to address security and privacy concerns. If other cloud-based software application providers experience security incidents, loss of customer data, disruptions in delivery or other problems, the market for cloud-based applications as a whole, including our enterprise work management applications, may be negatively affected. If cloud-based applications do not achieve widespread adoption, or there is a reduction in demand for cloud-based applications caused by a lack of customer acceptance, technological challenges, weakening economic conditions, security or privacy concerns, competing technologies and products, decreases in corporate spending or otherwise, our revenues may decrease and our business could be adversely affected.

If we fail to manage our growth effectively, we may be unable to execute our business plan and maintain high levels of customer satisfaction.

We have recently experienced a period of rapid growth in our personnel and operations. In particular, we increased our number of full-time employees from three as of December 31, 2011 to 251 as of December 31, 2016, and have also increased the size of our customer base. In addition, our revenue grew from $712,000 in fiscal 2011 to $74.8 million in fiscal 2016. Acquisitions are a primary component of our growth strategy and, as a result, we anticipate that we will continue to experience further rapid growth in our personnel and operations in the future. Our growth has placed, and future growth will place, a significant strain on our managerial, administrative, operational, financial and other resources. To manage the expected growth of our personnel and operations, we will need to continue to improve our operational, financial and management controls and our reporting systems and procedures. Failure to effectively manage our growth could result in difficulty or delays in deploying our applications, declines in quality or customer satisfaction, increases in costs, difficulties in introducing new features or other operational difficulties, and any of these difficulties could adversely impact our business performance and results of operations.

We have made and expect to continue to make acquisitions as a primary component of our growth strategy. We may not be able to identify suitable acquisition candidates or consummate acquisitions on acceptable terms, or we may be unable to successfully integrate acquisitions, which could disrupt our operations and adversely impact our business and operating results.

A primary component of our growth strategy has been to acquire complementary businesses to grow our company. For example, we acquired the businesses of PowerSteering Software, Inc., Tenrox Inc. and LMR Solutions, LLC, dba EPM Live, in fiscal 2012 and the businesses of FileBound Solutions, Inc. and Marex Group Inc., ComSci, LLC, and Clickability Inc., in fiscal 2013, the businesses of Solution Q Inc. and Mobile Commons, Inc., in fiscal 2014, Ultriva Inc., in fiscal 2015, and LeadLander, Inc., HipCricket, Inc. and Advanced Processing and Imaging, Inc. in fiscal 2016. Subsequent to 2016, we acquired the business of Omtool, Inc. in January 2017. We intend to continue to pursue acquisitions of complementary technologies, products and businesses as a primary component of our growth strategy to enhance the features and functionality of our applications, expand our customer base and provide access to new markets and increase benefits of scale. Acquisitions involve certain known and unknown risks that could cause our actual growth or operating results to differ from our expectations. For example:

- we may not be able to identify suitable acquisition candidates or to consummate acquisitions on acceptable terms;
- we may pursue international acquisitions, which inherently pose more risks than domestic acquisitions;
- we compete with others to acquire complementary products, technologies and businesses, which may result in decreased availability of, or increased price for, suitable acquisition candidates;
- we may not be able to obtain the necessary financing, on favorable terms or at all, to finance any or all of our potential acquisitions;

- we may ultimately fail to consummate an acquisition even if we announce that we plan to acquire a technology, product or business; and
- acquired technologies, products or businesses may not perform as we expect and we may fail to realize anticipated revenue and profits.

In addition, our acquisition strategy may divert management's attention away from our existing business, resulting in the loss of key customers or employees, and expose us to unanticipated problems or legal liabilities, including responsibility as a successor for undisclosed or contingent liabilities of acquired businesses or assets.

If we fail to conduct due diligence on our potential targets effectively, we may, for example, not identify problems at target companies or fail to recognize incompatibilities or other obstacles to successful integration. Our inability to successfully integrate future acquisitions could impede us from realizing all of the benefits of those acquisitions and could severely weaken our business operations. The integration process may disrupt our business and, if new technologies, products or businesses are not implemented effectively, may preclude the realization of the full benefits expected by us and could harm our results of operations. In addition, the overall integration of new technologies, products or businesses may result in unanticipated problems, expenses, liabilities and competitive responses. The difficulties integrating an acquisition include, among other things:

- issues in integrating the target company's technologies, products or businesses with ours;
- incompatibility of marketing and administration methods;
- maintaining employee morale and retaining key employees;
- integrating the cultures of both companies;
- preserving important strategic customer relationships;
- consolidating corporate and administrative infrastructures and eliminating duplicative operations; and
- coordinating and integrating geographically separate organizations.

In addition, even if the operations of an acquisition are integrated successfully, we may not realize the full benefits of the acquisition, including the synergies, cost savings or growth opportunities that we expect. These benefits may not be achieved within the anticipated time frame, or at all.

Further, acquisitions may cause us to:

- issue common stock that would dilute our current stockholders' ownership percentage;
- use a substantial portion of our cash resources;
- increase our interest expense, leverage and debt service requirements if we incur additional debt to pay for an acquisition;
- assume liabilities for which we do not have indemnification from the former owners; further, indemnification obligations may be subject to dispute or concerns regarding the creditworthiness of the former owners;
- record goodwill and non-amortizable intangible assets that are subject to impairment testing and potential impairment charges;
- experience volatility in earnings due to changes in contingent consideration related to acquisition earn-out liability estimates;
- incur amortization expenses related to certain intangible assets;
- lose existing or potential contracts as a result of conflict of interest issues;
- become subject to adverse tax consequences or deferred compensation charges;
- incur large and immediate write-offs; or
- become subject to litigation.

We depend on our senior management team and the loss of one or more key personnel or an inability to attract and retain highly skilled personnel may impair our ability to grow our business.

Our success depends in part upon the continued services of our key executive officers, including John T. McDonald, Michael D. Hill, and Timothy W. Mattox, as well as other key personnel. We do not have employment agreements with most of our executive officers or other key personnel that require them to continue to work for us for any specified period and, therefore, they may terminate employment with us at any time with no advance notice. The replacement of our senior management team or other key personnel likely would involve significant time and costs, and the loss of these employees may significantly delay or prevent the achievement of our business objectives.

We face intense competition for qualified individuals from numerous technology and software companies. If we fail to attract and retain suitably qualified individuals, including software engineers and sales personnel, our ability to implement our business plan and develop and maintain our applications could be adversely affected. As a result, our ability to compete would decrease, our operating results would suffer and our revenue would decrease.

Failure to maintain and expand our sales organization may negatively impact our revenue growth.

We sell our applications primarily through a direct sales organization comprised of inside sales and field sales personnel. In addition, we have an indirect sales organization, which sells to distributors and value-added resellers. Growing sales to both new and existing customers is in part dependent on our ability to maintain and expand our sales force. Identifying, recruiting and training additional sales personnel requires significant time, expense and attention. It can take several quarters or longer before our sales representatives are fully-trained and productive. Our business may be adversely affected if our efforts to expand and train our sales organization do not generate a corresponding increase in revenue. In particular, if we are unable to hire, develop and retain sales personnel or if our new sales personnel are unable to achieve expected sales productivity levels in a reasonable period of time or at all, our revenue may grow more slowly than expected or decline and our business may be harmed.

Because we generally recognize revenue from our customers over the terms of their agreements but incur most costs associated with generating such agreements in advance, rapid growth in our customer base may increase our losses in the short-term.

Expenses associated with acquiring customers, such as the expenses related to our sales organizations and related commissions, are generally expensed as incurred while most of our revenue is recognized ratably over the life of the applicable agreements. Therefore, increased sales will result in our recognition of more costs than revenue during the early periods covered by such agreements, even in cases where the agreements are expected to be profitable for us over their full terms. As a result, even if we are successful in increasing our customer base, our short-term operating results may suffer.

We recognize revenue from customers over the term of the related agreement; therefore, downturns or upturns in our business may not be immediately reflected in our operating results.

We recognize revenue from customer agreements ratably over the terms of these agreements. As a result, a significant portion of the revenue we report in each quarter is generated from customer agreements entered into during previous periods, which is reflected as deferred revenue on our balance sheet. Consequently, a decline in new or renewed agreements, or a downgrade of renewed agreements to fewer seats or less minimum contracted volume, in any one quarter may not be fully reflected in our revenue in that quarter. Such a decline, however, will negatively affect our revenue in future quarters. Accordingly, the effect of significant downturns in sales and market acceptance of our applications, and potential changes in our pricing policies or rates of renewals, may not be fully reflected in our results of operations until future periods. Similarly, it would be difficult for us to rapidly increase our revenue through new sales, renewals and upgrades of existing customer agreements, or through additional cross-selling opportunities, in a given period due to the timing of revenue recognition inherent in our subscription model.

Perpetual license revenue is unpredictable and a material increase or decrease in perpetual license revenue from period to period can produce substantial variation in the total revenue and earnings we recognize in a given period.

Perpetual license revenue reflects the revenue recognized from sales of perpetual licenses relating to our workflow automation and enterprise content management applications to new customers and additional licenses for such applications to existing customers. We generally recognize the license fee portion of the arrangement in advance. Perpetual licenses of our workflow automation and enterprise content management applications are sold through third-party resellers and, as such, the timing of sales of perpetual licenses is difficult to predict with the timing of recognition of associated revenue unpredictable. A material increase or decrease in the sale of perpetual licenses from period to period could produce substantial variation in the revenue we recognize. Accordingly, comparing our perpetual license revenue on a period to period basis may not be a meaningful indicator of a trend or future results.

Our quarterly operating results may fluctuate in the future. As a result, we may fail to meet or exceed the expectations of research analysts or investors, which could cause our stock price to decline and you may lose part or all of your investment.

Our quarterly operating results may fluctuate as a result of a variety of factors, many of which are outside of our control. Accordingly, the results of any one quarter may not fully reflect the underlying performance of our business and should not be relied upon as an indication of future performance. If our quarterly operating results or outlook fall below the expectations of research analysts or investors, the price of our common stock could decline substantially. Fluctuations in our quarterly operating results or outlook may be due to a number of factors, including, but not limited to:

- the extent to which our existing customers purchase additional seats or volume for our applications and the timing and terms of those purchases;
- the extent to which our existing customers renew their customer agreements for our applications and the timing and terms of those renewals;
- the extent to which we cross-sell additional applications to our existing customers and the timing and terms of such cross-selling;
- the addition or loss of customers, including through acquisitions or consolidations;
- the extent to which new customers are attracted to our applications to satisfy their enterprise work management needs;
- the rate of adoption and market acceptance of enterprise work management applications;
- the mix of our revenue, particularly between product and professional services revenue, for which the timing of revenue recognition is substantially different;
- changes in the gross profit we realize on our applications and professional services due to our differing revenue recognition policies applicable to subscription and product and professional services revenue and other variables;
- the extent to which we enter into multi-year contracts, in which the support fees are typically paid in advance;
- the number and size of new customers and the number and size of renewals in a particular period;
- changes in our pricing policies or those of our competitors;
- the mix of applications sold during a period;
- the timing and expenses related to the acquisition of technologies, products or businesses and potential future charges for impairment of goodwill from such acquisitions;
- the amount and timing of operating expenses, including those related to the maintenance and expansion of our business, operations and infrastructure;
- the amount and timing of expenses related to the development of new products and technologies, including enhancements to our applications;
- the amount and timing of commissions earned by our sales personnel;
- the timing and success of new applications introduced by us or new offerings offered by our competitors;
- the length of our sales cycles;
- changes in the competitive dynamics of our industry, including consolidation among competitors, customers or strategic collaborators;

- our ability to manage our existing business and future growth, including increases in the number of customers using our applications;
- the seasonality of our business or cyclical fluctuations in our industry;
- the timing and expenses related to any international expansion efforts we may undertake and the success of such efforts;
- various factors related to disruptions in access and delivery of our cloud-based applications, errors or defects in our applications, privacy and data security and exchange rate fluctuations, each of which is described elsewhere in these risk factors; and
- general economic, industry and market conditions.

We may need financing in the future, and any additional financing may result in restrictions on our operations or substantial dilution to our stockholders. We may seek to renegotiate or refinance our loan facility, and we may be unable to do so on acceptable terms or at all.

We have funded our operations since inception primarily through equity financings, cash from operations and cash available under our loan facility. We may need to raise funds in the future, for example, to expand our business, acquire complementary businesses, develop new technologies, respond to competitive pressures or react to unanticipated situations. We may try to raise additional funds through public or private financings, strategic relationships or other arrangements. Our ability to obtain debt or equity funding will depend on a number of factors, including market conditions, our operating performance and investor interest. Additional funding may not be available to us on acceptable terms or at all. If adequate funds are not available, we may be required to reduce expenditures, including curtailing our growth strategies, reducing our product-development efforts or foregoing acquisitions. If we succeed in raising additional funds through the issuance of equity or convertible securities, it could result in substantial dilution to existing stockholders. If we raise additional funds through the issuance of debt securities or preferred stock, these new securities would have rights, preferences and privileges senior to those of the holders of our common stock. In addition, any debt financing obtained by us in the future or issuance of preferred stock could involve restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. Additionally, we may need to renegotiate the terms of our loan facility, and our lender may be unwilling to do so, or may agree to such changes subject to additional restrictive covenants on our operations and ability to raise capital.

Our loan facility contains operating and financial covenants that may restrict our business and financing activities.

On November 15, 2016, we expanded into a $90 million loan facility with Wells Fargo Capital Finance. The facility is comprised of a $50 million term loan, a $10 million revolving credit facility and a $10 million delayed draw term loan for acquisitions. Additionally, the facility provides for an uncommitted $20 million accordion loan to further support future acquisitions and an allowance of $16.7 million of subordinated seller notes for acquisitions.

Our obligations and the obligations of the co-borrowers and any guarantors under the Wells Fargo loan facility are secured by a security interest in substantially all of our assets and assets of the co-borrowers' and of any guarantors, including intellectual property. The terms of the credit facility limits, among other things, our ability to

- sell, lease, license or otherwise dispose of assets;
- undergo a change in control;
- consolidate or merge with or into other entities;
- make or own loans, investments and acquisitions;
- create, incur or assume guarantees in respect of obligations of other persons;
- create, incur or assume liens and other encumbrances; or
- pay dividends or make distributions on, or purchase or redeem, our capital stock.

Furthermore, the Wells Fargo loan facility requires us and our subsidiaries to comply with certain financial covenants. The operating and other restrictions and covenants in the loan facility, and in any future financing arrangements that we may enter into, may restrict our ability to finance our operations, engage in certain business activities, or expand or fully pursue our business strategies, or otherwise limit our discretion to manage our business. Our ability to comply with these restrictions and covenants may be affected by events beyond our control, and we may not be able to meet those restrictions and covenants. A breach of any of the restrictions and covenants could result in a default under the loan facility or any future financing arrangements, which could cause any outstanding indebtedness under the loan facility or under any future financing arrangements to become immediately due and payable, and result in the termination of commitments to extend further credit.

If we are unable to increase market awareness of our company and our applications, our revenue may not continue to grow, or may decline.

Market awareness of our company and our applications is essential to our ability to generate new leads for expanding our business and our continued growth. If we fail to sufficiently invest in our marketing programs or they are unsuccessful in creating market awareness of our company and our applications, our revenue may grow more slowly than expected or may decline and our financial performance may be adversely affected.

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

The overall market for enterprise work management software is rapidly evolving and subject to changing technology, shifting customer needs and frequent introductions of new applications. The intensity and nature of our competition varies significantly across our family of enterprise work management software applications. Many of our competitors and potential competitors are larger and have greater brand name recognition, longer operating histories, larger marketing budgets and significantly greater resources than we do. Some of our smaller competitors may offer applications on a stand-alone basis at a lower price than us due to lower overhead or other factors, while some of our larger competitors may offer applications at a lower price in an attempt to cross-sell additional products in the future or retain a customer using a different application.

We believe there are a limited number of direct competitors that provide a comprehensive enterprise work management software offering. However, we face competition both from point solution providers, including legacy on-premise enterprise systems, and other cloud-based work management software vendors that may address one or more of the functional elements of our applications, but are not designed to address a broad range of enterprise work management needs. In addition, we face competition from manual processes and traditional tools, such as paper-based techniques, spreadsheets and email.

If our competitors' products, services or technologies become more accepted than our enterprise work management applications, if they are successful in bringing their products or services to market earlier than ours, or if their products or services are more technologically capable than ours, our revenues could be adversely affected.

Mergers of, or other strategic transactions by, our competitors could weaken our competitive position or reduce our revenue.

If one or more of our competitors were to merge or partner with another of our competitors, the change in the competitive landscape could adversely affect our ability to compete effectively. In order to take advantage of customer demand for cloud-based software applications, vendors of legacy systems are expanding their cloud-based enterprise workplace management applications through acquisitions and internal development. A potential result of such expansion is that certain of our current or potential competitors may be acquired by third parties with greater available resources and the ability to further invest in product improvements and initiate or withstand substantial price competition. Our competitors also may establish or strengthen cooperative relationships with our current or future value-added resellers, third-party consulting firms or other parties with whom we have relationships, thereby limiting our ability to promote our applications. Disruptions in our business caused by these events could reduce our revenue.

Our growth and long-term success depends, in part, on our ability to expand our international sales and operations.

As our operations have expanded, we have established and currently maintain offices in the United States, Canada, and the United Kingdom. We have limited experience in operating in foreign jurisdictions and expect to continue to expand our relationship with international customers. Managing a global organization is difficult, time-consuming and expensive, and any international efforts that we may undertake may not be successful. In addition, conducting international operations subjects us to risks, including the following:

- uncertain political and economic climates;
- lack of familiarity and burdens of complying with foreign laws, accounting and legal standards, regulatory requirements, tariffs and other barriers;
- unexpected changes in regulatory requirements, taxes, trade laws, tariffs, export quotas, custom duties or other trade restrictions;
- lack of experience in connection with the localization of our applications, including translation into foreign languages and adaptation for local practices, and associated expenses and regulatory requirements;
- difficulties in adapting to differing technology standards;
- longer sales cycles and accounts receivable payment cycles and difficulties in collecting accounts receivable;
- difficulties in managing and staffing international operations, including differing legal and cultural expectations for employee relationships and increased travel, infrastructure and legal compliance costs associated with international operations;
- fluctuations in exchange rates that may increase the volatility of our foreign-based revenue and expenses;
- potentially adverse tax consequences, including the complexities of foreign value-added tax, goods and services tax and other transactional taxes;
- reduced or varied protection for intellectual property rights in some countries;
- difficulties in managing and adapting to differing cultures and customs;
- data privacy laws which require that customer data be stored and processed in a designated territory subject to laws different than the United States;
- new and different sources of competition as well as laws and business practices favoring local competitors and local employees;
- compliance with anti-bribery laws, including compliance with the Foreign Corrupt Practices Act;
- increased financial accounting and reporting burdens and complexities; and
- restrictions on the repatriation of earnings.

Further, our international expansion efforts may be hindered by lower levels of cloud adoption and increased price sensitivity for our applications or other cloud-based offerings in international markets. As a result of these and other factors, international expansion may be more difficult, take longer and not generate the results we anticipate, which could negatively impact our growth and business.

Fluctuations in the exchange rate of foreign currencies could result in losses on currency transactions.

Our customers are generally invoiced in the currency of the country in which they are located. In addition, we incur a portion of our operating expenses in foreign currencies, including Canadian dollars, British pounds and Euros, and in the future, as we expand into other foreign countries, we expect to incur operating expenses in other foreign currencies. In addition, our customers are generally invoiced in the currency of the country in which they are located. We are exposed to foreign exchange rate fluctuations as the financial results of our international operations are translated from the local functional currency into U.S. dollars upon consolidation. A decline in the U.S. dollar relative to foreign functional currencies would increase our non-U.S. revenue and improve our operating results. Conversely, if the U.S. dollar strengthens relative to foreign functional currencies, our revenue and operating results would be adversely affected. We have not previously engaged in foreign currency hedging. If we decide to hedge our foreign currency exchange rate exposure, we may not be able to hedge effectively due to lack of experience, unreasonable costs or illiquid markets.

Our sales cycles can be lengthy and variable, which may cause changes in our operating results.

Our sales cycle can vary substantially from customer to customer. A number of factors influence the length and variability of our sales cycles, including, for example:

- the need to educate potential customers about the uses and benefits of our applications;
- the duration of the commitment customers make in their agreements with us, which are typically one to three years;
- the discretionary nature of potential customers' purchasing and budget cycles and decisions;
- the competitive nature of potential customers' evaluation and purchasing processes;
- the functionality demands of potential customers;
- fluctuations in the enterprise work management needs of potential customers;
- the announcement or planned introduction of new products by us or our competitors; and
- the purchasing approval processes of potential customers.

Our sales cycles can make it difficult to predict the quarter in which revenue from a new customer may first be recognized. We may incur significant sales and marketing expenses and invest significant time and effort in anticipation of a sale that may never occur or only occur in a smaller amount or at a later date than anticipated. Delays inherent to our sales cycles could cause significant variability in our revenue and operating results for any particular period.

We have a limited history with our pricing models and, as a result, we may be forced to change the prices we charge for our applications or the pricing models upon which they are based.

We have limited experience with respect to determining the optimal prices and pricing models for certain of our applications and certain geographic markets. As the markets for our applications mature, or as competitors introduce products or services that compete with ours, including bundling competing offerings with additional products or services, we may be unable to attract new customers at the same price or based on the same pricing models as we have used historically. As a result, in the future we may be required to reduce our prices, which could adversely affect our financial performance. In addition, we may offer volume price discounts based on the number of seats purchased by a customer or the number of our applications purchased by a customer, which would effectively reduce the prices we charge for our applications. Also, we may be unable to renew existing customer agreements or enter into new customer agreements at the same prices or upon the same terms that we have historically, which could have a material adverse effect on our financial position.

Any disruption of service at the data centers that house our equipment and deliver our applications or with our hosting service provider could harm our business.

Our reputation and ability to attract, retain and serve our customer is dependent upon the reliable performance of our computer systems and those of third parties that we utilize in our operations. These systems may be subject to damage or interruption from earthquakes, adverse weather conditions, other natural disasters, terrorist attacks, power loss, telecommunications failures, computer viruses, computer denial of service attacks, or other attempts to harm these systems. Interruptions in these systems, or with the Internet in general, could make our service unavailable or degraded or otherwise hinder our ability to deliver application data to our customers. Service interruptions, errors in our software or the unavailability of computer systems used in our operations could diminish the overall attractiveness of our applications to existing and potential customers.

Our servers and those of third parties we use in our operations are vulnerable to computer viruses, physical or electronic break-ins and similar disruptions. We have implemented security protocols within our applications, however this is no assurance that our systems are completely secure. Our insurance does not cover expenses related to disruptions to our service or unauthorized access to our applications. Any significant disruption to our service or access to our systems could result in a loss of customers and adversely affect our business and results of operation.

We utilize our own communications and computer hardware systems located either in our facilities or in that of a third-party Web hosting provider. In addition, we utilize third-party hosting services in connection with our business operations and are undertaking an initiative to migrate our applications to a third-party hosting platform. Problems faced by us or our third-party hosting providers, including technological or business-related disruptions, could adversely impact the experience of our customers.

If we fail to adequately manage our data center or hosting infrastructure capacity, our existing customers may experience service outages and our new customers may experience delays in the deployment of our applications.

We have experienced significant growth in the number of seats and volume of data that our hosting infrastructure supports. We seek to maintain sufficient excess capacity in our operations infrastructure to meet the needs of all of our customers. We also seek to maintain excess capacity to facilitate the rapid provision of new customer deployments and the expansion of existing customer deployments. However, obtaining new data center infrastructure requires lead time. If we do not accurately predict our infrastructure capacity requirements with sufficient lead time, our customers could experience service impairment that may subject us to financial penalties and liabilities and cause us to lose customers. If our data center infrastructure capacity fails to keep pace with increased subscriptions, customers may experience delays or reductions in the quality of our service as we seek to obtain additional capacity, which could harm our reputation and harm our business. As we add data center or hosting infrastructure capacity and support personnel in advance of anticipated growth, our cost of product revenue will increase and if the anticipated revenue growth does not occur, our product gross profit will be adversely affected both in terms of absolute dollars and as a percentage of total revenues in any particular quarterly or annual period.

Security breaches may harm our business.

Our applications involve the storage and transmission of our customers' proprietary and confidential information, including personal or identifying information regarding their employees and customers. Any security breaches, unauthorized access, unauthorized usage, virus or similar breach or disruption could result in loss of confidential information, damage to our reputation, early termination of our contracts, litigation, regulatory investigations, indemnity obligations or other liabilities. If our security measures or those of our third-party data centers are breached as a result of third-party action, employee error, malfeasance or otherwise and, as a result, someone obtains unauthorized access to customer data, our reputation will be damaged, our business may suffer and we could incur significant liability. Because the techniques used to obtain unauthorized access or sabotage systems change frequently and generally are not identified until they are launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. Any or all of these issues could negatively affect our ability to attract new customers, cause existing customers to elect not to renew or upgrade their subscriptions, result in reputational damage or subject us to third-party lawsuits, regulatory fines or other action or liability, which could adversely affect our operating results.

Our success depends on our ability to adapt to technological change and continue to innovate.

The overall market for enterprise work management software is rapidly evolving and subject to changing technology, shifting customer needs and frequent introductions of new applications. Our ability to attract new customers and increase revenue from existing customers will depend in large part on our ability to develop or acquire new applications and enhance and improve existing applications. To achieve market acceptance for our applications, we must effectively anticipate and offer applications that meet changing customer demands in a timely manner. Customers may require features and capabilities that our current applications do not have. We may experience difficulties that could delay or prevent our development, acquisition or implementation of new applications and enhancements.

If we are unable to successfully develop or acquire new enterprise work management capabilities and functionality, enhance our existing applications to anticipate and meet customer preferences, sell our applications into new markets or adapt to changing industry standards in enterprise work management, our revenue and results of operations would be adversely affected.

Adverse economic conditions may reduce our customers' ability to spend money on information technology or enterprise work management software, or our customers may otherwise choose to reduce their spending on information technology or enterprise work management software, which may adversely impact our business.

Our business depends on the overall demand for information technology and enterprise work management software spend and on the economic health of our current and prospective customers. If worldwide economic conditions become unstable, our existing customers and prospective customers may re-evaluate their decision to purchase our applications. Weak global economic conditions or a reduction in information technology or enterprise work management software spending by our customers, could harm our business in a number of ways, including longer sales cycles and lower prices for our applications.

We rely on third-party software that is required for the development and deployment of our applications, which may be difficult to obtain or which could cause errors or failures of our applications.

We rely on software licensed from or hosted by third parties to offer our applications. In addition, we may need to obtain licenses from third parties to use intellectual property associated with the development of our applications, which might not be available to us on acceptable terms, or at all. Any loss of the right to use any software required for the development, maintenance and delivery of our applications could result in delays in the provision of our applications until equivalent technology is either developed by us, or, if available, is identified, obtained and integrated, which could harm our business. Any errors or defects in third-party software could result in errors or a failure of our applications, which could harm our business.

If our applications contain serious errors or defects we may lose revenue and market acceptance and we may incur costs to defend or settle product liability claims.

Complex software applications such as ours often contain errors or defects, particularly when first introduced or when new versions or enhancements are released. Our current and future applications may contain serious defects.

Since our customers use our applications for critical business purposes, defects or other performance problems could negatively impact our customers and could result in:

- loss or delayed market acceptance and sales;
- breach of warranty or product liability claims;
- sales credits or refunds for prepaid amounts related to unused subscription services;
- canceled contracts and loss of customers;
- diversion of development and customer service resources; and
- injury to our reputation.

The costs incurred in correcting any material errors or defects might be substantial and could adversely affect our operating results. Although our customer agreements typically contain provisions designed to limit our exposure to certain of the claims above, existing or future laws or unfavorable judicial decisions could negate these limitations. Even if not successful, a product liability claim brought against us would likely be a distraction to management, time-consuming and costly to resolve, and could seriously damage our reputation in the marketplace, making it harder for us to sell our applications. Additionally, our errors and omissions insurance may be inadequate or may not be available in the future on acceptable terms, or at all, and our policy may not cover all claims made against us and defending a suit, regardless of its merit, could be costly and divert management's attention.

If we fail to integrate our applications with other software applications and competitive or adjacent offerings that are developed by others, or fail to make our applications available on mobile and other handheld devices, our applications may become less marketable, less competitive or obsolete and our operating results could be harmed.

Our applications integrate with a variety of other software applications, and also with competing and adjacent third-party offerings, and we need to continuously modify and enhance our platform to adapt to changes in cloud-enabled hardware, software, networking, browser and database technologies. Any failure of our applications to integrate effectively with other software applications and product offerings could reduce the demand for our applications or result in customer dissatisfaction and harm to our business. If we are unable to respond to changes in the applications and tools with which our applications integrate in a cost-effective manner, our applications may become less marketable, less competitive or obsolete. Competitors may also impede our attempts to create integration between our applications and competitive offerings, which may decrease demand for our applications. In addition, an increasing number of individuals within organizations are utilizing devices other than personal computers, such as mobile phones, tablets and other handheld devices, to access the Internet and corporate resources and to conduct business. If we cannot effectively make our applications available on these devices, we may experience difficulty attracting and retaining customers.

If we fail to develop and maintain relationships with third parties, our business may be harmed.

Our business depends in part on the development and maintenance of technology integration, joint sales and reseller relationships. Maintaining relationships with third parties requires significant time and resources, as does integrating third-party content and technology. Further, third parties may not perform as expected under any relationships that we may enter into, and we may have disagreements or disputes with third parties that could negatively affect our brands and reputation. If we are unsuccessful in establishing or maintaining relationships with third parties, our ability to compete in the marketplace or to grow our revenue could be impaired and our operating results could suffer.

Our use of open source software could negatively affect our ability to sell our applications and subject us to possible litigation.

A portion of our applications incorporate open source software, and we expect to continue to incorporate open source software in the future. Few of the licenses applicable to open source software have been interpreted by courts, and their application to the open source software integrated into our proprietary software may be uncertain. Moreover, we cannot provide any assurance that we have not incorporated additional open source software in our applications in a manner that is inconsistent with the terms of the license or our current policies and procedures. If we fail to comply with these licenses, we may be subject to certain requirements, including requirements that we offer our applications that incorporate the open source software for no cost, that we make available source code for modifications or derivative works we create based upon, incorporating or using the open source software and that we license such modifications or derivative works under the terms of applicable open source licenses. If an author or other third party that distributes such open source software were to allege that we had not complied with the conditions of one or more of these licenses, we could be required to incur significant legal expenses defending against such allegations and could be subject to significant damages, enjoined from the sale of our applications that contained the open source software and required to comply with the foregoing conditions, which could disrupt the distribution and sale of some of our applications. In addition, there have been claims challenging the ownership of open source software against companies that incorporate open source software into their products. As a result, we could be subject to suits by parties claiming infringement due to the reliance by our applications on certain open source software. Litigation could be costly for us to defend, have a negative effect on our operating results and financial condition or require us to devote additional research and development resources to change our applications.

Certain of our operating results and financial metrics are difficult to predict as a result of seasonality.

We have historically experienced seasonality in terms of when we enter into customer agreements. We sign a significantly higher percentage of agreements with new customers, and renew agreements with existing customers, in the fourth quarter of each calendar year as our customers tend to follow budgeting cycles at the end of the calendar year. Our cash flow from operations has historically been higher in the first quarter of each calendar year than in other quarters. This seasonality is reflected to a much lesser extent, and sometimes is not immediately apparent, in our revenue, due to the fact that we defer revenue recognition. In addition, seasonality may be difficult to observe in our financial results during periods in which we acquire businesses as such results typically are most significantly impacted by such acquisitions. We expect this seasonality to continue, or possibly increase in the future, which may cause fluctuations in our operating results and financial metrics. If our quarterly operating results or outlook fall below the expectations of research analysts or investors, the price of our common stock could decline substantially.

We could incur substantial costs as a result of any claim of infringement of another party's intellectual property rights.

In recent years, there has been significant litigation involving patents and other intellectual property rights in our industry. Companies providing software are increasingly bringing and becoming subject to suits alleging infringement of proprietary rights, particularly patent rights, and to the extent we gain greater market visibility, we face a higher risk of being the subject of intellectual property infringement claims. We do not have a significant patent portfolio, which could prevent us from deterring patent infringement claims through our own patent portfolio, and our competitors and others may now and in the future have significantly larger and more mature patent portfolios than we have. The risk of patent litigation has been amplified by the increase in the number of a type of patent holder, which we refer to as a non-practicing entity, whose sole business is to assert such claims and against whom our own intellectual property portfolio may provide little deterrent value. We could incur substantial costs in prosecuting or defending any intellectual property litigation. If we sue to enforce our rights or are sued by a third-party that claims that our applications infringe its rights, the litigation could be expensive and could divert our management resources.

In addition, in most instances, we have agreed to indemnify our customers against claims that our applications infringe the intellectual property rights of third parties. Our business could be adversely affected by any significant disputes between us and our customers as to the applicability or scope of our indemnification obligations to them. Any intellectual property litigation to which we might become a party, or for which we are required to provide indemnification, may require us to do one or more of the following:

- cease selling or using applications that incorporate the intellectual property that we allegedly infringe;
- make substantial payments for legal fees, settlement payments or other costs or damages;
- obtain a license, which may not be available on reasonable terms or at all, to sell or use the relevant technology; or
- redesign the allegedly infringing applications to avoid infringement, which could be costly, time-consuming or impossible.

If we are required to make substantial payments or undertake any of the other actions noted above as a result of any intellectual property infringement claims against us or any obligation to indemnify our customers for such claims, such payments or actions could harm our business.

We could incur substantial costs in protecting our intellectual property from infringement, and any failure to protect our intellectual property could impair our business.

Our success and ability to compete depend in part upon our intellectual property. We seek to protect the source code for our proprietary software and other proprietary technology and information under a combination of copyright, trade secrets and patent law, and we seek to protect our brands through trademark law. Our policy is to enter into confidentiality agreements, or agreements with confidentiality provisions, with our employees, consultants, vendors and customers and to control access to our software, documentation and other proprietary information. Despite these precautions, it may be possible for unauthorized parties to copy our software or other proprietary technology or information, or to develop similar software independently.

Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy aspects of our applications or to obtain and use information that we regard as proprietary. Policing unauthorized use of our applications is difficult, and we are unable to determine the extent to which piracy of our software exists or will occur in the future. Litigation may be necessary in the future to enforce our intellectual property rights, protect our trade secrets, determine the validity and scope of the proprietary rights of others or defend against claims of infringement or invalidity. Such litigation could be costly, time-consuming and distracting to management, result in a diversion of resources or the narrowing or invalidation of portions of our intellectual property and have a material adverse effect on our business, operating results and financial condition. Furthermore, our efforts to enforce our intellectual property rights may be met with defenses, counterclaims and countersuits attacking the validity and enforceability of our intellectual property rights or alleging that we infringe the counterclaimant's own intellectual property. These steps may be inadequate to protect our intellectual property. Third parties may challenge the validity or ownership of our intellectual property, and these challenges could cause us to lose our rights, in whole or in part, to such intellectual property or narrow its scope such that it no longer provides meaningful protection. We will not be able to protect our intellectual property if we are unable to enforce our rights or if we do not detect unauthorized use of our intellectual property. Despite our precautions, it may be possible for unauthorized third parties to copy our products and use information that we regard as proprietary to create products and services that compete with ours. Some license provisions protecting against unauthorized use, copying, transfer and disclosure of our applications may be unenforceable under the laws of certain jurisdictions and foreign countries. Further, the laws of some countries do not protect proprietary rights to the same extent as the laws of the United States. To the extent we expand our international activities, our exposure to unauthorized copying, transfer and use of our applications and proprietary technology or information may increase.

There can be no assurance that our means of protecting our proprietary rights will be adequate or that our competitors will not independently develop similar technology. If we fail to meaningfully protect our intellectual property, our business, brands, operating results and financial condition could be materially harmed.

Unanticipated changes in our effective tax rate or challenges by tax authorities could harm our future results.

We are subject to income taxes in the United States and various non-U.S. jurisdictions. Our effective tax rate could be adversely affected by changes in the allocation of our pre-tax earnings and losses among countries with differing statutory tax rates, in certain non-deductible expenses as a result of acquisitions, in the valuation of our deferred tax assets and liabilities, or in federal, state, local or non-U.S. tax laws and accounting principles, including increased tax rates, new tax laws or revised interpretations of existing tax laws and precedents. In particular, the United States is currently considering various changes to the U.S. taxation of international business activities, which, if enacted, could impact the U.S. taxation of our non-U.S. earnings as well as our cash maintained outside the United States. Increases in our effective tax rate would adversely affect our operating results.

In addition, we may be subject to income tax audits by various tax jurisdictions throughout the world, many of which have not established clear guidance on the tax treatment of cloud-based companies. The application of tax laws in such jurisdictions may be subject to diverging and sometimes conflicting interpretations by tax authorities in these jurisdictions. Although we believe our income tax liabilities are reasonably estimated and accounted for in accordance with applicable laws and principles, an adverse resolution of one or more uncertain tax positions in any period could have a material impact on the results of operations for that period.

Taxing authorities may successfully assert that we should have collected or in the future should collect additional sales and use taxes, and we could be subject to liability with respect to past or future sales, which could adversely affect our results of operations.

We have not historically filed sales and use tax returns or collected sales and use taxes in all jurisdictions in which we have sales, based on our belief that such taxes are not applicable. Taxing authorities may seek to impose such taxes on us, including for past sales, which could result in penalties and interest. Any such tax assessments may adversely affect the results of our operations.

Taxing authorities could reallocate our taxable income among our subsidiaries, which could increase our consolidated tax liability.

We conduct integrated operations internationally through subsidiaries in various tax jurisdictions pursuant to transfer pricing arrangements between our subsidiaries and between our subsidiaries and us. If two or more affiliated companies are located in different countries, the tax laws or regulations of each country generally require that transfer prices be the same as those between unrelated companies dealing at arms' length and that contemporaneous documentation is maintained to support the transfer prices. While we believe that we operate in compliance with applicable transfer pricing laws and intend to continue to do so, our transfer pricing procedures are not binding on applicable tax authorities. If tax authorities in any of these countries were to successfully challenge our transfer prices as not reflecting arms' length transactions, they could require us to adjust our transfer prices and thereby reallocate our income to reflect these revised transfer prices, which could result in a higher tax liability to us. Such reallocations may subject us to interest and penalties that would increase our consolidated tax liability and could adversely affect our financial condition, results of operations and cash flows.

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

As of December 31, 2016, we had federal net operating loss carryforwards of approximately $83 million and research and development credit carryforwards of approximately $1.3 million, which begin expiring in 2017. Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an “ownership change,” the corporation’s ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes, such as research tax credits, to offset its post-change income and taxes may be limited. In general, an “ownership change” occurs if there is a cumulative change in our ownership by “5% shareholders” that exceeds 50 percentage points over a rolling three-year period. Similar rules apply under state tax laws. Based on analysis of acquired net operating losses, utilization of our net operating losses will be subject to annual limitations. The annual limitation will result in the expiration of $16.2 million of federal net operating losses and $0.8 million of research and development credit carryforwards before utilization. In the event that it is determined that we have in the past experienced additional ownership changes, or if we experience one or more ownership changes as a result of future transactions in our stock, then we may be further limited in our ability to use our net operating loss carryforwards and other tax assets to reduce taxes owed on the net taxable income that we earn. Any such limitations on the ability to use our net operating loss carryforwards and other tax assets could adversely impact our business, financial condition and operating results.

Changes in laws or regulations related to the Internet may diminish the demand for our applications and any failure of the Internet infrastructure could have a negative impact on our business.

We deliver our cloud-based applications through the Internet. Federal, state or foreign government bodies or agencies have in the past adopted, and may in the future adopt, laws or regulations affecting data privacy and the use of the Internet. In addition, government agencies or private organizations may begin to impose taxes, fees or other charges for accessing the Internet or on commerce conducted via the Internet. Increased enforcement of existing laws and regulations, as well as any laws, regulations or changes that may be adopted or implemented in the future, could limit the growth of the use of cloud-based applications or communications generally, result in a decline in the use of the Internet and the viability of cloud-based applications such as ours and reduce the demand for our applications.

The success of our enterprise work management software applications depends on the development and maintenance of the Internet infrastructure. This includes maintenance of a reliable network backbone with the necessary speed, data capacity and security, as well as the timely development of complementary products for providing reliable Internet access and services. The Internet has experienced, and is likely to continue to experience, significant growth in the amount of traffic and may be unable to support such demands. In addition, problems caused by viruses, worms, malware and similar programs may harm the performance of the Internet. Any outages and delays in the Internet could reduce the level of usage of our services, which could materially adversely affect our business, financial condition, results of operations and prospects.

Privacy concerns and laws or other domestic or foreign regulations may reduce the effectiveness of our applications and adversely affect our business.

Our customers can use our applications to collect, use and store personal or identifying information regarding their customers and employees. Federal, state and foreign government bodies and agencies have adopted, are considering adopting or may adopt laws and regulations regarding the collection, use, storage and disclosure of personal information obtained from individuals. The costs of compliance with, and other burdens imposed by, such laws and regulations that are applicable to the businesses of our customers may limit the use and adoption of our applications and reduce overall demand, or lead to significant fines, penalties or liabilities for any noncompliance with such privacy laws. For example, the European Union and many countries in Europe have stringent privacy laws and regulations that may impact our ability to profitably operate in certain European countries. Furthermore, privacy concerns may cause our customers to resist providing the personal data necessary to allow them to use our applications effectively. Even the perception of privacy concerns, whether or not valid, may inhibit market adoption of our applications in certain industries. All of these domestic and international legislative and regulatory initiatives may adversely affect our customers’ ability to process, handle, store, use and transmit demographic and personal information from their customers and employees, which could reduce demand for our applications.

In addition to government activity, privacy advocacy groups and the technology and other industries are considering various new, additional or different self-regulatory standards that may place additional burdens on us. If the processing of personal information were to be curtailed in this manner, our applications would be less effective, which may reduce demand for our applications and adversely affect our business.

We are subject to governmental export and import controls that could impair our ability to compete in international markets due to licensing requirements and subject us to liability if we are not in compliance with applicable laws.

Our applications are subject to export control and import laws and regulations, including the U.S. Export Administration Regulations, U.S. Customs regulations and various economic and trade sanctions regulations administered by the U.S. Treasury Department's Office of Foreign Assets Controls. Exports of our applications must be made in compliance with these laws and regulations. If we fail to comply with these laws and regulations, we and certain of our employees could be subject to substantial civil or criminal penalties, including: the possible loss of export or import privileges; fines, which may be imposed on us and responsible employees or managers; and, in extreme cases, the incarceration of responsible employees or managers. Obtaining the necessary authorizations, including any required license, for a particular sale may be time-consuming, is not guaranteed and may result in the delay or loss of sales opportunities. In addition, changes in our applications or changes in applicable export or import regulations may create delays in the introduction and sale of our applications in international markets, prevent our customers with international operations from deploying our applications or, in some cases, prevent the export or import of our applications to certain countries, governments or persons altogether. Any change in export or import regulations, shift in the enforcement or scope of existing regulations, or change in the countries, governments, persons or technologies targeted by such regulations, could also result in decreased use of our applications, or in our decreased ability to export or sell our applications to existing or potential customers with international operations. Any decreased use of our applications or limitation on our ability to export or sell our applications would likely adversely affect our business.

Furthermore, we incorporate encryption technology into certain of our applications. Various countries regulate the import of certain encryption technology, including through import permitting and licensing requirements, and have enacted laws that could limit our ability to distribute our applications or could limit our customers' ability to implement our applications in those countries. Encrypted applications and the underlying technology may also be subject to export control restrictions. Governmental regulation of encryption technology and regulation of imports or exports of encryption products, or our failure to obtain required import or export approval for our applications, when applicable, could harm our international sales and adversely affect our revenue. Compliance with applicable regulatory requirements regarding the export of our applications, including with respect to new releases of our applications, may create delays in the introduction of our applications in international markets, prevent our customers with international operations from deploying our applications throughout their globally-distributed systems or, in some cases, prevent the export of our applications to some countries altogether.

Moreover, U.S. export control laws and economic sanctions programs prohibit the shipment of certain products and services to countries, governments and persons that are subject to U.S. economic embargoes and trade sanctions. Even though we take precautions to prevent our applications from being shipped or provided to U.S. sanctions targets, our applications and services could be shipped to those targets or provided by third parties despite such precautions. Any such shipment could have negative consequences, including government investigations, penalties and reputational harm.

If we are unable to implement and maintain effective internal controls over financial reporting in the future, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock may be negatively affected.

As a public company, we are required to maintain internal controls over financial reporting and to report any material weaknesses in such internal controls. Section 404 of the Sarbanes-Oxley Act, requires that we evaluate and determine the effectiveness of our internal controls over financial reporting. Our independent registered public accounting firm will not be required to formally attest to the effectiveness of our internal control over financial reporting until the later of our second annual report or the first annual report required to be filed with the SEC following the date we are no longer an "emerging growth company" as defined in the JOBS Act. If we have a material weakness in our internal controls over financial reporting, we may not detect errors on a timely basis and our financial statements may be materially misstated. We are in the process of designing and implementing the internal controls over financial reporting required to comply with this obligation, which process will be time consuming, costly and complicated. We may need additional finance and accounting personnel with certain skill sets to assist us with the reporting requirements we will encounter as a public company and to support our anticipated growth. In addition, implementing internal controls may distract our officers and employees, entail substantial costs to modify our existing processes and take significant time to complete.

In the future, if we identify material weaknesses in our internal controls over financial reporting, if we are unable to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, if we are unable to assert that our internal controls over financial reporting are effective, or if our independent registered public accounting firm is not required to express an opinion due to the provisions of the JOBS Act or is unable to express an opinion as to the effectiveness of our internal controls over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected, and we could become subject to investigations by the stock exchange on which our securities are listed, the Securities and Exchange Commission, or the SEC, or other regulatory authorities, which could require additional financial and management resources.

We incur significant costs and demands upon management as a result of complying with the laws and regulations affecting public companies, which could harm our operating results.

As a public company, we will incur significant legal, accounting, investor relations and other expenses, including costs associated with public company reporting requirements. We also have incurred and will incur costs associated with current corporate governance requirements, including requirements under Section 404 and other provisions of the Sarbanes-Oxley Act, as well as rules implemented by the SEC and the exchange on which we list our common stock. These rules and regulations may substantially increase our legal and financial compliance costs and to make some activities more time-consuming and costly. As a public company, it is more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to incur substantially higher costs to obtain coverage or to accept reduced policy limits and coverage. As a result, it may be more difficult for us to attract and retain qualified individuals to serve on our board of directors or as our executive officers.

We are an "emerging growth company," and any decision on our part to comply with certain reduced disclosure requirements applicable to emerging growth companies could make our common stock less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act and, for as long as we continue to be an emerging growth company, we may choose to take advantage of certain exemptions from various reporting requirements applicable to other public companies including, but not limited to: not being required to have our internal control over financial reporting audited by our independent registered public accounting firm pursuant to Section 404 of the Sarbanes-Oxley Act; reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements; and exemptions from the requirements to hold a nonbinding advisory vote on executive compensation and to obtain stockholder approval of any golden parachute payments not previously approved. We may take advantage of these provisions until such time that we are no longer an "emerging growth company." We will cease to be an "emerging growth company" upon the earliest of the first fiscal year following the fifth anniversary of the consummation of our initial public offering; the first fiscal year after our annual gross revenue is $1 billion or more; the date on which we have, during the previous three-year period, issued more than $1 billion in non-convertible debt securities; or the date on which we are deemed to be a "large accelerated filer" as defined in the Securities Exchange Act of 1934, or the Exchange Act. To the extent we take advantage of any of these reduced reporting burdens in this Annual Report or in future filings, the information that we provide our security holders may be different than you might get from other public companies in which you hold equity interests. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

Under Section 107(b) of the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We are choosing to "opt out" of such extended transition period, however, and, as a result, we will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for non-emerging growth companies. Section 107 of the JOBS Act provides that our decision to opt out of the extended transition period for complying with new or revised accounting standards is irrevocable. The requirements of being a public company may strain our resources and divert management's attention.

Risks Related to Ownership of Our Common Stock

The market price of our common stock may be volatile, which could result in substantial losses for investors.

The market price of our common stock could be subject to significant fluctuations. Some of the factors that may cause the market price of our common stock to fluctuate include:

- actual or anticipated changes in the estimates of our operating results that we provide to the public, our failure to meet these projections or changes in recommendations by securities analysts that elect to follow our common stock;
- price and volume fluctuations in the overall equity markets from time to time;
- significant volatility in the market price and trading volume of comparable companies;
- changes in the market perception of enterprise work management software generally or in the effectiveness of our applications in particular;
- disruptions in our services due to computer hardware, software or network problems;
- announcements of technological innovations, new products, strategic alliances or significant agreements by us or by our competitors;
- announcements of new customer agreements or upgrades and customer downgrades or cancellations or delays in customer purchases;
- litigation involving us;
- our ability to successfully consummate and integrate acquisitions;
- investors' general perception of us;
- recruitment or departure of key personnel;
- sales of our common stock by us or our stockholders;
- fluctuations in the trading volume of our shares or the size of our public float; and
- general economic, legal, industry and market conditions and trends unrelated to our performance.

In the past, following periods of volatility in the market price of a company's securities, securities class action litigation has often been brought against that company. Because of the potential volatility of our stock price, we may become the target of securities litigation in the future. If we were to become involved in securities litigation, it could result in substantial costs, divert management's attention and resources from our business and adversely affect our business.

If securities or industry analysts do not publish, or cease publishing, research or reports about us, our business or our market, if they publish negative evaluations of our stock, or if we fail to meet the expectations of analysts, the price of our stock and trading volume could decline.

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts may publish about us, our business, our market or our competitors. If few analysts commence coverage of us, the trading price of our stock would likely decrease if one or more of the analysts covering our business downgrade their evaluation of our stock, the price of our stock could decline. If one or more of these analysts cease to cover our stock, we could lose visibility in the market for our stock, which in turn could cause our stock price to decline. Furthermore, if our operating results fail to meet analysts' expectations our stock price would likely decline.

Sales of a substantial number of shares of our common stock in the public market by our existing stockholders could cause our stock price to fall.

The price of our common stock could decline if there are substantial sales of our common stock in the public stock market. Certain of our stockholders have rights, subject to some conditions, to require us to file registration statements or to include such shares in registration statements that we may file for ourselves or other stockholders. We also have registered shares of common stock that we may issue under our stock-based compensation plans, which can be freely sold in the public market upon issuance, subject to the lock-up agreements and the restrictions imposed on our affiliates under Rule 144 under the Securities Act.

Our existing directors, executive officers and principal stockholders have substantial control over us, which could limit your ability to influence the outcome of key transactions, including a change of control.

As of December 31, 2016, our directors, executive officers, principal stockholders and their affiliates beneficially owned or controlled, directly or indirectly, a majority of our outstanding common stock. As a result, these stockholders, acting together, could have significant influence over the outcome of matters submitted to our stockholders for approval, including the election or removal of directors, any amendments to our certificate of incorporation or bylaws and any merger, consolidation or sale of all or substantially all of our assets, and over the management and affairs of our company. This concentration of ownership may also have the effect of delaying or preventing a change in control of our company or discouraging others from making tender offers for our shares and might affect the market price of our common stock.

Because we do not expect to pay any dividends on our common stock for the foreseeable future, our investors may never receive a return on their investment.

We do not anticipate that we will pay any cash dividends to holders of our common stock in the foreseeable future. Instead, we plan to retain any earnings to maintain and expand our existing operations. In addition, our ability to pay cash dividends is currently limited by the terms of our existing loan facility, which prohibits our payment of dividends on our capital stock without prior consent, and any future credit facility may contain terms prohibiting or limiting the amount of dividends that may be declared or paid on our common stock. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any return on their investment.

Anti-takeover provisions in our amended and restated certificate of incorporation and our amended and restated bylaws, as well as provisions of Delaware law, might discourage, delay or prevent a change in control of our company or changes in our board of directors or management and, therefore, depress the trading price of our common stock.

Provisions in our certificate of incorporation and bylaws, as amended and restated , will contain provisions that may depress the market price of our common stock by acting to discourage, delay or prevent a merger, acquisition or other change in control that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares of our common stock. These provisions may also prevent or frustrate attempts by our stockholders to replace or remove members of our board of directors or our management. These provisions include the following:

- our certificate of incorporation provides for a classified board of directors with staggered three-year terms so that not all members of our board of directors are elected at one time;
- directors may be removed by stockholders only for cause;
- our board of directors has the right to elect directors to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors;
- special meetings of our stockholders may be called only by our Chief Executive Officer, our board of directors or holders of not less than the majority of our issued and outstanding capital stock limiting the ability of minority stockholders to take certain actions without an annual meeting of stockholders;
- our stockholders may not act by written consent unless the action to be effected and the taking of such action by written consent are approved in advance by our board of directors and, as a result, a holder,

or holders, controlling a majority of our capital stock would generally not be able to take certain actions without holding a stockholders' meeting;

- our certificate of incorporation prohibits cumulative voting in the election of directors. This limits the ability of minority stockholders to elect director candidates;
- stockholders must provide timely notice to nominate individuals for election to the board of directors or to propose matters that can be acted upon at an annual meeting of stockholders and, as a result, these provisions may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of us; and
- our board of directors may issue, without stockholder approval, shares of undesignated preferred stock, making it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to acquire us.

As a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the Delaware General Corporation Law, which limits the ability of stockholders owning in excess of 15% of our outstanding voting stock from engaging in certain business combinations with us.

Any provision of our certificate of incorporation and bylaws or Delaware law that has the effect of delaying or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock and could also affect the price that some investors are willing to pay for our common stock. The existence of the foregoing provisions and anti-takeover measures could limit the price that investors might be willing to pay in the future for shares of our common stock. They could also deter potential acquirers of our company, thereby reducing the likelihood that you could receive a premium for your common stock in an acquisition.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Our principal corporate offices are located in Austin, Texas where we occupy approximately 9,896 square feet of space under a sublease that expires in March 2020. We occupy additional leased facilities for operations of approximately 16,987 square feet in Montreal, Quebec; approximately 22,950 square feet in Lincoln, Nebraska; approximately 7,740 square feet in San Francisco, California (which we have vacated and subsequently subleased through the end of the lease which terminates in 2017).

Item 3. Legal Proceedings

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that we believe would, individually or taken together, have a material adverse effect on our business, operating results, financial condition or cash flows.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our common stock is traded on the NASDAQ Global Market, or NASDAQ, under the symbol "UPLD".

As of March 22, 2017, the last reported sales price of our common stock on the NASDAQ was $13.93 and there were 74 stockholders of record of our common stock, including Computershare Limited, which holds shares of our common stock on behalf of an indeterminate number of beneficial owners.

The table below sets forth the high and low sales prices per share of our common stock as reported on the NASDAQ for the periods indicated:

	Sales Price Per Share in 2016	
Year Ended December 31, 2016	**Low**	**High**
Fourth quarter	$7.85	$9.74
Third Quarter	$7.44	$9.90
Second Quarter	$6.80	$7.77
First Quarter	$6.00	$7.19

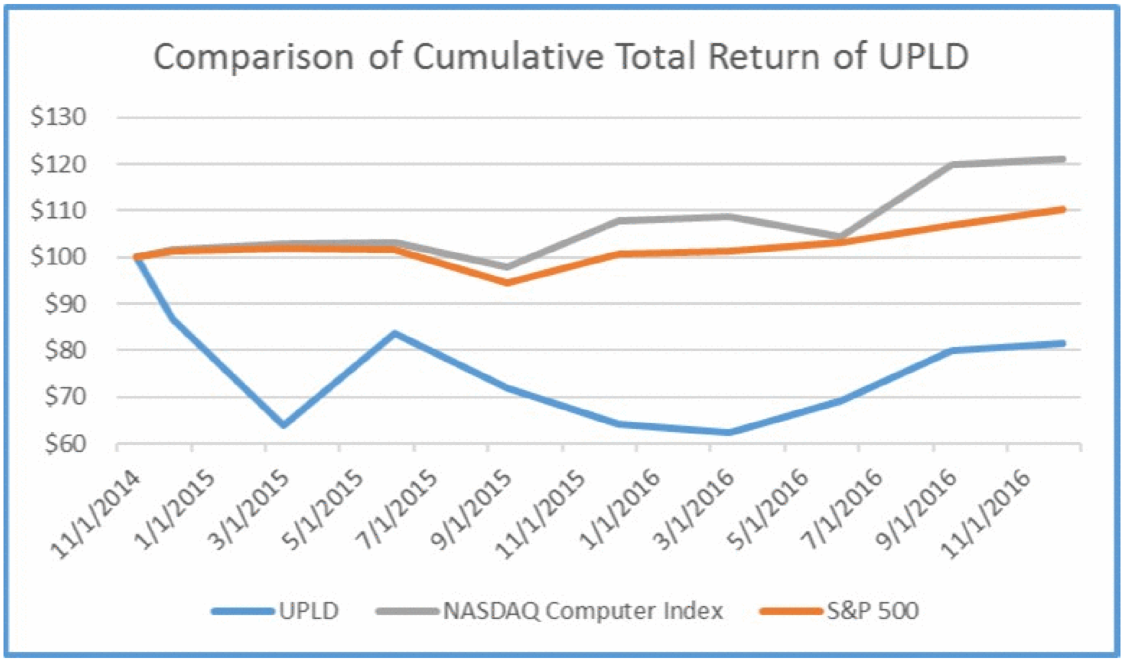
	Sales Price Per Share in 2015	
Year Ended December 31, 2015	**Low**	**High**
Fourth quarter	$6.77	$8.12
Third Quarter	$7.59	$9.18
Second Quarter	$5.91	$9.22
First Quarter	$6.81	$10.05

We have never declared or paid dividends on our common stock. We do not expect to pay dividends on our common stock for the foreseeable future. Instead, we anticipate that all of our earnings will be used for the operation and growth of our business. Any future determination to declare cash dividends would be subject to the discretion of our board of directors and would depend upon various factors, including our results of operations, financial condition and liquidity requirements, restrictions that may be imposed by applicable law and our contracts and other factors deemed relevant by our board of directors. In addition, the terms of our loan facility currently restrict our ability to pay dividends.

Performance Graph

Notwithstanding any statement to the contrary in any of our filings with the SEC, the following information shall not be deemed "filed" with the SEC or "soliciting material" under the Securities Exchange Act of 1934 and shall not be incorporated by reference into any such filings irrespective of any general incorporation language contained in such filing.

The following graph compares the total cumulative stockholder return on our common stock with the total cumulative return of the NASDAQ Computer Technology Index and the S&P 500 Composite Index during the period commencing on November 6, 2014, the initial trading day of our common stock, and ending on December 31, 2016. The graph assumes a $100 investment at the beginning of the period in our common stock, the stocks represented in the S&P 500 Composite Index and the stocks represented in NASDAQ Computer Technology Index, and reinvestment of any dividends. The Computer Technology Index is designed to represent a cross section of widely-held U.S. corporations involved in various phases of the computer industry. The Index is market-value (capitalization) weighted, based on the aggregate market value of its 27 component stocks. Historical stock price performance should not be relied upon as an indication of future stock price performance.



Recent Sales of Unregistered Securities

In November 2016, the Company issued 24,587 shares of common stock valued at approximately $200,000 as a result of the escrow release in connection with the acquisition of Ultriva, Inc.

Issuer Purchases of Equity Securities

None.

Equity Compensation Plan Information

For information regarding securities authorized for issuance under equity compensation plans, see Part III, Item 12 of this Annual Report on Form 10-K.

Item 6. Selected Financial Data

The following selected historical consolidated financial data below should be read in conjunction with Item 7: “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” our consolidated financial statements and the related notes appearing in Item 8: “Financial Statements and Supplementary Data” of this Annual Report on Form 10-K to fully understand factors that may affect the comparability of the information presented below.

The consolidated statements of operations data for the years ended December 31, 2016, 2015, and 2014 and the selected consolidated balance sheet data as of December 31, 2016 and 2015 are derived from our audited consolidated financial statements appearing in Item 8: “Financial Statements and Supplementary Data” of this Annual Report on Form 10-K. The statement of operations data for the years ended December 31, 2013 and 2012 and the selected consolidated balance sheet data as of December 31, 2014, 2013, and 2012 are derived from our consolidated financial statements not included in this Annual Report on Form 10-K. To obtain further information about our historical results, including our historical acquisitions, for which results of operations are included in our consolidated financial statements beginning on the dates of acquisition, you should read the following selected consolidated financial data in conjunction with our consolidated financial statements and related notes, the information in the section of this filing titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the other financial information included elsewhere in this filing. Our historical results are not necessarily indicative of the results to be expected in the future, and our interim results are not necessarily indicative of the results to be expected in the future.

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands, except share and per share data)				
Consolidated Statements of Operations Data:					
Revenue:					
Subscription and support	$ 65,552	$ 57,193	$ 48,625	$ 30,887	$ 18,281
Perpetual license	1,650	2,805	2,787	2,003	641
Total product revenue	67,202	59,998	51,412	32,890	18,922
Professional services	7,565	9,913	13,162	8,303	3,841
Total revenue	74,767	69,911	64,574	41,193	22,763
Cost of revenue:					
Subscription and support	22,734	19,586	14,042	7,787	4,189
Professional services	4,831	7,085	9,079	5,680	3,121
Total cost of revenue	27,565	26,671	23,121	13,467	7,310
Gross profit	47,202	43,240	41,453	27,726	15,453
Operating expenses:					
Sales and marketing	12,160	12,965	14,670	10,625	6,331
Research and development	14,919	15,778	26,165	10,340	5,308
Refundable Canadian tax credits	(513)	(470)	(1,094)	(583)	(728)
General and administrative	18,286	18,201	13,561	6,832	4,574
Depreciation and amortization	5,291	4,534	4,310	3,670	1,812
Acquisition-related expenses	5,583	2,455	2,186	1,461	1,933
Total operating expenses	55,726	53,463	59,798	32,345	19,230
Loss from operations	(8,524)	(10,223)	(18,345)	(4,619)	(3,777)
Other expense:					
Interest expense, net	(2,781)	(1,858)	(1,951)	(2,797)	(528)
Other income (expense), net	(678)	(544)	101	(431)	(65)
Total other expense	(3,459)	(2,402)	(1,850)	(3,228)	(593)
Loss before provision for income taxes	(11,983)	(12,625)	(20,195)	(7,847)	(4,370)
Provision for income taxes	(1,530)	(1,039)	78	(708)	72
Loss from continuing operations	(13,513)	(13,664)	(20,117)	(8,555)	(4,298)
Income (loss) from discontinued operations	—	—	—	(642)	1,791
Net loss	$ (13,513)	$ (13,664)	$ (20,117)	$ (9,197)	$ (2,507)
Preferred stock dividends and accretion	—	—	(1,524)	(98)	(44)
Net loss attributable to common shareholders	$ (13,513)	$ (13,664)	$ (21,641)	$ (9,295)	$ (2,551)
Net loss per common share:					
Loss from continuing operations per common share, basic and diluted	$ (0.82)	$ (0.91)	$ (4.43)	$ (7.23)	$ (5.78)
Income (loss) from discontinued operations per common share, basic and diluted	$ —	$ —	$ —	$ (0.54)	$ 2.39
Net loss per common share, basic and diluted	$ (0.82)	$ (0.91)	$ (4.43)	$ (7.77)	$ (3.39)
Weighted-average common shares outstanding, basic and diluted	16,472,799	14,939,601	4,889,901	1,196,668	751,416

	December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands)				
Consolidated Balance Sheet Data:					
Cash and cash equivalents	$ 28,758	$ 18,473	$ 30,988	4,703	3,892
Property and equipment, net	4,356	6,001	3,930	3,942	1,407
Intangible assets, net	28,512	31,526	34,751	34,747	26,388
Goodwill	69,097	47,422	45,146	33,630	21,093
Total assets	150,588	122,414	135,686	94,847	67,808
Deferred revenue	23,799	19,939	21,376	17,036	16,502
Total liabilities	91,575	62,144	64,289	60,191	44,495
Redeemable convertible preferred stock	—	—	—	50,538	27,492
Total stockholders' equity (deficit)	59,013	60,270	71,397	(15,882)	(4,179)

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands, except %)				
Other Financial Data:					
Annualized recurring revenue value at year-end[(1)]	$ 63,968	$ 58,918	$ 56,800	$ 49,061	$ 27,093
Annual net dollar retention rate[(2)]	95%	90%	96%	90%	n/a
Adjusted EBITDA[(3)]	$ 12,616	$ 4,143	$ 4,213	$ 3,576	$ 3,998

(1) *Annualized recurring revenue value at year-end*. The value as of December 31 equals the monthly value of our recurring revenue contracts measured as of December 31 multiplied by 12. This measure excludes the revenue value of certain uncontracted overage fees and on-demand service fees. See "Management's Discussion and Analysis of Financial Condition and Results of Operations-Key Metrics" for additional discussion of this key metric.

(2) *Annual net dollar retention rate*. We define annual net dollar retention rate as of December 31 as the aggregate annualized recurring revenue value at December 31 from those customers that were also customers as of December 31 of the prior fiscal year, divided by the aggregate annualized recurring revenue value from all customers as of December 31 of the prior fiscal year. See "Management's Discussion and Analysis of Financial Condition and Results of Operations-Key Metrics" for additional discussion of this key metric.

(3) *Adjusted EBITDA*. We monitor our Adjusted EBITDA to help us evaluate the effectiveness and efficiency of our operations. Adjusted EBITDA is a non-GAAP financial measure. We define Adjusted EBITDA as net income (loss), calculated in accordance with GAAP, plus net income (loss) from discontinued operations, depreciation and amortization expense, interest expense, net, other expense (income), net, provision for income taxes, stock-based compensation expense, acquisition-related expenses, non-recurring litigation costs, and purchase accounting adjustments for deferred revenue. Prior to the filing of this Annual Report on Form 10-K, we did not include purchase accounting adjustments for deferred revenue as a component of Adjusted EBITDA, and as such, the prior year Adjusted EBITDA amounts presented herein have been recast to reflect the inclusion of purchase accounting adjustments for deferred revenue.

The following table presents a reconciliation of net loss to Adjusted EBITDA:

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands)				
Net Loss	$ (13,513)	$ (13,664)	$ (20,117)	$ (9,197)	$ (2,507)
Net income (loss) from discontinued operations	—	—	—	642	(1,791)
Depreciation and amortization expense	9,794	8,451	7,457	5,310	2,472
Interest expense, net	2,781	1,858	1,951	2,797	528
Other expense (income), net	678	544	(101)	431	65
Provision for (benefit from) income taxes	1,530	1,039	(78)	708	(72)
Stock-based compensation expense	4,333	2,741	1,077	498	92
Acquisition-related expense	5,583	2,455	2,186	1,461	1,933
Stock-based compensation expense - related party vendor	—	—	11,220	—	—
Nonrecurring litigation expense	25	406	256	—	—
Purchase accounting deferred revenue discount	1,405	313	362	926	3,278
Adjusted EBITDA	$ 12,616	$ 4,143	$ 4,213	$ 3,576	$ 3,998

We believe that Adjusted EBITDA provides useful information to management, investors and others in understanding and evaluating our operating results for the following reasons:

- Adjusted EBITDA is widely used by investors and securities analysts to measure a company's operating performance without regard to items that can vary substantially from company to company depending upon their financing, capital structures and the method by which assets were acquired;
- our management uses Adjusted EBITDA in conjunction with GAAP financial measures for planning purposes, in the preparation of our annual operating budget, as a measure of our operating performance, to assess the effectiveness of our business strategies and to communicate with our board of directors concerning our financial performance because Adjusted EBITDA eliminates the impact of items that we do not consider indicative of our core operating performance; and
- Adjusted EBITDA provides more consistency and comparability with our past financial performance, facilitates period-to-period comparisons of our operations and also facilitates comparisons with other companies, many of which use similar non-GAAP financial measures to supplement their GAAP results.

Adjusted EBITDA should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with GAAP. The use of Adjusted EBITDA as an analytical tool has limitations such as:

- depreciation and amortization are non-cash charges, and the assets being depreciated or amortized will often have to be replaced in the future and Adjusted EBITDA does not reflect cash requirements for such replacements; however, much of the depreciation and amortization currently reflected relates to amortization of acquired intangible assets as a result of business combination purchase accounting adjustments, which will not need to be replaced in the future;
- Adjusted EBITDA may not reflect changes in, or cash requirements for, our working capital needs or contractual commitments;
- Adjusted EBITDA does not reflect the potentially dilutive impact of stock-based compensation;
- Adjusted EBITDA does not reflect interest or tax payments that could reduce cash available for use; and

- other companies, including companies in our industry, might calculate Adjusted EBITDA or similarly titled measures differently, which reduces their usefulness as comparative measures.

Because of these limitations, you should consider Adjusted EBITDA together with other financial performance measures, including various cash flow metrics, net loss and our other GAAP results.

The following tables present stock-based compensation, depreciation and amortization included in the respective line items in our Consolidated Statement of Operations:

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands)				
Stock-based compensation:					
Cost of revenue	$ 44	$ 42	$ 49	$ 16	$ —
Research and development	204	203	61	12	—
Sales and marketing	105	65	39	15	—
General and administrative	3,980	2,431	928	455	92
Total	$ 4,333	$ 2,741	$ 1,077	$ 498	$ 92

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands)				
Depreciation:					
Cost of Revenue	$ 2,030	$ 1,800	$ 1,303	$ 455	$ —
General and administrative	657	452	987	348	325
Total	$ 2,687	$ 2,252	$ 2,290	$ 803	$ 325

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands)				
Amortization:					
Cost of Revenue	$ 2,473	$ 2,116	$ 1,185	$ 1,185	$ 662
General and administrative	4,634	4,083	3,322	3,322	1,487
Total	$ 7,107	$ 6,199	$ 4,507	$ 4,507	$ 2,149

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

You should read the following discussion of our financial condition and results of operations in conjunction with the consolidated financial statements and the notes thereto included elsewhere in this Annual Report on Form 10-K. The following discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this Annual Report on Form 10-K, particularly in Item 1A: "Risk Factors."

This section and other parts of this Annual Report on Form 10-K contain forward-looking statements that involve risks and uncertainties. Forward-looking statements may be identified by the use of forward-looking words such as "anticipate," "believe," "may," "will," "continue," "seek," "estimate," "intend," "hope," "predict," "could," "should," "would," "project," "plan," "expect" or the negative or plural of these words or similar *expressions, although not all forward-looking statements contain these words. Forward-looking statements are not guarantees of future performance and our actual results may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such differences include, but are not limited to, those discussed in the subsection entitled Item 1A: "Risk Factors" above, which are incorporated herein by reference. The following discussion should be read in conjunction with the consolidated financial statements and notes thereto included in Item 8: "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K. All information presented herein is based on our fiscal calendar. Unless otherwise stated, references in this report to particular years or quarters refer to our fiscal years ended December 31 and the associated quarters of those fiscal years. We assume no obligation to revise or update any forward-looking statements for any reason, except as required by law.*

Overview

We provide cloud-based enterprise work management software. We define enterprise work management software as software applications that enable organizations to plan, manage and execute projects and work. Our family of applications enables users to manage their projects, professional workforce and IT investments, automate document-intensive business processes and effectively engage with their customers, prospects and community via the web and mobile technologies.

The continued growth of an information-based economy has given rise to a large and growing group of knowledge workers who operate in dynamic work environments as part of geographically dispersed and virtual teams. We believe that manual processes and legacy on- premise enterprise systems are insufficient to address the needs of the modern work environment. In order for knowledge workers to be successful, they need to interact with intuitive enterprise work systems in a collaborative way, including real-time access. Today, legacy processes and systems are being disrupted and replaced by cloud-based enterprise work management software that improves visibility, collaboration and productivity.

In response to these changes, we are providing organizations and their knowledge workers with software applications that better align resources with business objectives and increase visibility, governance, collaboration, quality of customer experience and responsiveness to changes in the business environment. This results in increased work capacity, higher productivity, better execution and greater levels of customer engagement. Our applications are easy-to-use, scalable and offer real-time collaboration for knowledge workers distributed on a local or global scale. Our applications address enterprise work challenges in the following categories:

- *Project & Information Technology (IT) Management*. Enables users to manage their organization's projects, professional workforce and IT costs.
- *Workflow Automation*. Enables users to automate document-intensive workflow business processes across their enterprise and supply chain.
- *Digital Engagement*. Enables users to effectively engage with their customers, prospects and community via the web and mobile technologies.

We sell our software applications primarily through a direct sales organization comprised of inside sales and field sales personnel. In addition to our direct sales organization, we have an indirect sales organization, which sells to distributors and value-added resellers. We employ a land-and-expand go-to-market strategy. After we demonstrate the value of an initial application to a customer, our sales and account management teams work to expand the adoption of that initial application across the customer, as well as cross-sell additional applications to address other enterprise work management needs of the customer. Our customer success organization supports our direct sales efforts by managing the post-sale customer lifecycle.

Our subscription agreements are typically sold either on a per-seat basis or on a minimum contracted volume basis with overage fees billed in arrears, depending on the application being sold. We service customers ranging from large global corporations and government agencies to small- and medium-sized businesses. We have more than 2,500 customers with over 250,000 users across a broad range of industries, including financial services, retail, technology, manufacturing, education, consumer goods, media, telecommunications, government, food and beverage, healthcare and life sciences.

Through a series of acquisitions and integrations, we have established a diverse family of software applications under the Upland brand, each of which addresses a specific enterprise work management need. Our revenue has grown from $22.8 million in fiscal 2012 to $74.8 million in fiscal 2016, representing a 228% period-over-period growth rate. See Note 15 of the Notes to Consolidated Financial Statements for more information regarding our revenue as it relates to domestic and foreign operations.

Our operating results in a given period can fluctuate based on the mix of subscription and support, perpetual license and professional services revenue. For the years ended December 31, 2016, 2015 and 2014, our subscription and support revenue accounted for 88%, 82%, and 75%, respectively of our total revenue in both periods. Historically, we have sold certain of our applications under perpetual licenses, which also are paid in advance. For the years ended December 31, 2016, 2015 and 2014, our perpetual license revenue accounted for 2%, 4%, and 4% of our total revenue, respectively. The support agreements related to our perpetual licenses are one-year in duration and entitle the customer to support and unspecified upgrades. The revenue related to such support agreements is included as part of our subscription and support revenue. Professional services revenue consists of fees related to implementation, data extraction, integration and configuration and training on our applications. For the years ended December 31, 2016, 2015 and 2014, our professional services revenue accounted for 10%, 14%, and 21%, respectively.

To support continued growth, we intend to pursue acquisitions of complementary technologies, products and businesses. This will expand our product families, customer base, and market access resulting in increased benefits of scale. We will prioritize acquisitions within the product categories we currently participate in, including Project & IT Management, Workflow Automation, and Digital Engagement. Consistent with our growth strategy, we have made twelve acquisitions in the five years ending December 31, 2016, excluding an additional acquisition in January 2017. See Note 17 of the Notes to Consolidated Financial Statements for more information regarding events occurring after December 31, 2016.

2012 Acquisitions

PowerSteering. In February 2012, we acquired the business of PowerSteering Software, Inc., or PowerSteering, a provider of cloud-based program and portfolio management software, for $13.0 million. The acquisition of PowerSteering enabled our customers to gain high-level visibility across their organizations and improve top-down governance in management of programs, initiatives, investments and projects.

Tenrox. In February 2012, we acquired the business of Tenrox Inc., or Tenrox, a provider of cloud-based professional services automation software, for $15.3 million. The acquisition of Tenrox provided us with additional access to the professional services market and provided our customers with the ability to more effectively manage their knowledge workers to better track work, expenses and client billing while improving scheduling, utilization and alignment of human capital. In addition, following the Tenrox acquisition, we began selling Timesheet.com, a Tenrox product for professional services automation, as a separate application.

EPM Live. In November 2012, we acquired the business of LMR Solutions, LLC, dba EPM Live, or EPM Live, a provider of cloud-based and perpetual license-based project management and collaboration software, with a combination of cash, seller notes and equity, for total consideration of $7.7 million. The acquisition of EPM Live added a software application focused on improving collaboration and the execution of both projects and unstructured work. EPM Live was sold in March, 2016 in conjunction with our acquisition of HipCricket, Inc. as described below.

2013 Acquisitions

FileBound. In May 2013, we acquired the businesses of FileBound Solutions, Inc. and Marex Group, Inc., together FileBound, a provider of cloud-based and perpetual license-based workflow automation and enterprise content management software, with a combination of cash, seller notes and equity, for total consideration of $14.7 million. The acquisition of FileBound provided our customers the ability to automate document-based workflows and control access and distribution of their content to boost productivity, encourage collaboration and improve compliance.

ComSci. In November 2013, we acquired the business of ComSci LLC, or ComSci, a provider of cloud-based financial management software, with a combination of cash and equity, for total consideration of $7.6 million, with additional contingent consideration payable if certain performance targets are achieved. The acquisition of ComSci enabled our customers to have visibility into the cost, quality and value of internal services delivered within their organizations.

Clickability. In December 2013, we acquired the business of Clickability, Inc., or Clickability, a cloud-based platform for web content management, for $12.3 million. The acquisition of Clickability provided an enterprise content management software application that is used by enterprise marketers and media companies to create, maintain and deliver websites that shape visitor experiences and empower non-technical staff to create, management, publish, analyze and refine content and social media assets without information technology intervention. For accounting purposes, the acquisition of Clickability was recorded as of December 31, 2013 and, accordingly, the operations of Clickability had no impact on our statement of operations.

2014 Acquisitions

Solution Q. In November 2014, the Company acquired 100% of the outstanding capital of Solution Q Inc. for total purchase consideration of $6.1 million, which includes cash of $4.5 million, net of $0.4 million of cash acquired, and 150,977 shares of the Company's common stock with a fair value of $1.6 million. Solution Q provides mid-market organizations an easy-to-use, turnkey solution for their project management and portfolio visibility needs.

Mobile Commons. In December 2014, the Company acquired 100% of the outstanding capital of Mobile Commons, Inc. (Mobile Commons) for total purchase consideration of $10.2 million including cash of $5.7 million, net of $0.3 million of cash acquired, 386,253 shares of common stock valued at $4.5 million and excluding potential additional consideration for incremental additional revenue described below. The Company agreed to pay additional consideration of up to $1.5 million in both cash and common stock to the selling shareholders of Mobile Commons based on the achievement of certain incremental revenue targets during fiscal 2015. The acquisition-date fair value of the contingent payment was measured based on the probability-adjusted present value of the consideration expected to be transferred, which amounted to $0.5 million. Mobile Commons' enterprise-class application drives and manages digital engagement through two-way SMS programs and campaigns.

2015 Acquisitions

Ultriva. On November 13, 2015, the Company acquired 100% of the outstanding capital of Ultriva, Inc. (Ultriva) for total purchase consideration of $7.2 million, which included cash of $5.6 million, net of $0.4 million of cash acquired, 179,298 shares of the Company's common stock with a fair value of $1.4 million, and an additional $200,000 in shares of common stock held in escrow, subject to indemnification claims, one year from the date of the acquisition. In November 2016, the Company issued 24,587 shares of common stock valued at approximately $200,000 as a result of the escrow release. Ultriva provides cloud-based supply chain collaboration software.

2016 Acquisitions

LeadLander. On January 7, 2016, Upland completed its purchase of substantially all of the assets of LeadLander, Inc. (LeadLander), a website analytics provider. The purchase price consideration paid was approximately $8.0 million in cash payable at closing (net of $0.4 million of cash acquired) and a $1.2 million cash holdback payable in 12 months (subject to indemnification claims). The foregoing excludes additional potential earnout payments tied to performance-based conditions. In addition to the cash consideration described above, the Asset Purchase Agreement included a contingent share consideration component pursuant to which Upland issued an aggregate of $2.4 million common stock in July 2016.

HipCricket. On March 14, 2016, Upland completed its purchase of substantially all of the assets of HipCricket, Inc., a cloud-based mobile messaging software provider. The consideration paid to the seller consisted of our issuance of one million shares of our common stock and the transfer of our EPM Live product business. The value of the shares on the closing date of the transaction was approximately $5.7 million and the fair value of our EPM Live product business was approximately $5.9 million. Prior to the transaction, HipCricket was owned by an affiliate of ESW Capital, LLC, which is a shareholder of Upland. Raymond James & Co. provided a fairness opinion to Upland in connection with the transaction.

Advanced Processing & Imaging, Inc. On April 27, 2016, Upland acquired Advanced Processing & Imaging, Inc., a content management platform driving workflow in governments and schools. The purchase price consideration consisted of $4.0 million in cash payable at closing (net of $0.2 million of cash acquired), and a $0.8 million cash holdback payable in 12 months (subject to indemnification claims).

2017 Acquisitions

Omtool. On January 11, 2017, Upland completed its acquisition of Omtool, Ltd., an enterprise document capture, fax, and workflow solution company. The purchase price paid for Omtool was $19.2 million (net of cash acquired).

Our acquisitions may have a material adverse impact on our results of operations, including a potential material adverse impact on our cost of revenue in the short term, as we seek to integrate our acquired businesses over the following six to twelve months in order to achieve additional operating efficiencies. In addition, as we grow our business, we continue to face many challenges and risks. We might encounter difficulties identifying, acquiring and integrating complementary products, technologies and businesses. Over time, as competition increases we may experience pricing pressure. We also may experience seat downgrades or a reduction in minimum contracted volume that could negatively impact our business. Seat downgrades or reductions in minimum contracted volume could occur for several reasons, including dissatisfaction with our prices or features relative to competitive offerings, reductions in our customers' spending levels, unused seats or minimum contracted volume or limited adoption by our customers of our applications. Our strategic initiatives will require expenditure of capital and the attention of management, and we may not succeed in executing on our growth plan.

Key Metrics

In addition to the GAAP financial measures described below in "—Components of Operating Results," we regularly review the following key metrics to evaluate and identify trends in our business, measure our performance, prepare financial projections and make strategic decisions:

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands, except %)				
Other Financial Data:					
Annualized recurring revenue value at year-end(1)	$ 63,968	$ 58,918	$ 56,800	$ 49,061	$ 27,093
Annual net dollar retention rate(2)	95%	90%	96%	90%	n/a
Adjusted EBITDA(3)	$ 12,616	$ 4,143	$ 4,213	$ 3,576	$ 3,998

(1) *Annualized recurring revenue value at year-end*. The value as of December 31 equals the monthly value of our recurring revenue contracts measured as of December 31 multiplied by 12. This measure excludes the revenue value of certain uncontracted overage fees and on-demand service fees. See "Management's Discussion and Analysis of Financial Condition and Results of Operations-Key Metrics" for additional discussion of this key metric.

(2) *Annual net dollar retention rate*. We define annual net dollar retention rate as of December 31 as the aggregate annualized recurring revenue value at December 31 from those customers that were also customers as of December 31 of the prior fiscal year, divided by the aggregate annualized recurring revenue value from all customers as of December 31 of the prior fiscal year. See "Management's Discussion and Analysis of Financial Condition and Results of Operations-Key Metrics" for additional discussion of this key metric.

(3) *Adjusted EBITDA*. We monitor our Adjusted EBITDA to help us evaluate the effectiveness and efficiency of our operations. Adjusted EBITDA is a non-GAAP financial measure. We define Adjusted EBITDA as net income (loss), calculated in accordance with GAAP, plus net income (loss) from discontinued operations, depreciation and amortization expense, interest expense, net, other expense (income), net, provision for income taxes, stock-based compensation expense, acquisition-related expenses, non-recurring litigation costs, and purchase accounting adjustments for deferred revenue. Prior to the filing of this Annual Report on Form 10-K, we did not include purchase accounting adjustments for deferred revenue as a component of Adjusted EBITDA, and as such, the prior year Adjusted EBITDA amounts presented herein have been recast to reflect the inclusion of purchase accounting adjustments for deferred revenue.

The following table presents a reconciliation of net loss from continuing operations, the most comparable GAAP measure, to Adjusted EBITDA for each of the periods indicated.

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(dollars in thousands)				
Net loss	$ (13,513)	$ (13,664)	$ (20,117)	$ (9,197)	$ (2,507)
Income (loss) from discontinued operations	—	—	—	642	(1,791)
Depreciation and amortization expense	9,794	8,452	7,457	5,310	2,472
Interest expense, net	2,781	1,858	1,951	2,797	528
Other expense (income), net	678	544	(101)	431	65
Provision for income taxes	1,530	1,039	(78)	708	(72)
Stock-based compensation expense	4,333	2,741	1,077	498	92
Acquisition-related expenses	5,583	2,455	2,186	1,461	1,933
Stock-based compensation expense --- related party vendor	—	—	11,220	—	—
Non-recurring litigation costs	25	406	256	—	—
Purchase accounting deferred revenue discount	1,405	313	362	926	3,278
Adjusted EBITDA	$ 12,616	$ 4,144	$ 4,213	$ 3,576	$ 3,998

We believe that Adjusted EBITDA provides useful information to management, investors and others in understanding and evaluating our operating results for the following reasons:

- Adjusted EBITDA is widely used by investors and securities analysts to measure a company's operating performance without regard to items that can vary substantially from company to company depending upon their financing, capital structures and the method by which assets were acquired;
- our management uses Adjusted EBITDA in conjunction with GAAP financial measures for planning purposes, in the preparation of our annual operating budget, as a measure of our operating performance, to assess the effectiveness of our business strategies and to communicate with our board of directors concerning our financial performance because Adjusted EBITDA eliminates the impact of items that we do not consider indicative of our core operating performance;
- Adjusted EBITDA provides more consistency and comparability with our past financial performance, facilitates period-to-period comparisons of our operations and also facilitates comparisons with other companies, many of which use similar non-GAAP financial measures to supplement their GAAP results; and
- Adjusted EBITDA should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with GAAP. The use of Adjusted EBITDA as an analytical tool has limitations such as:
- depreciation and amortization are non-cash charges, and the assets being depreciated or amortized will often have to be replaced in the future and Adjusted EBITDA does not reflect cash requirements for such replacements; however, much of the depreciation and amortization currently reflected relates to amortization of acquired intangible assets as a result of business combination purchase accounting adjustments, which will not need to be replaced in the future;
- Adjusted EBITDA may not reflect changes in, or cash requirements for, our working capital needs or contractual commitments;
- Adjusted EBITDA does not reflect the potentially dilutive impact of stock-based compensation;
- Adjusted EBITDA does not reflect interest or tax payments that could reduce cash available for use; and,

- other companies, including companies in our industry, might calculate Adjusted EBITDA or similarly titled measures differently, which reduces their usefulness as comparative measures.

Because of these limitations, you should consider Adjusted EBITDA together with other financial performance measures, including various cash flow metrics, net loss and our other GAAP results.

Components of Operating Results

Revenue

Subscription and support revenue. We derive our subscription revenue from fees paid to us by our customers for use of our cloud-based applications. We recognize the revenue associated with subscription agreements ratably over the term of the agreement, provided all criteria required for revenue recognition have been met. Our subscription agreements are typically one to three years.

Our support revenue consists of maintenance fees associated with our perpetual licenses and hosting fees paid to us by our customers. Typically, when purchasing a perpetual license, a customer also purchases maintenance for which we charge a fee, priced as a percentage of the perpetual license fee. Maintenance agreements include the right to support and unspecified upgrades. We recognize the revenue associated with maintenance ratably over the term of the contract. In limited instances, at the customer's option, we may host the software purchased by a customer under a perpetual license on systems at our third-party data centers.

Perpetual license revenue. Perpetual license revenue reflects the revenue recognized from sales of perpetual licenses to new customers and additional perpetual licenses to existing customers. We generally recognize the license fee portion of the arrangement up-front, provided all revenue recognition criteria are satisfied.

Professional services revenue. Professional services revenue consists of fees related to implementation, data extraction, integration and configuration and training on our applications. We generally recognize the revenue associated with these professional services on a time and materials basis as we deliver the services or provide training to our customers.

Cost of Revenue

Cost of product revenue. Cost of product revenue consists primarily of personnel and related costs of our customer success and cloud operations teams, including salaries, benefits, bonuses, payroll taxes, stock-based compensation and allocated overhead, as well as software license fees, hosting costs, Internet connectivity and depreciation expenses directly related to delivering our applications. We expect that cost of revenues may increase in the future depending on the growth rate of our new customers and billings and our need to support the implementation, hosting and support of those new customers. We intend to continue to invest additional resources in expanding the delivery capability of our applications. As we add hosting infrastructure capacity and support personnel in advance of anticipated growth, our cost of product revenue will increase and if such anticipated revenue growth does not occur, our product gross profit will be adversely affected both in terms of absolute dollars and as a percentage of total revenues in any particular quarterly or annual period. Our cost of product revenue is generally expensed as the costs are incurred.

Cost of professional services revenue. Cost of professional services revenue consists primarily of personnel and related costs, including salaries, benefits, bonuses, payroll taxes, stock-based compensation and allocated overhead, as well as the costs of contracted third-party vendors and reimbursable expenses. As most of our personnel are employed on a full-time basis, our cost of professional services revenue is largely fixed in the short-term, while our professional services revenue may fluctuate, leading to fluctuations in professional services gross profit. We expect that cost of professional services as a percentage of total revenues could fluctuate from period to period depending on the growth of our professional services business, the timing of sales of applications, and any associated costs relating to the delivery of services. Our cost of professional services revenue is generally expensed as costs are incurred.

Operating Expenses

Our operating expenses are classified into six categories: sales and marketing, research and development, refundable Canadian tax credits, general and administrative, depreciation and amortization and acquisition-related expenses. For each category, other than refundable Canadian tax credits and depreciation and amortization, the largest expense component is personnel and related costs, which includes salaries, employee benefit costs, bonuses, commissions, stock-based compensation and payroll taxes. Operating expenses also include allocated overhead costs for facilities, which are allocated to each department based on relative department headcount. Operating expenses are generally recognized as incurred.

Sales and marketing. Sales and marketing expenses primarily consist of personnel and related costs for our sales and marketing staff, including salaries, benefits, commissions, bonuses, payroll taxes, stock-based compensation and allocated overhead, as well as costs of promotional events, corporate communications, online marketing, product marketing and other brand-building activities. We expense sales commissions when the initial customer contract is signed and upon any renewal as our obligation to pay a sales commission arises at these times. Sales and marketing expenses may fluctuate as a percentage of total revenues for a variety of reasons including due to the timing of such expenses, in any particular quarterly or annual period.

Research and development. Research and development expenses primarily consist of personnel and related costs of our research and development staff, including salaries, benefits, bonuses, payroll taxes, stock-based compensation, allocated overhead and costs of certain third-party contractors. Research and development costs related to the development of our software applications are generally recognized as incurred. For example, we are parties to a technology services agreement pursuant to which we generally recognize expenses for services as they are received. See Note 16 of the Notes to Consolidated Financial Statements for more information regarding how expenses under such agreement are recognized. We have devoted our product development efforts primarily to enhancing the functionality, and expanding the capabilities, of our applications.

Refundable Canadian tax credits. Investment tax credits are accounted for as a reduction of research and development costs. Credits are accrued in the year in which the research and development costs of the capital expenditures are incurred, provided that we are reasonably certain that the credits will be received. The investment tax credit must be examined and approved by the tax authorities, and it is possible that the amounts granted will differ from the amounts recorded.

General and administrative. General and administrative expenses primarily consist of personnel and related costs for our executive, administrative, finance, information technology, legal, accounting and human resource staff, including salaries, benefits, bonuses, payroll taxes, stock-based compensation, allocated overhead, professional fees and other corporate expenses. We have recently incurred, and expect to continue to incur, additional expenses as we grow our operations, including potentially higher legal, corporate insurance, accounting and auditing expenses, and the additional costs of enhancing and maintaining our internal control environment. General and administrative expenses may fluctuate as a percentage of revenue, and overtime we expect that general and administrative expenses will decrease as a percent of revenue due to operational efficiencies.

Depreciation and amortization. Depreciation and amortization expenses primarily consist of depreciation and amortization of acquired intangible assets as a result of business combination purchase accounting adjustments. The valuation of identifiable intangible assets reflects management's estimates based on, among other factors, use of established valuation methods. Customer relationships are valued using an income approach, which estimates fair value based on the earnings and cash flow capacity of the subject asset and are amortized over a seven to ten-year period. The value of the trade name intangibles are determined using a relief from royalty method, which estimates fair value based on the value the owner of the asset receives from not having to pay a royalty to use the asset and are amortized over mostly a three-year period. Developed technology is valued using a cost-to-recreate approach and is amortized over a four- to seven-year period.

Acquisition-related expenses. Acquisition-related expenses consist of one-time costs in connection with each of our acquisitions, including legal fees, accounting fees, financing fees, restructuring costs, integration costs and other transactional fees and bonuses. We intend to continue executing our focused strategy of acquisitions to enhance the features and functionality of our applications, expand our customer base and provide access to new markets and increased benefits of scale.

Total Other Expense

Total other expense consists primarily of changes in the estimated fair value of our preferred stock warrant liabilities, amortization of deferred financing costs over the term of the related loan facility, revaluation of contingent consideration, and interest expense on outstanding debt, including amortization of debt discount and effect of beneficial conversion features in our convertible promissory notes payable.

Income Taxes

Because we have not generated domestic net income in any period to date, we have recorded a full valuation allowance against our domestic net deferred tax assets, exclusive of tax deductible goodwill. We have historically not recorded any material provision for federal or state income taxes, other than deferred taxes related to tax deductible goodwill and current taxes in certain separate company filing states. The balance of the tax provision for fiscal years ended December 31, 2016, 2015, and 2014, outside of tax deductible goodwill and current taxes in separate filing states, is related to foreign income taxes, primarily operations of our Canadian subsidiaries. Realization of any of our domestic deferred tax assets depends upon future earnings, the timing and amount of which are uncertain. Based on analysis of acquired net operating losses, utilization of our net operating losses will be subject to annual limitations due to the ownership change rules under the Internal Revenue Code of 1986, as amended, or the Code, and similar state provisions. In the event we have subsequent changes in ownership, the availability of net operating losses and research and development credit carryovers could be further limited.

Results of Operations

Consolidated Statements of Operations Data

The following tables set forth our results of operations for the specified periods, as well as our results of operations for the specified periods as a percentage of revenue. The period-to-period comparisons of results of operations are not necessarily indicative of results for future periods.

	Year Ended December 31,					
	2016		2015		2014	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	Percent of Revenue
	(dollars in thousands, except share and per share data)					
Revenue:						
Subscription and support	$ 65,552	88%	$ 57,193	82%	$ 48,625	75%
Perpetual license	1,650	2%	2,805	4%	2,787	4%
Total product revenue	67,202	90%	59,998	86%	51,412	79%
Professional services	7,565	10%	9,913	14%	13,162	21%
Total revenue	74,767	100%	69,911	100%	64,574	100%
Cost of revenue:						
Subscription and support (1)(2)	22,734	30%	19,586	28%	14,042	22%
Professional services	4,831	7%	7,085	10%	9,079	14%
Total cost of revenue	27,565	37%	26,671	38%	23,121	36%
Gross profit	47,202	63%	43,240	62%	41,453	64%
Operating expenses:						
Sales and marketing (1)	12,160	16%	12,965	19%	14,670	23%
Research and development (1)	14,919	20%	15,778	23%	26,165	41%
Refundable Canadian tax credits	(513)	(1)%	(470)	(1)%	(1,094)	(2)%
General and administrative (1)	18,286	24%	18,201	26%	13,561	21%
Depreciation and amortization	5,291	7%	4,534	6%	4,310	7%
Acquisition-related expenses	5,583	9%	2,455	3%	2,186	3%
Total operating expenses	55,726	75%	53,463	76%	59,798	93%
Loss from operations	(8,524)	(12)%	(10,223)	(14)%	(18,345)	(29)%
Other Expense:						
Interest expense, net	(2,781)	(4)%	(1,858)	(3)%	(1,951)	(3)%
Other expense, net	(678)	(1)%	(544)	—%	101	—%
Total other expense	(3,459)	(5)%	(2,402)	(3)%	(1,850)	(3)%
Loss before provision for income taxes	(11,983)	(17)%	(12,625)	(17)%	(20,195)	(32)%
Provision for income taxes	(1,530)	(1)%	(1,039)	(3)%	78	1%
Loss from continuing operations	(13,513)	(18)%	(13,664)	(20)%	(20,117)	(31)%
Income (loss) from discontinued operations	—		—		—	
Net loss	$ (13,513)	(18)%	$ (13,664)	(20)%	$ (20,117)	(31)%
Preferred stock dividends and accretion	—	—%	—	—%	(1,524)	(3)%
Net loss attributable to common shareholders (3)	$ (13,513)	(18)%	$ (13,664)	(20)%	$ (21,641)	(34)%
Net loss per common share:						
Loss from continuing operations per common share, basic and diluted	$ (0.82)		$ (0.91)		$ (4.43)	
Loss from discontinued operations per common share, basic and diluted	$ —		$ —		$ —	
Loss per common share, basic and diluted	$ (0.82)		$ (0.91)		$ (4.43)	
Weighted-average common shares outstanding, basic and diluted (3)	16,472,799		14,939,601		4,889,901	

(1) Includes stock-based compensation.
(2) Includes depreciation and amortization of $3,916,000, $3,147,000, and $1,640,000 in 2015, 2014, and 2013, respectively.
(3) See Note 8 to our consolidated financial statements included elsewhere in this 10-K for a discussion and reconciliation of historical net loss attributable to common stockholders and weighted average shares outstanding for historical basic and diluted net loss per share calculations.

Comparison of Fiscal Years Ended December 31, 2016 and 2015

Revenue

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Revenue:						
Subscription and support	$ 65,552	88%	$ 57,193	82%	$ 8,359	15%
Perpetual license	1,650	2%	2,805	4%	(1,155)	(41)%
Total product revenue	67,202	90%	59,998	86%	7,204	12%
Professional services	7,565	10%	9,913	14%	(2,348)	(24)%
Total revenue	$ 74,767	100%	$ 69,911	100%	$ 4,856	7%

Total revenue was $74.8 million in 2016, compared to $69.9 million in 2015, an increase of $4.9 million, or 7%. Of the increase in total revenue, $11.7 million was due to the acquisitions we closed in 2015 and 2016. Total revenue also declined by $6.0 million due to the divestiture of the EPM Live product line at the end of February 2016 and by $0.7 million from organic total revenues, or 1% in 2016 compared to 2015 due the change in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar for those periods of $0.6 million. Therefore, on a constant currency basis, our organic total revenue decreased by $0.1 million.

Subscription and support revenue was $65.6 million in 2016, compared to $57.2 million in 2015, an increase of $8.4 million, or 15%. Of the increase in subscription and support revenue, $10.6 million was due to the acquisitions we closed in 2015 and 2016. Subscription and support revenue declined by $2.9 million due to the divestiture of the EPM Live product line at the end of February 2016. The organic subscription and support revenue increased by $0.7 million, which includes a negative impact of $0.6 million in 2016 compared to 2015 due to the change in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar. Therefore, on a constant currency basis, our organic subscription and support revenue increased by $1.3 million, or 2%.

Perpetual license revenue was $1.7 million in 2016, compared to $2.8 million in 2015, a decrease of $1.1 million, or 41%. The acquisitions we closed in 2015 and 2016 contributed a $0.1 million increase in perpetual license revenue. Perpetual license revenue declined by $0.6 million due to the divestiture of the EPM Live product line at the end of February 2016 . The organic perpetual revenue declined by $0.6 million, or 2% with an immaterial impact from changes in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar on perpetual license revenue.

Professional services revenue was $7.6 million in 2016, compared to $9.9 million in 2015, a decrease of $2.3 million, or 24%. The acquisitions we closed in 2015 and 2016 contributed a $1.0 million increase to professional services revenue. Professional services revenue declined by $2.5 million due to the divestiture of the EPM Live product line at the end of February 2016. The organic professional services revenue declined by $0.8 million which included a decline of $0.1 million due to the change in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar in 2016 compared to 2015. Therefore, on a constant currency basis, our organic professional services revenue decreased by $0.7 million, or 7%.

Cost of Revenue and Gross Profit Percentage

	Year Ended December 31,									
	2016			2015			Change			
		Amount	Percent of Revenue		Amount	Percent of Revenue		Amount	% Change	
	(dollars in thousands)									
Cost of revenue:										
Subscription and support (1)	$	22,734	30%	$	19,586	28%	$	3,148	16%	
Professional services		4,831	7%		7,085	10%		(2,254)	(32)%	
Total cost of revenue		27,565	37%		26,671	38%		894	3%	
Gross profit	$	47,202	63%	$	43,240	62%	$	3,962	9%	
(1) Includes depreciation and amortization expense as follows:										
Depreciation	$	2,030	3%	$	1,800	3%	$	230	13%	
Amortization	$	2,473	3%	$	2,116	3%	$	357	17%	

Cost of subscription and support revenue was $22.7 million in 2016, compared to $19.6 million in 2015, an increase of $3.1 million, or 16%. The organic portion of our business contributed to a $3.8 million increase. Of the $3.8 million increase, $3.5 million was due to mobile messaging and short code leasing costs driven by higher mobile messaging volume and activity with the remaining $0.3 million increase from one-time charges related to the remaining unused portion of certain data center contracts as our cloud infrastructure was consolidated. The divestiture of the EPM Live product line in Q1 2016 contributed to $1.7 million decrease in cost of subscription and support revenue. Of the $1.7 million decrease, $0.7 million was attributable to reduced personnel and related costs, $0.2 million from depreciation and amortization, $0.2 million from reduced third party software and equipment costs and the remaining $0.2 million from miscellaneous costs. The 2015 and 2016 acquisitions contributed to a $1.2 million increase in cost of subscription and support revenue. Of the $1.2 million increase, $0.4 million was due to higher amortization of intangibles, $0.4 million increase in personnel and related costs, $0.3 million increase in data center and hosting costs and the remaining $0.2 million from miscellaneous costs.

Cost of professional services revenue was $4.8 million in 2016, compared to $7.1 million in 2015, a decrease of $2.3 million, or 32%. Cost of professional services revenue for organic business decreased $1.0 million driven by a $0.7 million reduction in personnel and related costs, $0.2 million reduction in contractor fees and $0.1 million reduction in miscellaneous costs which are the result of our planned operating efficiencies. The divestiture of the EPM Live product line at the end of February 2016 contributed to $1.8 million decrease in cost. Of the $1.8 million decrease, $1.4 million was attributable to reduced personnel and related costs, $0.2 million from reduced facility expenses and $0.3 million from miscellaneous costs. The acquisitions we closed in 2015 and 2016 contributed a $0.6 million increase in cost of professional services revenue. Of the $0.6 million increase, $0.3 million was attributable to personnel and related costs, $0.1 million attributable to contractor fees, and $0.2 million attributable to miscellaneous costs.

Operating Expenses

Sales and Marketing Expense

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Sales and marketing	$ 12,160	16%	$ 12,965	19%	$ (805)	(6)%

Sales and marketing expense was $12.2 million in 2016, compared to $13.0 million in 2015, a decrease of $0.8 million, or 6%. Of the decrease in sales and marketing expense, $1.5 million was attributable to the organic business primarily due to a decrease in sales and solution consultant personnel and related cost of $1.2 million which is the result of our planned operating efficiencies, and reduced spend of $0.3 million for general marketing. The divestiture of the EPM Live product line in Q1 2016 contributed to a decrease of $1.4 million in sales and marketing expense comprised of $0.5 million reduction in personnel and related expenses, $0.3 million of bad debt, $0.2 million of commissions, $0.2 million of marketing program spend and $0.3 million of miscellaneous expenses. The acquisitions we closed in 2015 and 2016 contributed an increase of $2.1 million in sales and marketing expense comprised of $1.4 million of sales commission, $0.4 million of personnel and related costs, and $0.4 million of miscellaneous expenses.

Research and Development Expense

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Research and development:						
Research and development	$ 14,919	20%	$ 15,778	23%	$ (859)	(5)%
Refundable Canadian tax credits	(513)	(1)%	(470)	(1)%	(43)	9%
Total research and development	$ 14,406	19%	$ 15,308	22%	$ (902)	(6)%

Research and development expense was $14.9 million in 2016, compared to $15.8 million in 2015, a decrease of $0.9 million, or 5%. The organic portion of our business contributed to a $0.9 million decrease in research and development costs from reduced personnel and related costs as a result of our planned operating efficiencies. The divestiture of the EPM Live product in February 2016 contributed a decrease of $0.9 million in research and development expense comprised of $0.6 million of personnel and related costs and $0.3 million of contractor fees. The $0.9 million reduction in research and development from the divestiture of the EPM Live product line was offset by $0.9 million increase in research and development from the acquisitions we closed in 2015 and 2016. This increase from acquisitions was comprised of $0.6 million in personnel and related costs, $0.1 million in contractor fees, and $0.2 million of miscellaneous expenses.

Refundable Canadian tax credits were $0.5 million in 2016, or flat compared to $0.5 million in 2015.

General and Administrative Expense

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
General and administrative	$ 18,286	24%	$ 18,201	26%	$ 85	—%

General and administrative expense was $18.3 million in 2016, were flat compared to $18.2 million in 2015. General and administrative costs for the organic portion of our business was flat and included increases due to a $1.4 million increase in stock compensation expense and $0.2 million from facility costs, related to costs of closure for office locations acquired in acquisitions, offset by decreases of $0.5 million from lower use of third parties, $0.5 million reductions in people-related costs, a $0.4 million reduction in non-recurring litigation costs, and $0.2 million from other factors. The divestiture of the EPM Live product in February 2016 contributed a decrease of $0.3 million in general and administrative expense, which was offset by a $0.3 million increase in general and administrative expense from the acquisitions we closed in 2015 and 2016.

Depreciation and Amortization Expense

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Depreciation and amortization:						
Depreciation	$ 657	1%	$ 452	1%	$ 205	45%
Amortization	4,634	6%	4,082	6%	552	14%
Total depreciation and amortization	$ 5,291	7%	$ 4,534	7%	$ 757	17%

Depreciation and amortization expense was $5.3 million in 2016, compared to $4.5 million in 2015, an increase of $0.8 million, or 17%. The acquisitions we closed in 2015 and 2016 contributed a $0.7 million increase with the majority resulting from amortization of acquired intangible assets created from our purchase business combinations. The organic businesses saw a $0.5 million increase in depreciation primarily due to hardware and software additions. This increase was partially offset by a $0.4 million decrease in depreciation and amortization from the divestiture of our EPM Live product in February 2016.

Acquisition-related Expense

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Acquisition-related expense	$5,583	7%	$2,455	4%	$3,128	127%

One-time acquisition-related expense was $5.6 million in 2016, compared to $2.5 million in 2015, an increase of $3.1 million, or 127%. The Company made three acquisitions during 2016 and signed a fourth acquisition in December 2016 which subsequently closed in January 2017. This acquisition activity was substantially more than the one acquisition closed in 2015.. As a result, year-over-year comparisons of these expenses are not necessarily meaningful due to their one-time nature.

Other Expense, net

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Other Expense:						
Interest expense, net	$ (2,781)	(4)%	$ (1,858)	(3)%	$ (923)	50%
Other income (expense), net	(678)	(1)%	(544)	—%	(134)	25%
Total other expense	$ (3,459)	(5)%	$ (2,402)	(3)%	$ (1,057)	44%

Interest expense was $2.8 million in 2016, compared to $1.9 million for 2014, an increase of $0.9 million, or 50%. The increase is attributable to increased borrowing under our expanded debt facility to support acquisitions.

Other expense was $0.7 million in 2016, compared to other expense of $0.5 million in 2015, an increase of $0.1 million, or 25%. Increases in expense were a loss on the sale of EPM Live of $0.7 million and a loss of $0.2 million from asset retirements over the prior period, offset by a $0.5 million gain associated with the reduction of earnout obligations to sellers and of $0.2 million from foreign currency gains from non-base currency assets and liabilities.

(Provision for) Benefit from Income Taxes

	Year Ended December 31,					
	2016		2015		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
(Provision for) Benefit from Income Taxes	$ (1,530)	(2)%	$ (1,039)	(1)%	$ (491)	47%

Provision for income taxes was $1.5 million in 2016, compared to $1.0 million in 2015, an increase in provision for income taxes of $0.5 million, or 47%. In 2016 we recorded income taxes that were principally attributable to state and foreign taxes, other than deferred taxes related to tax deductible goodwill. The foreign provision for income taxes in 2016 is attributable to net income generated in excess of net operating loss carryforwards and reduction of tax credit carryforwards in Canada. Because we have not generated domestic net income in any period to date, we have recorded a full valuation allowance against our domestic net deferred tax assets, exclusive of tax deductible goodwill. Realization of any of our domestic deferred tax assets depends upon future earnings, the timing and amount of which are uncertain. Based on analysis of acquired net operating losses, utilization of our net operating losses will be subject to annual limitations due to the ownership change rules under the Code and similar state provisions. In the event we have subsequent changes in ownership, the availability of net operating losses and research and development credit carryovers could be further limited. See Note 6 of the Notes to Consolidated Financial Statements for more information regarding our income taxes as they relate to foreign and domestic operations.

Comparison of Fiscal Years Ended December 31, 2015 and 2014

Revenue

	Year Ended December 31,									
	2015			2014			Change			
	Amount		Percent of Revenue	Amount		Percent of Revenue	Amount		% Change	
	(dollars in thousands)									
Revenue:										
Subscription and support	$	57,193	82%	$	48,625	75%	$	8,568	18%	
Perpetual license		2,805	4%		2,787	4%		18	1%	
Total product revenue		59,998	86%		51,412	79%		8,586	17%	
Professional services		9,913	14%		13,162	21%		(3,249)	(25)%	
Total revenue	$	69,911	100%	$	64,574	100%	$	5,337	8%	

Total revenue was $69.9 million in 2015, compared to $64.6 million in 2014, an increase of $5.3 million, or 8%. Of the increase in total revenue, $11.2 million was due to the acquisitions we closed in 2014 and 2015. The organic business' total revenue decreased by $2.3 million in 2015 compared to 2014 due to the change in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar for those periods. Therefore, on a constant currency basis, our organic total revenue decreased by $3.6 million, or 6%. This decline in organic revenue is primarily due to the decline in professional services revenues in accordance with our plan to focus on growing higher margin recurring revenues and de-emphasizing lower-margin professional services revenues.

Subscription and support revenue was $57.2 million in 2015, compared to $48.6 million in 2014, an increase of $8.6 million, or 18%. Of the increase in subscription and support revenue, $10.1 million was due to the acquisitions we closed in 2014 and 2015. Subscription and support revenue for the organic business declined by $1.9 million in 2015 compared to 2014 due to the change in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar for those periods. Therefore, on a constant currency basis, our organic subscription and support revenue increased by $0.4 million, or 1%.

Perpetual license revenue was $2.8 million in 2015, compared to $2.8 million in 2014, remaining relatively flat year-over-year. The acquisitions we closed in late 2014 contributed a $0.3 million increase in perpetual license revenue in 2015 as compared to 2014. This increase was offset by a $0.3 million decrease in the organic portion of our business.

Professional services revenue was $9.9 million in 2015, compared to $13.2 million in 2014, a decrease of $3.3 million, or 25%. The acquisitions we closed in 2014 and 2015 contributed a $0.8 million increase to professional services revenue. The organic portion of our professional services business decreased by $0.4 million in 2015 compared to 2014 due to the change in the foreign currency exchange rate between the Canadian dollar versus the U.S. dollar for those periods. Therefore, on a constant currency basis, our organic professional services revenue decreased by $3.7 million, or 28%. As mentioned above, this is in accordance with our plan to focus on growing higher margin recurring revenues and de-emphasizing lower-margin professional services revenues.

Cost of Revenue and Gross Profit Percentage

	Year Ended December 31,									
	2015			2014				Change		
	Amount		Percent of Revenue	Amount		Percent of Revenue	Amount		% Change	
	(dollars in thousands)									
Cost of revenue:										
Subscription and support (1)	$	19,586	28%	$	14,042	22%	$	5,544	39%	
Professional services		7,085	10%		9,079	14%		(1,994)	(22)%	
Total cost of revenue		26,671	38%		23,121	36%		3,550	15%	
Gross profit	$	43,240	62%	$	41,453	64%	$	1,787	4%	
(1) Includes depreciation and amortization expense as follows:										
Depreciation	$	1,800	3%	$	1,303	2%	$	497	38%	
Amortization	$	2,116	3%	$	1,844	3%	$	272	15%	

Cost of subscription and support revenue was $19.6 million in 2015, compared to $14.0 million in 2014, an increase of $5.6 million, or 39%. Of the increase in cost of subscription and support revenue, $3.5 million was due to the acquisitions we closed in 2014 and 2015. The acquisitions contributed a cost increase primarily due to a $1.3 million increase in hosting cost, $0.9 million in personnel and related cost, $0.6 million in software cost, and $0.3 million in amortization of intangibles. Cost of subscription and support revenue for the organic portion of our business increased $2.1 million primarily due to a $1.2 million increase in personnel and related costs largely due to investment in the customer support and customer success organizations, $0.5 million increase in depreciation expense for data center and hosting equipment, and $0.3 million in data center hosting fees.

Cost of professional services revenue was $7.1 million in 2015, compared to $9.1 million in 2014, a decrease of $2.0 million, or 22%. Of the decrease in cost of professional services revenue, the organic business decreased $2.6 million primarily due to a $1.7 million decrease in personnel and related cost, $0.5 million decrease in contractor fees, and $0.3 million decrease in employee operational bonus, most of which are the result of our planned operating efficiencies. The acquisitions we closed in 2014 and 2015 contributed an increase in cost primarily due to a $0.6 million increase to cost of professional services revenue. The primary component of cost of professional services revenue from the acquisitions was due to $0.4 million in personnel and related costs.

Operating Expenses

Sales and Marketing Expense

	Year Ended December 31,								
	2015			2014			Change		
	Amount		Percent of Revenue	Amount		Percent of Revenue	Amount		% Change
	(dollars in thousands)								
Sales and marketing	$	12,965	19%	$	14,670	23%	$	(1,705)	(12)%

Sales and marketing expense was $13.0 million in 2015, compared to $14.7 million in 2014, a decrease of $1.7 million, or 12%. Of the decrease in sales and marketing expense, $3.4 million was attributable to the organic business primarily due to a $1.5 million decrease in sales and solution consultant personnel and related cost, $0.6 million decrease in marketing program expense, $0.4 million decrease in sales commission expense, $0.4 million decrease in marketing trade show expense, and a $0.3 million decrease in bad debt expense, most of which are the result of our planned operating efficiencies. The acquisitions we closed in 2014 and 2015 contributed an increase of

$1.7 million in sales and marketing expense primarily due to $0.8 million in personnel and related costs, $0.3 million in sales commissions, $0.3 million in marketing programs, and $0.1 million in contractor fees.

Research and Development Expense

	Year Ended December 31,					
	2015		2014		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Research and development:						
Research and development	$ 15,778	23%	$ 26,165	41%	$ (10,387)	(40)%
Refundable Canadian tax credits	(470)	(1)%	(1,094)	(2)%	624	(57)%
Total research and development	$ 15,308	22%	$ 25,071	39%	$ (9,763)	(39)%

Research and development expense was $15.8 million in 2015, compared to $26.2 million in 2014, a decrease of $10.4 million, or 40%. In January 2014, we issued 1,803,574 shares of common stock in connection with an amendment of a technology services agreement with a related party and took a non-cash charge of $11.2 million. Our agreement with the related party is viewed as a fixed purchase commitment contract that obligates us to annual purchase commitments even if we do not take delivery of the contracted services. Since the amended agreement still requires payments for future services that we believe are not discounted from amounts charged to other customers, we believe the fair value of the common stock consideration provided to the related party to amend the agreement does not represent an asset and, accordingly, was expensed immediately. The remaining $1.1 million decrease in research and development expense for our organic business was primarily due to a decrease in personnel and related cost in the product development organization, most of which are the result of our planned operating efficiencies. The acquisitions we closed in 2014 and 2015 contributed a $1.9 million increase in research and development expense primarily due to $1.6 million in personnel and related cost largely for product development and quality assurance.

Refundable Canadian tax credits were $0.5 million in 2015 compared to $1.1 million in 2014, a decrease of $0.6 million, or 57%. This decrease is primarily due to the favorable Canadian Revenue Agency tax audit results that were recognized in the fourth quarter of 2014.

General and Administrative Expense

	Year Ended December 31,					
	2015		2014		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
General and administrative	$ 18,201	26%	$ 13,561	21%	$ 4,640	34%

General and administrative expense was $18.2 million in 2015, compared to $13.6 million in 2014, an increase of $4.6 million, or 34%. Of the increase in general and administrative expenses, $2.5 million is from the organic businesses primarily due to a $1.9 million increase in personnel and related cost, $1.5 million increase in employee stock-based compensation expense, and $0.3 million increase in business insurance, all of which is primarily due to cost increases necessary to operate as a public company. The organic cost increases were partially offset by a $0.5 million decrease in facility and other office related costs, $0.5 million decrease in outsourced professional service fees, and $0.1 million decrease in recruiter fees, most of which are the result of our planned operating efficiencies. The remaining $2.1 million increase in general and administrative expense was attributable to the acquisitions we closed in 2014 and 2015 primarily due to personnel and related costs.

Depreciation and Amortization Expense

	Year Ended December 31,									
	2015			2014			Change			
	Amount		Percent of Revenue	Amount		Percent of Revenue	Amount		% Change	
	(dollars in thousands)									
Depreciation and amortization:										
Depreciation	$	452	1%	$	987	2%	$	(535)	(54)%	
Amortization		4,083	5%		3,323	5%		760	23%	
Total depreciation and amortization	$	4,534	6%	$	4,310	7%	$	224	5%	

Depreciation and amortization expense was $4.5 million in 2015, compared to $4.3 million in 2014, an increase of $0.2 million, or 5%. The acquisitions we closed in 2014 and 2015 contributed a $0.9 million increase with the majority resulting from amortization of intangibles expense. The organic businesses realized a $0.7 million decrease in depreciation of equipment and other depreciable assets primarily due to planned operating efficiencies.

Acquisition-related Expense

	Year Ended December 31,								
	2015			2014			Change		
	Amount		Percent of Revenue	Amount		Percent of Revenue	Amount		% Change
	(dollars in thousands)								
Acquisition-related expense	$	2,455	4%	$	2,186	3%	$	269	12%

One-time acquisition-related expense was $2.5 million in 2015, compared to $2.2 million in 2014, an increase of $0.3 million, or 12%. The one-time acquisition-related expenses vary by acquisition and these costs are expensed as incurred such that the one-time acquisition-related expenses from our acquisition in late 2013 were expensed in both 2013 and 2014, such costs for our acquisitions in late 2014 were expensed in both 2014 and 2015, and much of the one-time acquisition-related expenses for our acquisition in late 2015 were expensed in 2015. As a result, year-over-year comparisons of these expenses are not necessarily meaningful due to their one-time nature.

Other Expense, net

	Year Ended December 31,					
	2015		2014		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
Other Expense:						
Interest expense, net	$ (1,858)	(3)%	$ (1,951)	(3)%	$ 93	(5)%
Other income (expense), net	(544)	—%	101	—%	(645)	(639)%
Total other expense	$ (2,402)	(3)%	$ (1,850)	(3)%	$ (552)	30%

Interest expense was $1.9 million in 2015, compared to $2.0 million for 2014, a decrease of $0.1 million, or 5%.

Other expense was $0.5 million in 2015, compared to other income of $0.1 million in 2014, an increase of $0.6 million, or 639%. The increase in other expense was primarily due to loss on foreign currency translation.

(Provision for) Benefit from Income Taxes

	Year Ended December 31,					
	2015		2014		Change	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	% Change
	(dollars in thousands)					
(Provision for) Benefit from Income Taxes	$ (1,039)	(1)%	$ 78	—%	$ (1,117)	(1,432)%

Provision for income taxes was $1.0 million in 2015, compared to the benefit from income taxes of $0.1 million in 2014, an increase in provision for income taxes of $1.1 million, or 1,432%. In 2015, we recorded income taxes that were principally attributable to state and foreign taxes, other than deferred taxes related to tax deductible goodwill. The foreign provision for income taxes in 2015 is attributable to net income generated in excess of net operating loss carryforwards and reduction of tax credit carryforwards in Canada. Because we have not generated domestic net income in any period to date, we have recorded a full valuation allowance against our domestic net deferred tax assets, exclusive of tax deductible goodwill. Realization of any of our domestic deferred tax assets depends upon future earnings, the timing and amount of which are uncertain. Based on analysis of acquired net operating losses, utilization of our net operating losses will be subject to annual limitations due to the ownership change rules under the Code and similar state provisions. In the event we have subsequent changes in ownership, the availability of net operating losses and research and development credit carryovers could be further limited. See Note 6 of the Notes to Consolidated Financial Statements for more information regarding our income taxes as they relate to foreign and domestic operations.

Liquidity and Capital Resources

To date, we have financed our operations primarily through capital raising, both through private placements of preferred stock and common stock and sales of our common stock in our initial public offering, cash from operating activities, and to a lesser extent, borrowing under our loan facility and the issuance of seller notes. As of December 31, 2016, we had cash and cash equivalents of $28.8 million, $20.0 million of available borrowings under our loan facility, and $49.4 million of borrowings outstanding under our loan and security agreements and $24.4 million as of December 31, 2015. In addition to the available borrowings noted above, our current credit facility provides for an additional $16.7 million in subordinated seller notes for acquisitions plus an uncommitted $20.0 million accordion loan for future acquisitions. See further discussion under the heading Loan Facility Note 7 to the audited consolidated financial statements included elsewhere in this Annual Report for further details.

As of December 31, 2016 and December 31, 2015, we had working capital of $7.6 million and $1.0 million, respectively, which included $23.6 million and $19.9 million of deferred revenue recorded as a current liability as of December 31, 2016 and December 31, 2015, respectively. This deferred revenue will be recognized as revenue in accordance with our revenue recognition policy.

The following table summarizes our cash flows for the periods indicated (including cash flows from discontinued operations):

	Year Ended December 31,		
	2016	**2015**	**2014**
	(dollars in thousands)		
Consolidated Statements of Cash Flow Data:			
Net cash provided by (used in) operating activities	$ 3,875	$ (1,503)	$ 1,177
Net cash used in investing activities	(13,229)	(9,411)	(7,078)
Net cash provided by (used in) financing activities	19,525	(1,221)	32,384
Effect of exchange rate fluctuations on cash	114	(380)	(198)
Change in cash and cash equivalents	10,285	(12,515)	26,285
Cash and cash equivalents, beginning of period	18,473	30,988	4,703
Cash and cash equivalents, end of period	$ 28,758	$ 18,473	$ 30,988

Cash Flows from Operating Activities

Cash used in operating activities is significantly influenced by the amount of cash we invest in personnel and infrastructure to support the anticipated growth of our business. Our operating assets and liabilities consist primarily of receivables from clients and unbilled professional services, accounts payable and accrued expenses and deferred revenues. The timing of our subscription and support billings, the volume of professional services rendered, the amount of perpetual licenses sold, and the related timing of collections on those bookings, as well as payments of our accounts payable and accrued payroll and related benefits affect these account balances.

Our cash provided by operating activities for the year ended 2016 primarily reflects our net loss of $13.5 million, partially offset by non-cash expenses that included $9.8 million of depreciation and amortization, $0.5 million of deferred income taxes, $0.3 million of non-cash interest expense, and $4.3 million of non-cash stock compensation expense. Working capital sources of cash included a $0.4 million increase in accrued expenses and other liabilities and a $2.2 million increase in deferred revenue. These sources of cash were partially offset by a $0.4 million increase in accounts receivable, $1.5 million decrease in accounts payable and a $0.6 million decrease in prepaids and other.

Our cash provided by operating activities for the year ended 2015 primarily reflects our net loss of $13.7 million, offset by non-cash expenses that included $8.5 million of depreciation and amortization, $0.2 million of deferred income taxes, $1.0 million of foreign currency re-measurement loss, $0.4 million of non-cash interest expense, and $2.7 million of non-cash stock compensation expense. Working capital sources of cash included a $0.7 million decrease in accounts receivable, a $1.9 million decrease in prepaids and other assets, and a $0.2 million increase in accounts payable. These sources of cash were offset by a $2.8 million decrease in accrued expenses and other liabilities and a $0.6 million decrease in deferred revenue.

Our cash provided by operating activities for the year ended 2014 primarily reflects our net loss of $20.1 million, offset by non-cash expenses that included a $11.2 million charge for the 1,803,574 shares of common stock issued to DevFactory, $7.5 million of depreciation and amortization, $0.6 million of non-cash interest expense, and $1.1 million of non-cash stock compensation expense offset by $0.3 million in deferred income tax benefit. Working capital sources of cash included a $0.5 million decrease in prepaids and other assets, a $2.6 million increase in deferred revenue, and a $0.6 million increase in accounts payable. These sources of cash were offset by a $1.6 million increase in accounts receivable and a $0.9 million decrease in accrued expenses and other liabilities.

Cash Flows from Investing Activities

Our primary investing activities have consisted of acquisitions of complementary technologies, products and businesses. As our business grows, we expect our primary investing activities to continue to further expand our family of software applications and infrastructure and support additional personnel. For fiscal 2016, 2015 and 2014, cash used in investing activities for business combinations consisted of $12.2 million, $7.7 million and $6.2 million, respectively. In addition, for fiscal 2016, 2015 and 2014, we used $0.7 million, $1.0 million and $0.9 million, respectively, for the purchases of property and equipment. Further, fore fiscal 2016 and 2015 , we used $0.4 million, $0.8 million, and none, respectively, for the purchases of customer relationships. No cash was used for the purchase of customer relationships in 2014.

Cash Flows from Financing Activities

Our primary financing activities have consisted of capital raised to fund our operations as well as proceeds from debt obligations entered into to finance our operations. For fiscal 2016, cash provided by financing activities consisted primarily of $31.0 million in proceeds from debt, partially offset by $7.2 million for repayment of debt. For fiscal 2015, cash provided by financing activities consisted primarily of $24.1 million in proceeds from debt, partially offset by $23.9 million for repayment of debt. For fiscal 2014, cash provided by financing activities consisted primarily of $38.8 million in proceeds from the issuance of common stock, net of issuance costs in our November 2014 IPO and $5.7 million in proceeds from debt, partially offset by $10.9 million for repayment of debt. For fiscal 2016, 2015 and 2014 cash used for payments on capital leases was $1.7 million, $1.0 million, and $0.5 million, respectively.

Loan and Security Agreements

On November 15, 2016, Upland Software, Inc. (the “Company”) amended its Credit Agreement (the “Credit Agreement”) with a consortium of lenders (the “Lenders”), Wells Fargo Capital Finance, as agent, providing for a secured credit facility (the “Loan Facility”).

As of December 31, 2016, there were no amounts drawn on its (i) U.S. revolving loans outstanding under the Credit Agreement, or on its (ii) Canadian revolving credit facility, and there was (iii) $43.8 million in U.S. term loans outstanding under the Credit Agreement; and (iv) $5.6 million in Canadian term loans outstanding under the Credit Agreement.

Loans

The Credit Agreement provides for up to $90.0 million of financing credit as outlined below.

The Credit Agreement provides (i) a U.S. revolving credit facility in an aggregate principal amount of up to $9.0 million (the “U.S. Revolver”), (ii) a U.S. term loan facility in an aggregate principal amount of up to $44.4 million (the “U.S. Term Loan”), (iii) a delayed draw term loan facility in an aggregate principal amount of up to $10.0 million (the “DDTL”). (iv) a Canadian revolving credit facility in an aggregate principal amount of up to $1.0 million (the “Canadian Revolver” and, together with the U.S. Revolver, the “Revolver”); and (v) a Canadian term loan facility in an aggregate principal amount of up to $5.6 million (the “Canadian Term Loan” and, together with the U.S. Term Loan, the “Term Loan”).

The Credit Agreement also includes provisions for optional, uncommitted increases in the maximum size of the loan facility available under the Credit Agreement by an aggregate principal amount of $20.0 million upon the satisfaction of the terms and conditions set forth in the Credit Agreement.

The Credit Agreement also provides for, among other things, (i) a maturity date of November 15, 2021, (ii) a maximum amount of permitted stock repurchases of $8.3 million, and (iii) a maximum amount of seller subordinated indebtedness permitted to be incurred in connection with permitted acquisitions of $16.7 million.

Terms of Revolver

Loans under the Revolver are available up to the lesser of (i) $10.0 million (the “Maximum Revolver Amount”) or (ii) the result of (a) 100% multiplied by (subject to step-downs beginning December 31, 2016) of certain subsidiaries' recurring revenues on a trailing twelve month basis, minus (b) the outstanding balance of the Term Loans and any swing line loans made under the Credit Agreement (such amount, the “Credit Amount”). The Revolver provides a subfacility whereby Borrowers may request letters of credit (the “Letters of Credit”) in an aggregate amount not to exceed, at any one time outstanding, $0.5 million and $0.25 million, from the U.S & Canadian facilities, respectively. The aggregate amount of outstanding Letters of Credit are reserved against the credit availability under the Maximum Revolver Amount and the Credit Amount.

Loans under the Revolver may be borrowed, repaid and reborrowed until November 15, 2021 (the “Maturity Date”), at which time all amounts borrowed under the Credit Agreement must be repaid.

Terms of Term Loans

The Term Loans are repayable, on a quarterly basis beginning December 31, 2016, by an amount equal to 5.0% per annum of the original principal amount of such loan. Any amount remaining unpaid is due and payable in full on the Maturity Date.

Terms of Delay Draw Term Loan

Pursuant to the terms of the Credit Agreement, the DDTL is to be used to finance acquisitions. The DDTL can be drawn upon until November 15, 2018. The DDTL is repayable, on a quarterly basis, by an amount equal to 5.0% per annum of the original funded amount of the DDTL. Any amount remaining unpaid would be due and payable in full on the Maturity Date.

Other Terms of Loan Facility

At the option of the Company, U.S. loans accrue interest at a per annum rate based on (i) the U.S. base rate plus a margin ranging from 3.0% to 4.0% depending on the leverage ratio or (ii) the U.S. LIBOR rate determined in accordance with the Credit Agreement (based on 1, 2, 3 or 6-month interest periods) plus a margin ranging from 4.0% to 5.0% depending on the leverage ratio. The U.S. base rate is a rate equal to the highest of the federal funds rate plus a margin equal to 0.5%, the U.S. LIBOR rate for a 1-month interest period plus 1.0% and Wells Fargo Capital Finance’s prime rate.

At the option of the Company, the Canadian loans accrue interest at a per annum rate based on (i) the Canadian prime rate or the U.S. base rate plus a margin ranging from 3.0% to 4.0% depending on the leverage ratio or (ii) the U.S. LIBOR rate determined in accordance with the Credit Agreement (based on 1, 2, 3 or 6-month interest periods) (or the Canadian Bankers Acceptance ("Canadian BA") rate determined in accordance with the Credit Agreement for obligations in Canadian dollars) plus a margin ranging from 4.0% to 5.0% depending on the leverage ratio.

Accrued interest on the loans will be paid monthly, or, with respect to loans that are accruing interest based on the U.S. LIBOR rate or Canadian BA rate, at the end of the applicable U.S. LIBOR or Canadian BA interest rate period.

Lenders are entitled to a premium (the “Prepayment Premium”) in the event of certain prepayments of the loans in an amount equal to (i) from November 15, 2016 to November 15, 2017, 2.0% times the sum of (a) the Maximum Revolver Amount plus (b) the outstanding principal amount of the Term Loan and DDTL on the date immediately prior to the date of the prepayment (such sum, the “Prepayment Amount”) (ii) from November 15, 2017 to November 15, 2018, 1.0% times the Prepayment Amount and (iii) during the period from and after November 15, 2018 to the Maturity Date, 0.0% times the Prepayment Amount. The Company may also be subject to prepayment fees in the case of commitment reductions of the Revolver and also may be obligated to prepay loans upon the occurrence of certain events.

The Company is also obligated to pay other customary servicing fees, letter of credit fees and unused credit facility fees.

The Loan Facility contains customary affirmative and negative covenants. The negative covenants limit the ability of the Company and its subsidiaries to, among other things (in each case subject to customary exceptions for a credit facility of this size and type):

- Incur additional indebtedness or guarantee indebtedness of others;
- Create liens on their assets;
- Make investments, including certain acquisitions;
- Enter into mergers or consolidations;
- Dispose of assets;
- Pay dividends and make other distributions on the Company’s capital stock, and redeem and repurchase the Company’s capital stock;
- Enter into transactions with affiliates; and
- Prepay indebtedness or make changes to certain agreements.

There are certain financial covenants that become more restrictive starting March 31, 2017. If an event of default occurs, at the election of the Lenders, a default interest rate shall apply on all obligations during an event of default, at a rate per annum equal to 2.00% above the applicable interest rate.

The Loan Facility limits the Company's ability to buyback its capital stock, subject to restrictions including a minimum liquidity requirement of $20.0 million before and after any such buyback.

Interest Rate and Financing Costs

Cash interest costs averaged 5.2% under the new Credit Agreement for the year ended December 31, 2016. In addition, since inception the Company has incurred $1.9 million of financing costs associated with the Credit Agreement and amendments through the year ended December 31, 2016. These financing costs will be amortized to non-cash interest expense over the term of the Credit Agreement.

Contractual Payment Obligations

The following table summarizes our future contractual obligations as of December 31, 2016 (in thousands):

Contractual Obligations	**Payment Due by Period**				
	Total	**Less than 1 Year**	**1-3 Years**	**>3-5 Years**	**More Than 5 Years**
Debt Obligations	$ 49,370	$ 2,519	$ 7,556	$ 39,295	$ —
Capital Lease Obligations	$ 3,599	$ 1,645	$ 1,954	$ —	$ —
Operating Lease Obligations	$ 3,257	$ 1,181	$ 2,076	$ —	$ —
Purchase Commitments	$ 2,471	$ 2,471	$ —	$ —	$ —
Total	$ 58,697	$ 7,816	$ 11,586	$ 39,295	$ —

Future debt maturities of long-term debt exclude debt discounts and consist of obligations under the Company's U.S. Loan Agreement, Canadian Loan Agreement, and seller notes.

The Company leases office space under operating leases that expire between 2017 and 2020. The company also leases computer equipment and software under capital leases.

The Company has an outstanding purchase commitment in 2017 for software development services from DevFactory FZ-LLC pursuant to a technology services agreement in the amount of $2.5 million. The agreement has an initial term that expires on December 31, 2017, with an option for either party to renew annually for up to five years. For years after 2017, the purchase commitment amount for software development services will be equal to the prior year purchase commitment increased (decreased) by the percentage change in total revenue for the prior year as compared to the preceding year. For example, if 2017 total revenues increase by 10% as compared to 2016 total revenues, then the 2018 purchase commitment will increase by approximately $250,000 from the 2017 purchase commitment amount to approximately $2.8 million.

Off-Balance Sheet Arrangements

During the years ended December 31, 2016, 2015, and 2014, we did not have any relationships with unconsolidated organizations or financial partnerships, such as structured finance or special-purpose entities, that would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Critical Accounting Policies and the Use of Estimates

We prepare our consolidated financial statements in accordance with generally accepted accounting principles in the United States. The preparation of consolidated financial statements also requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results could differ significantly from the estimates made by our management. To the extent that there are differences between our estimates and actual results, our future financial statement presentation, financial condition, results of operations and cash flows will be affected. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management’s judgments and estimates.

The following critical accounting policies reflect significant judgments and estimates used in the preparation of our consolidated financial statements:

- revenue recognition and deferred revenue;
- stock-based compensation;
- income taxes; and
- business combinations and the recoverability of goodwill and long-lived assets.

Revenue Recognition

The Company derives revenue from product revenue, consisting of subscription, support and perpetual licenses, and professional services revenues. The Company recognizes revenue when all of the following criteria are met: persuasive evidence of an arrangement exists, delivery of the product or services has occurred, no Company obligations with regard to implementation considered essential to the functionality remain, the fee is fixed or determinable and collectability is probable.

Subscription and Support Revenue

The Company derives subscription revenues by providing its software-as-a-service solution to customers in which the customer does not have the right to take possession of the software, but can use the software for the contracted term. The Company accounts for these arrangements as service contracts. Subscription and support revenues are recognized on a straight-line basis over the term of the contractual arrangement, typically one to three years. Amounts that have been invoiced and that are due are recorded in deferred revenue or revenue, depending on when the criteria for revenue recognition are met. Revenue from usage-based services are recognized in the month in which such usage is reported.

The Company may provide hosting services to customers who purchased a perpetual license. Such hosting services are recognized ratably over the applicable term of the arrangement. These hosting arrangements are typically for a period of one to three years.

Software maintenance agreements provide technical support and the right to unspecified upgrades on an if-and-when-available basis. Revenue from maintenance agreements is recognized ratably over the life of the related agreement, which is typically one year.

Perpetual License Revenue

The Company also records revenue from the sales of proprietary software products under perpetual licenses. For license agreements in which customer acceptance is a condition to earning the license fees, revenue is not recognized until acceptance occurs. The Company's products do not require significant customization. Perpetual licenses are sold along with software maintenance and, sometimes, hosting agreements. When vendor specific objective evidence (VSOE) of fair value exists for the software maintenance and hosting agreement, the perpetual license is recognized under the residual method whereby the fair value of the undelivered software maintenance and hosting agreement is deferred and the remaining contract value is recognized immediately for the delivered perpetual license. When VSOE of fair value does not exist for the either the software maintenance or hosting agreement, the entire contract value is recognized ratably over the underlying software maintenance and/or hosting period.

Professional Services Revenue

Professional services provided with perpetual licenses consist of implementation fees, data extraction, configuration, and training. The Company's implementation and configuration services do not involve significant customization of the software and are not considered essential to the functionality. Revenues from professional services are recognized as such services are provided when VSOE of fair value exists for such services and all undelivered elements such as software maintenance and/or hosting agreements. VSOE of fair value for services is based upon the price charged when these services are sold separately, and is typically an hourly rate. When VSOE of fair value does not exist for software maintenance and/or hosting agreements, revenues from professional services are recognized ratably over the underlying software maintenance and/or hosting period.

Professional services, when sold with the subscription arrangements, are accounted for separately when these services have value to the customer on a standalone basis and there is objective and reliable evidence of fair value for each deliverable. When accounted for separately, revenues are recognized as the services are rendered for time and material contracts. For those arrangements where the elements do not qualify as a separate unit of accounting, the Company recognizes professional services ratably over the contractual life of the related application subscription arrangement. Currently, all professional services are accounted for separately as all have value to the customer on a standalone basis.

Multiple Element Arrangements

The Company enters into arrangements with multiple-element that generally include subscriptions and implementation and other professional services.

For multiple-element arrangements, arrangement consideration is allocated to deliverables based on their relative selling price. In order to treat deliverables in a multiple-element arrangement as separate units of accounting, the elements must have standalone value upon delivery. If the elements have standalone value upon delivery, each element must be accounted for separately. The Company's subscription services have standalone value as such services are often sold separately. In determining whether implementation and other professional services have standalone value apart from the subscription services, the Company considers various factors including the availability of the services from other vendors. The Company has concluded that the implementation services included in multiple-element arrangements have standalone value. As a result, when implementation and other professional services are sold in a multiple-element arrangement, the arrangement consideration is allocated to the identified separate units based on a relative selling price hierarchy. The selling price for a element is based on its VSOE of selling price, if available, third-party evidence of selling price, or TPE, if VSOE is not available or best estimate of selling price, or BESP, if neither VSOE nor TPE is available. The Company has not established VSOE for its subscription services due to lack of pricing consistency, the introduction of new services and other factors. The Company has determined that TPE is not a practical alternative due to differences in its service offerings compared to other parties and the availability of relevant third-party pricing information. Accordingly, the Company uses BESP to determine the relative selling price.

The Company determined BESP by considering its overall pricing objectives and market conditions. Significant pricing practices taken into consideration include the Company’s discounting practices, the size and volume of its transactions, customer characteristics, price lists, go-to-market strategy, historical standalone sales and agreement prices. As the Company’s go-to-market strategies evolve, it may modify its pricing practices in the future, which could result in changes in relative selling prices, and include both VSOE and BESP.

Deferred Revenue

Deferred revenue represents either customer advance payments or billings for which the aforementioned revenue recognition criteria have not yet been met.

Stock-Based Compensation

Stock options awarded to employees and directors are measured at fair value at each grant date. The Company accounts for stock-based compensation in accordance with authoritative accounting principles which require all share-based compensation to employees, including grants of employee stock options, to be recognized in the financial statements based on their estimated fair value. Compensation expense is determined under the fair value method using the Black-Scholes option pricing model and recognized ratably over the period the awards vest. The Black-Scholes option pricing model used to compute share-based compensation expense requires extensive use of accounting judgment and financial estimates. Items requiring estimation include the expected term option holders will retain their vested stock options before exercising them, the estimated volatility of the Company’s common stock price over the expected term of each stock option, and the number of stock options that will be forfeited prior to the completion of their vesting requirements. Application of alternative assumptions could result in significantly different share-based compensation amounts being recorded in the financial statements. The following table summarizes the weighted-average grant-date fair value of options granted in 2016, 2015, and 2014 and the assumptions used to develop their fair values. As there was no public market for its common stock prior to November 2014, the Company estimates the volatility of its common stock based on the volatility of publicly traded shares of comparable companies' common stock. The Company's decision to use the volatility of comparable stock was based upon the Company's assessment that this information is more representative of future stock price trends than the Company's historical volatility. The Company estimates the expected term using the simplified method, which calculates the expected term as the midpoint between the vesting date and the contractual termination date of each award. The dividend yield assumption is based on historical and expected future dividend payouts. The risk-free interest rate is based on observed market interest rates appropriate for the term of each options.

	Year Ended December 31,		
	2016	**2015**	**2014**
Weighted average grant-date fair value of options	$3.23	$3.01	$3.76
Expected volatility	42.5%	42.5% - 44.0%	54.1% - 55.2%
Risk-free interest rate	1.2%	1.7% - 1.9%	1.6% - 1.9%
Expected life in years	5.93	5.93	6.29
Dividend yield	—	—	—

Income Taxes

The Company uses the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are recognized for the expected future tax consequences of temporary differences between the carrying amounts and the tax bases of assets and liabilities. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates on deferred tax assets and liabilities will be recognized in the period that includes the enactment date. A valuation allowance is established against the deferred tax assets to reduce their carrying value to an amount that is more likely than not to be realized.

The Company accounts for uncertainty of income taxes based on a “more likely than not” threshold for the recognition and derecognition of tax positions, which includes the accounting for interest and penalties.

Goodwill and Other Intangibles

Goodwill arises from business combinations and is measured as the excess of the cost of the business acquired over the sum of the acquisition-date fair value of tangible and identifiable intangible assets acquired, less any liabilities assumed.

Goodwill is evaluated for impairment annually or more frequently when an event occurs or circumstances change that indicate the carrying value may not be recoverable. The events and circumstances considered by the Company include the business climate, legal factors, operating performance indicators and competition.

The Company evaluates the recoverability of goodwill using a two-step impairment process tested at the reporting unit level. The Company has one reporting unit for goodwill impairment purposes. In the first step, the fair value of the reporting unit is compared to the book value, including goodwill. In the case that the fair value is less than the book value, a second step is performed that compares the implied fair value of goodwill to the book value of goodwill. The fair value for the implied goodwill is determined based on the difference between the fair value of the reporting unit and the net fair value of the identifiable assets and liabilities, excluding goodwill. If the implied fair value of the goodwill is less than the book value, the difference is recognized as an impairment charge in the consolidated statement of operations. No goodwill impairment charges were recorded during the years ended December 31, 2016, 2015, or 2014.

Identifiable intangible assets consist of customer relationships, marketing-related intangible assets and developed technology. Intangible assets with definite lives are amortized over their estimated useful lives on a straight-line basis. The straight-line method of amortization represents the Company’s best estimate of the distribution of the economic value of the identifiable intangible assets.

Intangible assets are reviewed for impairment whenever events or changes in circumstances indicate the carrying amount of intangible assets may not be recoverable. Conditions that would necessitate an impairment assessment include a significant decline in the observable market value of an asset, a significant change in the extent or manner in which an asset is used or any other significant adverse change that would indicate that the carrying amount of an asset or group of assets may not be recoverable. The Company evaluates the recoverability of intangible assets by comparing their carrying amounts to the future net undiscounted cash flows expected to be generated by the intangible assets. If such intangible assets are considered to be impaired, the impairment to be recognized is measured as the amount by which the carrying amount of the intangible assets exceeds the fair value of the assets.

The Company determines fair value based on discounted cash flows using a discount rate commensurate with the risk inherent in the Company’s current business model for the specific intangible asset being valued. There were no such impairments during 2016, 2015, and 2014.

Other Key Accounting Policies

We also have other key accounting policies, which involve the use of estimates, judgments, and assumptions that are significant to understanding our results. See Note 2 “Summary of Significant Accounting Policies” to the consolidated financial statements included in this Annual Report. Of those policies, we believe that the accounting policies enumerated above involve the greatest degree of complexity and exercise of judgment by our management.

We evaluate our estimates, judgments and assumptions on an ongoing basis, and while we believe that our estimates, judgments and assumptions are reasonable, they are based upon information available at the time. Actual results may differ significantly from these estimates under different assumptions, judgments or conditions.

Under Section 107(b) of the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We are choosing to “opt out” of such extended transition period, however, and, as a result, we will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for non-emerging growth companies. Section 107 of the JOBS Act provides that our decision to opt out of the extended transition period for complying with new or revised accounting standards is irrevocable.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We have operations both within the United States and internationally, and we are exposed to market risks in the ordinary course of our business. These risks primarily include interest rate, foreign exchange and inflation risks, as well as risks relating to changes in the general economic conditions in the countries where we conduct business. The statement of operations impact is mitigated by having an offsetting liability in deferred revenue to partially or completely offset against the outstanding receivable if an account should become uncollectible. Our cash balances are kept in customary operating accounts, a portion of which are insured by the Federal Deposit Insurance Corporation, and uninsured money market accounts. The majority of our cash balances in money market accounts are with Wells Fargo, our lender under our loan facility. To date, we have not used derivative instruments to mitigate the impact of our market risk exposures. We also have not used, nor do we intend to use, derivatives for trading or speculative purposes.

Interest Rate Risk

Our exposure to market risk for changes in interest rates primarily relates to our cash equivalents and any variable rate indebtedness.

The primary objective of our investment activities is to preserve principal while maximizing yields without significantly increasing risk. This objective is accomplished currently by making diversified investments, consisting only of money market mutual funds and certificates of deposit.

Any draws under our loan and security agreements bear interest at a variable rate tied to the prime rate. As of December 31, 2016, we had a principal balance of $43.8 million under our U.S. Loan Agreement and $5.6 million under our Canadian Loan Agreement. As of December 31, 2015, we had a principal balance of $18.5 million under our U.S. Loan Agreement and $5.9 million under our Canadian Loan Agreement.

Foreign Currency Exchange Risk

Our results of operations and cash flows are subject to fluctuations due to changes in foreign currency exchange rates. In addition, we incur a portion of our operating expenses in foreign currencies, including Canadian dollars, British pounds and Euros, and in the future as we expand into other foreign countries, we expect to incur operating expenses in other foreign currencies. In addition, our customers are generally invoiced in the currency of the country in which they are located. We are exposed to foreign exchange rate fluctuations as the financial results of our international operations are translated from the local functional currency into U.S. dollars upon consolidation. A decline in the U.S. dollar relative to foreign functional currencies would increase our non-U.S. revenue and improve our operating results. Conversely, if the U.S. dollar strengthens relative to foreign functional currencies, our revenue and operating results would be adversely affected. The effect of a hypothetical 10% change in foreign currency exchange rates applicable to our business would have resulted in a change in revenue of $2.1 million for the year ended December 31, 2016. To date, we have not engaged in any hedging strategies. As our international operations grow, we will continue to reassess our approach to manage our risk relating to fluctuations in foreign currency exchange rates.

Inflation

We do not believe that inflation had a material effect on our business, financial condition or results of operations in the last three fiscal years. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

Item 8. Financial Statements and Supplementary Data

UPLAND SOFTWARE, INC.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Shareholders of Upland Software, Inc.

We have audited the accompanying consolidated balance sheets of Upland Software, Inc. (the "Company") as of December 31, 2016 and 2015, and the related consolidated statements of operations, comprehensive loss, stockholders' equity (deficit), 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. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Upland Software, Inc. at December 31, 2016 and 2015, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2016, in conformity with U.S. generally accepted accounting principles.

/s/ Ernst & Young LLP
Austin, Texas
March 30, 2017

Upland Software, Inc.

Consolidated Balance Sheets

(in thousands, except share and per share amounts)	December 31, 2016	December 31, 2015
Assets		
Current assets:		
Cash and cash equivalents	$ 28,758	$ 18,473
Accounts receivable (net of allowance of $658 and $581 at December 31, 2016 and December 31, 2015, respectively)	15,254	13,972
Prepaid and other	3,287	2,603
Total current assets	47,299	35,048
Canadian tax credits receivable	978	2,018
Property and equipment, net	4,356	6,001
Intangible assets, net	28,512	31,526
Goodwill	69,097	47,422
Other assets	346	399
Total assets	$ 150,588	$ 122,414
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 1,268	$ 2,548
Accrued compensation	2,541	2,441
Accrued expenses and other	5,505	5,173
Deferred revenue	23,552	19,931
Due to sellers	4,642	2,409
Current maturities of notes payable (includes unamortized discount of $329 and $250 at December 31, 2016 and December 31, 2015, respectively)	2,190	1,500
Total current liabilities	39,698	34,002
Commitments and contingencies (Note 9)		
Canadian tax credit liability to sellers	361	368
Notes payable, less current maturities (includes unamortized discount of $1,113 and $758 at December 31, 2016 and December 31, 2015, respectively	45,739	22,366
Deferred revenue	247	8
Noncurrent deferred tax liability, net	3,404	2,818
Other long-term liabilities	2,126	2,582
Total liabilities	91,575	62,144
Stockholders' equity:		
Common stock, $0.0001 par value; 50,000,000 shares authorized: 17,785,288 and 15,746,288 shares issued and outstanding as of December 31, 2016 and December 31, 2015 respectively	2	2
Additional paid-in capital	124,566	112,447
Accumulated other comprehensive loss	(3,152)	(3,289)
Accumulated deficit	(62,403)	(48,890)
Total stockholders' equity	59,013	60,270
Total liabilities and stockholders' equity	$ 150,588	$ 122,414

See accompanying notes.

Upland Software, Inc.

Consolidated Statements of Operations

(in thousands, except share and per share amounts)	Year Ended December 31,		
	2016	2015	2014
Revenue:			
Subscription and support	$ 65,552	$ 57,193	$ 48,625
Perpetual license	1,650	2,805	2,787
Total product revenue	67,202	59,998	51,412
Professional services	7,565	9,913	13,162
Total revenue	74,767	69,911	64,574
Cost of revenue:			
Subscription and support	22,734	19,586	14,042
Professional services	4,831	7,085	9,079
Total cost of revenue	27,565	26,671	23,121
Gross profit	47,202	43,240	41,453
Operating expenses:			
Sales and marketing	12,160	12,965	14,670
Research and development	14,919	15,778	26,165
Refundable Canadian tax credits	(513)	(470)	(1,094)
General and administrative	18,286	18,201	13,561
Depreciation and amortization	5,291	4,534	4,310
Acquisition-related expenses	5,583	2,455	2,186
Total operating expenses	55,726	53,463	59,798
Loss from operations	(8,524)	(10,223)	(18,345)
Other expense:			
Interest expense, net	(2,781)	(1,858)	(1,951)
Other income (expense), net	(678)	(544)	101
Total other expense	(3,459)	(2,402)	(1,850)
Loss before provision for income taxes	(11,983)	(12,625)	(20,195)
Provision for income taxes	(1,530)	(1,039)	78
Net loss	$ (13,513)	$ (13,664)	$ (20,117)
Preferred stock dividends and accretion	—	—	(1,524)
Net loss attributable to common shareholders	$ (13,513)	$ (13,664)	$ (21,641)
Net loss per common share:			
Net loss per common share, basic and diluted	$ (0.82)	$ (0.91)	$ (4.43)
Weighted-average common shares outstanding, basic and diluted	16,472,799	14,939,601	4,889,901

See accompanying notes.

Upland Software, Inc.

Consolidated Statements of Comprehensive Loss

(in thousands)	Year Ended December 31,		
	2016	2015	2014
Net loss	$ (13,513)	$ (13,664)	$ (20,117)
Foreign currency translation adjustment	137	(1,573)	(943)
Comprehensive loss	$ (13,376)	$ (15,237)	$ (21,060)

See accompanying notes.

Upland Software, Inc.
Consolidated Statement of Stockholders' Equity (Deficit)

(in thousands, except share amounts)	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Stockholders' Equity (Deficit)
Balance at December 31, 2013	1,851,319	$ —	$ —	$ (773)	$ (15,109)	$ (15,882)
Issuance of common stock upon conversion of preferred stock	6,834,476	1	52,312	—	—	52,313
Issuance of common stock in initial public offering	3,846,154	1	38,845	—	—	38,846
Issuance of common stock to related party (Note 16)	1,803,574	—	11,219	—	—	11,219
Issuance of common stock in business combination	577,486	—	6,146	—	—	6,146
Issuance of restricted stock	335,673	—	—	—	—	—
Exercise of stock options	436	—	1	—	—	1
Accretion of preferred stock	—	—	(70)	—	—	(70)
Preferred stock dividends	—	—	(1,454)	—	—	(1,454)
Stock-based compensation	—	—	729	—	—	729
Conversion of warrants from preferred to common	—	—	609	—	—	609
Foreign currency translation adjustment	—	—	—	(943)	—	(943)
Net loss	—	—	—	—	(20,117)	(20,117)
Balance at December 31, 2014	15,249,118	$ 2	$ 108,337	$ (1,716)	$ (35,226)	$ 71,397
Issuance of common stock in business combination	233,679	—	1,386	—	—	1,386
Issuance of stock under Company plans, net of shares withheld for tax	263,491	—	27	—	—	27
Issuance of stock, net of issuance costs	—	—	(44)	—	—	(44)
Stock-based compensation	—	—	2,741	—	—	2,741
Other comprehensive loss	—	—	—	(1,573)	—	(1,573)
Net loss	—	—	—	—	(13,664)	(13,664)
Balance at December 31, 2015	15,746,288	$ 2	$ 112,447	$ (3,289)	$ (48,890)	$ 60,270
Issuance of common stock in business combination	1,344,463	—	8,300	—	—	8,300
Issuance of stock under Company plans, net of shares withheld for tax	694,537	—	(514)	—	—	(514)
Stock-based compensation	—	—	4,333	—	—	4,333
Other comprehensive loss	—	—	—	137	—	137
Net loss	—	—	—	—	(13,513)	(13,513)
Balance at December 31, 2016	17,785,288	$ 2	$ 124,566	$ (3,152)	$ (62,403)	$ 59,013

See accompanying notes.

Upland Software, Inc.

Consolidated Statements of Cash Flows

(in thousands)	Year Ended December 31,		
	2016	2015	2014
Operating activities			
Net loss	$ (13,513)	$ (13,664)	$ (20,117)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	9,794	8,451	7,457
Deferred income taxes	529	207	(295)
Foreign currency re-measurement (gain) loss	(64)	981	—
Non-cash interest and other expense	327	376	589
Non-cash stock compensation expense	4,333	2,741	1,077
Stock-based compensation—related party vendor	—	—	11,220
Loss on disposal of business	746	—	—
Non-cash loss on retirement of fixed assets	276	—	—
Changes in operating assets and liabilities, net of purchase business combinations:			
Accounts receivable	(361)	741	(1,579)
Prepaids and other	648	1,873	484
Accounts payable	(1,453)	157	639
Accrued expenses and other liabilities	413	(2,796)	(924)
Deferred revenue	2,200	(570)	2,626
Net cash provided by (used in) operating activities	3,875	(1,503)	1,177
Investing activities			
Purchase of property and equipment	(670)	(956)	(861)
Purchase of customer relationships	(408)	(791)	—
Purchase business combinations, net of cash acquired	(12,151)	(7,664)	(6,217)
Net cash used in investing activities	(13,229)	(9,411)	(7,078)
Financing activities			
Payments on capital leases	(1,683)	(1,020)	(541)
Proceeds from notes payable, net of issuance costs	30,992	24,083	5,685
Payments on notes payable	(7,190)	(23,907)	(10,910)
Issuance of preferred stock, net of issuance costs	—	—	(97)
Issuance of common stock, net of issuance costs	(515)	(18)	38,846
Additional consideration paid to sellers of businesses	(2,079)	(359)	(599)
Net cash provided by (used in) financing activities	19,525	(1,221)	32,384
Effect of exchange rate fluctuations on cash	114	(380)	(198)
Change in cash and cash equivalents	10,285	(12,515)	26,285
Cash and cash equivalents, beginning of period	18,473	30,988	4,703
Cash and cash equivalents, end of period	$ 28,758	$ 18,473	$ 30,988
Supplemental disclosures of cash flow information:			
Cash paid for interest	$ 2,455	$ 1,523	$ 1,382
Cash paid for taxes	$ 488	$ 314	$ 252
Noncash investing and financing activities:			
Equipment acquired pursuant to capital lease obligations	$ 1,293	$ 3,428	$ 1,572
Issuance of common stock in business combination	$ 8,300	$ 1,386	$ 6,146

See accompanying notes.

1. Organization and Nature of Operations

Upland Software, Inc. (“Upland” or the “Company”) is a provider of cloud-based enterprise work management software. Upland’s software applications help organizations better optimize the allocation and utilization of their people, time and money. Upland provides a family of cloud-based enterprise work management software applications for the information technology, process excellence, finance, professional services and marketing functions within organizations. Upland’s software applications address a broad range of enterprise work management needs, from strategic planning to task execution.

2. Summary of Significant Accounting Policies

Basis of Presentation

These consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States, or GAAP. The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. Certain prior period amounts have been reclassified to confirm to the current period presentation.

Use of Estimates

The preparation of the accompanying consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses. Significant items subject to such estimates include allowance for doubtful accounts, stock-based compensation, acquired intangible assets, the useful lives of intangible assets and property and equipment, and income taxes. In accordance with GAAP, management bases its estimates on historical experience and on various other assumptions that management believes are reasonable under the circumstances. Management regularly evaluates its estimates and assumptions using historical experience and other factors; however, actual results could differ from those estimates.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash deposits and liquid investments with original maturities of three months or less when purchased. Cash equivalents are stated at cost, which approximates market value, because of the short maturity of these instruments.

Accounts Receivable and Allowance for Doubtful Accounts

The Company extends credit to the majority of its customers. Issuance of credit is based on ongoing credit evaluations by the Company of customers’ financial condition and generally requires no collateral. Trade accounts receivable are recorded at the invoiced amount and do not bear interest. Invoices generally require payment within 30 days from the invoice date. The Company generally does not charge interest on past due payments, although the Company's contracts with its customers usually allow it to do so.

The Company maintains an allowance for doubtful accounts to reserve for potential uncollectible receivables. The allowance is based upon the creditworthiness of the Company’s customers, the customers’ historical payment experience, the age of the receivables and current market conditions. Provisions for potentially uncollectible accounts are recorded in sales and marketing expenses. The Company writes off accounts receivable balances to the allowance for doubtful accounts when it becomes likely that they will not be collected.

The following table presents the changes in the allowance for doubtful accounts (in thousands):

	Year Ended December 31,		
	2016	2015	2014
Balance at beginning of year	$ 581	$ 890	$ 454
Provision	863	412	829
Acquisitions	—	—	400
Divestitures	(230)	—	—
Writeoffs, net of recoveries	(556)	(721)	(793)
Balance at end of year	$ 658	$ 581	$ 890

Concentrations of Credit Risk and Significant Customers

Financial instruments that potentially subject the Company to credit risk consist of cash and cash equivalents and accounts receivable. The Company's cash and cash equivalents are placed with high-quality financial institutions, which, at times, may exceed federally insured limits. The Company has not experienced any losses in these accounts, and the Company does not believe it is exposed to any significant credit risk related to cash and cash equivalents. The Company provides credit, in the normal course of business, to a number of its customers. The Company performs periodic credit evaluations of its customers and generally does not require collateral. No individual customer represented more than 10% of total revenues nor more than 10% of accounts receivable in the years ended December 31, 2016, 2015, or 2014.

Property and Equipment

Property and equipment are carried at cost, less accumulated depreciation and amortization. Depreciation of property and equipment is computed using the straight-line method over each asset's useful life. Leasehold improvements are amortized over the shorter of the lease term or of the estimated useful lives of the related assets. Upon retirement or disposal, the cost of each asset and the related accumulated depreciation are removed from the accounts and any resulting gain or loss is credited or charged to income. Repairs, maintenance, and minor replacements are expensed as incurred. The estimated useful lives of property and equipment are as follows:

Computer hardware and equipment	3 - 5 years
Purchased software and licenses	3 - 5 years
Furniture and fixtures	7 years
Leasehold improvements	Lesser of estimated useful life or lease term

Goodwill and Other Intangibles

Goodwill arises from business combinations and is measured as the excess of the cost of the business acquired over the sum of the acquisition-date fair value of tangible and identifiable intangible assets acquired, less any liabilities assumed.

Goodwill is evaluated for impairment annually or more frequently when an event occurs or circumstances change that indicate the carrying value may not be recoverable. The events and circumstances considered by the Company include the business climate, legal factors, operating performance indicators and competition.

The Company evaluates the recoverability of goodwill using a two-step impairment process tested at the reporting unit level. The Company has one reporting unit for goodwill impairment purposes. In the first step, the fair value of the reporting unit is compared to the book value, including goodwill. In the case that the fair value is less than the book value, a second step is performed that compares the implied fair value of goodwill to the book value of goodwill. The fair value for the implied goodwill is determined based on the difference between the fair value of the reporting unit and the net fair value of the identifiable assets and liabilities, excluding goodwill. If the implied fair value of the goodwill is less than the book value, the difference is recognized as an impairment charge in the consolidated statement of operations. No goodwill impairment charges were recorded during the years ended December 31, 2016, 2015, or 2014.

Identifiable intangible assets consist of customer relationships, marketing-related intangible assets and developed technology. Intangible assets with definite lives are amortized over their estimated useful lives on a straight-line basis. The straight-line method of amortization represents the Company's best estimate of the distribution of the economic value of the identifiable intangible assets.

Intangible assets are reviewed for impairment whenever events or changes in circumstances indicate the carrying amount of intangible assets may not be recoverable. Conditions that would necessitate an impairment assessment include a significant decline in the observable market value of an asset, a significant change in the extent or manner in which an asset is used or any other significant adverse change that would indicate that the carrying amount of an asset or group of assets may not be recoverable. The Company evaluates the recoverability of intangible assets by comparing their carrying amounts to the future net undiscounted cash flows expected to be generated by the intangible assets. If such intangible assets are considered to be impaired, the impairment to be recognized is measured as the amount by which the carrying amount of the intangible assets exceeds the fair value of the assets.

The Company determines fair value based on discounted cash flows using a discount rate commensurate with the risk inherent in the Company's current business model for the specific intangible asset being valued. There were no impairments during 2016, 2015, and 2014.

Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or circumstances indicate their carrying value may not be recoverable. When such events or circumstances arise, an estimate of future undiscounted cash flows produced by the asset, or the appropriate grouping of assets, is compared to the asset's carrying value to determine whether impairment exists. If the asset is determined to be impaired, the impairment loss is measured based on the excess of its carrying value over its fair value. Assets to be disposed of are reported at the lower of the carrying value or net realizable value. No indicators of impairment were identified during the years ended December 31, 2016, 2015, or 2014.

Software Development Costs

Software development costs are expensed as incurred until the point the Company establishes technological feasibility. Technological feasibility is established upon the completion of a working model. Costs incurred by the Company between establishment of technological feasibility and the point at which the product is ready for general release are capitalized, subject to their recoverability, and amortized over the economic life of the related products. Because the Company believes its current process for developing its software products essentially results in the completion of a working product concurrent with the establishment of technological feasibility, no software development costs have been capitalized to date. There were no software development costs required to be capitalized under ASC 985-20, Costs of Software to be Sold, Leased or Marketed, and under ASC 350-40, Internal-Use Software.

Canadian Tax Credits

Canadian tax credits related to current expenses are accounted for as a reduction of the research and development costs. Such credits relate to the Company's operations in Canada and are not dependent upon taxable income. Credits are accrued in the year in which the research and development costs or the capital expenditures are incurred, provided the Company is reasonably certain that the credits will be received. The government credit must be examined and approved by the tax authorities, and it is possible that the amounts granted will differ from the amounts recorded.

Debt Issuance Costs

The Company capitalizes underwriting, legal, and other direct costs incurred related to the issuance of debt, which are recorded as a direct deduction from the carrying amount of the related debt liability and amortized to interest expense over the term of the related debt using the effective interest rate method. Upon the extinguishment of the related debt, any unamortized capitalized deferred financing costs are recorded to interest expense. In 2014, the Company wrote off approximately $0.4 million of deferred financing costs associated with a financing facility no longer required after the initial public offering. In 2015, the Company wrote off approximately $0.2 million of deferred financing costs associated with its Comerica facility replaced by the new Wells Fargo facility. In 2016, the Company wrote off approximately $0.1 million of deferred financing costs associated with the expansion of its Wells Fargo facility.

Fair Value of Financial Instruments

The Company accounts for financial instruments in accordance with the authoritative guidance on fair value measurements and disclosures for financial assets and liabilities. This guidance defines fair value, establishes a framework for measuring fair value in accordance with GAAP, and expands disclosures about fair value measurements. The guidance also establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value.

These tiers include Level 1, defined as observable inputs, such as quoted prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore, requiring an entity to develop its own assumptions.

The Company's financial instruments consist principally of cash and cash equivalents, accounts receivable, and accounts payable, long–term debt and warrant liabilities. The carrying value of cash and cash equivalents, accounts receivable, and accounts payable approximate fair value, primarily due to short maturities. The carrying values of the Company's debt instruments approximated their fair value based on rates currently available to the Company. The carrying values of warrant liabilities are marked to the market at each reporting period.

Revenue Recognition

The Company derives revenue from product revenue, consisting of subscription, support and perpetual licenses, and professional services revenues. The Company recognizes revenue when all of the following criteria are met: persuasive evidence of an arrangement exists, delivery of the product or services has occurred, no Company obligations with regard to implementation considered essential to the functionality remain, the fee is fixed or determinable and collectability is probable.

Subscription and Support Revenue

The Company derives subscription revenues by providing its software-as-a-service solution to customers in which the customer does not have the right to take possession of the software, but can use the software for the contracted term. The Company accounts for these arrangements as service contracts. Subscription and support revenues are recognized on a straight-line basis over the term of the contractual arrangement, typically one to three years. Amounts that have been invoiced and that are due are recorded in deferred revenue or revenue, depending on when the criteria for revenue recognition are met. Revenue from usage-based services are recognized in the month in which such usage is reported.

The Company may provide hosting services to customers who purchased a perpetual license. Such hosting services are recognized ratably over the applicable term of the arrangement. These hosting arrangements are typically for a period of one to three years.

Software maintenance agreements provide technical support and the right to unspecified upgrades on an if-and-when-available basis. Revenue from maintenance agreements is recognized ratably over the life of the related agreement, which is typically one year.

Perpetual License Revenue

The Company also records revenue from the sales of proprietary software products under perpetual licenses. For license agreements in which customer acceptance is a condition to earning the license fees, revenue is not recognized until acceptance occurs. The Company's products do not require significant customization. Perpetual licenses are sold along with software maintenance and, sometimes, hosting agreements. When vendor specific objective evidence (VSOE) of fair value exists for the software maintenance and hosting agreement, the perpetual license is recognized under the residual method whereby the fair value of the undelivered software maintenance and hosting agreement is deferred and the remaining contract value is recognized immediately for the delivered perpetual license. When VSOE of fair value does not exist for the either the software maintenance or hosting agreement, the entire contract value is recognized ratably over the underlying software maintenance and/or hosting period.

Professional Services Revenue

Professional services provided with perpetual licenses consist of implementation fees, data extraction, configuration, and training. The Company's implementation and configuration services do not involve significant customization of the software and are not considered essential to the functionality. Revenues from professional services are recognized as such services are provided when VSOE of fair value exists for such services and all undelivered elements such as software maintenance and/or hosting agreements. VSOE of fair value for services is based upon the price charged when these services are sold separately, and is typically an hourly rate. When VSOE of fair value does not exist for software maintenance and/or hosting agreements, revenues from professional services are recognized ratably over the underlying software maintenance and/or hosting period.

Professional services, when sold with the subscription arrangements, are accounted for separately when these services have value to the customer on a standalone basis and there is objective and reliable evidence of fair value for each deliverable. When accounted for separately, revenues are recognized as the services are rendered for time and material contracts. For those arrangements where the elements do not qualify as a separate unit of accounting, the Company recognizes professional services ratably over the contractual life of the related application subscription arrangement. Currently, all professional services are accounted for separately as all have value to the customer on a standalone basis.

Multiple Element Arrangements

The Company enters into arrangements with multiple-element that generally include subscriptions and implementation and other professional services.

For multiple-element arrangements, arrangement consideration is allocated to deliverables based on their relative selling price. In order to treat deliverables in a multiple-element arrangement as separate units of accounting, the elements must have standalone value upon delivery. If the elements have standalone value upon delivery, each element must be accounted for separately. The Company's subscription services have standalone value as such services are often sold separately. In determining whether implementation and other professional services have standalone value apart from the subscription services, the Company considers various factors including the availability of the services from other vendors. The Company has concluded that the implementation services included in multiple-element arrangements have standalone value. As a result, when implementation and other professional services are sold in a multiple-element arrangement, the arrangement consideration is allocated to the identified separate units based on a relative selling price hierarchy. The selling price for a element is based on its VSOE of selling price, if available, third-party evidence of selling price, or TPE, if VSOE is not available or best estimate of selling price, or BESP, if neither VSOE nor TPE is available. The Company has not established VSOE for its subscription services due to lack of pricing consistency, the introduction of new services and other factors. The Company has determined that TPE is not a practical alternative due to differences in its service offerings compared to other parties and the availability of relevant third-party pricing information. Accordingly, the Company uses BESP to determine the relative selling price.

The Company determined BESP by considering its overall pricing objectives and market conditions. Significant pricing practices taken into consideration include the Company's discounting practices, the size and volume of its transactions, customer characteristics, price lists, go-to-market strategy, historical standalone sales and agreement prices. As the Company's go-to-market strategies evolve, it may modify its pricing practices in the future, which could result in changes in relative selling prices, and include both VSOE and BESP.

Deferred Revenue

Deferred revenue represents either customer advance payments or billings for which the aforementioned revenue recognition criteria have not yet been met.

Messaging-related Revenue

The Company recognizes subscription revenue for its digital engagement application which provides short code connectivity for its two-way SMS programs and campaigns. The Company evaluates whether it is appropriate to recognize revenue based on the gross amount billed to its customers for these services. Since the Company is primarily obligated in these transactions, has latitude in establishing prices associated with its messaging program management services, is responsible for fulfillment of the transaction, and has credit risk, revenue is recorded on a gross basis. While none of the factors individually are considered presumptive or determinative, in reaching conclusions on gross versus net revenue recognition, the Company places the most weight on the analysis of whether or not it is the primary obligor in the arrangement.

Cost of Revenue

Cost of revenue primarily consists of salaries and related expenses (e.g. bonuses, employee benefits, and payroll taxes) for personnel directly involved in the delivery of services and products directly to customers. Cost of revenue also includes the amortization of acquired technology.

Customer Contract Acquisition Costs

Costs associated with the acquisition or origination of customer contracts are expensed as incurred.

Customer Relationship Acquisition Costs

Costs associated with the acquisition or origination of customer relationships are capitalized as customer relationship assets as incurred and amortized over the estimated life of the customer relationship.

Advertising Costs

Advertising costs are expensed in the period incurred. Advertising expenses were $59,000, $347,000 and $283,000 for the years ended December 31, 2016, 2015, or 2014, respectively. Advertising costs are recorded in sales and marketing expenses in the accompanying consolidated statement of operations.

Income Taxes

The Company uses the asset and liability method of accounting for income taxes. Under this method, deferred tax assets and liabilities are recognized for the expected future tax consequences of temporary differences between the carrying amounts and the tax bases of assets and liabilities. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates on deferred tax assets and liabilities will be recognized in the period that includes the enactment date. A valuation allowance is established against the deferred tax assets to reduce their carrying value to an amount that is more likely than not to be realized.

The Company has adopted a permanent reinvestment position whereby foreign earnings for foreign subsidiaries are expected to be reinvested and future earnings are not expected to repatriated. As a result of this policy, no tax liability has been accrued in anticipation of future dividends from foreign subsidiaries.

The Company accounts for uncertainty of income taxes based on a "more likely than not" threshold for the recognition and derecognition of tax positions, which includes the accounting for interest and penalties.

Stock-Based Compensation

Stock options awarded to employees and directors are measured at fair value at each grant date. The Company accounts for stock-based compensation in accordance with authoritative accounting principles which require all share-based compensation to employees, including grants of employee stock options, to be recognized in the financial statements based on their estimated fair value. Compensation expense is determined under the fair value method using the Black-Scholes option pricing model and recognized ratably over the period the awards vest. The Black-Scholes option pricing model used to compute share-based compensation expense requires extensive use of accounting judgment and financial estimates. Items requiring estimation include the expected term option holders will retain their vested stock options before exercising them, the estimated volatility of the Company’s common stock price over the expected term of each stock option, and the number of stock options that will be forfeited prior to the completion of their vesting requirements. Application of alternative assumptions could result in significantly different share-based compensation amounts being recorded in the financial statements. The following table summarizes the weighted-average grant-date fair value of options granted in 2016, 2015, and 2014 and the assumptions used to develop their fair values. As there was no public market for its common stock prior to November 2014, the Company estimates the volatility of its common stock based on the volatility of publicly traded shares of comparable companies' common stock. The Company's decision to use the volatility of comparable stock was based upon the Company's assessment that this information is more representative of future stock price trends than the Company's historical volatility. The Company estimates the expected term using the simplified method, which calculates the expected term as the midpoint between the vesting date and the contractual termination date of each award. The dividend yield assumption is based on historical and expected future dividend payouts. The risk-free interest rate is based on observed market interest rates appropriate for the term of each options.

	Year Ended December 31,		
	2016	2015	2014
Weighted average grant-date fair value of options	$3.23	$3.01	$3.76
Expected volatility	42.5%	42.5% - 44.0%	54.1% - 55.2%
Risk-free interest rate	1.2%	1.7% - 1.9%	1.6% - 1.9%
Expected life in years	5.93	5.93	6.29
Dividend yield	—	—	—

Comprehensive Loss

The Company utilizes the guidance in Accounting Standards Codification (ASC) Topic 220, Comprehensive Income, for the reporting and display of comprehensive loss and its components in the consolidated financial statements. Comprehensive loss comprises net loss and cumulative foreign currency translation adjustments. The accumulated comprehensive loss as of December 31, 2016, 2015, and 2014 was due to foreign currency translation adjustments.

Foreign Currency Transactions

Results of operations for foreign subsidiaries are translated in United State dollars using the average exchange rates on a monthly basis during the year. The assets and liabilities of those subsidiaries are translated into United States dollars using the exchange rates at the balance sheet date. The related translation adjustments are recorded in a separate component of stockholders' equity in accumulated other comprehensive loss. Foreign currency transaction gains and losses are included in the statements of operations and include the impact of revaluation of certain foreign currency denominated net assets or liabilities held internationally. For the years ended December 31, 2016, 2015, and 2014, foreign currency transaction losses were $271,000, $515,000, and $2,000, respectively.

Basic and Diluted Net Loss per Common Share

The Company uses the two-class method to compute net loss per common share because the Company has issued securities, other than common stock, that contractually entitle the holders to participate in dividends and earnings of the Company. The two-class method requires earnings for the period to be allocated between common stock and participating securities based upon their respective rights to receive distributed and undistributed earnings. Holders of the Company’s Series A, B, B-1, B-2 and C preferred stock are entitled, on a pari passu basis, to receive dividends when, as, and if declared by the board of directors, prior and in preference to any declaration or payment of any dividend on the common stock until such time as the total dividends paid on each share of Series A, B, B-1, B-2 and C preferred stock is equal to the original issue price of the shares. As a result, all series of the Company’s preferred stock are considered participating securities. All of the outstanding preferred stock was converted to common stock upon the Company's initial public offering in November 2014.

Under the two-class method, for periods with net income, basic net income per common share is computed by dividing the net income attributable to common stockholders by the weighted-average number shares of common stock outstanding during the period. Net income attributable to common stockholders is computed by subtracting from net income the portion of current year earnings that the participating securities would have been entitled to receive pursuant to their dividend rights had all of the year’s earnings been distributed. No such adjustment to earnings is made during periods with a net loss, as the holders of the participating securities have no obligation to fund losses. Diluted net loss per common share is computed under the two-class method by using the weighted-average number of shares of common stock outstanding plus, for periods with net income attributable to common stockholders, the potential dilutive effects of stock options and warrants. In addition, the Company analyzes the potential dilutive effect of the outstanding participating securities under the if-converted method when calculating diluted earnings per share, in which it is assumed that the outstanding participating securities convert into common stock at the beginning of the period. The Company reports the more dilutive of the approaches as its diluted net income per share during the period. Due to net losses for the years ended December 31, 2016, 2015, and 2014, basic and diluted net loss per share were the same, as the effect of all potentially dilutive securities would have been anti-dilutive.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2014-09, Revenue from Contracts with Customers. This ASU amends the existing accounting standards for revenue recognition and is based on the principle that revenue should be recognized to depict the transfer of goods or services to a customer at an amount that reflects the consideration a company expects to receive in exchange for those goods or services. The Company will adopt this ASU on January 1, 2018, and we expect to use the modified retrospective application method. The Company is currently evaluating each of its revenue streams to identify any differences in the timing, measurement or presentation of revenue recognition under the new standard. We expect to have our preliminary evaluation, including the selection of an adoption method, completed by the end of the first half of 2017.

In August 2014, the FASB issued FASB ASU No. 2014-15, Presentation of Financial Statements - Going Concern (Subtopic 205-40): Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern. The new standard provides guidance around management's responsibility to evaluate whether there is substantial doubt about an entity's ability to continue as a going concern and to provide related footnote disclosures. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2016, with early adoption permitted. The adoption of this standard is not expected to have a material impact on the Company's financial statements.

In November 2015, the FASB issued ASU No. 2015-17,” Income Taxes: Balance Sheet Classification of Deferred Taxes”, to require that deferred tax liabilities and assets be classified entirely as non-current. This amended guidance is effective for fiscal years beginning after December 15, 2016, including interim periods within those years. Early adoption is permitted, and the amended guidance may be applied prospectively to all deferred tax liabilities and assets or retrospectively to all periods presented. The Company adopted ASU 2015-17 during the fourth quarter of 2016 on a prospective basis and the impact on our consolidated financial statements is reflected in Note 6 - Income Taxes and had no impact on our Balance Sheet presentation.

In February 2016, the FASB issued ASU 2016-02, Leases (Topic 842). The core change with ASU 2016-2 is the requirement for the recognition of lease assets and lease liabilities by lessees for those leases classified as operating leases under previous GAAP. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018, with early adoption permitted. The Company is currently evaluating the effect that the adoption of ASU 2016-02 will have on its financial statements.

In March 2016, the FASB issued ASU 2016-09, Stock Compensation (Topic 718). The core change with ASU 2016-09 is the simplification of several aspects of the accounting for share-based payment transactions, including the income tax consequences, classifications of awards as either equity or liabilities, and classification on the statement of cash flows. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2016, with early adoption permitted. The Company is currently evaluating the effect that the adoption of ASU 2016-09 will have on its financial statements.

In June 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Updates ("ASU") No. 2016-13, "Financial Instruments - Credit Losses: Measurement of Credit Losses on Financial Instruments", which changes the impairment model for most financial assets. The new model uses a forward-looking expected loss method, which will generally result in earlier recognition of allowances for losses. ASU 2016-13 is effective for annual and interim periods beginning after December 15, 2019 and early adoption is permitted for annual and interim periods beginning after December 15, 2018. The Company is currently evaluating the effect that the adoption of ASU 2016-13 will have on its financial statements.

In August 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2016-15, Classification of Certain Cash Receipts and Cash Payments (ASU 2016-15). ASU 2016-15 is intended to add or clarify guidance on the classification of certain cash receipts and payments in the statement of cash flows and to eliminate the diversity in practice related to such classifications. The guidance in ASU 2016-15 is required for annual reporting periods beginning after December 15, 2017, with early adoption permitted. The Company is currently evaluating the effect that the adoption of ASU 2016-15 will have on its financial statements.

3. Acquisitions

2014 Acquisitions

On November 21, 2014, the Company acquired 100% of the outstanding capital of Solution Q Inc. (Solution Q) for total purchase consideration of $6.1 million, which includes cash of $4.5 million, net of $0.4 million of cash acquired, and 150,977 shares of the Company's common stock with a fair value of $1.6 million. Solution Q provides mid-market organizations an easy-to-use, turnkey solution for their project management and portfolio visibility needs. Revenues recorded since the acquisition date for the year ended December 31, 2014 were approximately $0.3 million.

On December 10, 2014, the Company acquired 100% of the outstanding capital of Mobile Commons, Inc. (Mobile Commons) for total purchase consideration of $10.2 million including cash of $5.7 million, net of $0.3 million of cash acquired, 386,253 shares of common stock valued at $4.5 million and excluding potential additional consideration for incremental additional revenue described below. The Company agreed to pay additional consideration of up to $1.5 million in both cash and common stock to the selling shareholders of Mobile Commons based on the achievement of certain incremental revenue targets during fiscal 2015. The acquisition-date fair value of the contingent payment was measured based on the probability-adjusted present value of the consideration expected to be transferred, which amounted to $0.5 million. Mobile Commons' enterprise-class application drives and manages digital engagement through two-way SMS programs and campaigns. Revenues recorded since the acquisition date for the year ended December 31, 2014 were approximately $0.5 million.

2015 Acquisitions

On November 13, 2015, the Company acquired 100% of the outstanding capital of Ultriva, Inc. (Ultriva) for total purchase consideration of $7.2 million, which included cash of $5.6 million, net of $0.4 million of cash acquired, 179,298 shares of the Company's common stock with a fair value of $1.4 million, and an additional $200,000 in shares of common stock held in escrow, subject to indemnification claims, one year from the date of the acquisition. In November 2016, the Company issued 24,587 shares of common stock valued at approximately $200,000 as a result of the escrow release. Ultriva provides cloud-based supply chain work management software.

2016 Acquisitions

On January 7, 2016, Upland completed its purchase of substantially all of the assets of LeadLander, Inc. (LeadLander), a website analytics provider. The purchase price consideration paid was approximately $8.0 million in cash payable at closing (net of approximately $0.4 million of cash acquired) and a $1.2 million cash holdback payable in 12 months (subject to indemnification claims), which was fully paid after December 31, 2016. Revenues recorded since the acquisition date through December 31, 2016 were approximately $3.3 million.

In addition to the cash consideration described above, the Asset Purchase Agreement included a contingent share consideration component pursuant to which Upland issued an aggregate of $2.4 million in common stock on July 25, 2016. The Company agreed to additional consideration of up to $3.1 million in cash to the selling shareholders of LeadLander based on the achievement of certain revenue targets during fiscal years 2016 and 2017.

On March 14, 2016, Upland completed its purchase of substantially all of the assets of HipCricket, Inc., a cloud-based mobile messaging software provider. The consideration paid to the seller consisted of our issuance of one million shares of our common stock and the transfer of our EPM Live product business. The value of the shares on the closing date of the transaction was approximately $5.7 million and the fair value of our EPM Live product business was approximately $5.9 million. The Company recognized a loss on the transfer in conjunction with the EPM Live net asset value of approximately $0.7 million in Other expense, net. Prior to the transaction, HipCricket was owned by an affiliate of ESW Capital, LLC, which is a shareholder of Upland. Raymond James & Co. provided a fairness opinion to Upland in connection with the transaction. Revenues recorded since the acquisition date through December 31, 2016 were approximately $3.4 million.

On April 27, 2016, Upland acquired Advanced Processing & Imaging, Inc., a content management platform driving workflow in governments and schools. The purchase price consideration consisted of $4.1 million in cash payable at closing (net of $0.1 million of cash acquired), and a $0.8 million cash holdback payable in 12 months (subject to indemnification claims). Revenues recorded since the acquisition date through December 31, 2016 were approximately $1.6 million.

The Company recorded the purchase of the acquisitions described above using the acquisition method of accounting and, accordingly, recognized the assets acquired and liabilities assumed at their fair values as of the date of the acquisition. The purchase price allocations for the 2015 acquisition of Ultriva and the 2016 acquisitions of LeadLander and HipCricket are final, and API is preliminary as the Company has not obtained and evaluated all of the detailed information necessary to finalize the opening balance sheet amounts in all respects. Management has recorded the purchase price allocations based upon acquired company information that is currently available. Management expects to finalize its purchase price allocations in the first half of 2017.

The following condensed table presents the preliminary acquisition-date fair value of the assets acquired and liabilities assumed for the acquisitions, as well as assets and liabilities (in thousands):

	API	LeadLander	HipCricket	Ultriva
Year Acquired or Divested	2016	2016	2016	2015
Cash	$ 125	$ 365	$ —	$ 372
Accounts receivable	821	199	1,226	689
Other current assets	54	55	273	52
Canadian tax credit receivable	—	—	—	—
Property and equipment	68	5	—	16
Customer relationships	1,420	970	1,000	1,820
Trade name	40	70	70	140
Technology	810	1,410	900	960
Goodwill	3,420	13,104	8,531	4,739
Other assets	89	6	—	32
Total assets acquired	6,847	16,184	12,000	8,820
Accounts payable	(11)	—	(44)	(196)
Accrued expense and other	(137)	(254)	—	(284)
Deferred tax liabilities	—	—	—	—
Deferred revenue	(1,699)	(910)	(356)	(760)
Canadian tax credit liability to seller	—	—	—	—
Total liabilities assumed	(1,847)	(1,164)	(400)	(1,240)
Total consideration	$ 5,000	$ 15,020	$ 11,600	$ 7,580

Tangible assets were valued at their respective carrying amounts, which approximates their estimated fair value. The valuation of identifiable intangible assets reflects management’s estimates based on, among other factors, use of established valuation methods. Customer relationships were valued using an income approach, which estimates fair value based on the earnings and cash flow capacity of the subject asset. The value of the marketing-related intangibles was determined using a relief-from-royalty method, which estimates fair value based on the value the owner of the asset receives from not having to pay a royalty to use the asset. Developed technology was valued using a cost-to-recreate approach.

Goodwill deductible for tax purposes is $4.9 million for our LeadLander acquisition and $8.2 million for HipCricket. There was no Goodwill deductible for tax purposes for our API acquisition.

4. Fair Value Measurements

Fair value is defined as the exit price, or the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants as of the measurement date.

	Fair Value Measurements at December 31, 2015			
	Level 1	Level 2	Level 3	Total
Liabilities:				
Earnout consideration liability	$ —	$ —	$ 500	$ 500

	Fair Value Measurements at December 31, 2016			
	Level 1	Level 2	Level 3	Total
Liabilities:				
Earnout consideration liability	$ —	$ —	$ 2,500	$ 2,500

The following table presents additional information about liabilities measured at fair value on a recurring basis and for which we have utilized significant unobservable (Level 3) inputs to determine fair value:

Ending balance at December 31, 2014	$ 500
Ending balance at December 31, 2015	500
Additions - stock earnouts	2,400
Additions - cash earnouts	2,500
Settlements - stock earnouts	(2,400)
Settlements - cash earnouts	(500)
Ending balance at December 31, 2016	$ 2,500

The fair value of the earnout consideration was determined using the Binary Option model based on the present value of the probability-weighted earnout consideration.

Debt

The Company believes the carrying value of its long-term debt at December 31, 2016 approximates its fair value based on the variable interest rate feature or based upon interest rates currently available to the Company.

The estimated fair value of our debt at December 31, 2016 and 2015 is $49.4 million and $24.9 million, respectively, based on valuation methodologies using interest rates currently available to the Company which are Level 2 inputs.

5. Goodwill and Other Intangible Assets

Changes in the Company's goodwill balance for each of the two years in the period ended December 31, 2016 are summarized in the table below (in thousands):

Balance at December 31, 2013	$	33,630
Acquired in business combinations		12,313
Finalization of 2013 business combination		—
Foreign currency translation adjustment		(797)
Balance at December 31, 2014		45,146
Acquired in business combinations		4,700
Adjustment due to finalization of 2014 business combination		(120)
Foreign currency translation adjustment		(2,304)
Balance at December 31, 2015		47,422
Acquired in business combinations		25,037
Divestiture of business		(3,775)
Adjustment due to prior year business combinations		57
Foreign currency translation adjustment		356
Balance at December 31, 2016	$	69,097

Intangible assets, net, include the estimated acquisition-date fair values of customer relationships, marketing-related assets, and developed technology that the Company recorded as part of its business acquisitions purchases and from acquisitions of customer relationships. The following is a summary of the Company's intangible assets, net (in thousands):

	Estimated Useful Life (Years)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
December 31, 2016				
Customer relationships	1-10	$ 32,703	$ 12,418	$ 20,285
Trade name	1.5-3	2,636	2,462	174
Developed technology	4-7	15,228	7,175	8,053
Total intangible assets		$ 50,567	$ 22,055	$ 28,512

	Estimated Useful Life (Years)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
December 31, 2015				
Customer relationships	1-10	$ 31,848	$ 9,054	$ 22,794
Trade name	1-3	2,909	2,476	433
Developed technology	4-7	13,808	5,509	8,299
Total intangible assets		$ 48,565	$ 17,039	$ 31,526

The following table summarizes the Company's weighted-average amortization period, in total and by major finite-lived intangible asset class, by acquisition during the year ended December 31 (in years):

	2016	2015
Customer relationships	9.3	9.3
Trade name	2.8	2.9
Developed technology	6.3	6.4
Total weighted-average amortization period	8.0	8.1

The Company periodically reviews the estimated useful lives of its identifiable intangible assets, taking into consideration any events or circumstances that might result in either a diminished fair value or revised useful life. Management has determined there have been no other indicators of impairment or change in the useful life during the years ended December 31, 2016, 2015, and 2014. Total amortization expense was $7.2 million, $6.1 million, and $5.2 million during the years ended December 31, 2016, 2015, and 2014, respectively.

Estimated annual amortization expense for the next five years and thereafter is as follows (in thousands):

	Amortization Expense
Year ending December 31:	
2017	$ 6,006
2018	5,663
2019	4,857
2020	3,891
2021	3,496
2022 and thereafter	4,599
Total	$ 28,512

6. Income Taxes

The Company's loss from continuing operations before income taxes for the years ended December 31, was as follows (in thousands):

	2016	2015	2014
Income (loss) before provision for income taxes:			
United States	$ (14,242)	$ (13,254)	$ (18,455)
Foreign	2,259	629	(1,740)
	$ (11,983)	$ (12,625)	$ (20,195)

The components of the provision (benefit) for income taxes attributable to continuing operations are as follows (in thousands):

	2016	2015	2014
Current			
Federal	$ —	$ —	$ —
State	37	(100)	54
Foreign	964	932	163
Total Current	$ 1,001	$ 832	$ 217
Deferred			
Federal	$ 727	$ 293	$ 300
State	131	31	10
Foreign	(329)	(117)	(605)
Total Deferred	529	207	(295)
	$ 1,530	$ 1,039	$ (78)

As of December 31, 2016, the Company had federal net operating loss carryforwards of approximately $83 million and research and development credit carryforwards of approximately $1.3 million. The net operating loss and credit carryforwards will expire beginning in 2017, if not utilized. Utilization of the net operating losses and tax credits may be subject to substantial annual limitation due to the “change of ownership” provisions of the Internal Revenue Code of 1986. The annual limitation will result in the expiration of approximately $16.2 million of net operating losses and $0.8 million of credit carryforwards before utilization.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred taxes as of December 31 are as follows (in thousands):

	2016	2015	2014
Deferred tax assets:			
Accrued expenses and allowances	$ 993	$ 793	$ 733
Deferred revenue	573	671	549
Stock compensation	1,054	582	350
Net operating loss and tax credit carryforwards	24,895	20,871	16,755
Capital expenses	307	—	—
Other	176	196	123
Valuation allowance for noncurrent deferred tax assets	(24,588)	(18,507)	(13,107)
Net deferred tax assets	$ 3,410	$ 4,606	$ 5,403
Deferred tax liabilities:			
Capital expenses	$ —	$ (2)	$ (202)
Prepaid expenses	(31)	(1)	(1)
Intangible assets	(5,718)	(6,481)	(7,217)
Goodwill	(1,029)	(561)	(252)
Tax credit carryforwards	(38)	(379)	(737)
Net deferred tax liabilities	$ (6,816)	$ (7,424)	$ (8,409)
Net deferred taxes	$ (3,406)	$ (2,818)	$ (3,006)

Due to the uncertainty surrounding the timing of realizing the benefits of its domestic favorable tax attributes in future tax returns, the Company has placed a valuation allowance against its domestic net deferred tax asset, exclusive of goodwill. During the year ended December 31, 2016 and 2015, the valuation allowance increased by approximately $6.1 and $5.4 million, respectively, due primarily to operations and acquisitions.

At December 31, 2016, we did not provide deferred income taxes on temporary differences resulting from earnings of certain foreign subsidiaries which are indefinitely reinvested. The reversal of these temporary differences could result in additional tax; however, it is not practicable to estimate the amount of any unrecognized deferred income tax liabilities at this time.

The Company's provision for income taxes differs from the expected tax expense (benefit) amount computed by applying the statutory federal income tax rate of 34% to income before taxes due to the following:

	2016	2015	2014
Federal statutory rate	34.0 %	34.0 %	34.0 %
State taxes, net of federal benefit	1.2 %	3.5 %	3.5 %
Tax credits	(0.1)%	(0.2)%	(1.1)%
Effect of foreign operations	1.1 %	(2.2)%	0.1 %
Stock compensation	(1.7)%	(2.9)%	— %
Permanent items and other	(1.6)%	(3.3)%	(1.7)%
Tax carryforwards not benefited	(45.7)%	(37.1)%	(34.4)%
	(12.8)%	(8.2)%	0.4 %

Under *ASC 740-10*, Income Taxes - Overall, the Company periodically reviews the uncertainties and judgments related to the application of complex income tax regulations to determine income tax liabilities in several jurisdictions. The Company uses a "more likely than not" criterion for recognizing an asset for unrecognized income tax benefits or a liability for uncertain tax positions. The Company has determined it has the following unrecognized assets or liabilities related to uncertain tax positions as of December 31, 2016. The Company does not anticipate any significant changes in such uncertainties and judgments during the next 12 months. To the extent the Company is required to recognize interest and penalties related to unrecognized tax liabilities, this amount will be recorded as an accrued liability, (in thousands).

Balance at December 31, 2014	$	53
Additional based on tax positions related to the current year		—
Additions for tax positions of prior years		568
Reductions for tax positions of prior years		—
Settlements		—
Balance at December 31, 2015	$	621
Additional based on tax positions related to the current year		—
Additions for tax positions of prior years		84
Reductions for tax positions of prior years		—
Settlements		—
Balance at December 31, 2016	$	705

Due to the existence of the valuation allowance, future changes in our unrecognized tax benefits will not materially impact the Company's effective tax rate. If the Company were to recognize unrecognized tax benefits as of December 31, 2016, $399,000 would impact the effective tax rate. The Company's assessment of its unrecognized tax benefits is subject to change as a function of the Company's financial statement audit.

The Company recognizes interest and penalties related to uncertain tax positions in income tax expense. As of December 31, 2016, the Company had no accrued interest or penalties related to uncertain tax positions.

The Company and its subsidiaries file tax returns in the U.S. federal jurisdiction and in several state and foreign jurisdictions. The Company is no longer subject to U.S. federal income tax examinations for years ending before December 31, 2013 and is no longer subject to state and local or foreign income tax examinations by tax authorities for years ending before December 31, 2012. The Company is not currently under audit for federal, state or any foreign jurisdictions.

7. Debt

Long-term debt consisted of the following at December 31, 2016 and 2015 (in thousands):

	December 31,	
	2016	2015
Senior secured loans (includes unamortized discount of $1,442 and $1,008 at December 31, 2016 and December 31, 2015, respectively, based on imputed interest rate of 6.6%)	$ 47,929	$ 23,366
Seller notes due 2016	—	500
	47,929	23,866
Less current maturities	(2,190)	(1,500)
Total long-term debt	$ 45,739	$ 22,366

Loan and Security Agreements

Loan and Security Agreements

On November 15, 2016, Upland Software, Inc. (the "Company") amended its Credit Agreement (the "Credit Agreement") with a consortium of lenders (the "Lenders"), Wells Fargo Capital Finance, as agent, providing for a secured credit facility (the "Loan Facility").

As of December 31, 2016, there was (i) none in U.S. revolving loans outstanding under the Credit Agreement, (ii) none drawn on the Canadian revolving credit facility, (iii) $43.8 million in U.S. term loans outstanding under the Credit Agreement; and (iv) $5.6 million in Canadian term loans outstanding under the Credit Agreement.

Loans

The Credit Agreement provides for up to $90.0 million of financing credit as outlined below.

The Credit Agreement provides (i) a U.S. revolving credit facility in an aggregate principal amount of up to $9.0 million (the "U.S. Revolver"), (ii) a U.S. term loan facility in an aggregate principal amount of up to $44.4 million (the "U.S. Term Loan"), (iii) a delayed draw term loan facility in an aggregate principal amount of up to $10.0 million (the "DDTL"). (iv) a Canadian revolving credit facility in an aggregate principal amount of up to $1.0 million (the "Canadian Revolver" and, together with the U.S. Revolver, the "Revolver"); and (v) a Canadian term loan facility in an aggregate principal amount of up to $5.6 million (the "Canadian Term Loan" and, together with the U.S. Term Loan, the "Term Loan").

The Credit Agreement also includes provisions for optional, uncommitted increases in the maximum size of the loan facility available under the Credit Agreement by an aggregate principal amount of $20.0 million upon the satisfaction of the terms and conditions set forth in the Credit Agreement.

The Credit Agreement also provides for, among other things, (i) a maturity date of November 15, 2021, (ii) a maximum amount of permitted stock repurchases of $8,300,000, and (iii) a maximum amount of seller subordinated indebtedness permitted to be incurred in connection with permitted acquisitions of $16,700,000.

Terms of Revolver

Loans under the Revolver are available up to the lesser of (i) $10.0 million (the "Maximum Revolver Amount") or (ii) the result of (a) 100% multiplied by (subject to step-downs beginning December 31, 2016) of certain subsidiaries' recurring revenues on a trailing twelve month basis, minus (b) the outstanding balance of the Term Loans and any swing line loans made under the Credit Agreement (such amount, the "Credit Amount"). The Revolver provides a subfacility whereby Borrowers may request letters of credit (the "Letters of Credit") in an aggregate amount not to exceed, at any one time outstanding, $0.5 million and $0.25 million, from the U.S & Canadian facilities, respectively. The aggregate amount of outstanding Letters of Credit are reserved against the credit availability under the Maximum Revolver Amount and the Credit Amount.

Loans under the Revolver may be borrowed, repaid and reborrowed until November 15, 2021 (the “Maturity Date”), at which time all amounts borrowed under the Credit Agreement must be repaid.

Terms of Term Loans

The Term Loans are repayable, on a quarterly basis beginning December 31, 2016, by an amount equal to 5.0% per annum of the original principal amount of such loan. Any amount remaining unpaid is due and payable in full on the Maturity Date.

Terms of Delay Draw Term Loan

Pursuant to the terms of the Credit Agreement, the DDTL is to be used to finance acquisitions. The DDTL can be drawn upon until November 15, 2018. The DDTL is repayable, on a quarterly basis, by an amount equal to 5.0% per annum of the original funded amount of the DDTL. Any amount remaining unpaid would be due and payable in full on the Maturity Date.

Other Terms of Loan Facility

At the option of the Company, U.S. loans accrue interest at a per annum rate based on (i) the U.S. base rate plus a margin ranging from 3.0% to 4.0% depending on the leverage ratio or (ii) the U.S. LIBOR rate determined in accordance with the Credit Agreement (based on 1, 2, 3 or 6-month interest periods) plus a margin ranging from 4.0% to 5.0% depending on the leverage ratio. The U.S. base rate is a rate equal to the highest of the federal funds rate plus a margin equal to 0.5%, the U.S. LIBOR rate for a 1-month interest period plus 1.0% and Wells Fargo Capital Finance’s prime rate.

At the option of the Company, the Canadian loans accrue interest at a per annum rate based on (i) the Canadian prime rate or the U.S. base rate plus a margin ranging from 3.0% to 4.0% depending on the leverage ratio or (ii) the U.S. LIBOR rate determined in accordance with the Credit Agreement (based on 1, 2, 3 or 6-month interest periods) (or the Canadian Bankers Acceptance ("Canadian BA") rate determined in accordance with the Credit Agreement for obligations in Canadian dollars) plus a margin ranging from 4.0% to 5.0% depending on the leverage ratio.

Accrued interest on the loans will be paid monthly, or, with respect to loans that are accruing interest based on the U.S. LIBOR rate or Canadian BA rate, at the end of the applicable U.S. LIBOR or Canadian BA interest rate period.

The Company is also obligated to pay other customary servicing fees, letter of credit fees and unused credit facility fees.

The Loan Facility contains customary affirmative and negative covenants. The negative covenants limit the ability of the Company and its subsidiaries to, among other things (in each case subject to customary exceptions for a credit facility of this size and type):

- Incur additional indebtedness or guarantee indebtedness of others;
- Create liens on their assets;
- Make investments, including certain acquisitions;
- Enter into mergers or consolidations;
- Dispose of assets;
- Pay dividends and make other distributions on the Company’s capital stock, and redeem and repurchase the Company’s capital stock;
- Enter into transactions with affiliates; and
- Prepay indebtedness or make changes to certain agreements.

There are certain financial covenants that become more restrictive starting March 31, 2017. If an event of default occurs, at the election of the Lenders, a default interest rate shall apply on all obligations during an event of default, at a rate per annum equal to 2.00% above the applicable interest rate.

The Loan Facility limits the Company's ability to buyback its capital stock, subject to restrictions including a minimum liquidity requirement of $20.0 million before and after any such buyback.

Termination of Prior Credit Agreements

In conjunction with the amended facility, the Company expensed unamortized financing costs of $0.1 million.

Interest Rate and Financing Costs

Cash interest costs averaged 5.7% under the new Credit Agreement for the year ended December 31, 2016. In addition, the Company incurred $1.9 million of financing costs associated with the Credit Agreement in the year ended December 31, 2016. These financing costs will be amortized to non-cash interest expense over the term of the Credit Agreement.

Seller Notes

In May 2013, the Company issued seller notes payable in connection with the acquisition of FileBound. The notes had an aggregate principal amount of $3.5 million with 5% stated interest. $3.0 million of the notes were paid in May 2015 and $500,000 of the notes were paid in May 2016.

Debt Maturities

Future debt maturities of long-term debt excluding debt discounts at December 31, 2016 are as follows, (in thousands):

Year ending December 31:		
2017	$	2,519
2018		2,519
2019		2,519
2020		2,519
2021		39,294
Thereafter		—
	$	49,370

8. Net Loss Per Share

The following table sets for the computations of loss per share (in thousands, except share and per share amounts):

	December 31,					
		2016		2015		2014
Numerators:						
Loss from continuing operations attributable to common stockholders	$	(13,513)	$	(13,664)	$	(20,117)
Preferred stock dividends and accretion		—		—		(1,524)
Net loss attributable to common stockholders	$	(13,513)	$	(13,664)	$	(21,641)
Denominator:						
Weighted–average common shares outstanding, basic and diluted		16,472,799		14,939,601		4,889,901
Loss from continuing operations per share, basic and diluted	$	(0.82)	$	(0.91)	$	(4.43)
Loss from discontinued operations per share, basic and diluted		—		—		—
Net loss per common share, basic and diluted	$	(0.82)	$	(0.91)	$	(4.43)

Due to the net losses for the years ended December 31, 2016, 2015, and 2014, basic and diluted loss per share were the same, as the effect of all potentially dilutive securities would have been anti-dilutive. The following table sets forth the anti-dilutive common share equivalents:

	December 31,		
	2016	2015	2014
Stock options	759,719	778,385	665,216
Restricted stock	839,477	513,943	438,939
Total anti–dilutive common share equivalents	1,599,196	1,292,328	1,104,155

9. Commitments and Contingencies

Operating Leases

The Company leases office space under operating leases that expire between 2017 and 2020.

Future minimum lease payments under operating and capital lease obligations are as follows (in thousands):

	Capital Leases	Operating Leases	Purchase Commitments
2017	$ 1,644	$ 1,182	$ 2,471
2018	1,249	900	—
2019	628	916	—
2020	78	259	—
2021	—	—	—
Thereafter	—	—	—
Total minimum lease payments	3,599	$ 3,257	$ 2,471
Less amount representing interest	(418)		
Present value of capital lease obligations	3,181		
Less current portion of capital lease obligations	(1,644)		
Long-term capital lease obligations	$ 1,537		

The Company has an outstanding purchase commitment in 2017 for software development services from DevFactory FZ-LLC pursuant to a technology services agreement in the amount of $2.5 million. The agreement has an initial term that expires on December 31, 2017, with an option for either party to renew annually for up to five years. For years after 2017, the purchase commitment amount for software development services will be equal to the prior year purchase commitment increased (decreased) by the percentage change in total revenue for the prior year as compared to the preceding year. For example, if 2017 total revenues increase by 10% as compared to 2016 total revenues, then the 2018 purchase commitment will increase by approximately $250,000 from the 2017 purchase commitment amount to approximately $2.8 million.

Total rent expense for the years ended December 31, 2016, 2015, and 2014 were approximately $2.1 million, $2.1 million, and $1.9 million, respectively. In 2017, we have subleased two of our operating leases and will receive sublease income of $231,000 which offsets operating lease obligations shown above. Both the underlying sublease and the associated operating leases end during 2017. The current and long-term portion of capital lease obligations are recorded in other current liabilities and other long-term liabilities line items on the balance sheet, respectively. Capital lease agreements are generally for four years and contain a bargain purchase option at the end of the lease term.

Litigation

In the normal course of business, the Company may become involved in various lawsuits and legal proceedings. While the ultimate results of these matters cannot be predicted with certainty, management does not expect them to have a material adverse effect on the consolidated financial position or results of operations of the Company.

10. Property and Equipment, Net

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

	December 31, 2016	December 31, 2015
Equipment (including equipment under capital lease of $6,087 and $6,199 at December 31, 2016 and 2015, respectively)	$ 11,317	$ 11,599
Furniture and fixtures (including furniture under capital lease of $0 and $143 at December 31, 2016 and 2015, respectively)	205	484
Leasehold improvements	729	819
Accumulated depreciation (including for equipment and furniture under capital lease of $2,961 and $2,218 at December 31, 2016 and 2015, respectively)	(7,895)	(6,901)
Property and equipment, net	$ 4,356	$ 6,001

Amortization of assets recorded under capital leases is included with depreciation expense. Depreciation and amortization expense on property and equipment was $2.7 million, $2.3 million and $2.3 million for the years ended December 31, 2016, 2015, and 2014, respectively. The Company recorded no impairment of property and equipment and recorded losses on the disposal of property and equipment of $0.2 million, $0.0 million, and $0.0 million during the years ended December 31, 2016, 2015, and 2014.

11. Stockholders' Equity

Common Stock

Our certificate of incorporation authorizes shares of stock as follows: 50,000,000 shares of common stock and 5,000,000 shares of preferred stock. The common and preferred stock have a par value of $0.0001 per share.

Each share of common stock is entitled to one vote at all meetings of stockholders. The number of authorized shares of common stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of capital stock of the Company representing a majority of the votes represented by all outstanding shares of capital stock of the Company entitled to vote. The holders of common stock are also entitled to receive dividends, when, if and as declared by our board of directors, whenever funds are legally available therefore, subject to the priority rights of any outstanding preferred stock.

- In January 2014, the Company issued 1,803,574 shares of common stock to this company in connection with the amendment of such technology services agreement and took a noncash charge of $11.2 million recorded in research and development expenses.
- In September 2014, the Company granted 294,010 shares of restricted stock with a grant-date fair value of $8.73. The restricted stock has restrictions which vest over three years from date of grant for 40,990 shares and over four years from the date of grant for 253,020 shares. The grant-date fair value of the shares is recognized over the requisite vesting period. If vesting periods are not achieved, the shares will be forfeited by the employee.
- In November 2014, the Company granted 41,664 shares of restricted stock with a grant-date fair value of $12.00 to members of the Board of Directors. The restricted stock has restrictions which vest fully after twelve months from date of grant. The grant-date fair value of the shares is recognized over the requisite vesting period. If vesting periods are not achieved, the shares will be forfeited by the respective Director.

- In November, 2014, the Company issued 3,846,154 shares of common stock, at a price of $12.00 per share, before underwriting discounts and commissions. The IPO generated net proceeds of approximately $42.9 million, after deducting underwriting discounts and commissions. Expenses incurred by us for the IPO were approximately $4.1 million and will be recorded against the proceeds received from the IPO.
- In November 2014, the Company issued 6,834,476 share of common stock for conversion of all outstanding shares of preferred stock on a one-to-one basis in connection with the Company's IPO.
- In November 2014, the Company issued 150,977 shares of common stock valued at $1.6 million in connection with the acquisition of Solution Q. In addition, the company issued 65,570 shares of common stock to two employees valued at $0.7 million. The restricted stock has restrictions which vest fully two years from date of grant. The grant-date fair value of the shares is recognized over the requisite vesting period. If vesting periods are not achieved, the shares will be forfeited by the respective employee.
- In December 2014, the Company agreed to issue 386,253 shares of common stock valued at $4.5 million in connection with the acquisition of Mobile Commons. As of December 31, 2014, 316,747 shares of common stock were issued to certain former shareholders of Mobile Commons, 44,192 shares were being held in escrow for eighteen (18) months and subject to indemnification claims by the Company and an additional 25,314 shares were reserved for issuance upon the completion of certain documentation by certain former shareholders of Mobile Commons.
- In November 2015, the Company agreed to issue 179,298 shares of common stock valued at approximately $1,388,000 in connection with the acquisition of Ultriva. In addition, the company issued 45,767 shares of common stock to an employee valued at approximately $0.4 million. The restricted stock has restrictions which vest at three different events during the year following the acquisition. The grant-date fair value of the shares is recognized over the requisite vesting period, which occurred during 2016.
- In March 2016, the Company issued 1,000,000 shares of common stock valued at approximately $5,700,000 in connection with the acquisition of HipCricket, Inc.
- In July, 2016, the Company issued 318,302 shares of common stock valued at approximately $2,400,000 in connection with the acquisition of LeadLander, Inc.
- In November, 2016, the Company issued 24,587 shares of common stock valued at approximately $200,000 in connection with the acquisition of Ultriva, Inc.

Stock Compensation Plans

The Company maintains two stock-based compensation plans, the 2010 Stock Option Plan (the “2010 Plan”) and the 2014 Stock Option Plan (the “2014 Plan”), which are described below.

2010 Plan

At December 31, 2016, there were 294,502 options outstanding under the 2010 Plan. Following the effectiveness of the Company’s 2014 Plan in November 2014, no further awards have been made under the 2010 Plan, although each option previously granted under the 2010 Plan will remain outstanding subject to its terms. Any such shares of common stock that are subject to awards under the 2010 Plan which are forfeited or lapse unexercised and would otherwise have been returned to the share reserve under the 2010 Plan instead will be available for issuance under the 2014 Plan.

2014 Plan

In November 2014, the Company adopted the 2014 Plan, providing for the granting of incentive stock options, as defined by the Internal Revenue Code, to employees and for the grant of non-statutory stock options, stock appreciation rights, restricted stock, restricted stock units, performance units and performance shares to employees, directors and consultants. The 2014 Plan also provides for the automatic grant of option awards to our non-employee directors. As of December 31, 2016, there were 465,217 options outstanding under the 2014 Plan and shares of common stock reserved for issuance under the 2014 Plan consist of 163,928 shares of common stock. In addition, the number of shares available for issuance under the 2014 Plan will be increased annually in an amount equal to the least of (i) 4% of the outstanding Shares on the last day of the immediately preceding Fiscal Year or (ii) such number of Shares determined by the Board. At December 31, 2016, there were 839,477 restricted stock units outstanding under the 2014 Plan.

Shares issued upon any stock option exercise under the 2010 Plan or 2014 Plan will be issued from the Company's authorized but unissued shares.

Stock Option Activity

A summary of the Company’s stock option activity under all Plans is as follows:

	Number of Options Outstanding	Weighted–Average Exercise Price	Weighted–Average Remaining Contractual Life (In Years)	Weighted-Average Fair Value per Share
Outstanding at December 31, 2013	357,991	$ 1.40	9.16	$ 0.79
Options granted	386,797	7.03		3.76
Options exercised	(435)	1.77		0.93
Options forfeited	(79,143)	3.87		2.09
Outstanding at December 31, 2014	665,210	$ 4.39	8.78	$ 2.37
Options granted	420,616	6.93		6.93
Options exercised	(106,338)	2.17		2.24
Options forfeited	(201,100)	5.62		4.99
Outstanding at December 31, 2015	778,388	$ 5.75	8.39	$ 5.75
Options granted	137,586	7.74		3.23
Options exercised	(43,101)	4.93		2.54
Options forfeited	(75,251)	7.01		3.69
Options expired	(37,903)	4.94		4.90
Outstanding at December 31, 2016	759,719	$ 6.06	7.73	$ 2.84
Options vested and expected to vest at December 31, 2014	149,907	$ 1.58	7.81	
Options vested and exercisable at December 31, 2014	149,907	$ 1.58	7.81	
Options vested and expected to vest at December 31, 2015	769,142	$ 5.72	8.37	
Options vested and exercisable at December 31, 2015	244,631	$ 3.78	6.91	
Options vested and expected to vest at December 31, 2016	747,736	$ 6.04	7.70	
Options vested and exercisable at December 31, 2016	482,731	$ 5.41	7.25	

The aggregate intrinsic value of options vested during the years ended December 31, 2016 and 2015, was approximately $0.8 million and $0.6 million, respectively. The aggregate intrinsic value of options outstanding at December 31, 2016 and 2015, was approximately $2.2 million and $1.3 million, respectively. The aggregate intrinsic value of options exercised at December 31, 2016 and 2015, was approximately $0.1 million and $0.6 million, respectively. The aggregate intrinsic value of options exercisable, vested and expected to vest at December 31, 2016 and 2015 was approximately $2.2 million and $1.3 million. The total fair value of employee options vested during the years ended December 31, 2016 and 2015 was approximately $1.0 million and $0.8 million, respectively. Unvested shares as of December 31, 2016 and 2015 have a weighted-average grant date fair value of $3.45 and $3.53 per share, respectively.

Total stock-based compensation was approximately $4.3 million, $2.7 million, and $1.1 million for the years ended December 31, 2016, 2015, and 2014, respectively. As of December 31, 2016, $0.8 million of unrecognized compensation cost related to stock options is expected to be recognized over a weighted-average period of 1.39 years.

The Company received approximately $212,000 in cash from option exercises under the respective Plans in 2016. The Company issued shares from amounts reserved under the respective Plans upon the exercise of these stock options. The Company does not currently expect to repurchase shares from any source to satisfy such obligation under any of the Company's stock option Plans. The exercise of stock options during the year ended December 31, 2016 resulted in an excess tax deduction of approximately $402,000. The expected tax benefits of approximately $148,000 will be included as part of the deferred tax asset associated with net operating loss carryforwards, currently fully offset by a valuation allowance, upon adoption of ASU 2016-09 in the first quarter of 2017.

Restricted Stock Awards

A summary of the Company's restricted stock activity under the 2010 and 2014 Plan is as follows:

	Number of Restricted Shares Outstanding
Unvested balances at December 31, 2013	240,279
Awards granted	401,244
Awards vested	(202,584)
Unvested balances at December 31, 2014	438,939
Awards granted	242,500
Awards vested	(144,268)
Awards forfeited	(23,228)
Unvested balances at December 31, 2015	513,943
Awards granted	778,097
Awards vested	(385,895)
Awards forfeited	(66,668)
December 31, 2016	839,477

During 2016, 385,895 restricted stock awards vested with a weighted average grant date fair value of $7.72 per share.

Share-based Compensation

The Company recognized share-based compensation expense from all awards in the following expense categories (in thousands):

	Year Ended December 31,		
	2016	2015	2014
Cost of subscription and support revenue	$ 43	$ 47	$ 30
Cost of professional services revenue	1	(5)	19
Sales and marketing	105	65	39
Research and development	204	203	61
General and administrative	3,980	2,431	928
Total	$ 4,333	$ 2,741	$ 1,077

12. Redeemable Convertible Preferred Stock

- In 2011, the Company issued 2,652,110 shares of Series A redeemable convertible preferred stock for aggregate proceeds of $16.0 million, net of issuance costs of $199,000.
- In January 2012, the Company issued 169,054 shares of Series A redeemable convertible preferred stock for aggregate proceeds of $1.0 million, net of issuance costs of $24,000.
- In January 2012, the Company issued 1,701,909 shares of Series B redeemable convertible preferred stock for aggregate proceeds of $10.4 million, net of issuance costs of $22,000.
- In November 2012, the Company issued 131,168 shares of Series B-1 redeemable convertible preferred stock valued at $800,000 in connection with the acquisition of EPM Live. Such shares are subject to forfeiture obligations based upon continued employment over a 24-month period. The Company is accounting for such shares as compensation as the shares vest. At December 31, 2014, all shares are now fully amortized.
- In May 2013, the Company issued 106,572 shares of B-1 redeemable convertible preferred stock valued at $624,000 in connection with the acquisition of FileBound.
- In November 2013, the Company issued 155,598 shares of Series B-2 redeemable convertible preferred stock valued at $949,000 in connection with the acquisition of ComSci.
- In December 2013, the Company issued 1,918,048 shares of Series C redeemable convertible preferred stock for aggregate proceeds of $19.7 million, net of issuance costs of $82,000. The proceeds from the issuance of Series C preferred stock included the conversion of $4.9 million of convertible promissory bridge notes and accrued interest payable.
- In November 2014, all of the shares of preferred stock were converted into 6,834,476 shares of common stock on a one-to-one basis in connection with the Company's IPO.

Dividends

Dividends on shares of Series C redeemable convertible preferred stock shall begin to accrue on a daily basis at a rate of 8% per annum, shall be cumulative, and shall compound on an annual basis. Series C redeemable convertible preferred stock dividends shall be due and payable upon the earliest of (i) any liquidation, dissolution, or winding up of the Company; (ii) the redemption of the Series C redeemable convertible preferred stock; or (iii) the payment of any dividends with respect to common stock or Series A, B, B–1 redeemable convertible Preferred Stock.

Cumulative dividends on shares of Series C redeemable convertible preferred stock shall cease to accrue and all accrued and unpaid cumulative dividends shall be canceled and any rights to such dividends shall terminate at the time such share of Series C redeemable convertible preferred stock is converted to common stock.

The holders of outstanding shares of Series A, B, B–1, and B–2 redeemable convertible preferred stock shall be entitled to receive dividends, when, as, and if declared by the Board of Directors, out of any assets legally available at the annual rate of $0.49 per share payable in preference and priority to any declaration or payment of any distribution on common stock. No dividends shall be made with respect to the common stock unless dividends on the Preferred Stock have been declared and paid or set aside for payment to the preferred stockholders. The right to receive dividends on shares of Series A, B, B–1 and B–2 redeemable convertible preferred stock shall not be cumulative, and no right to dividends shall accrue to holders of Series A, B, B–1 and B–2 redeemable convertible preferred stock by reason of the fact that dividends on said shares are not declared or paid. Payment of any dividends to the holders of Series A, B, B–1, and B–2 redeemable convertible preferred stock shall be on a pro rata basis.

13. Preferred Stock Warrants

The Company had 19,675 Series A preferred stock warrants and 56,839 Series B redeemable convertible preferred stock warrants outstanding as of December 31, 2013 with an exercise price of $6.10 per share. All of these warrants were issued in connection with the Comerica loan agreements described in Note 7. The warrants were converted to warrants to purchase common stock in November 2014. See Note 4.

The fair value of warrants to purchase convertible preferred stock was determined using the Black-Scholes option pricing model.

14. Employee Benefit Plans

The Company has established two voluntary defined contribution retirement plans qualifying under Section 401(k) of the Internal Revenue Code. The Company made no contributions to the 401(k) plans for the years ended December 31, 2016, 2015, and 2014.

15. Domestic and Foreign Operations

Revenue by geography is based on the ship-to address of the customer, which is intended to approximate where the customers' users are located. The ship-to country is generally the same as the billing country. The Company has operations in the U.S., Canada and Europe. Information about these operations is presented below (in thousands):

	December 31,		
	2016	2015	2014
Revenues:			
U.S.	$ 62,534	$ 56,778	$ 50,661
Canada	4,090	4,280	3,713
Other International	8,143	8,853	10,200
Total Revenues	$ 74,767	$ 69,911	$ 64,574

	December 31,		
	2016	2015	2014
Identifiable long-lived assets:			
U.S.	$ 4,054	$ 5,501	$ 3,330
Canada	284	469	600
Other International	18	31	—
Total identifiable long-lived assets	$ 4,356	$ 6,001	$ 3,930

16. Related Party Transactions

We are a party to three agreements with companies controlled by a non-management investor in the Company:

- During the fiscal years ended December 31, 2016, 2015, and 2014, the Company purchased software development services pursuant to a technology services agreement with DevFactory FZ-LLC, in the amount of $2.3 million, $2.1 million, and $2.1 million, respectively. In January 2014, the Company issued 1,803,574 shares of common stock to this company in connection with the amendment of such technology services agreement and took a noncash charge of $11.2 million recorded in research and development expenses. The Company has an outstanding purchase commitment in 2017 for software development services pursuant to a technology services agreement in the amount of $2.5 million. The agreement has an initial term that expires on December 31, 2017, with an option for either party to renew annually for up to five years. For years after 2017, the purchase commitment amount for software development services will be equal to the prior year purchase commitment increased (decreased) by the percentage change in total revenue for the prior year as compared to the preceding year. For example, if 2017 total revenues increase by 10% as compared to 2016 total revenues, then the 2018 purchase commitment will increase by approximately $250,000 from the 2017 purchase commitment amount to approximately $2.8 million. At December 31, 2016 and 2015, amounts included in accounts payable owed to this company totaled $0.6 million and $0.7 million, respectively.

- In 2016, the Company purchased approximately $1.8 million in services from Crossover, Inc. While there are no purchase commitments with this company, the Company continues to use their services in 2017.

- On March 14, 2016, Upland completed its purchase of substantially all of the assets of HipCricket, Inc., a cloud-based mobile messaging software provider, and completed the transfer of its EPM Live product business. Prior to the transaction, HipCricket was owned by an affiliate of ESW Capital, LLC, which is a shareholder of Upland. Raymond James & Co. provided a fairness opinion to Upland in connection with the transaction. Refer to Note 3 for a description of the transaction. Relating to this transaction, the Company is providing certain transition services to and receiving certain transition services from the affiliate. The cost offsets earned by the Company for these services during the twelve months ended December 31, 2016 totaled $706,000 and the fees owed to the affiliate by the Company for these services during the twelve months ended December 31, 2016 totaled $112,000.

When the Company receives requested services as detailed by statements of work pursuant to the software development agreement, it determines whether such software development costs should be capitalized as either internally-used software or software to be sold or otherwise marketed. If such costs are not capitalizable, the Company expenses such costs as the services are received. If the Company anticipates that it will not utilize the full amount of the annual minimum fee, the estimated unused portion of the annual minimum fee is expensed at that time.

The Company has an arrangement with a former subsidiary to provide management, human resource/payroll and administrative services, for which the company received fees during 2016 totaled $360,000 and are expected to be similar in 2017.

17. Subsequent Events

The Company has evaluated subsequent events through the date the consolidated financial statements were available for issuance.

On January 10, 2017, Upland completed its purchase of 100% of Omtool, Ltd, a document capture, fax and workflow solution company. The purchase price consideration paid was approximately $19.2 million in cash payable at closing (net of approximately $3.0 million of cash acquired).

The Company recorded the purchase of the acquisition described above using the acquisition method of accounting and, accordingly, recognized the assets acquired and liabilities assumed at their fair values as of the date of the acquisition. The purchase price allocations for the 2017 acquisition is preliminary as the Company has not obtained and evaluated all of the detailed information necessary to finalize the opening balance sheet amounts in all respects. Management has recorded the purchase price allocations based upon acquired company information that is currently available. Management expects to finalize its purchase price allocations in the first half of 2017.

On March 28, 2017, the Company entered into an amendment to the Amended and Restated Technology Services Agreement with DevFactory FZ-LLC to extend the initial term end date from December 31, 2017 to December 31, 2021. Additionally, the Company amended the option for either party to renew annually for one additional year from what was provided in the prior agreement. The effective date of the amendment is January 1, 2017.

18. Quarterly Results (Unaudited)

The following table sets forth our unaudited quarterly condensed consolidated statements of operations data for each of the last eight quarters through December 31, 2016. The data has been prepared on the same basis as the audited consolidated financial statements and related notes included elsewhere in this Annual Report and you should read the following tables together with such financial statements. The quarterly results of operations include all normal recurring adjustments necessary for a fair presentation of this data. Results of interim periods are not necessarily indicative of results for the entire year and are not necessarily indicative of future results.

	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16	12/31/16
				(dollars in thousands, except per share data)				
Consolidated Statements of Operations Data:								
Revenue:								
Subscription and support	$ 14,322	$ 14,023	$ 14,129	$ 14,719	$ 15,241	$ 16,220	$ 17,029	$ 17,062
Perpetual license	811	846	540	608	318	458	332	542
Total product revenue	15,133	14,869	14,669	15,327	15,559	16,678	17,361	17,604
Professional services	2,395	2,809	2,436	2,273	2,023	1,892	1,880	1,770
Total revenue	17,528	17,678	17,105	17,600	17,582	18,570	19,241	19,374
Cost of revenue:								
Subscription and support(1)(2)	4,732	4,841	4,771	5,242	5,226	5,634	5,747	6,127
Professional services(1)	1,908	1,732	1,677	1,768	1,624	1,106	1,045	1,056
Total cost of revenue	6,640	6,573	6,448	7,010	6,850	6,740	6,792	7,183
Gross profit	10,888	11,105	10,657	10,590	10,732	11,830	12,449	12,191
Operating expenses:								
Sales and marketing(1)	3,532	3,446	2,929	3,058	3,069	2,953	3,097	3,041
Research and development(1)	3,926	4,152	3,852	3,848	3,910	4,054	3,737	3,218
Refundable Canadian tax credits	(121)	(122)	(115)	(112)	(109)	(116)	(115)	(173)
General and administrative(1)	5,119	4,714	4,494	3,874	4,123	4,547	4,670	4,946
Depreciation and amortization	1,014	1,063	1,130	1,327	1,472	1,476	1,322	1,021
Acquisition-related expenses	545	360	176	1,374	2,428	1,380	1,047	728
Total operating expenses	14,015	13,613	12,466	13,369	14,893	14,294	13,758	12,781
Income (loss) from operations	(3,127)	(2,508)	(1,809)	(2,779)	(4,161)	(2,464)	(1,309)	(590)
Other expense:								
Interest expense, net	(347)	(576)	(462)	(473)	(561)	(662)	(709)	(849)
Other expense, net	(512)	(12)	137	(157)	(748)	(293)	(64)	427
Total other expense	(859)	(588)	(325)	(630)	(1,309)	(955)	(773)	(422)
Loss before provision for income taxes	(3,986)	(3,096)	(2,134)	(3,409)	(5,470)	(3,419)	(2,082)	(1,012)
Provision for income taxes	243	(238)	(190)	(854)	(103)	(158)	(308)	(961)
Net income (loss)	$ (3,743)	$ (3,334)	$ (2,324)	$ (4,263)	$ (5,573)	$ (3,577)	$ (2,390)	$ (1,973)
Net loss per common share:								
Loss from continuing operations per common share, basic and diluted	$ (0.25)	$ (0.22)	$ (0.16)	$ (0.28)	$ (0.36)	$ (0.22)	$ (0.14)	$ (0.12)
(1) includes stock-based compensation								
(2) Includes depreciation and amortization								

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer (our principal executive officer and principal financial officer, respectively), we have evaluated our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934 as of December 31, 2016. Based upon that evaluation, the Chief Executive Officer and the Chief Financial Officer have concluded that, as of December 31, 2016, the Company's disclosure controls and procedures were effective in ensuring information required to be disclosed by the Company in reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and is accumulated and communicated to the Company's management, including the Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures will prevent or detect all errors and all fraud. Disclosure controls and procedures, no matter how well designed, operated and managed, can provide only reasonable assurance that the objectives of the disclosure controls and procedures are met. Because of the inherent limitations of disclosure controls and procedures, no evaluation of such disclosure controls and procedures can provide absolute assurance that all control issues and instances of fraud, if any, have been detected.

Management's Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). 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 policies or procedures may deteriorate. Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, assessed the effectiveness of our internal control over financial reporting as of December 31, 2016. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO, in Internal Control - Integrated Framework (2013).

Based on our evaluation using those criteria, our management has concluded that, as of December 31, 2016, our internal control over financial reporting was effective 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.

This Annual Report on Form 10-K does not include an attestation report of our registered public accounting firm on our internal control over financial reporting due to an exemption established by the JOBS Act for "emerging growth companies."

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting during the fourth quarter of fiscal 2016 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Officers and Corporate Governance

We have adopted a code of ethics that applies to the Company's directors, officers and employees, including the Chief Executive Officer and the Chief Financial Officer and any other persons performing similar functions. The text of our code of ethics, "Code of Business Conduct and Ethics," has been posted on our website at http://investor.uplandsoftware.com/code-of-conduct. We will provide a copy of the code of ethics without charge upon request to Corporate Secretary, Upland Software, Inc., 401 Congress Ave., Suite 1850, Austin, Texas 78701.

Additional information required by this item is incorporated by reference from our definitive proxy statement for the 2017 Annual Meeting of Stockholders under the headings "Proposal One: Election of Directors," "Section 16(a) Beneficial Ownership Reporting Compliance," "Directors and Corporate Governance" and "Executive Officers."

Item 11. Executive Compensation

The information required by this item is incorporated by reference from our definitive proxy statement for the 2017 Annual Meeting of Stockholders, under the headings "Executive Compensation" and "Directors and Corporate Governance-Compensation Committee Interlocks and Insider Participation."

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item is incorporated by reference from our definitive proxy statement for the 2017 Annual Meeting of Stockholders under the headings "Equity Compensation Plan Information" and "Security Ownership of Certain Beneficial Owners and Management."

Item 13. Certain Relationships, and Related Transactions, and Director Independence

The information required by this item is incorporated by reference from our definitive proxy statement for the 2017 Annual Meeting of Stockholders under the headings "Certain Relationships and Related Party Transactions" and "Directors and Corporate Governance-Director Independence."

Item 14. Principal Accounting Fees and Services

The information required by this item is incorporated by reference from our definitive proxy statement for the 2017 Annual Meeting of Stockholders under the heading "Proposal Two: Ratification of Selection of Independent Registered Public Accounting Firm."

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) Financial Statements

The financial statements filed as part of this Annual Report on Form 10-K are listed on the "Index to Consolidated Financial Statements" included in Item 8 herein.

(b) Exhibits

See Exhibit Index at the end of this Annual Report on Form 10-K, which is incorporated by reference.

(c) Financial Statement Schedules

The following schedule is filed as part of this Annual Report on Form 10-K:

Item 16. Form 10-K Summary

Not applicable.

Schedule II-Valuation and Qualifying Accounts

This schedule has been omitted as the required information has been included in the notes to the consolidated financial statements.

SIGNATURES

Pursuant to the requirement of Sections 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: March 30, 2017

Upland Software, Inc.

By: /s/ John T. McDonald
John T. McDonald
Chief Executive Officer and Chairman

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints John T. McDonald and Michael D. Hill and each of them, as his true and lawful attorney-in-fact and agent with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent the full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

Signature	Title	Date
/s/ John T. McDonald John T. McDonald	Chief Executive Officer and Chairman (*Principal Executive Officer*)	March 30, 2017
/s/ Michael D. Hill Michael D. Hill	Chief Financial Officer, Secretary and Treasurer (*Principal Financial Officer and Principal Accounting Officer*)	March 30, 2017
/s/ John D. Thornton John D. Thornton	Director	March 30, 2017
/s/ David May David May	Director	March 30, 2017
/s/ Stephen E. Courter Stephen E. Courter	Director	March 30, 2017
/s/ Rodney C. Favaron Rodney C. Favaron	Director	March 30, 2017

EXHIBIT INDEX

Exhibit No.	Description of Exhibit	Incorporated by Reference Form	File No.	Exhibit	Filing Date
2.1	Agreement and Plan of Merger by and among the Registrant, Steering Wheel Acquisition Corp., PowerSteering Software, Inc. and Michael Pehl, as Stockholder representative, dated February 3, 2012	S-1	333-198574	2.1	September 4, 2014
2.2	Stock Purchase Agreement by and among the Registrant, Tenrox Inc., the stockholders named therein and Novacap II, L.P. and Aramazd Israilian, as representatives, dated February 10, 2012	S-1	333-198574	2.2	September 4, 2014
2.3	Membership Interest Purchase Agreement by and among the Registrant, LMR Solutions, LLC, Joseph Larscheid and Cheryl Larscheid, dated November 13, 2012	S-1	333-198574	2.3	September 4, 2014
2.4	Stock Purchase Agreement by and among the Registrant, Marex Group Inc., FileBound Solutions, Inc., the Selling Stockholders (as defined therein) and Rex Lamb, as representative of the Selling Stockholders, dated May 16, 2013	S-1	333-198574	2.4	September 4, 2014
2.5	Membership Interest Purchase Agreement by and among the Registrant, Upland Software, Inc., ComSci, LLC and Robert Svec, dated November 7, 2013	S-1	333-198574	2.5	September 4, 2014
2.6	Stock Purchase Agreement by and among the Registrant, Clickability, Inc. and Limelight Networks, Inc. dated December 23, 2013	S-1	333-198574	2.6	September 4, 2014
3.1	Amended and Restated Certificate of Incorporation, as currently in effect	10-K	001-36720	3.1	March 30, 2016
3.2	Amended and Restated Bylaws, as currently in effect	10-K	001-36720	3.2	March 30, 2016
4.1	Amended and Restated Investors' Rights Agreement among the Registrant and certain stockholders, dated December 20, 2013	S-1	333-198574	4.1	September 4, 2014
10.1+	Form of Indemnification Agreement for directors and officers	S-1	333-198574	10.2	October 27, 2014
10.2+	Amended and Restated 2010 Stock Plan, as amended September 2, 2014	S-1	333-198574	10.3.1	September 4, 2014
10.3+	Form of Stock Option Agreement under Amended and Restated 2010 Stock Plan (Standard)	S-1	333-198574	10.4	September 4, 2014
10.3.1+	Form of Stock Option Agreement under Amended and Restated 2010 Stock Plan (Former ComSci, LLC Employees)	S-1	333-198574	10.4.1	September 4, 2014
10.3.2+	Form of Stock Option Agreement under Amended and Restated 2010 Stock Plan (Executive)	S-1	333-198574	10.4.2	September 4, 2014
10.3.3+	Form of Amendment to Stock Option Agreement under Amended and Restated 2010 Stock Plan with Certain Executives	S-1	333-198574	10.4.3	September 4, 2014
10.4+	Form of Restricted Stock Purchase Agreement under Amended and Restated 2010 Stock Plan	S-1	333-198574	10.5	September 4, 2014
10.4.1+	Form of Amendment to Restricted Stock Purchase Agreement under Amended and Restated 2010 Stock Plan	S-1	333-198574	10.5.1	September 4, 2014
10.5+	2014 Equity Incentive Plan	S-1	333-198574	10.6	October 27, 2014
10.6+	Form of Stock Option Award Agreement under 2014 Equity Incentive Plan	S-1	333-198574	10.7	October 27, 2014
10.6.1+	Form of Stock Option Award Agreement under 2014 Equity Incentive Plan (Executive)	S-1	333-198574	10.7.1	October 27, 2014

		Incorporated by Reference			
10.7+	Form of Restricted Stock Purchase Agreement under 2014 Equity Incentive Plan	S-1	333-198574	10.8	October 27, 2014
10.7.1+	Form of Restricted Stock Purchase Agreement under 2014 Equity Incentive Plan (Executive)	S-1	333-198574	10.8.1	October 27, 2014
10.8+	Form of Restricted Stock Unit Award Agreement under 2014 Equity Incentive Plan	S-1	333-198574	10.9	October 27, 2014
10.8.1+	Form of Restricted Stock Unit Award Agreement under 2014 Equity Incentive Plan (Executive)	S-1	333-198574	10.9.1	October 27, 2014
10.9+	Employment Agreement between the Registrant and John T. McDonald, dated May 9, 2014	S-1	333-198574	10.12	September 4, 2014
10.10+	Offer of Employment between the Registrant and Timothy Mattox, dated July 7, 2014	10-K	001-36720	10.13	March 31, 2015
10.11	Office Lease between the Registrant and TPG-401 Congress LLC, dated February 27, 2014	S-1	333-198574	10.17	September 4, 2014
10.11.1	First Amendment to Office Lease between Registrant and TPG-401 Congress LLC	S-1	333-198574	10.17.1	September 4, 2014
10.12	Lease Agreement between Tenrox Inc. and A.R.E. Quebec, dated November 5, 2012, as amended	S-1	333-198574	10.18	September 4, 2014
10.13	Sublease Agreement between Marex Properties, LLC and Marex Group Inc., dated May 10, 2013	S-1	333-198574	10.19	September 4, 2014
10.14	Amended and Restated Technology Services Agreement between the Registrant and DevFactory FZ-LLC, dated January 1, 2014	S-1	333-198574	10.37	October 27, 2014
10.14.1*	Second Amended and Restated Technology Services Agreement between the Registrant and DevFactory FZ-LLC, dated January 1, 2017				
10.15	Letter Agreement between the Registrant and DevFactory FZ-LLC, dated January 1, 2014	S-1	333-198574	10.38	September 4, 2014
10.16	Stock Purchase Agreement between the Registrant and DevFactory FZ-LLC, dated January 27, 2014	S-1	333-198574	10.39	September 4, 2014
10.17	Lease by and between Lincoln One, LLC and the Registrant dated June 19, 2015	8-K	001-36720	10.1	June 22, 2015
10.18	Credit Agreement by and between the Registrant and Wells Fargo Finance, dated May 14, 2015	10-Q	001-36720	10.1	August 14, 2015
10.18.1*	First Amendment to Credit Agreement, among the Registrant, Wells Fargo Bank, N.A. and the other parties thereto, dated September 23, 2015.				
10.18.2*	Second Amendment to Credit Agreement, among the Registrant, Wells Fargo Bank, N.A. and the other parties thereto, dated April 25, 2016.				
10.18.3*	Third Amendment to Credit Agreement, among the Registrant, Wells Fargo Bank, N.A. and the other parties thereto, dated November 15, 2016.				
10.19	Guaranty and Security Agreement by and between the Registrant and Wells Fargo Capital Finance, dated May 14, 2015	10-Q	001-36720	10.2	August 14, 2015
10.20	Canadian Guarantee and Security Agreement by and between the Registrant and Wells Fargo Capital Finance, dated May 14, 2015	10-Q	001-36720	10.3	August 14, 2015
10.21*+	Employment Agreement between the Registrant and Michael D. Hill, dated March 28, 2017				
10.22*+	Employment Agreement between the Registrant and Timothy Mattox, dated March 28, 2017				
10.23*+	Employment Agreement between the Registrant and John T. McDonald, dated March 28, 2017				
21.1*	List of subsidiaries of Upland Software, Inc.				

		Incorporated by Reference
23.1*	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm	
24.1*	Power of Attorney (included on signature pages hereto)	
31.1*	Certification of the Principal Executive Officer Required Under Rules 13a-14(a) and 15d-14(a) of the Securities Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	
31.2*	Certification of the Principal Financial Officer Required Under Rules 13a-14(a) and 15d-14(a) of the Securities Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	
32.1*(1)	Certification of Principal Executive Officer Required Under Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	
32.2*(1)	Certification of Principal Financial Officer Required Under Rules 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	
101.INS	XBRL Instance Document	
101.SCH	XBRL Taxonomy Extension Schema	
101.CAL	XBRL Taxonomy Extension Calculation Linkbase	
101.LAB	XBRL Taxonomy Extension Label Linkbase	
101.PRE	XBRL Taxonomy Extension Presentation Linkbase	
101.DEF	XBRL Taxonomy Extension Definition Linkbase	

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+ Indicates management contract, compensatory plan or arrangement.

* Filed herewith.

(1) The material contained in Exhibit 32.1 and Exhibit 32.2 is not deemed “filed” with the SEC and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language contained in such filing, except to the extent that the Company specifically incorporates it by reference.

Exhibit 3.1

UPLAND SOFTWARE, INC.

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

Upland Software, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

A. The corporation was originally incorporated under the name of Silverback Acquisition Corporation, and the original Certificate of Incorporation of the corporation was filed with the Secretary of State of the State of Delaware on July 7, 2010.

B. This Amended and Restated Certificate of Incorporation was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware (the "**DGCL**"), and has been duly approved by the written consent of the stockholders of the corporation in accordance with Section 228 of the DGCL.

C. The Certificate of Incorporation of the corporation is hereby amended and restated in its entirety to read as follows:

Article I

The name of the corporation is Upland Software, Inc.

Article II

The address of the corporation's registered office in the State of Delaware is 2711 Centerville Road, Suite 400, City of Wilmington, County of New Castle, State of Delaware 19808. The name of its registered agent at such address is The Corporation Service Company.

Article III

The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

Article IV

The total number of shares of stock that the corporation shall have authority to issue is 55,000,000, consisting of the following:

50,000,000 shares of Common Stock, par value $0.0001 per share. Each share of Common Stock shall entitle the holder thereof to one (1) vote on each matter submitted to a vote at a meeting of stockholders. There shall be no cumulative voting of the Common Stock of the corporation.

5,000,000 shares of Preferred Stock, par value $0.0001 per share, which may be issued from time to time in one or more series pursuant to a resolution or resolutions providing for such issue duly adopted by the Board of Directors (authority to do so being hereby expressly vested in the Board of Directors). The Board of Directors is further authorized, subject to limitations prescribed by law, to fix by resolution or resolutions the designations, powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of any wholly unissued series of Preferred Stock, including without limitation authority to fix by resolution or resolutions the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and liquidation preferences of any such series, and the number of shares constituting any such series and the designation thereof, or any of the foregoing.

The Board of Directors is further authorized to increase (but not above the total number of authorized shares of the class) or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series, the number of which was fixed by it, subsequent to the issuance of shares of such series then outstanding, subject to the powers, preferences and rights, and the qualifications, limitations and restrictions thereof stated in the Certificate of Incorporation or the resolution of the Board of Directors originally fixing the number of shares of such series. If the number of shares of any series is so decreased, then the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

Article V

The number of directors that constitutes the entire Board of Directors of the corporation shall be fixed by, or in the manner provided in, the Bylaws of the corporation. At each annual meeting of stockholders, directors of the corporation shall be elected to hold office until the expiration of the term for which they are elected and until their successors have been duly elected and qualified or until their earlier resignation or removal; except that if any such election shall not be so held, such election shall take place at a stockholders' meeting called and held in accordance with the DGCL.

Effective upon the effective date of the corporation's initial public offering (the "**Effective Date**"), the directors of the corporation shall be divided into three classes as nearly equal in size as is practicable, hereby designated Class I, Class II and Class III. The Board of Directors may assign members of the Board of Directors already in office to such classes at the time such classification becomes effective. The term of office of the initial Class I directors shall expire at the first regularly-scheduled annual meeting of the stockholders following the Effective Date, the term of office of the initial Class II directors shall expire at the second annual meeting of the stockholders following the Effective Date and the term of office of the initial Class III directors shall expire at the third annual meeting of the stockholders following the Effective Date. At each annual meeting of stockholders, commencing with the first regularly-scheduled annual meeting of stockholders following the Effective Date, each of the successors elected to replace the directors of a Class whose term shall have expired at such annual meeting shall be elected to hold office until the third annual meeting next succeeding his or her election and until his or her respective successor shall have been duly elected and qualified.

Notwithstanding the foregoing provisions of this Article, each director shall serve until his or her successor is duly elected and qualified or until his or her death, resignation, or removal. If the number of directors is hereafter changed, any newly created directorships or decrease in directorships shall be so apportioned among the classes as to make all classes as nearly equal in number as is practicable, provided that no decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

Any director may be removed from office by the stockholders of the corporation only for cause. Vacancies occurring on the Board of Directors for any reason and newly created directorships resulting from an increase in the authorized number of directors may be filled only by vote of a majority of the remaining members of the Board of Directors, although less than a quorum, or by a sole remaining director, at any meeting of the Board of Directors. A person so elected by the Board of Directors to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall be duly elected and qualified.

Article VI

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the corporation is expressly authorized to adopt, amend or repeal the Bylaws of the corporation.

Article VII

Elections of directors need not be by written ballot unless the Bylaws of the corporation shall so provide.

Article VIII

No action shall be taken by the stockholders of the corporation except at an annual or special meeting of the stockholders called in accordance with the Bylaws, and no action shall be taken by the stockholders by written consent.

Article IX

To the fullest extent permitted by the DGCL, as it presently exists or may hereafter be amended from time to time, a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Neither any amendment nor repeal of this Article, nor the adoption of any provision of this corporation's Certificate of Incorporation inconsistent with this Article, shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit or proceeding accruing or arising or that, but for this Article, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

Article X

Subject to any provisions in the Bylaws of the corporation related to indemnification of directors or officers of the corporation, the corporation may indemnify, to the fullest extent permitted by applicable law, any director or officer of the corporation who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**") by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding. The corporation may be required to indemnify a person in connection with a Proceeding initiated by such person only if the Proceeding was authorized by the Board.

The corporation shall have the power to indemnify, to the extent permitted by the DGCL, as it presently exists or may hereafter be amended from time to time, any employee or agent of the corporation who was or is a party or is threatened to be made a party to any Proceeding by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding.

A right to indemnification or to advancement of expenses arising under a provision of this Certificate of Incorporation or a bylaw of the corporation shall not be eliminated or impaired by an amendment to this Certificate of Incorporation or the Bylaws of the corporation after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

Article XI

Except as provided in Article IX and Article X above, the corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation. Notwithstanding any other provision of this Certificate of Incorporation, and in addition to any other vote that may be required by law or the terms of any series of Preferred Stock, the affirmative vote of the holders of at least two-thirds of the voting power of all then outstanding shares of capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend, alter or repeal, or adopt any provision as part of this Certificate of Incorporation inconsistent with the purpose and intent of, Article IV, Article V, Article VI, Article VII, Article IX, Article X or this Article XI (including, without limitation, any such Article as renumbered as a result of any amendment, alteration, change, repeal or adoption of any other Article).

IN WITNESS WHEREOF, Upland Software, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by the Chief Executive Officer of the corporation on this 12th day of November 2014.

By: /s/ John T. McDonald
John T. McDonald,
Chief Executive Officer

Exhibit 3.2

AMENDED AND RESTATED BYLAWS OF

UPLAND SOFTWARE, INC.

(as amended and restated on October 9, 2014 and effective as of November 12, 2014)

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BYLAWS OF UPLAND SOFTWARE, INC.

ARTICLE I - CORPORATE OFFICES

1.1 REGISTERED OFFICE

The registered office of Upland Software, Inc. shall be fixed in the corporation's certificate of incorporation, as the same may be amended from time to time, including the terms of any certificate of designations of any series of Preferred Stock.

1.2 OTHER OFFICES

The corporation's board of directors may at any time establish other offices at any place or places where the corporation is qualified to do business.

ARTICLE II - MEETINGS OF STOCKHOLDERS

2.1 PLACE OF MEETINGS

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the board of directors. The board of directors may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211(a)(2) of the Delaware General Corporation Law (the "**DGCL**"). In the absence of any such designation or determination, stockholders' meetings shall be held at the corporation's principal executive office.

2.2 ANNUAL MEETING

The annual meeting of stockholders shall be held each year. The board of directors shall designate the date and time of the annual meeting. At the annual meeting, directors shall be elected and any other proper business may be transacted.

2.3 SPECIAL MEETING

(i) A special meeting of the stockholders, other than those required by statute, may be called at any time by the board of directors, chairperson of the board of directors, chief executive officer or president (in the absence of a chief executive officer), but a special meeting may not be called by any other person or persons. The board of directors may cancel, postpone or reschedule any previously scheduled special meeting at any time, before or after the notice for such meeting has been sent to the stockholders.

(ii) The notice of a special meeting shall include the purpose for which the meeting is called. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting by or at the direction of the board of directors, chairperson of the board of directors, chief executive officer or president (in the absence of a chief executive officer). Nothing contained in this Section 2.3(ii) shall be construed as limiting, fixing or affecting the time when a meeting of stockholders called by action of the board of directors may be held.

2.4 ADVANCE NOTICE PROCEDURES

(i) *Advance Notice of Stockholder Business*. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be brought: (A) pursuant to the corporation's proxy materials with respect to such meeting, (B) by or at the direction of the board of directors, or (C) by a stockholder of the corporation who (1) is a stockholder of record at the time of the giving of the notice required by this Section 2.4(i), on the record date for the determination of stockholders entitled to notice of the annual meeting and on the record date for the determination of stockholders entitled to vote at the annual meeting and (2) has timely complied in proper written form with the notice procedures set forth in this Section 2.4(i). In addition, for business to be properly brought before an annual meeting by a stockholder, such business must be a proper matter for stockholder action pursuant to these bylaws and applicable law. For the avoidance of doubt, clause (C) above shall be the exclusive means for a stockholder to bring business before an annual meeting of stockholders.

(a) To comply with clause (C) of Section 2.4(i) above, a stockholder's notice must set forth all information required under this Section 2.4(i) and must be timely received by the secretary of the corporation. To be timely, a stockholder's notice must be received by the secretary at the principal executive offices of the corporation not later than the 45th day nor earlier than the 75th day before the one-year anniversary of the date on which the corporation first mailed its proxy materials or a notice of availability of proxy materials (whichever is earlier) for the preceding year's annual meeting; provided, however, that in the event that no annual meeting was held in the previous year or if the date of the annual meeting is advanced by more than 30 days prior to or delayed by more than 60 days after the one-year anniversary of the date of the previous year's annual meeting, then, for notice by the stockholder to be timely, it must be so received by the secretary not earlier than the close of business on the 120th day prior to such annual meeting and not later than the close of business on the later of (i) the 90th day prior to such annual meeting, or (ii) the tenth day following the day on which Public Announcement (as defined below) of the date of such annual meeting is first made. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described in this Section 2.4(i)(a). "**Public Announcement**" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or any successor thereto (the "**1934 Act**").

(b) To be in proper written form, a stockholder's notice to the secretary must set forth as to each matter of business the stockholder intends to bring before the annual meeting: (1) a brief description of the business intended to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (2) the name and address, as they appear on the corporation's books, of the stockholder proposing such business and any Stockholder Associated Person (as defined below), (3) the class and number of shares of the corporation that are held of record or are beneficially owned by the stockholder or any Stockholder Associated Person and any derivative positions held or beneficially held by the stockholder or any Stockholder Associated Person, (4) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of such stockholder or any Stockholder Associated Person with respect to any securities of the corporation, and a description of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit from share price changes for, or to increase or decrease the voting power of, such stockholder or any Stockholder Associated Person with respect to any securities of the corporation, (5) any material interest of the stockholder or a Stockholder Associated Person in such business, and (6) a statement whether either such stockholder or any Stockholder Associated Person will deliver a proxy statement and form of proxy to holders of at least the percentage of the corporation's voting shares required under applicable law to carry the proposal (such information provided and statements made as required by clauses (1) through (6), a "**Business Solicitation Statement**"). In addition, to be in proper written form, a stockholder's notice to the secretary must be supplemented not later than ten days following the record date for the determination of stockholders entitled to notice of the meeting, to disclose the information contained in clauses (3) and (4) above as of the applicable record date. For purposes of this Section 2.4, a "**Stockholder Associated Person**" of any stockholder shall mean (i) any person controlling, directly or indirectly, or acting in concert with, such stockholder, (ii) any beneficial owner of shares of stock of the corporation owned of record or beneficially by such stockholder and on whose behalf the proposal or nomination, as the case may be, is being made, or (iii) any person controlling, controlled by or under common control with such person referred to in the preceding clauses (i) and (ii).

(c) Without exception, no business shall be conducted at any annual meeting except in accordance with the provisions set forth in this Section 2.4(i) and, if applicable, Section 2.4(ii). In addition, business proposed to be brought by a stockholder may not be brought before the annual meeting if such stockholder or a Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Business Solicitation Statement applicable to such business or if the Business Solicitation Statement applicable to such business contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading. The chairperson of the annual meeting shall, if the facts warrant, determine and declare at the annual meeting that business was not properly brought before the annual meeting and in accordance with the provisions of this Section 2.4(i), and, if the chairperson should so determine, he or she shall so declare at the annual meeting that any such business not properly brought before the annual meeting shall not be conducted.

(ii) *Advance Notice of Director Nominations at Annual Meetings*. Notwithstanding anything in these bylaws to the contrary, only persons who are nominated in accordance with the procedures set forth in this Section 2.4(ii) shall be eligible for election or re-election as directors at an annual meeting of stockholders. Nominations of persons for election or re-election to the board of directors of the corporation shall be made at an annual meeting of stockholders only (A) by or at the direction of the board of directors or (B) by a stockholder of the corporation who (1) was a stockholder of record at the time of the giving of the notice required by this Section 2.4(ii), on the record date for the determination of stockholders entitled to notice of the annual meeting and on the record date for the determination of stockholders entitled to vote at the annual meeting and (2) has complied with the notice procedures set forth in this Section 2.4(ii). In addition to any other applicable requirements, for a nomination to be made by a stockholder, the stockholder must have given timely notice thereof in proper written form to the secretary of the corporation.

(a) To comply with clause (B) of Section 2.4(ii) above, a nomination to be made by a stockholder must set forth all information required under this Section 2.4(ii) and must be received by the secretary of the corporation at the principal executive offices of the corporation at the time set forth in, and in accordance with, the final three sentences of Section 2.4(i)(a) above.

(b) To be in proper written form, such stockholder's notice to the secretary must set forth:

(1) as to each person (a "**nominee**") whom the stockholder proposes to nominate for election or re-election as a director: (A) the name, age, business address and residence address of the nominee, (B) the principal occupation or employment of the nominee, (C) the class and number of shares of the corporation that are held of record or are beneficially owned by the nominee and

any derivative positions held or beneficially held by the nominee, (D) whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of the nominee with respect to any securities of the corporation, and a description of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit of share price changes for, or to increase or decrease the voting power of the nominee, (E) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the stockholder, (F) a written statement executed by the nominee acknowledging that as a director of the corporation, the nominee will owe a fiduciary duty under Delaware law with respect to the corporation and its stockholders, and (G) any other information relating to the nominee that would be required to be disclosed about such nominee if proxies were being solicited for the election or re-election of the nominee as a director, or that is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (including without limitation the nominee's written consent to being named in the proxy statement, if any, as a nominee and to serving as a director if elected or re-elected, as the case may be); and

(2) as to such stockholder giving notice, (A) the information required to be provided pursuant to clauses (2) through (5) of Section 2.4(i)(b) above, and the supplement referenced in the second sentence of Section 2.4(i)(b) above (except that the references to "business" in such clauses shall instead refer to nominations of directors for purposes of this paragraph), and (B) a statement whether either such stockholder or Stockholder Associated Person will deliver a proxy statement and form of proxy to holders of a number of the corporation's voting shares reasonably believed by such stockholder or Stockholder Associated Person to be necessary to elect or re-elect such nominee(s) (such information provided and statements made as required by clauses (A) and (B) above, a "**Nominee Solicitation Statement**").

(c) At the request of the board of directors, any person nominated by a stockholder for election or re-election as a director must furnish to the secretary of the corporation (1) that information required to be set forth in the stockholder's notice of nomination of such person as a director as of a date subsequent to the date on which the notice of such person's nomination was given and (2) such other information as may reasonably be required by the corporation to determine the eligibility of such proposed nominee to serve as an independent director or audit committee financial expert of the corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee; in the absence of the furnishing of such information if requested, such stockholder's nomination shall not be considered in proper form pursuant to this Section 2.4(ii).

(d) Without exception, no person shall be eligible for election or re-election as a director of the corporation at an annual meeting of stockholders unless nominated in accordance with the provisions set forth in this Section 2.4(ii). In addition, a nominee shall not be eligible for election or re-election if a stockholder or Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Nominee Solicitation Statement applicable to such nominee or if the Nominee Solicitation Statement applicable to such nominee contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading. The chairperson of the annual meeting shall, if the facts warrant, determine and declare at the annual meeting that a nomination was not made in accordance with the provisions prescribed by these bylaws, and if the chairperson should so determine, he or she shall so declare at the annual meeting, and the defective nomination shall be disregarded.

(iii) *Advance Notice of Director Nominations for Special Meetings*.

(a) For a special meeting of stockholders at which directors are to be elected or re-elected pursuant to Section 2.3, nominations of persons for election or re-election to the board of directors shall be made only (1) by or at the direction of the board of directors or (2) by any stockholder of the corporation who (A) is a stockholder of record at the time of the giving of the notice required by this Section 2.4(iii), on the record date for the determination of stockholders entitled to notice of the special meeting and on the record date for the determination of stockholders entitled to vote at the special meeting and (B) delivers a timely written notice of the nomination to the secretary of the corporation that includes the information set forth in Sections 2.4(ii)(b) and (ii)(c) above. To be timely, such notice must be received by the secretary at the principal executive offices of the corporation not later than the close of business on the later of the 90th day prior to such special meeting or the tenth day following the day on which Public Announcement is first made of the date of the special meeting and of the nominees proposed by the board of directors to be elected or re-elected at such meeting. A person shall not be eligible for election or re-election as a director at a special meeting unless the person is nominated (i) by or at the direction of the board of directors or (ii) by a stockholder in accordance with the notice procedures set forth in this Section 2.4(iii). In addition, a nominee shall not be eligible for election or re-election if a stockholder or Stockholder Associated Person, as applicable, takes action contrary to the representations made in the Nominee Solicitation Statement applicable to such nominee or if the Nominee Solicitation Statement applicable to such nominee contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein not misleading.

(b) The chairperson of the special meeting shall, if the facts warrant, determine and declare at the meeting that a nomination or business was not made in accordance with the procedures prescribed by these bylaws, and if the chairperson should so determine, he or she shall so declare at the meeting, and the defective nomination or business shall be disregarded.

(iv) *Other Requirements and Rights*. In addition to the foregoing provisions of this Section 2.4, a stockholder must also comply with all applicable requirements of state law and of the 1934 Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.4, including, with respect to business such stockholder intends to bring before the annual meeting that involves a proposal that such stockholder requests to be included in the corporation's proxy statement, the requirements of Rule 14a-8 (or any successor provision) under the 1934 Act. Nothing in this Section 2.4 shall be deemed to affect any right of the corporation to omit a proposal from the corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the 1934 Act.

2.5 NOTICE OF STOCKHOLDERS' MEETINGS

Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the DGCL, the certificate of incorporation or these bylaws, the written notice of any meeting of stockholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting.

2.6 QUORUM

The holders of a majority of the stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. Where a separate vote by a class or series or classes or series is required, a majority of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of incorporation or these bylaws.

If, however, such quorum is not present or represented at any meeting of the stockholders, then either (i) the chairperson of the meeting, or (ii) the stockholders entitled to vote at the meeting, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

2.7 ADJOURNED MEETING; NOTICE

When a meeting is adjourned to another time or place, unless these bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the board of directors shall fix a new record date for notice of such adjourned meeting in accordance with Section 213(a) of the DGCL and Section 2.11 of these bylaws, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

2.8 CONDUCT OF BUSINESS

The chairperson of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business.

2.9 VOTING

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.11 of these bylaws, subject to Section 217 (relating to voting rights of fiduciaries, pledgors and joint owners of stock) and Section 218 (relating to voting trusts and other voting agreements) of the DGCL.

Except as may be otherwise provided in the certificate of incorporation or these bylaws, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. There shall be no cumulative voting of the shares of capital stock of the corporation.

Except as otherwise required by law, the certificate of incorporation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Except as otherwise required by law, the certificate of incorporation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or series or classes or series is required, in all matters other than the election of directors, the affirmative vote of the majority of shares of such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series, except as otherwise provided by law, the certificate of incorporation or these bylaws.

2.10 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Subject to the rights of the holders of the shares of any series of Preferred Stock or any other class of stock or series thereof that have been expressly granted the right to take action by written consent, any action required or permitted to be taken by the stockholders of the corporation must be effected at a duly called annual or special meeting of stockholders of the corporation and may not be effected by any consent in writing by such stockholders.

2.11 RECORD DATES

In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the board of directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the board of directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; *provided, however,* that the board of directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the provisions of Section 213 of the DGCL and this Section 2.11 at the adjourned meeting.

In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto.

2.12 PROXIES

Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy authorized by an instrument in writing or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212 of the DGCL.

2.13 LIST OF STOCKHOLDERS ENTITLED TO VOTE

The officer who has charge of the stock ledger of the corporation shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting; *provided, however,* if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, *provided* that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the corporation's principal place of business. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Such list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

2.14 INSPECTORS OF ELECTION

A written proxy may be in the form of a telegram, cablegram, or other means of electronic transmission which sets forth or is submitted with information from which it can be determined that the telegram, cablegram, or other means of electronic transmission was authorized by the person.

Before any meeting of stockholders, the board of directors shall appoint an inspector or inspectors of election to act at the meeting or its adjournment. The number of inspectors shall be either one (1) or three (3). If any person appointed as inspector fails to appear or fails or refuses to act, then the chairperson of the meeting may, and upon the request of any stockholder or a stockholder's proxy shall, appoint a person to fill that vacancy.

Such inspectors shall:

(i) determine the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies;

(ii) receive votes, ballots or consents;

(iii) hear and determine all challenges and questions in any way arising in connection with the right to vote;

(iv) count and tabulate all votes or consents;

(v) determine when the polls shall close;

(vi) determine the result; and

(vii) do any other acts that may be proper to conduct the election or vote with fairness to all stockholders.

The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three (3) inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all. Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

ARTICLE III - DIRECTORS

3.1 POWERS

The business and affairs of the corporation shall be managed by or under the direction of the board of directors, except as may be otherwise provided in the DGCL or the certificate of incorporation.

3.2 NUMBER OF DIRECTORS

The board of directors shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of incorporation fixes the number of directors, the number of directors shall be determined from time to time by resolution of the board of directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director’s term of office expires.

3.3 ELECTION, QUALIFICATION AND TERM OF OFFICE OF DIRECTORS

Except as provided in Section 3.4 of these bylaws, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until such director’s successor is elected and qualified or until such director’s earlier death, resignation or removal. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws. The certificate of incorporation or these bylaws may prescribe other qualifications for directors.

If so provided in the certificate of incorporation, the directors of the corporation shall be divided into classes.

3.4 RESIGNATION AND VACANCIES

Any director may resign at any time upon notice given in writing or by electronic transmission to the corporation; *provided, however,* that if such notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the director. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. Acceptance of such resignation shall not be necessary to make it effective. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in the certificate of incorporation or these bylaws, when one or more directors resign from the board of directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of incorporation or these bylaws, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director. If the directors are divided into classes, a person so elected by the directors then in office to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

If at any time, by reason of death or resignation or other cause, the corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the DGCL.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole board of directors (as constituted immediately prior to any such increase), the Court of Chancery may, upon application of any stockholder or stockholders holding at least 10% of the voting stock at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the DGCL as far as applicable.

3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE

The board of directors may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the board of directors, or any committee designated by the board of directors, may participate in a meeting of the board of directors, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

3.6 REGULAR MEETINGS

Regular meetings of the board of directors may be held without notice at such time and at such place as shall from time to time be determined by the board of directors.

3.7 SPECIAL MEETINGS; NOTICE

Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairperson of the board of directors, the chief executive officer, the president, the secretary or a majority of the authorized number of directors, at such times and places as he or she or they shall designate.

Notice of the time and place of special meetings shall be:

(i) delivered personally by hand, by courier or by telephone;

(ii) sent by United States first-class mail, postage prepaid;

(iii) sent by facsimile; or

(iv) sent by electronic mail,

directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the corporation's records.

If the notice is (i) delivered personally by hand, by courier or by telephone, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the corporation's principal executive office) nor the purpose of the meeting.

3.8 QUORUM; VOTING

At all meetings of the board of directors, a majority of the total authorized number of directors shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the board of directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

The vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the board of directors, except as may be otherwise specifically provided by statute, the certificate of incorporation or these bylaws.

If the certificate of incorporation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in these bylaws to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

3.9 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors, or of any committee thereof, may be taken without a meeting if all members of the board of directors or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board of directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Any person (whether or not then a director) may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this Section 3.9 at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming effective.

3.10 FEES AND COMPENSATION OF DIRECTORS

Unless otherwise restricted by the certificate of incorporation or these bylaws, the board of directors shall have the authority to fix the compensation of directors.

3.11 REMOVAL OF DIRECTORS

Any director may be removed from office by the stockholders of the corporation only for cause.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

ARTICLE IV - COMMITTEES

4.1 COMMITTEES OF DIRECTORS

The board of directors may, by resolution passed by a majority of the authorized number of directors, designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board of directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors or in these bylaws, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaw of the corporation.

4.2 COMMITTEE MINUTES

Each committee shall keep regular minutes of its meetings and report the same to the board of directors when required.

4.3 MEETINGS AND ACTION OF COMMITTEES

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of:

(i) Section 3.5 (place of meetings and meetings by telephone);

(ii) Section 3.6 (regular meetings);

(iii) Section 3.7 (special meetings and notice);

(iv) Section 3.8 (quorum; voting);

(v) Section 7.5 (waiver of notice); and

(vi) Section 3.9 (action without a meeting)

with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members. *However*:

(i) the time of regular meetings of committees may be determined either by resolution of the board of directors or by resolution of the committee;

(ii) special meetings of committees may also be called by resolution of the board of directors; and

(iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of incorporation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of incorporation or these bylaws.

4.4 SUBCOMMITTEES

Unless otherwise provided in the certificate of incorporation, these bylaws or the resolutions of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

ARTICLE V - OFFICERS

5.1 OFFICERS

The officers of the corporation shall be a president and a secretary. The corporation may also have, at the discretion of the board of directors, a chairperson of the board of directors, a vice chairperson of the board of directors, a chief executive officer, a chief financial officer or treasurer, one or more vice presidents, one or more assistant vice presidents, one or more assistant treasurers, one or more assistant secretaries, and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

5.2 APPOINTMENT OF OFFICERS

The board of directors shall appoint the officers of the corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 of these bylaws, subject to the rights, if any, of an officer under any contract of employment.

5.3 SUBORDINATE OFFICERS

The board of directors may appoint, or empower the chief executive officer or, in the absence of a chief executive officer, the president, to appoint, such other officers and agents as the business of the corporation may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine.

5.4 REMOVAL AND RESIGNATION OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the board of directors at any regular or special meeting of the board of directors or, except in the case of an officer chosen by the board of directors, by any officer upon whom such power of removal may be conferred by the board of directors.

Any officer may resign at any time by giving written or electronic notice to the corporation; *provided, however,* that if such notice is given by electronic transmission, such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the officer. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5 VACANCIES IN OFFICES

Any vacancy occurring in any office of the corporation shall be filled by the board of directors or as provided in Section 5.3.

5.6 REPRESENTATION OF SHARES OF OTHER CORPORATIONS

The chairperson of the board of directors, the president, any vice president, the treasurer, the secretary or assistant secretary of this corporation, or any other person authorized by the board of directors or the president or a vice president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

5.7 AUTHORITY AND DUTIES OF OFFICERS

All officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the board of directors or the stockholders and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the board of directors.

ARTICLE VI - STOCK

6.1 STOCK CERTIFICATES; PARTLY PAID SHARES

The shares of the corporation shall be represented by certificates, provided that the board of directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the corporation by the chairperson of the board of directors or vice-chairperson of the board of directors, or the president or a vice-president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of the corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The corporation shall not have power to issue a certificate in bearer form.

The corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly-paid shares, or upon the books and records of the corporation in the case of uncertificated partly-paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully-paid shares, the corporation shall declare a dividend upon partly-paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

6.2 SPECIAL DESIGNATION ON CERTIFICATES

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; *provided, however,* that, except as otherwise provided in Section 202 of the DGCL, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this section 6.2 or Sections 156, 202(a) or 218(a) of the DGCL or with respect to this section 6.2 a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3 LOST CERTIFICATES

Except as provided in this Section 6.3, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and cancelled at the same time. The corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

6.4 DIVIDENDS

The board of directors, subject to any restrictions contained in the certificate of incorporation or applicable law, may declare and pay dividends upon the shares of the corporation's capital stock. Dividends may be paid in cash, in property, or in shares of the corporation's capital stock, subject to the provisions of the certificate of incorporation.

The board of directors may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the corporation, and meeting contingencies.

6.5 TRANSFER OF STOCK

Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer; *provided, however,* that such succession, assignment or authority to transfer is not prohibited by the certificate of incorporation, these bylaws, applicable law or contract.

6.6 STOCK TRANSFER AGREEMENTS

The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the DGCL.

6.7 REGISTERED STOCKHOLDERS

The corporation:

(i) shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner;

(ii) shall be entitled to hold liable for calls and assessments the person registered on its books as the owner of shares; and

(iii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE VII - MANNER OF GIVING NOTICE AND WAIVER

7.1 NOTICE OF STOCKHOLDERS' MEETINGS

Notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the corporation's records. An affidavit of the secretary or an assistant secretary of the corporation or of the transfer agent or other agent of the corporation that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

7.2 NOTICE BY ELECTRONIC TRANSMISSION

Without limiting the manner by which notice otherwise may be given effectively to stockholders pursuant to the DGCL, the certificate of incorporation or these bylaws, any notice to stockholders given by the corporation under any provision of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if:

(i) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and

(ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice.

However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Any notice given pursuant to the preceding paragraph shall be deemed given:

(iii) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

(iv) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(v) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and

(vi) if by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

An "**electronic transmission**" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

7.3 NOTICE TO STOCKHOLDERS SHARING AN ADDRESS

Except as otherwise prohibited under the DGCL, without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under the provisions of the DGCL, the certificate of incorporation or these bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any stockholder who fails to object in writing to the corporation, within 60 days of having been given written notice by the corporation of its intention to send the single notice, shall be deemed to have consented to receiving such single written notice.

7.4 NOTICE TO PERSON WITH WHOM COMMUNICATION IS UNLAWFUL

Whenever notice is required to be given, under the DGCL, the certificate of incorporation or these bylaws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under the DGCL, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

7.5 WAIVER OF NOTICE

Whenever notice is required to be given to stockholders, directors or other persons under any provision of the DGCL, the certificate of incorporation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders or board of directors, as the case may be, need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of incorporation or these bylaws.

ARTICLE VIII - INDEMNIFICATION

8.1 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN THIRD PARTY PROCEEDINGS

Subject to the other provisions of this Article VIII, the corporation shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**") (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director or officer of the corporation, or is or was a director or officer of the corporation serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

8.2 INDEMNIFICATION OF DIRECTORS AND OFFICERS IN ACTIONS BY OR IN THE RIGHT OF THE CORPORATION

Subject to the other provisions of this Article VIII, the corporation shall indemnify, to the fullest extent permitted by the DGCL, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the corporation, or is or was a director or officer of the corporation serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

8.3 SUCCESSFUL DEFENSE

To the extent that a present or former director or officer of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described in Section 8.1 or Section 8.2, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

8.4 INDEMNIFICATION OF OTHERS

Subject to the other provisions of this Article VIII, the corporation shall have power to indemnify its employees and agents to the extent not prohibited by the DGCL or other applicable law. The board of directors shall have the power to delegate to such person or persons the determination of whether employees or agents shall be indemnified.

8.5 ADVANCED PAYMENT OF EXPENSES

Expenses (including attorneys' fees) incurred by an officer or director of the corporation in defending any Proceeding shall be paid by the corporation in advance of the final disposition of such Proceeding upon receipt of a written request therefor (together with documentation reasonably evidencing such expenses) and an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this Article VIII or the DGCL. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents of the corporation or by persons serving at the request of the corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the corporation deems appropriate and shall be subject to the corporation's expense guidelines. The right to advancement of expenses shall not apply to any claim for which indemnity is excluded pursuant to these bylaws, but shall apply to any Proceeding referenced in Section 8.6(ii) or 8.6(iii) prior to a determination that the person is not entitled to be indemnified by the corporation.

Notwithstanding the foregoing, unless otherwise determined pursuant to Section 8.8, no advance shall be made by the corporation to an officer of the corporation (except by reason of the fact that such officer is or was a director of the corporation, in which event this paragraph shall not apply) in any Proceeding if a determination is reasonably and promptly made (i) by a majority vote of the directors who are not parties to such Proceeding, even though less than a quorum, or (ii) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, that facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the corporation.

8.6 LIMITATION ON INDEMNIFICATION

Subject to the requirements in Section 8.3 and the DGCL, the corporation shall not be obligated to indemnify any person pursuant to this Article VIII in connection with any Proceeding (or any part of any Proceeding):

(i) for which payment has actually been made to or on behalf of such person under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;

(ii) for an accounting or disgorgement of profits pursuant to Section 16(b) of the 1934 Act, or similar provisions of federal, state or local statutory law or common law, if such person is held liable therefor (including pursuant to any settlement arrangements);

(iii) for any reimbursement of the corporation by such person of any bonus or other incentive-based or equity-based compensation or of any profits realized by such person from the sale of securities of the corporation, as required in each case under the 1934 Act (including any such reimbursements that arise from an accounting restatement of the corporation pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "**Sarbanes-Oxley Act**"), or the payment to the corporation of profits arising from the purchase and sale by such person of securities in violation of Section 306 of the Sarbanes-Oxley Act), if such person is held liable therefor (including pursuant to any settlement arrangements);

(iv) initiated by such person, including any Proceeding (or any part of any Proceeding) initiated by such person against the corporation or its directors, officers, employees, agents or other indemnitees, unless (a) the board of directors authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (b) the corporation provides the indemnification, in its sole discretion, pursuant to the powers vested in the corporation under applicable law, (c) otherwise required to be made under Section 8.7 or (d) otherwise required by applicable law; or

(v) if prohibited by applicable law.

8.7 DETERMINATION; CLAIM

If a claim for indemnification or advancement of expenses under this Article VIII is not paid in full within 90 days after receipt by the corporation of the written request therefor, the claimant shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of expenses. The corporation shall indemnify such person against any and all expenses that are incurred by such person in connection with any action for indemnification or advancement of expenses from the corporation under this Article VIII, to the extent such person is successful in such action, and to the extent not prohibited by law. In any such suit, the corporation shall, to the fullest extent not prohibited by law, have the burden of proving that the claimant is not entitled to the requested indemnification or advancement of expenses.

8.8 NON-EXCLUSIVITY OF RIGHTS

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of incorporation or any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person’s official capacity and as to action in another capacity while holding such office. The corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the DGCL or other applicable law.

8.9 INSURANCE

The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of the DGCL.

8.10 SURVIVAL

The rights to indemnification and advancement of expenses conferred by this Article VIII shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

8.11 EFFECT OF REPEAL OR MODIFICATION

A right to indemnification or to advancement of expenses arising under a provision of the certificate of incorporation or a bylaw shall not be eliminated or impaired by an amendment to the certificate of incorporation or these bylaws after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

8.12 CERTAIN DEFINITIONS

For purposes of this Article VIII, references to the "**corporation**" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article VIII with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article VIII, references to "**other enterprises**" shall include employee benefit plans; references to "**fines**" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "**serving at the request of the corporation**" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "**not opposed to the best interests of the corporation**" as referred to in this Article VIII.

ARTICLE IX - GENERAL MATTERS

9.1 EXECUTION OF CORPORATE CONTRACTS AND INSTRUMENTS

Except as otherwise provided by law, the certificate of incorporation or these bylaws, the board of directors may authorize any officer or officers, or agent or agents, to enter into any contract or execute any document or instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

9.2 FISCAL YEAR

The fiscal year of the corporation shall be fixed by resolution of the board of directors and may be changed by the board of directors.

9.3 SEAL

The corporation may adopt a corporate seal, which shall be adopted and which may be altered by the board of directors. The corporation may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

9.4 CONSTRUCTION; DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the DGCL shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "**person**" includes both an entity and a natural person.

ARTICLE X - AMENDMENTS

These bylaws may be adopted, amended or repealed by the stockholders entitled to vote. However, the corporation may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

A bylaw amendment adopted by stockholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the board of directors.

UPLAND SOFTWARE, INC.

CERTIFICATE OF AMENDMENT OF BYLAWS

The undersigned hereby certifies that he or she is the duly elected, qualified, and acting Secretary or Assistant Secretary of Upland Software, Inc., a Delaware corporation and that the foregoing bylaws, comprising 23 pages (excluding the table of contents), were amended and restated on October 9, 2014 by the corporation's board of directors.

IN WITNESS WHEREOF, the undersigned has hereunto set his or her hand this 15th day of October, 2014.

/s/ Robert V. Housley
Robert V. Housley, Secretary

UPLAND SOFTWARE, INC.

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement (the "Agreement") is entered into as of March 22, 2017 (the "Effective Date") by and between Upland Software, Inc., a Delaware corporation (the "Company"), and Michael D. Hill ("Executive").

RECITALS

WHEREAS, the Company and Executive desire to memorialize the terms of employment of Executive as of the Effective Date.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants herein and for other good and valuable consideration, the parties agree as follows:

1. *Duties and Scope of Employment.*

(a) *Positions and Duties*. As of the Effective Date, Executive will continue to serve as Chief Financial Officer of the Company. The period of Executive's employment under this Agreement is referred to herein as the "Employment Term." During the Employment Term, Executive will render such business and professional services in the performance of Executive's duties as are customarily associated with Executive's positions within the Company and Executive agrees to perform such other duties and functions as shall from time to time be reasonably assigned or delegated to Executive by the Board of Directors (the "Board").

(b) *Obligations*. During the Employment Term, Executive will perform Executive's duties faithfully and to the best of Executive's ability and will devote Executive's full business efforts and time to the Company. During the Employment Term, Executive agrees to devote substantially all of his business time to the Company and shall not engage in any other material employment, occupation or consulting activity with material remuneration without the prior written consent of the Board.

2. *At-Will Employment*. Executive and the Company agree and acknowledge Executive's employment with the Company constitutes "at-will" employment. Executive and the Company further agree and acknowledge that this employment relationship (and the Employment Term) may be terminated at any time, with or without cause or good reason, at the option of either Executive or the Company. Executive understands and agrees that neither Executive's job performance nor promotions, commendations, bonuses or the like from the Company give rise to or in any way serve as the basis for modification, amendment, or extension, by implication or otherwise, of Executive's employment with the Company.

3. *Compensation*.

(a) *Base Salary*. During the Employment Term, the Company will pay Executive as compensation for Executive's services a base salary at the annualized rate of $270,000 (the "Base

Salary”). The Base Salary will be paid in regular installments in accordance with the Company’s normal payroll practices (subject to required withholding). During the Employment Term, Executive’s compensation shall be reviewed by the Board from time to time and at least once every 12 months. Any increase or decrease in Base Salary (together with the then existing Base Salary) shall serve as the “Base Salary” under this Agreement. The first and last payment will be adjusted, if necessary, to reflect a commencement or termination date other than the first or last working day of a pay period.

(b) *Target Bonus*. During the Employment Term, Executive will be eligible to receive an annual bonus of up to 100% of Executive’s Base Salary, less applicable withholdings, upon achievement of performance objectives to be determined by the Board in its sole discretion, which shall be based upon, among other things, achievement of revenue, acquisition and EBITDA targets (the “Target Bonus”). Any Bonus will be earned only if the Company achieves the annual performance objectives during the designated time period and Executive is continuously employed by the Company on the date that such performance objectives are achieved. The Company shall pay such Bonus at the same time as bonuses are normally paid to senior management, unless the Board approves an exception for payment of a particular bonus on a case by case basis, but in any event, any earned Bonus shall be paid no later than two months and 15 days after the end of the Company’s taxable year in which such Bonus was earned.

(c) *Equity*. Executive shall be entitled to receive annual equity grants of stock as determined appropriate by a duly-appointed committee of the Company’s board of directors.

4. *Employee Benefits*. During the Employment Term, Executive will be entitled to participate in the employee benefit plans currently and hereafter maintained by the Company of general applicability to other senior executives of the Company. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.

5. *Vacation*. Executive will be entitled to paid vacation generally applicable to the senior executives of the Company, in accordance with the Company’s vacation policy.

6. *Business Expenses*. During the Employment Term, the Company will reimburse Executive for reasonable travel, entertainment and other expenses incurred by Executive in the furtherance of or in connection with the performance of Executive’s duties hereunder, in accordance with the Company’s expense reimbursement policy as in effect from time to time (the “Expense Reimbursement”).

7. *Severance***.**

(a) *For Cause Termination by the Company; Voluntary Termination without Good Reason by Executive*. If the Company terminates Executive’s employment for Cause or if Executive terminates Executive’s employment voluntarily without Good Reason, then Executive will (i) receive the earned but unpaid compensation and earned but unpaid Bonus through the date of termination, (ii) any accrued but unpaid vacation pay for the fiscal year during which the termination occurs and Expense Reimbursement and (iii) not receive any other compensation or benefits from the Company except as may be required by law or in accordance with established Company plans and policies; *provided, however,* nothing herein shall be deemed to alter or affect Executive’s vested rights in any pension, 401(k) or other benefit plan with the Company, if any.

(b) *Termination Without Cause by the Company; Termination For Good Reason by Executive*. If the Company terminates Executive's employment without Cause or if Executive terminates Executive's employment for Good Reason, then Executive shall be entitled to receive (i) any earned but unpaid compensation, earned but unpaid Bonus, and accrued but unpaid vacation pay and any Expense Reimbursement, (ii) severance in the form of continuation of Executive's Base Salary in effect on the effective date of termination for a period of twelve (12) months after the date of such termination to be paid periodically in accordance with the Company's normal payroll practices, and (iii) reimbursement of any health care benefit continuation premiums for a period of twelve (12) months after the date of such termination, provided Executive timely elects continuation of coverage under COBRA or applicable state law; *provided, further*, that such COBRA premium reimbursements set forth in clause (iii) shall terminate upon commencement of new employment by an employer that offers health care coverage to its employees and Executive shall be required to notify the Company of such other employment prior to the effective date thereof. . Notwithstanding the foregoing, upon Executive's material breach of this Agreement or the Proprietary Information Agreement (as defined in Section 11), the Company shall no longer be obligated to pay any amounts set forth in clauses (ii) and (iii), and Executive shall not be entitled to receive any further monthly installments of the severance payments set forth in clauses (ii) and (iii).

(c) *Section 409A*.

(i) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and the final regulations and any guidance promulgated thereunder ("Section 409A") at the time of Executive's termination (other than due to death), and the severance payable to Executive, if any, pursuant to this Agreement, when considered together with any other severance payments or separation benefits that are considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") that are payable within the first six (6) months following Executive's termination of employment, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent Deferred Compensation Separation Benefits, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under this Agreement is intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(ii) Any amount paid under the Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Compensation Separation Benefits for purposes of Section 7(c)(i) above.

(iii) Any amount paid under the Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the

Treasury Regulations that does not exceed the Section 409A Limit shall not constitute Deferred Compensation Separation Benefits for purposes of Section 7(c)(i) above. For purposes of this Section 7(c), "Section 409A Limit" will mean the lesser of two (2) times: (A) Executive's annualized compensation based upon the annual rate of pay paid to Executive during the Company's taxable year preceding the Company's taxable year of Executive's termination of employment as determined under Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (B) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Executive's employment is terminated.

8. *Death or Disability*. The Employment Term and Executive's employment shall terminate upon Executive's death or Disability. Upon termination of Executive's employment for either death or Disability, Executive or Executive's estate, as the case may be, shall be entitled to receive any earned but unpaid compensation, earned but unpaid Bonus, and accrued but unpaid vacation pay and any Expense Reimbursement. Further, any equity grants which are unvested at the time of the termination of the Executive's employment due to death or Disability shall automatically accelerate and become fully vested effective upon the date of such termination. Upon termination of Executive's employment due to death or Disability pursuant to this Section 8, Executive or Executive's estate, as the case may be, shall have no further rights to any compensation or any other benefits under this Agreement except as explicitly provided herein. All other benefits, if any, due Executive following Executive's termination for death or Disability shall be determined in accordance with established Company plans and practices.

9. *Limitation on Payments*. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code and (ii) but for this Section 9, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive's severance and other benefits will be either: (i) delivered in full, or (ii) delivered as to such lesser extent which would result in no portion of such severance and other benefits being subject to excise tax under Section 4999 of the Code, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of severance and other benefits, notwithstanding that all or some portion of such severance and other benefits may be taxable under Section 4999 of the Code. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 9 will be made in writing by the Company's independent public accountants immediately prior to a Change of Control (the "Accountants"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 9, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section 9. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section 9. In the event the Accountants determine that this Section 9 requires a reduction in Executive's severance or other benefits, the reduction will occur in the following order: reduction of cash payments; reduction of employee benefits; cancellation of accelerated vesting of equity awards; cancellation of equity awards that are considered to be contingent upon the Change of Control transaction. If Executive fails to make an appropriate reduction election within the reasonable

time period determined by the Board, in its sole discretion, the order of reduction shall be determined by the Board.

10. *Definitions*.

(a) *Change of Control*. For purposes of this Agreement, "Change of Control" means (X) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any merger, consolidation or other form of reorganization in which outstanding shares of the Company are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring entity or its subsidiary, but excluding any transaction effected primarily for the purpose of changing the Company's jurisdiction of incorporation), *unless* the Company's stockholders of record as constituted immediately prior to such transaction or series of related transactions will, immediately after such transaction or series of related transactions hold at least a majority of the voting power of the surviving or acquiring entity or (Y) a sale of all or substantially all of the assets of the Company.

(b) *Cause*. For purposes of this Agreement, "Cause" means (i) Executive's willful failure to perform the duties and obligations of Executive's position with the Company; (ii) any material act of personal dishonesty, fraud or misrepresentation taken by Executive which was intended to result in substantial gain or personal enrichment of Executive at the expense of the Company; (iii) Executive's violation of a federal or state law or regulation applicable to the Company's business which violation was or is reasonably likely to be materially injurious to the Company; (iv) Executive's conviction of, or plea of nolo contendere or guilty to, a felony under the laws of the United States or any State, excluding felonies for minor traffic violation and vicarious liability (so long as Executive did not know of the felony and did not willfully violate the law); or (v) Executive's material breach of the terms of this Agreement or the Proprietary Information Agreement (as defined in Section 11).

(c) *Good Reason*. For purposes of this Agreement, "Good Reason" means, (i) without Executive's consent, a material reduction of Executive's duties or responsibilities relative to Executive's duties or responsibilities as in effect immediately prior to such reduction; provided, however, any reduction in Executive's duties or responsibilities resulting solely from the Company being acquired by and made a part of a larger entity (as, for example, when a chief executive officer becomes an employee of the acquiring corporation following a Change of Control but is not the chief executive officer of the acquiring corporation) shall not constitute Good Reason; (ii) without Executive's written consent, a material reduction in the Base Salary of Executive as in effect immediately prior to such reduction, unless such reduction is part of a reduction in expenses generally affecting senior executives of the Company; (iii) without Executive's consent, a material reduction by the Company in the kind or level of employee benefits to which Executive was entitled immediately prior to such reduction, with the result that Executive's overall benefits package is materially reduced, unless such reduction is part of a reduction in benefits generally affecting senior executives of the Company or (iv) without Executive's consent, his relocation to a facility or a location more than twenty-five (25) miles from his present working locations (currently Austin, Texas). Good Reason shall not exist unless Executive provides (i) notice to the Company within ninety (90) days of the initial existence of the condition triggering Good Reason and (ii) the Company the opportunity of at least thirty (30) days to cure such condition.

(d) *Disability*. For purposes of this Agreement, "Disability" means Executive's inability to perform Executive's duties due to Executive's physical or mental incapacity, as reasonably determined by the Board or its designee, for an aggregate of 180 days in any 365 consecutive day period.

11. *Confidential Information*. Executive confirms Executive's obligations under the Employee Proprietary Information Agreement entered into by the Company and Executive on or about March 22, 2017 (the "Proprietary Information Agreement").

12. *Assignment*. This Agreement will be binding upon and inure to the benefit of (a) the heirs, executors and legal representatives of Executive upon Executive's death and (b) any successor of the Company. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company. None of the rights of Executive to receive any form of compensation payable pursuant to this Agreement may be assigned or transferred except by will or the laws of descent and distribution. None of the obligations of Executive under this Agreement may be assigned or transferred. Any other attempted assignment, transfer, conveyance or other disposition of Executive's right to compensation or other benefits will be null and void.

13. *Notices*. All notices, requests, demands and other communications called for under this Agreement shall be in writing and shall be delivered personally by hand or by courier, mailed by United States first-class mail, postage prepaid, or sent by facsimile directed to the party to be notified at the address or facsimile number indicated for such party on the signature page to this Agreement, or at such other address or facsimile number as such party may designate by ten (10) days' advance written notice to the other parties hereto. All such notices and other communications shall be deemed given upon personal delivery, three (3) days after the date of mailing, or upon confirmation of facsimile transfer.

14. *Severability*. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement will continue in full force and effect without said provision.

15. *Arbitration*.

(a) Executive agrees that any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration to be held in Austin, Texas in accordance with the National Rules for the Resolution of Employment Disputes then in effect of the American Arbitration Association (the "Rules"). The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator will be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) will apply Texas law to the merits of any dispute or claim, without reference to rules of conflicts of law. The arbitration proceedings will be governed by federal arbitration law and by the Rules, without reference to state arbitration law. Executive hereby consents to the personal jurisdiction of the state and federal courts located in Texas for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) EXECUTIVE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. EXECUTIVE UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, EXECUTIVE AGREES TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF EXECUTIVE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF THE EMPLOYER/EMPLOYEE RELATIONSHIP, INCLUDING BUT NOT LIMITED TO, DISCRIMINATION CLAIMS.

16. *Term*. The term of this Agreement shall commence on the Effective Date and continue until the earlier of (i) the third anniversary of the Effective Date, or (ii) or the end of the Employment Term. Notwithstanding the foregoing, Sections 2 and 7 – 21 of this Agreement shall survive any such termination or expiration.

17. *Integration*. This Agreement, together with any Restricted Stock Award or Option agreements outstanding on the Effective Date, the Proprietary Information Agreement, and the Indemnification Agreement between the Company and Executive, represents the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior or contemporaneous agreements whether written or oral. To the extent that any provision of the Proprietary Information Agreement conflicts with a provision of this Agreement, this Agreement shall control. No waiver, alteration or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto.

18. *No Waiver.* Other than expressly set forth herein, nothing in this Agreement constitutes or shall be deemed to constitute a waiver of, or otherwise reduce, affect or impair, any of the rights or remedies available to Executive under any applicable law or at equity, all of such rights or remedies being hereby expressly reserved.

19. *Tax Withholding*. All payments made pursuant to this Agreement will be subject to withholding of applicable taxes.

20. *Governing Law; Consent to Personal Jurisdiction*. THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD FOR CONFLICTS OF LAWS PRINCIPLES. SUBJECT TO THE ARBITRATION PROVISION IN SECTION 15, I HEREBY EXPRESSLY CONSENT TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN TEXAS FOR ANY LAWSUIT FILED THERE AGAINST ME BY THE COMPANY CONCERNING MY EMPLOYMENT OR THE TERMINATION OF MY EMPLOYMENT OR ARISING FROM OR RELATING TO THIS AGREEMENT.

21. *Acknowledgment*. Executive acknowledges that Executive has had the opportunity to discuss this matter with and obtain advice from Executive's private attorney, Executive has had sufficient time

to, and has carefully read and fully understands all the provisions of this Agreement, and is knowingly and voluntarily entering into this Agreement.

[*signature page follows*]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by their duly authorized officers, as of the day and year first above written.

"COMPANY"

Upland Software, Inc.

By: /s/ David May
Name: David May
Title: Director

"EXECUTIVE"

/s/ Michael D. Hill
Michael D. Hill

UPLAND SOFTWARE, INC.

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement (the "Agreement") is entered into as of March 22, 2017 (the "Effective Date") by and between Upland Software, Inc., a Delaware corporation (the "Company"), and Timothy Mattox ("Executive").

RECITALS

WHEREAS, the Company and Executive desire to memorialize the terms of employment of Executive as of the Effective Date.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants herein and for other good and valuable consideration, the parties agree as follows:

1. *Duties and Scope of Employment.*

(a) *Positions and Duties*. As of the Effective Date, Executive will continue to serve as President and Chief Operating Officer of the Company. The period of Executive's employment under this Agreement is referred to herein as the "Employment Term." During the Employment Term, Executive will render such business and professional services in the performance of Executive's duties as are customarily associated with Executive's positions within the Company and Executive agrees to perform such other duties and functions as shall from time to time be reasonably assigned or delegated to Executive by the Board of Directors (the "Board").

(b) *Obligations*. During the Employment Term, Executive will perform Executive's duties faithfully and to the best of Executive's ability and will devote Executive's full business efforts and time to the Company. During the Employment Term, Executive agrees to devote substantially all of his business time to the Company and shall not engage in any other material employment, occupation or consulting activity with material remuneration without the prior written consent of the Board.

2. *At-Will Employment*. Executive and the Company agree and acknowledge Executive's employment with the Company constitutes "at-will" employment. Executive and the Company further agree and acknowledge that this employment relationship (and the Employment Term) may be terminated at any time, with or without cause or good reason, at the option of either Executive or the Company. Executive understands and agrees that neither Executive's job performance nor promotions, commendations, bonuses or the like from the Company give rise to or in any way serve as the basis for modification, amendment, or extension, by implication or otherwise, of Executive's employment with the Company.

3. *Compensation*.

(a) *Base Salary*. During the Employment Term, the Company will pay Executive as compensation for Executive's services a base salary at the annualized rate of $325,000 (the "Base

Salary”). The Base Salary will be paid in regular installments in accordance with the Company’s normal payroll practices (subject to required withholding). During the Employment Term, Executive’s compensation shall be reviewed by the Board from time to time and at least once every 12 months. Any increase or decrease in Base Salary (together with the then existing Base Salary) shall serve as the “Base Salary” under this Agreement. The first and last payment will be adjusted, if necessary, to reflect a commencement or termination date other than the first or last working day of a pay period.

(b) *Target Bonus*. During the Employment Term, Executive will be eligible to receive an annual bonus of up to 100% of Executive’s Base Salary, less applicable withholdings, upon achievement of performance objectives to be determined by the Board in its sole discretion, which shall be based upon, among other things, achievement of revenue, acquisition and EBITDA targets (the “Target Bonus”). Any Bonus will be earned only if the Company achieves the annual performance objectives during the designated time period and Executive is continuously employed by the Company on the date that such performance objectives are achieved. The Company shall pay such Bonus at the same time as bonuses are normally paid to senior management, unless the Board approves an exception for payment of a particular bonus on a case by case basis, but in any event, any earned Bonus shall be paid no later than two months and 15 days after the end of the Company’s taxable year in which such Bonus was earned.

(c) *Equity*. Executive shall be entitled to receive annual equity grants of stock as determined appropriate by a duly-appointed committee of the Company’s board of directors.

4. *Employee Benefits*. During the Employment Term, Executive will be entitled to participate in the employee benefit plans currently and hereafter maintained by the Company of general applicability to other senior executives of the Company. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.

5. *Vacation*. Executive will be entitled to paid vacation generally applicable to the senior executives of the Company, in accordance with the Company’s vacation policy.

6. *Business Expenses*. During the Employment Term, the Company will reimburse Executive for reasonable travel, entertainment and other expenses incurred by Executive in the furtherance of or in connection with the performance of Executive’s duties hereunder, in accordance with the Company’s expense reimbursement policy as in effect from time to time (the “Expense Reimbursement”).

7. *Severance***.**

(a) *For Cause Termination by the Company; Voluntary Termination without Good Reason by Executive*. If the Company terminates Executive’s employment for Cause or if Executive terminates Executive’s employment voluntarily without Good Reason, then Executive will (i) receive the earned but unpaid compensation and earned but unpaid Bonus through the date of termination, (ii) any accrued but unpaid vacation pay for the fiscal year during which the termination occurs and Expense Reimbursement and (iii) not receive any other compensation or benefits from the Company except as may be required by law or in accordance with established Company plans and policies; *provided, however,* nothing herein shall be deemed to alter or affect Executive’s vested rights in any pension, 401(k) or other benefit plan with the Company, if any.

(b) *Termination Without Cause by the Company; Termination For Good Reason by Executive*. If the Company terminates Executive's employment without Cause or if Executive terminates Executive's employment for Good Reason, then Executive shall be entitled to receive (i) any earned but unpaid compensation, earned but unpaid Bonus, and accrued but unpaid vacation pay and any Expense Reimbursement, (ii) severance in the form of continuation of Executive's Base Salary in effect on the effective date of termination for a period of twelve (12) months after the date of such termination to be paid periodically in accordance with the Company's normal payroll practices, and (iii) reimbursement of any health care benefit continuation premiums for a period of twelve (12) months after the date of such termination, provided Executive timely elects continuation of coverage under COBRA or applicable state law; *provided, further*, that such COBRA premium reimbursements set forth in clause (iii) shall terminate upon commencement of new employment by an employer that offers health care coverage to its employees and Executive shall be required to notify the Company of such other employment prior to the effective date thereof. Notwithstanding the foregoing, upon Executive's material breach of this Agreement or the Proprietary Information Agreement (as defined in Section 11), the Company shall no longer be obligated to pay any amounts set forth in clauses (ii) and (iii), and Executive shall not be entitled to receive any further monthly installments of the severance payments set forth in clauses (ii) and (iii).

(c) *Section 409A*.

(i) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and the final regulations and any guidance promulgated thereunder ("Section 409A") at the time of Executive's termination (other than due to death), and the severance payable to Executive, if any, pursuant to this Agreement, when considered together with any other severance payments or separation benefits that are considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") that are payable within the first six (6) months following Executive's termination of employment, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent Deferred Compensation Separation Benefits, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under this Agreement is intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(ii) Any amount paid under the Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Compensation Separation Benefits for purposes of Section 7(c)(i) above.

(iii) Any amount paid under the Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the

Treasury Regulations that does not exceed the Section 409A Limit shall not constitute Deferred Compensation Separation Benefits for purposes of Section 7(c)(i) above. For purposes of this Section 7(c), "Section 409A Limit" will mean the lesser of two (2) times: (A) Executive's annualized compensation based upon the annual rate of pay paid to Executive during the Company's taxable year preceding the Company's taxable year of Executive's termination of employment as determined under Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (B) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Executive's employment is terminated.

8. *Death or Disability*. The Employment Term and Executive's employment shall terminate upon Executive's death or Disability. Upon termination of Executive's employment for either death or Disability, Executive or Executive's estate, as the case may be, shall be entitled to receive any earned but unpaid compensation, earned but unpaid Bonus, and accrued but unpaid vacation pay and any Expense Reimbursement. Further, any equity grants which are unvested at the time of the termination of the Executive's employment due to death or Disability shall automatically accelerate and become fully vested effective upon the date of such termination. Upon termination of Executive's employment due to death or Disability pursuant to this Section 8, Executive or Executive's estate, as the case may be, shall have no further rights to any compensation or any other benefits under this Agreement except as explicitly provided herein. All other benefits, if any, due Executive following Executive's termination for death or Disability shall be determined in accordance with established Company plans and practices.

9. *Limitation on Payments*. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code and (ii) but for this Section 9, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive's severance and other benefits will be either: (i) delivered in full, or (ii) delivered as to such lesser extent which would result in no portion of such severance and other benefits being subject to excise tax under Section 4999 of the Code, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of severance and other benefits, notwithstanding that all or some portion of such severance and other benefits may be taxable under Section 4999 of the Code. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 9 will be made in writing by the Company's independent public accountants immediately prior to a Change of Control (the "Accountants"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 9, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section 9. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section 9. In the event the Accountants determine that this Section 9 requires a reduction in Executive's severance or other benefits, the reduction will occur in the following order: reduction of cash payments; reduction of employee benefits; cancellation of accelerated vesting of equity awards; cancellation of equity awards that are considered to be contingent upon the Change of Control transaction. If Executive fails to make an appropriate reduction election within the reasonable

time period determined by the Board, in its sole discretion, the order of reduction shall be determined by the Board.

10. *Definitions*.

(a) *Change of Control*. For purposes of this Agreement, "Change of Control" means (X) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any merger, consolidation or other form of reorganization in which outstanding shares of the Company are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring entity or its subsidiary, but excluding any transaction effected primarily for the purpose of changing the Company's jurisdiction of incorporation), *unless* the Company's stockholders of record as constituted immediately prior to such transaction or series of related transactions will, immediately after such transaction or series of related transactions hold at least a majority of the voting power of the surviving or acquiring entity or (Y) a sale of all or substantially all of the assets of the Company.

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(c) *Good Reason*. For purposes of this Agreement, "Good Reason" means, (i) without Executive's consent, a material reduction of Executive's duties or responsibilities relative to Executive's duties or responsibilities as in effect immediately prior to such reduction; provided, however, any reduction in Executive's duties or responsibilities resulting solely from the Company being acquired by and made a part of a larger entity (as, for example, when a chief executive officer becomes an employee of the acquiring corporation following a Change of Control but is not the chief executive officer of the acquiring corporation) shall not constitute Good Reason; (ii) without Executive's written consent, a material reduction in the Base Salary of Executive as in effect immediately prior to such reduction, unless such reduction is part of a reduction in expenses generally affecting senior executives of the Company; (iii) without Executive's consent, a material reduction by the Company in the kind or level of employee benefits to which Executive was entitled immediately prior to such reduction, with the result that Executive's overall benefits package is materially reduced, unless such reduction is part of a reduction in benefits generally affecting senior executives of the Company or (iv) without Executive's consent, his relocation to a facility or a location more than twenty-five (25) miles from his present working locations (currently Austin, Texas). Good Reason shall not exist unless Executive provides (i) notice to the Company within ninety (90) days of the initial existence of the condition triggering Good Reason and (ii) the Company the opportunity of at least thirty (30) days to cure such condition.

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(b) The arbitrator(s) will apply Texas law to the merits of any dispute or claim, without reference to rules of conflicts of law. The arbitration proceedings will be governed by federal arbitration law and by the Rules, without reference to state arbitration law. Executive hereby consents to the personal jurisdiction of the state and federal courts located in Texas for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) EXECUTIVE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. EXECUTIVE UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, EXECUTIVE AGREES TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF EXECUTIVE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF THE EMPLOYER/EMPLOYEE RELATIONSHIP, INCLUDING BUT NOT LIMITED TO, DISCRIMINATION CLAIMS.

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to, and has carefully read and fully understands all the provisions of this Agreement, and is knowingly and voluntarily entering into this Agreement.

[*signature page follows*]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by their duly authorized officers, as of the day and year first above written.

"COMPANY"

Upland Software, Inc.

By: /s/ David May
Name: David May
Title: Director

"EXECUTIVE"

/s/ Timothy Mattox
Timothy Mattox

UPLAND SOFTWARE, INC.

EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement (the "Agreement") is entered into as of March 22, 2017 (the "Effective Date") by and between Upland Software, Inc., a Delaware corporation (the "Company"), and John T. McDonald ("Executive").

RECITALS

WHEREAS, the Company and Executive desire to memorialize the terms of employment of Executive as of the Effective Date.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants herein and for other good and valuable consideration, the parties agree as follows:

1. *Duties and Scope of Employment.*

(a) *Positions and Duties*. As of the Effective Date, Executive will continue to serve as Chief Executive Officer and/or Executive Chairman of the Company. The period of Executive's employment under this Agreement is referred to herein as the "Employment Term." During the Employment Term, Executive will render such business and professional services in the performance of Executive's duties as are customarily associated with Executive's positions within the Company and Executive agrees to perform such other duties and functions as shall from time to time be reasonably assigned or delegated to Executive by the Board of Directors (the "Board").

(b) *Obligations*. During the Employment Term, Executive will perform Executive's duties faithfully and to the best of Executive's ability and will devote Executive's full business efforts and time to the Company. During the Employment Term, Executive agrees to devote substantially all of his business time to the Company. Notwithstanding the foregoing, the Company and Executive acknowledge and agree that Executive shall be permitted to invest in and serve on the boards (or similar advisory role) of other companies or entities.

2. *At-Will Employment*. Executive and the Company agree and acknowledge Executive's employment with the Company constitutes "at-will" employment. Executive and the Company further agree and acknowledge that this employment relationship (and the Employment Term) may be terminated at any time, with or without cause or good reason, at the option of either Executive or the Company. Executive understands and agrees that neither Executive's job performance nor promotions, commendations, bonuses or the like from the Company give rise to or in any way serve as the basis for modification, amendment, or extension, by implication or otherwise, of Executive's employment with the Company.

3. *Compensation*.

(a) *Base Salary*. During the Employment Term, the Company will pay Executive as compensation for Executive's services a base salary at the annualized rate of $325,000 (the "Base Salary"). The Base Salary will be paid in regular installments in accordance with the Company's normal payroll practices (subject to required withholding). During the Employment Term, Executive's compensation shall be reviewed by the Board from time to time and at least once every 12 months. Any increase or decrease in Base Salary (together with the then existing Base Salary) shall serve as the "Base Salary" under this Agreement. The first and last payment will be adjusted, if necessary, to reflect a commencement or termination date other than the first or last working day of a pay period.

(b) *Target Bonus*. During the Employment Term, Executive will be eligible to receive an annual bonus of up to 100% of Executive's Base Salary, less applicable withholdings, upon achievement of performance objectives to be determined by the Board in its sole discretion, which shall be based upon, among other things, achievement of revenue, acquisition and EBITDA targets (the "Target Bonus"). Any Bonus will be earned only if the Company achieves the annual performance objectives during the designated time period and Executive is continuously employed by the Company on the date that such performance objectives are achieved. The Company shall pay such Bonus at the same time as bonuses are normally paid to senior management, unless the Board approves an exception for payment of a particular bonus on a case by case basis, but in any event, any earned Bonus shall be paid no later than two months and 15 days after the end of the Company's taxable year in which such Bonus was earned.

(c) *Equity*. Executive shall be entitled to receive annual equity grants of stock as determined appropriate by a duly-appointed committee of the Company's board of directors.

4. *Employee Benefits*. During the Employment Term, Executive will be entitled to participate in the employee benefit plans currently and hereafter maintained by the Company of general applicability to other senior executives of the Company. The Company reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.

5. *Vacation*. Executive will be entitled to paid vacation generally applicable to the senior executives of the Company, in accordance with the Company's vacation policy.

6. *Business Expenses*. During the Employment Term, the Company will reimburse Executive for reasonable travel, entertainment and other expenses incurred by Executive in the furtherance of or in connection with the performance of Executive's duties hereunder, in accordance with the Company's expense reimbursement policy as in effect from time to time (the "Expense Reimbursement").

7. *Severance*.

(a) *For Cause Termination by the Company; Voluntary Termination without Good Reason by Executive*. If the Company terminates Executive's employment for Cause or if Executive terminates Executive's employment voluntarily without Good Reason, then Executive will (i) receive the earned but unpaid compensation and earned but unpaid Bonus through the date of termination, (ii) any accrued but unpaid vacation pay for the fiscal year during which the termination occurs and Expense Reimbursement and (iii) not receive any other compensation or benefits from the Company except as may be required by law or in accordance with established Company plans and policies; *provided,* *however,* nothing herein shall be deemed to alter or affect Executive's vested rights in any pension, 401(k) or other benefit plan with the Company, if any.

(b) *Termination Without Cause by the Company; Termination For Good Reason by Executive* . If the Company terminates Executive's employment without Cause or if Executive terminates Executive's employment for Good Reason, then Executive shall be entitled to receive (i) any earned but unpaid compensation, earned but unpaid Bonus, and accrued but unpaid vacation pay and any Expense Reimbursement, (ii) severance in the form of continuation of Executive's Base Salary in effect on the effective date of termination for a period of twelve (12) months after the date of such termination to be paid periodically in accordance with the Company's normal payroll practices, and (iii) reimbursement of any health care benefit continuation premiums for a period of twelve (12) months after the date of such termination, provided Executive timely elects continuation of coverage under COBRA or applicable state law; *provided, further*, that such COBRA premium reimbursements set forth in clause (iii) shall terminate upon commencement of new employment by an employer that offers health care coverage to its employees and Executive shall be required to notify the Company of such other employment prior to the effective date thereof. Notwithstanding the foregoing, upon Executive's material breach of this Agreement or the Proprietary Information Agreement (as defined in Section 11), the Company shall no longer be obligated to pay any amounts set forth in clauses (ii) and (iii), and Executive shall not be entitled to receive any further monthly installments of the severance payments set forth in clauses (ii) and (iii).

(c) *Section 409A*.

(i) Notwithstanding anything to the contrary in this Agreement, if Executive is a "specified employee" within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and the final regulations and any guidance promulgated thereunder ("Section 409A") at the time of Executive's termination (other than due to death), and the severance payable to Executive, if any, pursuant to this Agreement, when considered together with any other severance payments or separation benefits that are considered deferred compensation under Section 409A (together, the "Deferred Compensation Separation Benefits") that are payable within the first six (6) months following Executive's termination of employment, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's termination of employment. All subsequent Deferred Compensation Separation Benefits, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following his termination but prior to the six (6) month anniversary of his termination, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Compensation Separation Benefits will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under this Agreement is intended to constitute separate payments for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(ii) Any amount paid under the Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Compensation Separation Benefits for purposes of Section 7(c)(i) above.

(iii) Any amount paid under the Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit shall not constitute Deferred Compensation Separation Benefits for purposes of Section 7(c)(i) above. For purposes of this Section 7(c), "Section 409A Limit" will mean the lesser of two (2) times: (A) Executive's annualized compensation based upon the annual rate of pay paid to Executive during the Company's taxable year preceding the Company's taxable year of Executive's termination of employment as determined under Treasury Regulation 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (B) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Executive's employment is terminated.

8. *Death or Disability*. The Employment Term and Executive's employment shall terminate upon Executive's death or Disability. Upon termination of Executive's employment for either death or Disability, Executive or Executive's estate, as the case may be, shall be entitled to receive any earned but unpaid compensation, earned but unpaid Bonus, and accrued but unpaid vacation pay and any Expense Reimbursement. Further, any equity grants which are unvested at the time of the termination of the Executive's employment due to death or Disability shall automatically accelerate and become fully vested effective upon the date of such termination. Upon termination of Executive's employment due to death or Disability pursuant to this Section 8, Executive or Executive's estate, as the case may be, shall have no further rights to any compensation or any other benefits under this Agreement except as explicitly provided herein. All other benefits, if any, due Executive following Executive's termination for death or Disability shall be determined in accordance with established Company plans and practices.

9. *Limitation on Payments*. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Executive (i) constitute "parachute payments" within the meaning of Section 280G of the Code and (ii) but for this Section 9, would be subject to the excise tax imposed by Section 4999 of the Code, then Executive's severance and other benefits will be either: (i) delivered in full, or (ii) delivered as to such lesser extent which would result in no portion of such severance and other benefits being subject to excise tax under Section 4999 of the Code, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the excise tax imposed by Section 4999, results in the receipt by Executive on an after-tax basis, of the greatest amount of severance and other benefits, notwithstanding that all or some portion of such severance and other benefits may be taxable under Section 4999 of the Code. Unless the Company and Executive otherwise agree in writing, any determination required under this Section 9 will be made in writing by the Company's independent public accountants immediately prior to a Change of Control (the "Accountants"), whose determination will be conclusive and binding upon Executive and the Company for all purposes. For purposes of making the calculations required by this Section 9, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section 9. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section 9. In the event the Accountants determine that this Section 9 requires a reduction in Executive's severance or other benefits, the reduction will occur in the following order: reduction of cash payments; reduction of employee benefits; cancellation of accelerated vesting

of equity awards; cancellation of equity awards that are considered to be contingent upon the Change of Control transaction. If Executive fails to make an appropriate reduction election within the reasonable time period determined by the Board, in its sole discretion, the order of reduction shall be determined by the Board.

10. *Definitions*.

(a) *Change of Control*. For purposes of this Agreement, "Change of Control" means (X) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any merger, consolidation or other form of reorganization in which outstanding shares of the Company are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring entity or its subsidiary, but excluding any transaction effected primarily for the purpose of changing the Company's jurisdiction of incorporation), *unless* the Company's stockholders of record as constituted immediately prior to such transaction or series of related transactions will, immediately after such transaction or series of related transactions hold at least a majority of the voting power of the surviving or acquiring entity or (Y) a sale of all or substantially all of the assets of the Company.

(b) *Cause*. For purposes of this Agreement, "Cause" means (i) Executive's willful failure to perform the duties and obligations of Executive's position with the Company; (ii) any material act of personal dishonesty, fraud or misrepresentation taken by Executive which was intended to result in substantial gain or personal enrichment of Executive at the expense of the Company; (iii) Executive's violation of a federal or state law or regulation applicable to the Company's business which violation was or is reasonably likely to be materially injurious to the Company; (iv) Executive's conviction of, or plea of nolo contendere or guilty to, a felony under the laws of the United States or any State, excluding felonies for minor traffic violation and vicarious liability (so long as Executive did not know of the felony and did not willfully violate the law); or (v) Executive's material breach of the terms of this Agreement or the Proprietary Information Agreement (as defined in Section 11).

(c) *Good Reason*. For purposes of this Agreement, "Good Reason" means, (i) without Executive's consent, a material reduction of Executive's duties or responsibilities relative to Executive's duties or responsibilities as in effect immediately prior to such reduction; provided, however, any reduction in Executive's duties or responsibilities resulting solely from the Company being acquired by and made a part of a larger entity (as, for example, when a chief executive officer becomes an employee of the acquiring corporation following a Change of Control but is not the chief executive officer of the acquiring corporation) shall not constitute Good Reason; (ii) without Executive's written consent, a material reduction in the Base Salary of Executive as in effect immediately prior to such reduction, unless such reduction is part of a reduction in expenses generally affecting senior executives of the Company; (iii) without Executive's consent, a material reduction by the Company in the kind or level of employee benefits to which Executive was entitled immediately prior to such reduction, with the result that Executive's overall benefits package is materially reduced, unless such reduction is part of a reduction in benefits generally affecting senior executives of the Company or (iv) without Executive's consent, his relocation to a facility or a location more than twenty-five (25) miles from his present working locations (currently Austin, Texas). Good Reason shall not exist unless Executive provides (i) notice to the Company within ninety (90) days of the initial existence of the condition triggering Good Reason and (ii) the Company the opportunity of at least thirty (30) days to cure such condition.

(d) *Disability*. For purposes of this Agreement, "Disability" means Executive's inability to perform Executive's duties due to Executive's physical or mental incapacity, as reasonably determined by the Board or its designee, for an aggregate of 180 days in any 365 consecutive day period.

11. *Confidential Information*. Executive confirms Executive's obligations under the Employee Proprietary Information Agreement entered into by the Company and Executive on or about March 22, 2017 (the "Proprietary Information Agreement").

12. *Assignment*. This Agreement will be binding upon and inure to the benefit of (a) the heirs, executors and legal representatives of Executive upon Executive's death and (b) any successor of the Company. Any such successor of the Company will be deemed substituted for the Company under the terms of this Agreement for all purposes. For this purpose, "successor" means any person, firm, corporation or other business entity which at any time, whether by purchase, merger or otherwise, directly or indirectly acquires all or substantially all of the assets or business of the Company. None of the rights of Executive to receive any form of compensation payable pursuant to this Agreement may be assigned or transferred except by will or the laws of descent and distribution. None of the obligations of Executive under this Agreement may be assigned or transferred. Any other attempted assignment, transfer, conveyance or other disposition of Executive's right to compensation or other benefits will be null and void.

13. *Notices*. All notices, requests, demands and other communications called for under this Agreement shall be in writing and shall be delivered personally by hand or by courier, mailed by United States first-class mail, postage prepaid, or sent by facsimile directed to the party to be notified at the address or facsimile number indicated for such party on the signature page to this Agreement, or at such other address or facsimile number as such party may designate by ten (10) days' advance written notice to the other parties hereto. All such notices and other communications shall be deemed given upon personal delivery, three (3) days after the date of mailing, or upon confirmation of facsimile transfer.

14. *Severability*. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement will continue in full force and effect without said provision.

15. *Arbitration*.

(a) Executive agrees that any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration to be held in Austin, Texas in accordance with the National Rules for the Resolution of Employment Disputes then in effect of the American Arbitration Association (the "Rules"). The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator will be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) will apply Texas law to the merits of any dispute or claim, without reference to rules of conflicts of law. The arbitration proceedings will be governed by federal arbitration law and by the Rules, without reference to state arbitration law. Executive hereby consents to the personal jurisdiction of the state and federal courts located in Texas for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) EXECUTIVE HAS READ AND UNDERSTANDS THIS SECTION, WHICH DISCUSSES ARBITRATION. EXECUTIVE UNDERSTANDS THAT BY SIGNING THIS AGREEMENT, EXECUTIVE AGREES TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF EXECUTIVE'S RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF THE EMPLOYER/EMPLOYEE RELATIONSHIP, INCLUDING BUT NOT LIMITED TO, DISCRIMINATION CLAIMS.

16. *Term*. The term of this Agreement shall commence on the Effective Date and continue until the earlier of (i) the third anniversary of the Effective Date, or (ii) or the end of the Employment Term. Notwithstanding the foregoing, Sections 2 and 7 – 21 of this Agreement shall survive any such termination or expiration.

17. *Integration*. This Agreement, together with any Restricted Stock Award or Option agreements outstanding on the Effective Date, the Proprietary Information Agreement, and the Indemnification Agreement between the Company and Executive, represents the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior or contemporaneous agreements whether written or oral. To the extent that any provision of the Proprietary Information Agreement conflicts with a provision of this Agreement, this Agreement shall control. No waiver, alteration or modification of any of the provisions of this Agreement will be binding unless in writing and signed by duly authorized representatives of the parties hereto.

18. *No Waiver.* Other than expressly set forth herein, nothing in this Agreement constitutes or shall be deemed to constitute a waiver of, or otherwise reduce, affect or impair, any of the rights or remedies available to Executive under any applicable law or at equity, all of such rights or remedies being hereby expressly reserved.

19. *Tax Withholding*. All payments made pursuant to this Agreement will be subject to withholding of applicable taxes.

20. *Governing Law; Consent to Personal Jurisdiction*. THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD FOR CONFLICTS OF LAWS PRINCIPLES. SUBJECT TO THE ARBITRATION PROVISION IN SECTION 15, I HEREBY EXPRESSLY CONSENT TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN TEXAS FOR ANY LAWSUIT FILED THERE AGAINST ME BY THE COMPANY CONCERNING MY EMPLOYMENT OR THE TERMINATION OF MY EMPLOYMENT OR ARISING FROM OR RELATING TO THIS AGREEMENT.

21. *Acknowledgment*. Executive acknowledges that Executive has had the opportunity to discuss this matter with and obtain advice from Executive's private attorney, Executive has had sufficient time to, and has carefully read and fully understands all the provisions of this Agreement, and is knowingly and voluntarily entering into this Agreement.

[*signature page follows*]

IN WITNESS WHEREOF, each of the parties has executed this Agreement, in the case of the Company by their duly authorized officers, as of the day and year first above written.

"COMPANY"

Upland Software, Inc.

By: /s/ David May
Name: David May
Title: Director

"EXECUTIVE"

/s/ John T. McDonald
John T. McDonald

SECOND AMENDED AND RESTATED TECHNOLOGY SERVICES AGREEMENT

Effective Date: January 1, 2017

This Second Amended and Restated Technology Services Agreement ("Agreement") is entered into by and between DevFactory FZ-LLC, 705-706 Al Thuraya Tower No. 01, Seventh Floor, Dubai Media City, P.O. Box 502092, Dubai, 43659 UNITED ARAB EMIRATES ("DevFactory") and Upland Software, Inc. (f.k.a. Silverback Enterprise Group, Inc., "Client"), with offices at 401 Congress Avenue, Suite 1850, Austin, Texas 78701, and sets forth the terms and conditions under which DevFactory will provide certain technology services to Client as may from time to time be mutually agreed upon by the parties.

1 Scope of Services

1.1 **Deliverables Based Work**. Unless otherwise provided on a Statement of Work, all Work to be performed hereunder shall be performed on a scoped deliverable basis and not on a time and material basis. The parties shall work in good faith to specify the applicable deliverables in the applicable SOW.

1.2 **Statements of Work**. DevFactory agrees to provide the technology services ("Services") described on separate, mutually executed statements of work (the "Statement(s) of Work" or SOW(s)") as may from time to time be issued hereunder. Each Statement of Work shall define the Services to be provided to Client, the applicable pricing, Deliverables to be created thereunder, Client deliverables and obligations, and all other appropriate terms and conditions. DevFactory will not begin any work unless a Statement of Work governing has been executed by both parties. DevFactory may immediately cease performing Services, without liability, if a Statement of Work expires and is not immediately extended or replaced with a valid Statement of Work.

1.3 **Change Control Process**. Change control for additional Services or scope to be delivered under a Statement of Work will be completed according to the following procedure prior to DevFactory starting any work.

(a) Specific changes may be proposed by Client's business team members.

(b) Proposed changes will be reviewed by DevFactory and a report of the scope, schedule, resource and budget impact ("Impact Report") will be prepared and delivered to Client management.

(c) Client management reviews the Impact Report and approves by signature or denies changes in scope, schedule, resources and/or budget.

(d) DevFactory receives the signed, approved Impact Report and creates. for Client's approval, an additional Statement of Work with a copy of the Impact Report attached.

(e) Client approves by signature such Statement of Work and delivers such Statement of Work to DevFactory for DevFactory's signature.

(f) DevFactory begins work on specific changes defined in the signed, approved Impact Report only upon the mutual execution of the new Statement of Work referenced above.

1.4 **Testing and Acceptance**. Following completion of any Deliverable (as defined below) to be provided to Client hereunder, Client may test the Deliverable to determine whether the Deliverable conforms to the specifications established for such Deliverable in the applicable SOW for a period not to exceed thirty (30) days after delivery to Client of the Deliverable (the "Acceptance Period"). Upon the expiration of the Acceptance Period, Client will either (i) certify to DevFactory that the Deliverable is accepted ("Acceptance"); or (ii) deliver to DevFactory a written description of any specific failure of the Deliverable to conform to the applicable specifications. In no such written response is provided, the Deliverable shall be deemed to be Accepted and complete. Further, if the Deliverable substantially conforms to the specifications but Client identifies certain minor non-conformities, Client shall Accept the Deliverable and the parties shall work in good faith to either correct such non- conformities or agree on appropriate Work Credits (as defined below) to compensate Client for such non-conformities. Upon proper notice of a failure of Acceptance, DevFactory will promptly undertake such corrections as are necessary for the Deliverable to conform to the specifications and DevFactory will notify Client when such corrections and modifications have been made. If

DevFactory has performed corrections to the Deliverable, Client will have thirty (30) days after delivery of such corrections to perform acceptance testing to determine whether the Deliverable conforms to the applicable specifications. If after a second attempt the Deliverable still does not conform to the applicable specifications, Client shall have the right to (1) allow continued attempts to correct the Deliverable, subject to this Section 1.4, or (2) terminate the applicable service obligation for the failed deliverable and receive a Work Credit (as defined below) to just that failed Deliverable. If DevFactory notifies Client that Client has failed to properly provide notice that a Deliverable has failed, if Client otherwise improperly fails to Accept a Deliverable, or if the parties disagree as to whether a Deliverable substantially conforms to the specifications, such dispute shall be resolved in accordance with Section 12.16. For clarity, any concerns by Client that a Deliverable does not meet Client's expectations, but otherwise complies with all applicable specifications, shall not be actionable under this provision, but, rather, shall constitute an additional service request.

1.5 **Order of Precedence**. Each Statement of Work shall be governed by the terms and conditions of this Agreement (including its schedules and attachments); however, in the event of any conflict between this Agreement and a Statement of Work the provisions of the Statement of Work shall prevail.

1.6 **Service Credits**. Client's sole remedy for any failure of Services or Deliverables submitted by DevFactory shall be (i) to obtain the repair, replacement, and correction of the defective services or deliverables by DevFactory in accordance with Section 1.4, or (ii) to obtain a credit equal to the amounts attributable to the defective Services or Deliverables with such credit to be utilized for a future Deliverable or Services (the "Work Credit"). Should a Work Credit be issued, it shall be applied to the purchase of additional work above and beyond work performed for the Minimum Fee (as defined in Schedule A) and shall not, except as provided below, reduce payments due or payable to DevFactory under the Agreement. The Minimum Fee shall be applied to all work performed before any Work Credits shall carry over to future years (the "Work Credit Balance"). If certain types of Services are consistently leading to the accumulation of Work Credits, Client and DevFactory shall work together in good faith to allocate Work Credits to the types of Services that can be successfully delivered by DevFactory, provided that client has a need for such Service (even if that need had been fulfilled by employees or other providers). If (a) Client has applied its Work Credits and Service requests to the recommended Services as described above and (b) the Work Credit balance exceeds 10% of the previous year's Minimum Fee, and (c) Dev Factory has not worked in good faith under this Agreement, then the current year's Minimum Fee shall be reduced by the difference between the Work Credit Balance and 10% of the previous year's Minimum Fee. The Work Credit Balance shall be reduced by the same amount.

2 Subcontractors

2.1 Client acknowledges that DevFactory shall subcontract Services to a third party ("Subcontractor"), subject to provisions contained under Section 5.4. DevFactory shall be responsible for the Subcontractor's compliance with this Agreement. Client understands that the Subcontractors shall be foreign nationals and may be located in a country other than the United States (but will not be located in Iran, Sudan, Syria, Iraq, Cuba or North Korea or any other country subject to embargo or other restrictions by the United States government). Either party warrants that any export of its Confidential Information, data or software, and its performance hereunder, will comply with all foreign and domestic federal, state and local laws and ordinances, including any and all import and export restrictions and all customs requirements.

3 Term

3.1 **Agreement Term**. This Agreement shall commence on the Effective Date and shall remain in force for an initial period of forty- eight (48) months and shall automatically renew for up to six successive one year periods thereafter at the election of either party as provided herein. If both parties have failed to indicate a desire to renew a term prior to the date that is thirty (30) days prior to the then current expiration date, each party shall provide written notice to the other seeking to confirm such other party's desire not to renew. Each party shall have thirty days to confirm its position on renewal or non renewal. The Agreement shall continue in effect through the confirmation process.

3.2 **Statement of Work Term** . Each Statement of Work shall remain in effect until it has expired on its own terms or the Services and Deliverables authorized thereunder are complete. The parties agree that they are contractually obligated to enter into Statements of Work pursuant to the structure set forth in Schedule A which is attached hereto and made a part hereof. As such, Schedule A sets forth the percentage of revenue of any and all entities and business lines acquired by Client that is payable to DevFactory throughout the term of the Agreement and likewise, DevFactory hereby agrees to provide the Deliverables as to all entities acquired by Client as per Schedule

A.

4 Price and Payment

4.1 **Service Fees**. In consideration of the Services provided by DevFactory, Client shall pay the Services Fees set forth in the applicable Statement of Work or as otherwise provided on Schedule A, subject to the payment provisions set forth in Schedule A. In the event a Statement of Work does not reference any specific pricing, such Services shall be provided at rates and charges in accordance with Section 4 of Schedule A.

4.2 **Expenses**. Client shall reimburse DevFactory for all reasonable travel, food, lodging and other out-of-pocket expenses incurred in performance of a given Statement of Work. DevFactory shall obtain Client’s prior written expense prior to incurring any single expense in excess of $500.

4.3 **Payment Due Date**. DevFactory will submit invoices for charges and expenses hereunder monthly. Client shall make payment of each invoice in US dollars within thirty (30) days from the invoice date. Notwithstanding any provision to the contrary, any and all payments required to be made hereunder shall be timely made, and no payments to DevFactory shall be withheld, delayed, reduced or refunded if DevFactory has fully performed its material obligations and its inability to meet any schedule or delivery requirements is caused by Client’s failure to provide certain of its facilities, computer resources, software programs, project management activities, personnel, and business information as are required to perform any work.

4.4 **Purchase Orders**. Client agrees to provide DevFactory with a valid purchase order, if applicable, promptly upon execution of a Statement of Work. Notwithstanding anything to the contrary herein, purchase orders are to be used solely for Client’s accounting purposes and any terms and conditions contained therein shall be deemed null and void with respect to the parties’ relationship and this Agreement. Client’s failure to issue a purchase order or provide such purchase order to DevFactory, however, shall in no way relieve Client of any obligation entered into pursuant to this Agreement or any Statement of Work entered into hereunder, including, but not limited to, its obligation to pay DevFactory in a timely fashion.

4.5 **Late Payment**. Any late payment shall be subject to any costs of collection (including reasonable legal fees) and shall bear interest at the rate of one and one-half percent (1.5%) per month (prorated for partial periods) or at the maximum rate permitted by law, whichever is less. In addition to other rights and remedies available to DevFactory hereunder and under the law, DevFactory shall have the right to withdraw all consulting staff as well as all unfinished Services or Deliverables performed under a Statement of Work in the event of Client’s failure to pay any undisputed (a dispute as to invoice may only be commenced on the basis of proper form or amount for such invoice) open invoice within thirty (30) days following the due date. The Services will not be re-staffed until: (i) all amounts due to DevFactory have been paid in full; (ii) any and all contractual terms and/or deadlines that have been affected by the delay have been revised and agreed upon by the parties; and (iii) DevFactory resources have become available for redeployment on Client’s project.

4.6 **Taxes**. The charges required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Client shall reimburse DevFactory and hold DevFactory harmless for all sales, use, VAT, excise, property, or other taxes or levies which DevFactory is required to collect or remit to applicable tax authorities. This provision does not apply to DevFactory’s income or franchise taxes, or any taxes for which Client is exempt, provided Client has furnished DevFactory with a valid tax exemption certificate.

4.7 **Invoice Dispute Resolution**. Without limiting any rights or obligations under the Agreement, including Section 4.5 above, the following steps will be taken if an invoice becomes past due. DevFactory’s accounts receivable and Client’s accounts payable representatives shall use all reasonable efforts to facilitate immediate payment of the invoice. In the event DevFactory does not receive a commitment for prompt payment, each party shall escalate the matter to DevFactory’s Primary Contact for the Services in question, as designated in the Statement of Work, or DevFactory’s designated financial officer and Client’s Chief Executive Officer (the “Final Escalation”) for investigation and resolution. Notwithstanding anything to the contrary, the initial contact with Client’s vice president pursuant to such Final Escalation shall constitute “notice of default” pursuant to Section 9.1.1.

5 Confidential/Proprietary Information

5.1 **Definition**. All information which is defined as Confidential Information hereunder in tangible form shall be marked as “Confidential” or the like or, if intangible (e.g. visually or orally disclosed), shall be designated as being confidential at the time of disclosure and shall be confirmed as such in writing within thirty (30) days of the initial disclosure. “Confidential Information” may include all technical, product, business, financial, and other information regarding the business and software programs of either party, its customers, employees, investors, contractors, vendors and suppliers, including but not limited to programming techniques and methods, research and development, computer programs, documentation, marketing plans, customer identity, and business methods. Without limiting the generality of the foregoing and notwithstanding any marking requirement, Confidential Information shall include all information and materials disclosed orally or in any other form, regarding DevFactory’s software products or software product development and other information of or relating to DevFactory's software products or derived from testing or other use thereof. All such Confidential Information may be disclosed by either party, before or after the Effective Date. Confidential Information includes information generally not publicly known, whether tangible or intangible and in whatever form or medium provided, as well as any information generated by a party that contains, reflects, or is derived from such information. For the purpose of this entire Section 5, 'DevFactory' shall include all its Affiliates.

5.2 **Exceptions**. Without granting any right or license, the obligations of the parties hereunder shall not apply to any material or information that: (i) is or becomes a part of the public domain through no act or omission by the receiving party; (ii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; (iii) is rightfully obtained from a third party without any obligation of confidentiality to the receiving party; or (iv) is already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party. In addition, neither party shall be liable for disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of government, provided that notice is promptly given to the party whose Confidential Information is to be disclosed so that such party may seek a protective order and engage in other efforts to minimize the required disclosure. The parties shall cooperate fully in seeking such protective order and in engaging in such other efforts. Notwithstanding the foregoing, except for intellectual property owned by DevFactory prior to execution of the applicable SOW or developed separately by DevFactory for which fees were not paid to DevFactory hereunder ("DevFactory Pre- existing Technology"), Deliverables provided to Client hereunder are the Confidential Information of Client and shall not be subject to the exceptions set forth in this Section 5.2.

5.3 **Ownership of Confidential Information**. Nothing in this Agreement shall be construed to convey any title or ownership rights to the DevFactory Confidential Information or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right title, or ownership interest in the DevFactory Confidential Information to Client. Nothing in this Agreement shall be construed to convey any title or ownership rights to Client's Confidential Information or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right, title, or ownership interest in the Client's Confidential Information to DevFactory. Neither party shall disassemble, decompile, or reverse engineer the other party's Confidential Information or permit others to do so. Neither party shall, in whole or in part, sell, lease, license, assign, transfer, or disclose the Confidential Information to any third party and shall not copy, reproduce or distribute the Confidential Information except as expressly permitted in this Agreement. Each party shall take every reasonable precaution, but no less than those precautions used to protect its own Confidential Information, to prevent the theft, disclosure, and the unauthorized copying, reproduction or distribution of the Confidential Information.

5.4 **Non-Disclosure**. Each party agrees at all times to use all reasonable efforts, but in any case no less than the efforts that each party uses in the protection of its own Confidential Information (as hereinafter defined) of like value to protect Confidential Information belonging to the other party. Each party agrees to restrict access to the other party's Confidential Information only to those employees (or in DevFactory's case, its Subcontractors) who (i) require access in the course of their assigned duties and responsibilities, and (ii) have agreed in writing to be bound by provisions no less restrictive than those set forth in this Section 5.

5.5 **Injunctive Relief**. Each party acknowledges that any unauthorized disclosure or use of the Confidential Information would cause the other party imminent irreparable injury and that such party shall be entitled to, in addition to any other remedies available at law or in equity, temporary, preliminary, and permanent injunctive relief in the event the other party does not fulfill its obligations under this Section 5.

5.6 **Individual Agreements**. DevFactory shall require mutually agreed upon individuals providing services hereunder to sign any agreement reasonably requested by Client, including but not limited to access agreements, security agreements, facilities agreements or individual confidentiality agreements. Any portion of such agreements that are inconsistent with the terms and conditions of this Agreement shall be deemed to be null and void. All such agreement shall be approved by DevFactory prior to presenting such agreements to the individuals.

5.7 **Affiliates**. For the purpose of this entire Section 5 'DevFactory' shall include all its Affiliates.

5.8 **Return of Confidential Information**. Upon the written request of disclosing party or termination of this Agreement, receiving party shall return or destroy (and certify such destruction in a signed writing) all Confidential Information of disclosing party, including all copies thereof and materials incorporating such Confidential Information, whether in physical or electronic form. Each party may retain a copy of the other party's Confidential Information solely for archival purposes. To the extent that it is impracticable to return or destroy any Confidential Information, and with respect to any copies retained for archival purposes, receiving party shall continue to maintain the Confidential Information in accordance with this Agreement. The confidentiality obligations set forth in this Agreement shall survive the termination of this Agreement and remain in full force and effect until such Confidential Information, through no act or omission of receiving party, ceases to be Confidential Information as defined hereunder.

6 Client's Support

6.1 To the extent reasonably required by DevFactory, Client will make available to DevFactory certain of its programs, networks, personnel, and business information as are required to perform any Statement of Work hereunder. DevFactory agrees to comply with Client's network access rules and regulations regarding safety, security, and conduct provided DevFactory has been made aware of such rules and regulations.

7 Warranties

7.1 DevFactory warrants that it has the right to enter into this Agreement and grant the rights and licenses set forth herein, and that all Services performed under this Agreement shall be performed in a workmanlike and professional manner.

7.2 EXCEPT AS OTHERWISE STATED IN THIS AGREEMENT, ANY AND ALL SERVICES, DELIVERABLES, CUSTOMIZATIONS, DOCUMENTATION, CONFIDENTIAL INFORMATION AND ANY OTHER TECHNOLOGY OR

MATERIALS PROVIDED BY DEVFACTORY TO THE CLIENT ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT.

8 Limitation of Liability

8.1 IN NO EVENT SHALL EITHER PARTY, OR ITS SUBCONTRACTORS OR THIRD PARTY LICENSORS BE LIABLE ON ANY THEORY OF LIABILITY, WHETHER IN AN EQUITBALE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF CHARGES PAID OR PAYABLE BY CLIENT HEREUNDER FOR THE SERVICES AND/OR DELIVERABLES WHICH GAVE RISE TO SUCH DAMAGES (PROVIDED IN THE RESPECTIVE STATEMENT OF WORK) AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

8.2 IN NO EVENT SHALL EITHER PARTY OR ITS SUBCONTRACTORS OR THIRD PARTY LICENSORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES. OR GOOD WILL EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

8.3 The limitations of liability and exclusion of damages set forth in Sections 8.1 shall not apply to breach of Section 5 or to a party's indemnification obligations herein.

9 Termination

9.1 This Agreement, any license granted herein, and/or any Statement of Work may be terminated prior to expiration or completion in accordance with the following:

9.1.1 **By DevFactory** by giving prior written notice to Client if Client fails to perform any material obligation required of it hereunder, and such failure is not cured within thirty (30) days of Client's receipt of DevFactory's notice to cure such non-performance of material obligation.

9.1.2 **By Client** by giving prior written notice to DevFactory if DevFactory fails to perform any material obligation required of it hereunder, and such failure is not cured within thirty (30) days from DevFactory's receipt of Client's notice to cure such non-performance of material obligation.

9.2 **Effect of Termination**. Upon termination of this Agreement, Client's rights to any Deliverables not paid for, DevFactory Confidential Information, and other DevFactory materials (except for those DevFactory materials included in Deliverables owned by Client) (all collectively "Materials") shall cease. Client shall immediately stop using such Materials and shall return such Materials to DevFactory or destroy all copies thereof. In addition, Client shall provide DevFactory with written certification signed by an officer of Client that all copies of the Materials have been returned or destroyed and that no copies have been retained by Client for any purpose whatsoever. Following termination, any use of the Materials by Client shall be an infringement and/or misappropriation of DevFactory's proprietary rights in the Materials. Upon termination of this Agreement by Client, DevFactory shall have no further obligation or liability hereunder and all fees due under the Agreement shall become due and payable to DevFactory immediately upon such termination. Termination of this Agreement or any license created hereunder shall not limit either party from pursuing other remedies available to it, nor shall such termination relieve Client's obligation to pay all fees that have accrued or are otherwise owed by Client under this Agreement including, but not limited to, any License schedule, Statement of Work, or exhibit.

9 Ownership

10.1 **Ownership in Deliverables**. By signing this Agreement and subject to Client's full payment for Services provided and Deliverables created under an applicable Statement of Work, DevFactory acknowledges that, subject to the licenses granted herein, DevFactory has no ownership interest in the Deliverables, or Materials provided to Client. Client shall own all right, title, and interest in such Deliverables, or Materials, subject to any limitations associated with intellectual property rights of third

Materials, subject to any limitations associated with intellectual property rights of third parties, and DevFactory hereby assigns all right, title and interest in and to such Deliverables and Materials, including without limitation all accompanying worldwide intellectual property rights.

10.2 **Rights to Deliverables**. Client hereby grants to DevFactory, a perpetual, royalty free, internal, worldwide, nonexclusive, nontransferable license to the object code and source code versions of the Deliverables to use the code, techniques, strategies and know-how contained in the Deliverables for other projects and development, if and for so long as any Confidential Information of Client incorporated into such Deliverables, are not provided to, or included in any deliverable provided to, any third party. For clarity, provided that the Deliverables have been made generic. as described in the preceding provision, DevFactory shall have the perpetual, royalty free, worldwide, nonexclusive, nontransferable and irrevocable right and license to (i) modify and otherwise create derivative works based on the generic Deliverables, and (ii) reproduce, distribute, perform, display (publicly or otherwise), and otherwise use and exploit the generic Deliverables and derivative works thereof; but DevFactory may not use, license or distribute software programs as a whole, but may use, license and distribute, generic routines, algorithms, and other portions of the software programs.

10.3 **Ownership in the event of material breach**. Notwithstanding anything provision to the contrary herein (including sections 10.1 and 10.2 above), in the event that there is a termination of this Agreement, or any SOW, as a result of a material breach by Client of this Agreement and/or any such SOW, any and all rights, title and interest in any applicable Deliverables or Materials for which Client has not made full payment shall automatically revert to DevFactory and the Client shall have no ownership rights whatsoever therein. Promptly after notification from DevFactory, the Client shall undertake any and all reasonable actions to assert DevFactory's right, title and interest in such Deliverables and Materials. In the event of Deliverables or Materials for which partial payment has been made, the parties shall discuss in good faith whether a partial Deliverable or a refund shall be provided to Client.

10.4 **No Support of Deliverables**. DevFactory shall have no support and enhancement obligations related to any Deliverable except as otherwise mutually specified in a Statement of Work.

10.5 **Third Party Rights**. Client acknowledges that in the event DevFactory provides Services pertaining to any third party products required by Client (including software, hardware, equipment or any other material), all rights in such third party products ("Third Party Rights") are retained by the respective third party. Client shall be required to obtain any Third Party Rights from the respective third party directly and any rights in the DevFactory Services related to such Third Party Rights shall be subject to Client's agreement with the respective third party. If any such Third Party Rights are included in the Deliverables by DevFactory, or if DevFactory includes any DevFactory Pre-existing Technology, then DevFactory hereby grants to Client a worldwide, perpetual, irrevocable right and license to use, copy, market, promote and make derivative works of the foregoing, and to make, have made, sell, have sold, import and export products incorporating any of the foregoing. DevFactory shall consult with Client, and obtain Client's prior written consent, prior to including any Third Party Rights or DevFactory Pre-existing Technology in any Deliverables.

10.6 **Further Rights**. Nothing in this Agreement shall preclude DevFactory from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by DevFactory in the performance of Services hereunder.

10 Indemnification

11.1 **Infringement Indemnity**. DevFactory will defend any action brought against Client to the extent that it is based upon a claim that the Deliverables, as provided by DevFactory to Client under this Agreement and used within the scope of this Agreement, infringe any patent, trademark, trade secret, copyright or other intellectual property right of a third party, and will pay any costs, damages and reasonable attorneys' fees attributable to such claim incurred by Client, provided that Client: (a) promptly notifies DevFactory in writing of the claim; (b) grants DevFactory sole control of the defense and settlement of the claim; and (c) provides DevFactory with all reasonable assistance, information and authority required for the defense and settlement of the claim.

11.2 **Injunctions**. If Client's use of any of the Deliverables hereunder is, or in DevFactory's opinion is likely to be, enjoined due to the type of infringement specified in Section 11.1 above, DevFactory may, at its sole option and expense: (a) procure for Client the right to continue using such Deliverables under the terms of this Agreement; (b) replace or modify such Deliverables so that they are non-infringing and substantially equivalent in function to the enjoined Deliverables; or (c) if options (a) and (b) above cannot be accomplished despite DevFactory's reasonable efforts, then DevFactory may terminate Client's rights and DevFactory's obligations hereunder with respect to such Deliverables and refund to Client the fees paid hereunder for such Deliverables.

11.3 **Exclusions**. Notwithstanding the terms of Section 11.1, DevFactory will have no liability for any infringement claim of any kind to the extent it results from: (a) modification of the Deliverables made other than by DevFactory or DevFactory's contractors or agents; or (b) compliance by DevFactory with designs, plans or specifications furnished by or on behalf of Client.

11 General Terms and Conditions

12.2 **Import/Export**. Each party shall comply with all then- current export and import laws and regulations of the United States and such other governments as are applicable.

12.3 **Compliance with Laws**. Both parties agree to comply with all applicable laws, regulations, and ordinances relating to such party's performance under this Agreement.

12.4 **Assignment**. Neither party may assign this Agreement or transfer any license created hereunder, by operation of law, change of control or otherwise ("Assign") without the prior written consent of the other party, and such consent shall not be unreasonably withheld. Notwithstanding the language of this Section 12.3, however, a party (the "Assigning Party") may Assign this Agreement to any person, firm or corporation which, through merger, acquisition by or of the Assigning Party or otherwise, succeeds to all or substantially all of the Assigning Party's business, provided (i) the Assigning Party provides the other party with thirty (30) days prior written notice; (ii) the assignee does not compete directly or indirectly with the other party; (iii) the Assigning Party and any assignee are current in all fees or other obligations due hereunder to the other party; (iv) any such assignee agrees in writing to be bound by the terms and conditions of this Agreement; and (v) if Client is the Assigning Party, the licenses and rights of Client under this Agreement shall apply to, and may be exercised only in connection with, the operations of Client as they exist on the date of the acquisition, and the Deliverables, Materials, and Confidential Information of DevFactory may be made available only to Client personnel working in such operations. In the event that Client is subject to a change in control, at DevFactory's option and election, the Minimum Fee (as set forth in Schedule A) following such change in control shall become set (without being subject to change thereafter) to the then current Minimum Fee amount in effect at the time of the acquisition.

12.5 **Survival**. The provisions set forth in sections 4, 5, 7, 8, 9.2, 10, 11 and 12 of this Agreement shall survive termination or expiration of this Agreement and any applicable license hereunder.

12.6 **Notices**. Any notice required under this Agreement shall be given in writing and shall be deemed effective upon delivery to the party addressed. All notices shall be sent to the applicable address specified on the face page hereof or to such other address as the parties may designate in writing. Unless otherwise specified, all notices to DevFactory shall be sent to the attention of the Contracts Manager. Any notice of material breach pursuant to Section 9 shall clearly define the breach including the specific contractual obligation that has been breached.

12.7 **Force Majeure**. DevFactory shall not be liable to Client for any delay or failure of DevFactory to perform, its obligations hereunder if such delay or failure arises from any cause or causes beyond the reasonable control of DevFactory. Such causes shall include, but are not limited to, acts of God, floods, fires, loss of electricity or other utilities (unless due to DevFactory's acts or omissions), or delays by Client in providing required resources or support or performing any other requirements hereunder,

12.8 **Conflict**. In the event of a conflict between the terms and conditions of this Agreement, a License Schedule, an exhibit, or a Statement of Work, the terms and conditions of the SOW, license schedule or exhibit shall prevail, in that order.

12.9 **Restricted Rights**. Use of the Deliverables and/or Materials by or for the United States Government is conditioned upon the Government agreeing that the Deliverables and/or Materials are subject to Restricted Rights as provided under the provisions set forth in FAR 52.227-19. Client shall be responsible for ensuring that this provision is included in all agreements with the United States Government and that the Deliverables and Materials, when delivered to the Government, is correctly marked as required by applicable Government regulations governing such Restricted Rights as of such delivery,

12.10 **Entire Agreement**. This Agreement (including any schedules or attachments hereto), and including any separately executed Statements of Work and any exhibits, shall constitute the entire agreement between the parties regarding the subject matter hereof and supersede all proposals and prior discussions and writings between the parties with respect thereto, including without limitation the Technology Services Agreement entered into between DevFactory LLC-FZ and Silverback Enterprise Group, Inc. on January 18, 2012 and the Amendment #1 thereto entered into on January 26, 2012, which agreements shall be of no further force and effect as of the date hereof, which agreements shall be deemed fully performed with no further obligations by one party to the other owed thereunder and of no further force and effect as of the date hereof.

12.11 **Modifications**. The parties agree that this Agreement, and any SOW executed hereunder, cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.

12.12 **Nonsolicitation**. During the term of this Agreement and for a period of one (1) year thereafter, each party agrees not to solicit, nor attempt to solicit, the services of any employee or Subcontractor of the other party without the prior written consent of such other party. Each party further agrees not to solicit nor attempt to solicit, the services of any former employee or Subcontractor of the other party for a period of six (6) months from such former employee's or Subcontractor's last date of service with the other party. Violation of this provision shall entitle the aggrieved party to liquidated damages against the violating party equal to two hundred percent (200%) of the solicited person's gross annual compensation. Generalized employment searches, such as Internet postings, classified advertising, job fairs or the like, shall not violate this Section 12.11.

12.13 **Headings**. Headings are for reference purposes only, have no substantive effect, and shall not enter into the interpretation hereof.

12.14 **No Waiver**. No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.

12.15 **Severability and Reformation**. Each provision of this Agreement is a separately enforceable provision. If any provision of this Agreement is determined to be or becomes unenforceable or illegal, such provision shall be reformed to the minimum extent necessary in order for this Agreement to remain in effect in accordance with its terms as modified by such reformation.

12.16 **Independent Contractor**. DevFactory is an independent contractor and nothing in this Agreement shall be deemed to make DevFactory an agent, employee, partner or joint venturer of Client. Neither party shall have authority to bind, commit, or otherwise obligate the other party in any manner whatsoever.

12.17 **Dispute Resolution**. Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Austin, Texas, USA. The language to be used in the mediation shall be English. If, and to the extent that, any such dispute. controversy or claim has not been settled pursuant to the mediation within sixty (60) days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of sixty (60) days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Austin, Texas, USA. The language to be used in the arbitral proceedings shall be English. The parties acknowledge and agree that mediation and arbitration as set forth above, and not litigation, are the only dispute resolution procedures that will be used for disputes, controversies or claims arising as a result of this Agreement. Notwithstanding anything contained hereunder, Client agrees and acknowledges that no dispute resolution shall be pursued by Client for any breach of this Agreement until and unless DevFactory has had an opportunity to cure any alleged breach. Client agrees to provide DevFactory with a detailed description of any alleged failure and description of the steps that Client understands must be taken by DevFactory to resolve the failure. DevFactory shall have thirty (30) days from DevFactory's receipt of Client's notice to complete and cure.

12.18 **Choice of Law**. THIS AGREEMENT SHALL BE GOVERNED AND INTERPRETED BY THE LAWS OF THE STATE OF TEXAS, USA, WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS OF ANY STATE OR JURISDICTION.

[*signature page follows*]

The parties hereto agree to the foregoing as evidenced by their signatures below.

On behalf of Upland Software, Inc.	**On behalf of DevFactory FZ-LLC**
By: /s/ John T. McDonald	By: /s/ Rahul Subramaniam
Print Name: John T. McDonald	Print Name: Rahul Subramaniam
Title: CEO	Title: CEO
Date: March 28, 2017	Date: March 22, 2017

SCHEDULE A1

STATEMENT OF WORK & GENERAL TERMS

1. GENERALLY

The Services to be performed under the Agreement are provided for in this Statement of Work ("SOW"), which is made under the Second Amended and Restated Technology Services Agreement (the "Agreement"). The terms of this SOW are binding upon both parties immediately upon signature below. All terms not defined herein have the meaning ascribed to them in the Agreement.

2. PROVISION OF SERVICES BY DEVFACTORY

DevFactory shall provide the below Services (including any future versions, capabilities, updates and upgrades thereto during the Term) to Client:

1) Access to Aline services including:
    a. Source code analysis and developer productivity suite
2) Automated code compilation, builds and deployments
3) Services to onboard source code, migrate code repositories and created automated builds
4) Code cleanup service
5) Unit test development service
6) Source code safekeeping and hosted source code repository
7) Application hosting for software sold to clients on a "software-as-a-service" basis, including:
    a. Port software to Amazon's EC2
    b. Hosting at Amazon EC2
    c. Hosting operations
8) Automated testcase development
9) Functional testcase automation platform and services
10) 24/7/365 Level 1 and Level 2 Support of Client including email and phone
11) High performance (1:3:1) teams
12) Client may designate a mutually agreed amount of the Minimum Fee (as defined below) towards spending on Crossover services. If no such amount is agreed, then the amount shall be deemed to be zero dollars.

Support and Availability

DevFactory shall provide support and availability for the Services in accordance with Exhibit 1 to this SOW.

Security and Disaster Recovery

DevFactory shall comply with Client's reasonable information security requirements, including participating in an annual information security review with Client.

Changes to Services

DevFactory shall notify Client at least 48 hours before making any changes to the production environment and will work with Client to schedule such changes to ensure minimal disruption to Client's end-users.

Committed completion dates for individual Deliverables will be mutually agreed upon by the parties.

Client understands that DevFactory operates based upon high volumes of activity for specific Services. Therefore, Client and DevFactory shall use all reasonable efforts to mutually agree to limit the number of Services utilized at any point in time and to reasonably cooperate in limiting the frequency of changes thereto.

3. TECHNOLOGY SERVICES FEES AND EXPENSES

In consideration for the preferred access and most favored nation pricing provisions in Section 4 below, the parties agree that Client shall purchase from DevFactory under the Agreement for each calendar year that this Agreement is in effect a dollar amount of Services equal to the Minimum Fee (as defined).

For the purpose of the Agreement and this Schedule A1, the term "Minimum Fee" shall mean, for calendar year 2016, $2,307,833, and for each calendar year thereafter that the Agreement is in effect, the Minimum Fee shall be the immediately preceding calendar year's Minimum Fee amount increased (or decreased, as the case may be) by such immediately preceding year's Adjustment Rate.

For the purpose of the Agreement and this Schedule A1, the term "Adjustment Rate" for any calendar year shall mean the amount, stated as a percentage, by which such calendar year's Total Revenue increased (or decreased, as the case may be) over the immediately preceding calendar year.

For the purpose of the Agreement and this Schedule A1, the term "Total Revenue" shall mean all revenue generated by Client and all of its direct and indirect subsidiaries and any entity or asset that is otherwise directly or indirectly managed or controlled by Client. Beginning in 2017, Client shall by March 31 of each year deliver to DevFactory (i) Client's audited financial statements for the immediately preceding calendar year prepared in accordance with GAAP and (II) a calculation of the Minimum Fee for the current calendar year. DevFactory and Client shall within fifteen days after delivery thereof agree upon a final Minimum Fee amount for the current calendar year. Client shall provide DevFactory reasonable access to Client's financial information to enable its review and to ensure compliance with this provision.

In the event that the actual total fees paid to DevFactory in a given calendar year are less than the applicable Minimum Fee for such calendar year (as set forth above), then upon expiration of such calendar year, Client shall make a payment to DevFactory of an amount equal to the Minimum Fees less the actual fee paid so as to ensure that no less than the Minimum Fee is paid to DevFactory in each calendar year.

It is Client's sole responsibility to solicit the performance of Services via a SOW or by selecting services from DevFactory's menu of services, following which, DevFactory shall promptly commence providing the Services in accordance with such SOW or Client's selection.

4. PRIORITY AND PRICING

Priority. DevFactory shall grant Client access to the provision of Services in priority to all other DevFactory clients of the same size or smaller except for companies that are directly or indirectly owned or controlled by Joe Liemandt ("Liemandt Companies"). Subject to the prioritization set out in the preceding sentence, DevFactory agrees to work in good faith with Client to balance the resource demands from Liemandt Companies and Client in order to reasonably satisfy the demands of both businesses.

Pricing Provision. The fees in an applicable SOW for specific deliverables shall be materially comparable to or more favorable than the fees that DevFactory is currently offering and will offer to other similarly situated DevFactory clients purchasing the same or substantially similar services in similar volumes except for the Liemandt Companies and shall not be greater than those fees set forth in the pricing sheet dated as of the date hereof, as may be adjusted from time to time consistent with ordinary course price changes applicable to all DevFactory clients generally. DevFactory shall provide Client reasonable access to pricing information to ensure compliance with this pricing provision. The parties agree that a violation of the foregoing pricing provisions will not constitute a breach of the Agreement and that the remedy of Client for a DevFactory failure of such pricing provision shall be, at Client's option, (a) issuance by DevFactory of a Work Credit equal to the amount of overpayment by Client, or (b) a refund of the equal to the amount of overpayment by Client. Notwithstanding the foregoing, Client's total payment to DevFactory in each year shall never be less than the Minimum Fee for such year.

[*signature page follows*]

The parties hereto agree to the foregoing as evidenced by their signatures below.

On behalf of Upland Software, Inc.

By: /s/ Jack McDonald

Print Name: John T. McDonald

Title: CEO

Date: March 28, 2017

On behalf of DevFactory FZ-LLC

By: /s/ Rahul Subramaniam

Print Name: Rahul Subramaniam

Title: CEO

Date: March 22, 2017

Exhibit 1 – SLA

DevFactory Service Level Agreement

The purpose of this document is to define the service levels that DevFactory FZ-LLC (hereinafter, "**DevFactory**") will endeavor to provide for the maintenance and support of the application that Upland Software, Inc. (including all its current and future acquired businesses, hereinafter "**Client**") has obtained pursuant to the Second Amended and Restated Technology Services Agreement ("**TSA**") between Client and DevFactory effective January 01, 2017 and the applicable Statements of Work thereunder the TSA ("**Application**") (the TSA and other applicable Statements of Work are referred to as, the "**Agreement**") and this document (the "**SLA**") is hereby incorporated by reference into the Agreement. Capitalized terms not otherwise defined herein have the meaning set forth in the Agreement.

1. **Application Administration**. DevFactory will make commercially reasonable efforts to provide the following during the applicable subscription term of the Application under the Agreement in accordance with this SLA:

1.1. Technical Support. Online support during coverage hours, 24x7 access to support portal;

1.2. Service Management. Client activation, security monitoring, change control, problem management, and escalation procedures;

1.3. Application Administration. Installation and server setup, support, monitoring, response, repair, tuning and capacity planning; and

1.4. Data Backup and Retention. Backups of Client data stored within the Application.

Client is responsible for purchase, maintenance and administration of its own equipment, hardware and access, including but not limited to network and data connection, to establish a network connection to the Application.

2. **Service Measures**

1. Availability of Service Levels. DevFactory will make commercially reasonable efforts to meet the following during the applicable subscription term for each Application:

Measurement	Definition	DevFactory SLA
Software Availability	The periods of time that the Application is Available (as defined below) for use by the Client not including Scheduled Downtime (defined below). "**Availability**" or "**Available**" means that an authorized user can log in and access the Application.	Available in all material respects 99.9% average over a month (calculated on a 24 x 7 x 365 basis, other than Scheduled Downtime and other than any period of downtime that lasts five (5) continuous minutes or less).
Backups	DevFactory shall conduct backups at least on a nightly basis.	Database and file backups are performed at least on a nightly basis. Backup files will be retained for 30 days from the date of such backup.
Restoration of Services	In the event of a major disaster, such as flooding of the hosting facility, an earthquake or any acts of God that destroys the infrastructure or as otherwise deemed necessary by DevFactory.	Backup will be restored within 24 hours.

2. Exceptions to Service Levels. The Availability of the Application and DevFactory's obligations with respect to the other service measures set forth herein may be subject to limitations, delays, and other problems inherent to the general use of the internet and other public networks or caused by the Client, authorized users or third parties. DevFactory is not responsible for any delays or other damage resulting from problems outside of DevFactory's control. Without limiting the foregoing, the following are exceptions to DevFactory's obligations under this SLA:

(i) a failure or malfunction resulting from scripts, data, applications, equipment, or services provided and/or administered by the Client;

(ii) outages initiated by DevFactory or its third party suppliers at the request or direction of the Client for maintenance, back up, or other purposes;

(iii) outages occurring as a result of any actions or omissions taken by DevFactory or its third party suppliers at the request or direction of the Client;

(iv) outages resulting from the Client's equipment and/or third party equipment not within the sole control of DevFactory;

(v) events resulting from an interruption or shut down of the Application due to circumstances reasonably believed by DevFactory to be a significant threat to the normal operation of the Application, the facility from which the Application is provided, or access to or integrity of data (e.g., a hacker or a virus attack);

(vi) outages due to system administration, commands, file transfers performed by the Client's representatives;

(vii) other activities the Client directs, denial of service attacks, natural disasters, power and other utility outages, internet service outages, changes resulting from government, political, or other regulatory actions or court orders, strikes or labor disputes, acts of civil disobedience, acts of war, or other events caused by circumstances beyond DevFactory's reasonable control;

(viii) The Client's negligence or breach of its material obligations under this SLA, the Agreement, or any other agreement between the Client and DevFactory; and

(ix) lack of availability or untimely response time of the Client to respond to incidents that require its participation for source identification and/or resolution.

3. Priority Levels. If the Application is not accessible as specified in Section 2.1 (an "**Issue**"), DevFactory will use commercially reasonable endeavors to correct the Issue with a level of effort commensurate with the severity of the Issue. DevFactory and the Client will comply with the following resolution procedures for all Issues reported by the Client:

1. Notice of Issue. If the Client encounters an Issue, the Client must sufficiently define the Issue in a written notice to DevFactory. After receipt of written notice of an Issue from the Client via the ticketing system, DevFactory will notify the Client if DevFactory cannot identify the cause of the Issue. If DevFactory cannot identify the cause of the Issue, the Client will provide additional information regarding the Issue as DevFactory may request in order to assist DevFactory with identifying the cause of the Issue. The Client will provide a separate written notice for each Issue encountered by the Client. All notices pursuant to this SLA may be provided via email.

2. Issue Classification. In its notice of an Issue, the Client will reasonably classify for DevFactory the initial priority of the Issue. Client will use the nature of the Issue and Client's business situation to initially classify each Issue. Client will classify each Issue in accordance with the severity classification table below. To the extent that DevFactory disagrees with any Issue classification provided by Client, DevFactory will promptly advise Client of the revised classification of any Issue.

3. Response Time. DevFactory will respond to each of Client's written notices of an Issue within the period set forth in the severity classification table below. Response time is the elapsed time between Client's first report of an identified Issue and the provision of a plan for resolution by a DevFactory technical contact.

	Issue Description	**Initial Response SLA**	**Target Resolution Time SLA**	**Commitment**
Priority 1	The Issue causes complete loss of Service or use of the Application and cannot reasonably continue as a feature or the function does not allow completion of work and its operation is mission critical to Client's business. Examples: Majority or all of the authorized users are unable to use the Application (i.e. aLine and any of its components such as SCM), Highly important reports cannot be generated, System crashes repeatedly after restart attempts.	1 hour during primary coverage hours	Worked on continuously until a solutions found, however, targeting an 8 hour resolution time or until a viable workaround can be applied	The Issue will be worked on until fixed or a reasonable workaround is applied. Updates will be provided to Client every 4 hours.
Priority 2	A major Application function is experiencing a reproducible problem that causes a major inconvenience to the Client. An acceptable workaround may or may not be available, however, operation can continue in a restricted fashion. The current release should be patched if a permanent workaround cannot be found and the next release is not imminent.	4 hour during primary coverage hours	3 business days	The Issue will be worked on until fixed or a reasonable workaround is applied. Updates will be provided at the end of every day.
Priority 3	The Issue causes minor loss of Service or is a minor error. The impact is an inconvenience that may require a workaround to restore functionality or is a minor error, incorrect behavior, or a documentation error that does not impede the operation of a system.	24 hour during primary coverage hours	5 business days or mutually agreed to time	DevFactory will work with Client to mutually prioritize and schedule resolutions into regular release cycles.

4. Downtime/Maintenance. DevFactory periodically adds, repairs, and upgrades the data center network, hardware and the Application and shall use commercially reasonable efforts to accomplish this without affecting the Client's access to the Application; however, repairs of an emergency or critical nature may result in the Application not being available for the Client's usage during the course of such repairs. DevFactory reserves the right to take down the server(s) at the data center in order to conduct routine maintenance to both software and hardware according to the following protocols.

Item	Description	Commitment
Standard Maintenance Window	As communicated to the Client by DevFactory, not to exceed 20 hours per month.	N/A
Scheduled Updates	Regular planned updates of new functionality will take place during the standard maintenance window.	Minimum of 5 days' notice prior to the upload going into the production environment. The notice will be displayed on the main site where the Application is accessible.
Scheduled Maintenance	Routine, scheduled maintenance will be performed inside the maintenance window.	A message will be displayed on the main site stating Application will be down.
Non-Scheduled/ Emergency Maintenance	May be performed outside the maintenance window and will be counted as unscheduled downtime.	Client will be notified via a message on the main site stating the Application will be down.

Periods during which the Application is unavailable as a result of Items 1, 2 and 3, in the table above, are "**Scheduled Downtime**" and are not included in the calculation of Availability.

5. Uptime & Incident Reports. DevFactory will provide an uptime report on monthly basis for all aLine components including SCM/Code Repository Service.

In the event of an outage caused by the DevFactory, Client will receive an incident report outlining the following:

- How long was the outage?
- Root cause of the outage?
- What action(s) are taken to mitigate/prevent future incidents?

3. **Client Obligations**

1. Trained Contacts. Client will appoint IT and/or individuals within Client's organization to serve as primary contacts between Client and DevFactory with regards to the Application and the administration of Client systems. Client must initiate all requests through these contacts.
2. Reasonable Assistance. Client will provide DevFactory with reasonable access to all necessary personnel to answer questions regarding Issues reported by Client.
3. Good Standing. The provision of the Application by DevFactory during the term of this SLA is contingent upon Client's performance of its payment and other obligations under the Agreement.

4. **Disclaimers**

1. Security. The parties expressly recognize that it is impossible to maintain flawless security, but DevFactory shall take reasonable steps to prevent security breaches in DevFactory's server interaction with Client's network, and security breaches in DevFactory's server interaction with resources or users outside of any firewall that may be built into DevFactory's server. Client agrees that it will only access and use the Application via authorized access provided by DevFactory (e.g. password protected access). DevFactory's Application and Data Access Control policies are available upon request.
2. Downloading of Data or Files. The parties expressly recognize that DevFactory cannot and does not guarantee or warrant that files available for downloading through the Application will be free of infection, viruses, worms, Trojan horses or other code that manifests contaminating or destructive properties. DevFactory agrees that it shall be solely responsible for implementing sufficient procedures to satisfy DevFactory's particular requirements for accuracy of data input and output, and for maintaining a separate means for the reconstruction of any lost data.
3. Accuracy Disclaimer. Client is solely responsible for the accuracy and integrity of its own data, reports, and documentation. DevFactory or third parties may provide links to other web sites or resources as part of the Application. DevFactory does not endorse and is not responsible for any data, software or other content available from such sites or resources. Client acknowledges and agrees that DevFactory shall not be liable, directly or indirectly, for any damage or loss relating to Client's use of or reliance on such data, software or other content.
4. Reasonable Efforts. Client acknowledges that the service levels and all provisions under this SLA are not binding and that the DevFactory shall not be liable, directly or indirectly, for any non-compliance thereof. However, DevFactory will use commercially reasonable efforts to adhere to them and to remain compliant with them.

This SLA along with the terms of the Agreement shall constitute the entire agreement between the parties with respect to the service levels agreed upon under this SLA. In the event of a conflict between the terms of this SLA and the Agreement, the terms of the Agreement shall prevail, unless expressly stated otherwise.

CONSENT AND FIRST AMENDMENT TO CREDIT AGREEMENT

This CONSENT AND FIRST AMENDMENT TO CREDIT AGREEMENT (this "Amendment") is entered into as of September 23, 2015, by and among WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as administrative agent for each member of the Lender Group (in such capacity, the "Agent"), the Lenders (as defined in the Credit Agreement as defined below) party hereto, Upland Software, Inc., a Delaware corporation ("Parent"), each subsidiary of Parent identified on the signature pages hereof as a "US Borrower" (collectively, the "US Borrowers"), Upland Software Inc., a Canadian federal corporation ("Upland CAD"), and Solution Q Inc., an Ontario corporation ("Solution Q"; Parent, US Borrowers and Upland CAD each, a "Borrower" and collectively, the "Borrowers").

WHEREAS, the Borrowers, Agent, and the Lenders are parties to that certain Credit Agreement dated as of May 14, 2015 (as amended, restated, modified or supplemented from time to time, the "Credit Agreement");

WHEREAS, the Borrowers have advised Agent that Parent desires to amend certain Warrants to Purchase Stock dated February 10, 2012, March 5, 2012, and April 11, 2013 (collectively, the "Warrants"), with respect to Equity Interests of Parent (formerly known as Silverback Enterprise Group, Inc.), and held by Comerica Ventures Incorporated, a California corporation, successor-by-assignment from Comerica Bank, a Texas banking association (the "First Amendment to Warrants to Purchase Stock") in the form of Exhibit A attached hereto in order to provide for the cashless exercise of the Warrants; which cashless exercise, as a result of the First Amendment to Warrants to Purchase Stock, would otherwise constitute Restricted Payments subject to clause (f) of Section 6.7 (Restricted Payments) of the Credit Agreement in the absence of Required Lenders' consent; and

WHEREAS, the Borrowers have requested that Agent and the Required Lenders consent to the First Amendment to Warrants to Purchase Stock and amend the Credit Agreement in certain respects, and Agent and the Required Lenders have agreed to consent to the First Amendment to Warrants to Purchase Stock and amend the Credit Agreement in certain respects, subject to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, the parties hereto agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Credit Agreement.

2. Consent. In reliance upon the representations and warranties of each Borrower set forth in Section 7 below and subject to the satisfaction of the conditions to effectiveness set forth in Section 6 below, the undersigned Lenders, constituting Required Lenders pursuant to the Credit Agreement, hereby consent to the First Amendment to Warrants to Purchase Stock and the cashless exercise of the Warrants in accordance therewith without the use of any basket amount provided in clause (f) of Section 6.7 of the Credit Agreement. Except as expressly set forth herein, the foregoing consent is a limited consent and shall not constitute (i) a modification or alteration of the terms,

conditions or covenants of the Credit Agreement or any other Loan Document or (ii) a waiver, release or limitation upon the exercise by Agent and/or Lenders of any of their respective rights, legal or equitable thereunder.

3. Amendments to Credit Agreement. In reliance upon the representations and warranties of each Borrower set forth in Section 7 below and subject to the satisfaction of the conditions to effectiveness set forth in Section 6 below, the Credit Agreement shall be amended as follows:

(a) Section 6.3 of the Credit Agreement is hereby amended to delete the reference therein to "such US Borrower must be the surviving entity" and insert in lieu thereof a reference to "a US Borrower must be the surviving entity".

(b) Section 6.3 of the Credit Agreement is hereby amended to delete the reference therein to "such Canadian Borrower must be the surviving entity" and insert in lieu thereof a reference to "a Canadian Borrower must be the surviving entity."

(c) Section 6.7(e) of the Credit Agreement is hereby amended to delete each reference therein to "stock options or warrants" and insert in lieu thereof, in each instance, a reference to "stock options, warrants or other similar rights."

4. Continuing Effect. Except as expressly set forth in Sections 2 and 3 of this Amendment, nothing in this Amendment shall constitute a waiver of any other terms or provisions of the Credit Agreement or any other Loan Document, and the Credit Agreement and the other Loan Documents shall remain unchanged and shall continue in full force and effect, in each case as amended hereby. This Amendment is a Loan Document.

5. Reaffirmation and Confirmation. Each Borrower hereby ratifies, affirms, acknowledges and agrees that the Credit Agreement and the other Loan Documents to which it is a party represent the valid, enforceable and collectible obligations of such Borrower, and further acknowledges that there are no existing claims, defenses, personal or otherwise, or rights of setoff whatsoever with respect to the Credit Agreement or any other Loan Document as of the date hereof. Each Borrower hereby agrees that this Amendment in no way acts as a release or relinquishment of the Liens and rights securing payments of the Obligations. The Liens and rights securing payment of the Obligations are hereby ratified and confirmed by each Borrower in all respects.

6. Conditions to Effectiveness. This Amendment shall become effective upon the satisfaction of each of the following conditions precedent, in each case satisfactory to Agent in all respects:

(a) Agent shall have received a copy of this Amendment executed and delivered by Required Lenders, and the Borrower;

(b) Agent shall have received a copy of the First Amendment to Warrants to Purchase Stock executed and delivered by Parent and the other parties thereto; and

(c) no Default or Event of Default shall have occurred and be continuing on the date hereof or as of the date of the effectiveness of this Amendment.

7. Representations and Warranties. In order to induce Agent and Lenders to enter into this Amendment, each Borrower hereby represents and warrants to Agent and Lenders that:

(a) after giving effect to this Amendment, all representations and warranties contained in the Loan Documents to which such Borrower is a party are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of this Amendment, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of such earlier date);

(b) no Default or Event of Default has occurred and is continuing; and

(c) this Amendment and the Loan Documents, as amended hereby, constitute legal, valid and binding obligations of such Borrower and are enforceable against such Borrower in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally.

8. Miscellaneous.

(a) Choice of Law and Venue; Jury Trial Waiver; Reference Provision. Without limiting the applicability of any other provision of the Credit Agreement or any other Loan Document, the terms and provisions set forth in Section 12 of the Credit Agreement are expressly incorporated herein by reference.

(b) Counterparts. This Amendment may be executed in any number of counterparts, and by the parties hereto on the same or separate counterparts, and each such counterpart, when executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment.

9. Release.

(a) In consideration of the agreements of Agent and Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each Borrower, on behalf of itself and its successors, assigns, and other legal representatives (each Borrower and all such other Persons being hereinafter referred to collectively as the "Releasors" and individually as a "Releasor"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent and Lenders, and their successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Agent, each Lender and all such other

Persons being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a "Claim" and collectively, "Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which any Releasor may now own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, in any way related to or in connection with the Credit Agreement, or any of the other Loan Documents or transactions thereunder or related thereto.

(b) Each Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(c) Each Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized and delivered as of the date first above written.

PARENT AND A US BORROWER:

UPLAND SOFTWARE, INC.,
a Delaware corporation

By: _________
Name: John T. McDonald
Title: Chairman and Chief Executive Officer

US BORROWERS:

UPLAND SOFTWARE I, INC.,
a Delaware corporation

By: _________
Name: John T. McDonald
Title: President

UPLAND SOFTWARE II, INC.,
a Delaware corporation

By: _________
Name: John T. McDonald
Title: President

UPLAND SOFTWARE III, LLC,
a Delaware limited liability company

By: _________
Name: John T. McDonald
Title: President

UPLAND SOFTWARE IV, LLC,
a Nebraska corporation

By: _________
Name: John T. McDonald
Title: President

UPLAND SOFTWARE V, LLC,
a Delaware corporation

By: _________
Name: John T. McDonald
Title: President

UPLAND SOFTWARE VI, LLC,
a New Jersey limited liability company

By: _________
Name: John T. McDonald
Title: President

UPLAND SOFTWARE VII, LLC,
a Delaware corporation

By: _________
Name: John T. McDonald
Title: President

UPLAND IX, LLC,
a Delaware limited liability company

By: _________
Name: John T. McDonald
Title: President and Chairman

Signature Page to Consent and First Amendment under Credit Agreement

CANADIAN BORROWERS:

UPLAND SOFTWARE, INC.,
a Canadian federal corporation

By: _________
Name: John T. McDonald
Title: President

SOLUTION Q INC.,
an Ontario corporation

By: _________
Name: John T. McDonald
Title: Chief Executive Officer and President

Signature Page to Consent and First Amendment under Credit Agreement

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent and as a Lender

By: _________
Name: _________
Title: _________

WELLS FARGO CAPITAL FINANCE CORPORATION CANADA, an Ontario corporation, as a Lender

By: _________
Name: _________
Title: _________

EXHIBIT A

First Amendment to Warrants to Purchase Stock

See Attached.

FIRST AMENDMENT TO
WARRANTS TO PURCHASE STOCK

This First Amendment to Warrants to Purchase Stock (this "**Amendment**") is made as of day of August, 2015 by and between Upland Software, Inc., a Delaware corporation (the "**Company**"), and Comerica Ventures Incorporated, a California Corporation, the holder of the Warrants (as hereinafter defined) (the "**Holder**").

A. The Holder is the holder of certain Warrants to Purchase Stock dated February 10, 2012, March 5, 2012, and April 11, 2013 (collectively the "***Warrants***") by assignment from its affiliate, Comerica Bank, a Texas banking association;

B. The Holder and the Company wish to amend the Warrants in order to modify the method in which the Warrants may be exercised by the Holder; and

C. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Warrants.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. Amendment. Section 1.1 of each of the Warrants is hereby amended and restated in its entirety to read as follows:

"Method of Exercise. Holder may exercise this Warrant by a duly executed Notice of Exercise in substantially the form attached as Appendix I to the principal office of the Company (or such other appropriate location as Holder is so instructed by the Company). Payment of the aggregate Warrant Price for the Shares being purchased shall be made, at the option of the Holder, by the following methods: (i) by delivery to the Company of a check, wire transfer (to an account designated by the Company) or other form of payment acceptable to the Company; (ii) by instructing the Company to withhold a number of Shares then issuable upon exercise of this Warrant with an aggregate Fair Market Value as of the date of delivery of the Notice of Exercise equal to such aggregate Warrant Price; or (iii) any combination of the foregoing. In the event of any withholding of Shares pursuant to clause (ii) or (iii) above where the number of Shares whose value is equal to the aggregate Warrant Price for the Shares being purchased is not a whole number, the number of Shares withheld by or surrendered to the Company shall be rounded up to the nearest whole Share and the Company shall make a cash payment to the Holder (by delivery of a check or by wire transfer of immediately available funds) based on the incremental fraction of a Share being so withheld by or surrendered to the Company in an amount equal to the product of (x) such incremental fraction of a Share being so withheld or surrendered multiplied by (y) the Fair Market Value per Share as of the date of delivery of the Notice of Exercise.

For the purpose of this Warrant, "Fair Market Value" means, as of any particular date: (a) the volume weighted average of the closing sales prices of the Common Stock for such day on all domestic securities exchanges on which the Common Stock may at the time be listed; (b) if there have been no sales of the Common Stock on any such exchange on any such day, the average of the highest bid and lowest asked prices for the Common Stock on all such exchanges at the end of such day; (c) if on any such day the Common Stock is not listed on a domestic securities exchange, the closing sales price of the Common Stock as quoted on the Nasdaq Stock Market, Inc. ("Nasdaq"), the National Association of Securities Dealers, Inc. OTC Bulletin Board ("OTC Bulletin Board") or similar quotation system or association for such day; or (d) if there have been no sales of the Common Stock on Nasdaq, the OTC Bulletin Board or similar quotation system or association on such day, the average of the highest bid and lowest asked prices for the Common Stock quoted on Nasdaq, the OTC Bulletin Board or similar quotation system or association at the end of such day. If at any time the Common Stock is not listed on any domestic securities exchange or quoted on Nasdaq, the OTC Bulletin Board or similar quotation system or association, the "Fair Market Value" of the Common Stock shall be the fair market value per share as determined jointly by the Company's board of directors and the Holder.

2 . No Other Amendments. Except as amended hereby, the Warrants each remain in full force and effect in accordance its original terms.

3. Miscellaneous.

a. Severability. If one or more provisions of this Amendment are held to be unenforceable under applicable law, such provision shall be excluded from this Amendment and the balance of the Amendment shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

b. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

c. Entire Agreement. The Warrants, as amended by this Amendment, each constitutes the entire agreement of the parties with regard to the subject matter hereof and supersedes any prior oral or written agreements or understandings.

d. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California or any other state.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Warrants to Purchase Stock as of the date first above written.

THE COMPANY:

Upland Software, Inc.

By: ______________

Name:

Title:

HOLDER:

Comerica Ventures Incorporated

By: ______________

Name:

Title:

SIGNATURE PAGE TO FIRST AMENDMENT TO WARRANT TO PURCHASE STOCK

CONSENT AND SECOND AMENDMENT TO CREDIT AGREEMENT

This CONSENT AND SECOND AMENDMENT TO CREDIT AGREEMENT (this "Amendment") is entered into as of April 25, 2016, by and among WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as administrative agent and collateral agent for each member of the Lender Group and the Bank Product Providers (in such capacities, together with its successors and assigns in such capacities, "Agent") and as United States administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "US Agent"), WELLS FARGO CAPITAL FINANCE CORPORATION CANADA, an Ontario corporation, as Canadian administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Canadian Agent"), the Lenders (as defined in the Credit Agreement as defined below) party hereto, Upland Software, Inc., a Delaware corporation ("Parent"), each subsidiary of Parent identified on the signature pages hereof as a "US Borrower" (collectively, the "US Borrowers") and Upland Software Inc., a Canadian federal corporation ("Upland CAD"; collectively with Parent and US Borrowers each, a "Borrower" and collectively, the "Borrowers").

WHEREAS, the Borrowers, Agent, US Agent, Canadian Agent and the Lenders are parties to that certain Credit Agreement dated as of May 14, 2015 (as amended, restated, modified or supplemented from time to time, the "Credit Agreement");

WHEREAS, the Borrowers have advised Agent that the US Borrowers desire to make a Delayed Term Loan Draw pursuant to Section 2.14 of the Credit Agreement in an amount equal to $10,000,000 on the date hereof (the "Specified DDTL Draw") for working capital, capital expenditures and general corporate needs (the "Specified Purposes");

WHEREAS, pursuant to Section 2.14(b) of the Credit Agreement, Administrative Borrower is required to deliver to Agent a Delayed Draw Term Loan Notice not later than ten (10) Business Days prior to the Delayed Draw Term Loan Funding Date of any proposed Delayed Term Loan Draw (the "Required Notice of Borrowing");

WHEREAS, Borrowers have provided Agent with the Required Notice of Borrowing less than ten (10) days prior to the requested Delayed Draw Term Loan Funding Date with respect to the proposed Specified DDTL Draw;

WHEREAS, the Specified Purposes constitute a usage of proceeds that without requisite Lender consent would otherwise constitute a breach of Section 6.11 of the Credit Agreement, resulting in an Event of Default under Section 8.2(a) of the Credit Agreement;

WHEREAS, the Borrowers have requested that Agent and the Required Lenders (a) consent to (i) Administrative Borrower's delivery of the Required Notice of Borrowing less than ten (10) Business Days prior to the Delayed Draw Term Loan Funding Date solely with respect to the Specified DDTL Draw and (ii) the usage by US Borrowers of the proceeds of the Specified DDTL Draw for the Specified Purposes, and (b) amend the Credit Agreement in certain respects; and

WHEREAS, Agent and the Required Lenders have agreed to the foregoing, in each case, subject to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, the parties hereto agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Credit Agreement.

2. Consent. In reliance upon the representations and warranties of each Borrower set forth in Section 7 below and subject to the satisfaction of the conditions to effectiveness set forth in Section 6 below, the undersigned Lenders, constituting Required Lenders pursuant to the Credit Agreement, hereby consent to:

(a) Administrative Borrower's delivery of the Required Notice of Borrowing less than ten (10) Business Days prior to the Delayed Draw Term Loan Funding Date solely with respect to the Delayed Term Loan Draw constituting the Specified DDTL Draw; and

(b) the usage by US Borrowers of the proceeds of the Specified DDTL Draw for the Specified Purposes.

Except as expressly set forth herein, the foregoing consents are_ limited consents and shall not constitute (i) a modification or alteration of the terms, conditions- or covenants of the Credit Agreement or any other Loan Document or (ii) a waiver, release or limitation upon the exercise by Agent and/or Lenders of any of their respective rights, legal or equitable thereunder.

3. Amendments to Credit Agreement. In reliance upon the representations and warranties of each Borrower set forth in Section 7 below and subject to the satisfaction of the conditions to effectiveness set forth in Section 6 below, the Credit Agreement shall be amended as follows:

(a) Section 2.14(a) of the Credit Agreement is hereby amended to delete the reference therein to "Delayed Draw Term Loan Draw" and insert in lieu thereof a reference to "Delayed Term Loan Draw".

(b) Clause (b) of the definition of "Permitted Acquisition" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

> (b) no Indebtedness will be incurred, assumed, or would exist with respect to Parent or its Subsidiaries as a result of such Acquisition, other than Indebtedness permitted under clauses (a), (f), (g), (m) or (n) of the definition of Permitted Indebtedness, and no Liens will be incurred, assumed, or would exist with respect to the assets of Parent or its Subsidiaries as a result of such Acquisition other than Permitted Liens,

(c) Clause (g) of the definition of "Permitted Acquisition" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

> (g) Administrative Borrower has provided Agent with (i) written notice of the proposed Acquisition at least 10 Business Days prior to the anticipated closing date of the proposed Acquisition, (ii) not later than 5 Business Days prior to the anticipated closing date of the proposed Acquisition, then-current drafts of the acquisition agreement and other material documents relative to the proposed Acquisition, which agreement and documents must be reasonably acceptable to Agent, (iii) not later than the Business Day prior to the anticipated closing date of the proposed Acquisition, copies of executed or execution versions of the acquisition agreement and other material documents relative to the proposed Acquisition, which agreement and documents must be reasonably acceptable to Agent, and (iv) to the extent not previously delivered, on the closing date of the proposed Acquisition, copies of the executed acquisition agreement and other material documents relative to the proposed Acquisition, which agreement and documents must be reasonably acceptable to Agent,

(d) Clause (v) of the definition of "Permitted Indebtedness" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

> (v) Indebtedness of Advanced Processing & Imaging, Inc. owing to Pacific Western Bank in an aggregate outstanding amount not to exceed $30,000 at any one time in respect of credit cards, credit card processing services, debit cards, stored value cards, commercial cards (including so-called "purchase cards", "procurement cards" or "p-cards") pursuant to that certain Square 1 Bank Mastercard® Business Credit Card Application and MasterCard® Business Credit Card Agreement, executed on or about June 17, 2013, and

(e) Clause (u) of the definition of Permitted Liens" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

> (u) Solely during the period commencing on the Second Amendment Effective Date and ending on the date that is the 120th day after the Second Amendment Effective Date, Liens in favor of Pacific Western Bank on cash collateral in an amount not to exceed $30,000, securing Indebtedness permitted pursuant to clause (v) of the definition of Permitted Indebtedness,

4. Schedule 1.1 to the Credit Agreement is hereby amended by adding the following defined term in alphabetical order:

> "<u>Second Amendment Effective Date</u>" means April 25, 2016.

5. <u>Continuing Effect</u>. Except as expressly set forth in <u>Sections 2 and 3</u> of this Amendment, nothing in this Amendment shall constitute a waiver or other modification of any other terms or provisions of the Credit Agreement or any other Loan Document, and the Credit Agreement

and the other Loan Documents shall remain unchanged and shall continue in full force and effect, in each case as amended hereby. This Amendment is a Loan Document.

6. Reaffirmation and Confirmation. Each Borrower hereby ratifies, affirms, acknowledges and agrees that the Credit Agreement and the other Loan Documents to which it is a party represent the valid, enforceable and collectible obligations of such Borrower, and further acknowledges that there are no existing claims, defenses, personal or otherwise, or rights of setoff whatsoever with respect to the Credit Agreement or any other Loan Document as of the date hereof. Each Borrower hereby agrees that this Amendment in no way acts as a release or relinquishment of the Liens and rights securing payments of the Obligations. The Liens and rights securing payment of the Obligations are hereby ratified and confirmed by each Borrower in all respects.

7. Conditions to Effectiveness. This Amendment shall become effective upon the satisfaction of each of the following conditions precedent, in each case satisfactory to Agent in AI respects:

(a) Agent shall have received a copy of this Amendment executed and delivered by Required Lenders, and each Borrower; and

(b) no Default or Event of Default shall have occurred and be continuing on the date thereof or as of the date of the effectiveness of this Amendment.

8. Representations and Warranties. In order to induce Agent and Lenders to enter in this Amendment, each Borrower hereby represents and warrants to Agent and Lenders that:

(a) after giving effect to this Amendment, all representations and warranties contained in the Loan Documents to which such Borrower is a party are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of this Amendment, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except the such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of such earlier date);

(b) no Default or Event of Default has occurred and is continuing; and

(c) this Amendment and the Loan Documents, as amended hereby, constitute legal, valid and binding obligations of such Borrower and are enforceable against such Borrower in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally.

9. Miscellaneous.

(a) Choice of Law and Venue; Jury Trial Waiver; Reference Provision . Without limiting the applicability of any other provision of the Credit Agreement or any other Loan Document, the terms and provisions set forth in Section 12 of the Credit Agreement are expressly incorporated herein by reference.

(b) Counterparts. This Amendment may be executed in any number of counterparts, and by the parties hereto on the same or separate counterparts, and each such counterpart, when executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment.

10. Release.

(a) In consideration of the agreements of Agent and Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each Borrower, on behalf of itself and its successors, assigns, and other legal representatives (each Borrower and all such other Persons being hereinafter referred to collectively as the "Releasors" and individually as a "Releasor"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent and Lenders, and their successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Agent, each Lender and all such other Persons being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a "Claim" and collectively, "Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which any Releasor may now own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, in any way related to or in connection with the Credit Agreement, or any of the other Loan Documents or transactions thereunder or related thereto.

(b) Each Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(c) Each Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized and delivered as of the date first above written.

PARENT AND A US BORROWER:	**UPLAND SOFTWARE, INC.,** A Delaware corporation By: __ Name: Michael D. Hill Title: Chief Financial Officer, Treasurer, Secretary
US BORROWERS:	**UPLAND SOFTWARE I, INC.,** a Delaware corporation By:__ Name: Michael D. Hill Title: Assistant Secretary
	UPLAND SOFTWARE II, INC., a Delaware corporation By:__ Name: Michael D. Hill Title: Assistant Secretary
	UPLAND SOFTWARE III, LLC, a Delaware limited liability company By:__ Name: Michael D. Hill Title: Assistant Secretary

UPLAND SOFTWARE IV, INC.,
a Nebraska corporation

By:__
Name: Michael D. Hill
Title: Assistant Secretary

UPLAND SOFTWARE V, INC.,
a Delaware corporation

By:__
Name: Michael D. Hill
Title: Assistant Secretary

UPLAND SOFTWARE VI, LLC,
a New Jersey limited liability company

By:__
Name: Michael D. Hill
Title: Assistant Secretary

UPLAND SOFTWARE VII, INC.,
a Delaware corporation

By:__
Name: Michael D. Hill
Title: Assistant Secretary

UPLAND SOFTWARE IX, LLC,
a Delaware limited liability company

By:__
Name: Michael D. Hill
Title: Secretary

ULTRIVA, INC.,
a California corporation

By:__
Name: Michael D. Hill
Title: Secretary

Signature Page to Consent and Second Amendment to Credit Agreement

CANADIAN BORROWER:	**UPLAND SOFTWARE, INC.,** a Canadian federal corporation By:__ Name: Michael D. Hill Title: Secretary

Signature Page to Consent and Second Amendment to Credit Agreement

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent, US Agent and as a Lender

By:__
Name: Tiffany Ormon
Title: Director

WELLS FARGO CAPITAL FINANCE CORPORATION CANADA, an Ontario corporation, as Canadian Agent and as a Lender

By:__
Name: __
Title: __

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent, US Agent and as a Lender

By:__
Name: Tiffany Ormon
Title: Director

WELLS FARGO CAPITAL FINANCE CORPORATION CANADA, an Ontario corporation, as Canadian Agent and as a Lender

By:__
Name: __
Title: __

Signature Page to Consent and Second Amendment to Credit Agreement

THIRD AMENDMENT TO CREDIT AGREEMENT

This THIRD AMENDMENT TO CREDIT AGREEMENT (this "Amendment") is entered into as of November 15, 2016, by and among WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as administrative agent and collateral agent for each member of the Lender Group and the Bank Product Providers (in such capacities, together with its successors and assigns in such capacities, "Agent") and as United States administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "US Agent"), WELLS FARGO CAPITAL FINANCE CORPORATION CANADA, an Ontario corporation, as Canadian administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Canadian Agent"), the Lenders (as defined in the Credit Agreement as defined below) party hereto, UPLAND SOFTWARE, INC., a Delaware corporation ("Parent"), each subsidiary of Parent identified on the signature pages hereof as a "US Borrower" (collectively, the "US Borrowers"), UPLAND SOFTWARE INC. / LOGICIELS UPLAND INC., a Canadian federal corporation ("Upland CAD"; collectively with Parent and US Borrowers each, a "Borrower" and collectively, the "Borrowers") and CIT BANK, N.A. ("New Lender").

WHEREAS, the Borrowers, Agent, US Agent, Canadian Agent and the Lenders are parties to that certain Credit Agreement dated as of May 14, 2015 (as amended, restated, modified or supplemented from time to time, the "Credit Agreement");

WHEREAS, New Lender has agreed to join the Credit Agreement as a Lender;

WHEREAS, the Borrowers have requested that Agent and the Lenders amend the Credit Agreement in certain respects as provided herein; and

WHEREAS, Agent and the Lenders have agreed to the foregoing, in each case, subject to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the premises and mutual agreements herein contained, the parties hereto agree as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Credit Agreement.

2. Joinder of New Lender; Reallocation.

(a) New Lender (i) hereby joins the Credit Agreement as a Lender and shall have the rights and obligations of a Lender under the Loan Documents; (ii) represents and warrants that it is legally authorized to enter into this Amendment and the Credit Agreement; (iii) confirms that it has received copies of the Credit Agreement and the other Loan Documents, together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Amendment; (iv) agrees that it will, independently and without reliance upon Agent or any other Lender, based upon such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking any action under the Loan Documents; (v) appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers under the Loan Documents as are delegated to Agent by the terms thereof, together with such powers as are reasonably incidental thereto; (vi) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender; and (vii) confirms that prior to the date hereof, it has delivered to the Agent and the Administrative Borrower the forms prescribed by the Internal Revenue Service of the United States certifying New Lender's status for purposes of determining exemption from United States withholding taxes with respect to all payments to be made to New Lender under the Credit Agreement.

(a) In connection herewith, the Revolver Commitments will be allocated to Wells Fargo Bank, National Association, as a Lender, and New Lender in the amounts set forth on the attached Exhibit A. New Lender agrees to make settlement payments to Agent as provided in the Credit Agreement, such that after giving effect to the making of such settlement payments, each Lender's share of the outstanding US Revolver Usage shall equal such Lender's Pro Rata Share. Nothing contained herein shall constitute a novation of any Obligation.

(b) Wells Fargo Bank, National Association, and CIT Bank, N.A., are each hereby appointed as Joint Lead Arrangers and Joint Syndication Agents.

3. Amendments to Credit Agreement. In reliance upon the representations and warranties of each Borrower set forth in Section 7 below and subject to the satisfaction of the conditions to effectiveness set forth in Section 6 below, the Credit Agreement shall be amended as follows:

(a) Section 2.1(a)(ii)(B)(3) is hereby amended and restated in its entirety as follows:

"the sum of (I) the Canadian Letter of Credit Usage at such time, *plus* (II) the principal amount of Canadian Revolving Loans (including Canadian Swing Loans) outstanding at such time *plus* (III) the principal amount of Canadian Term Loans outstanding at such time."

(b) Section 2.1(b)(ii)(B)(3) is hereby amended and restated in its entirety as follows:

"the sum of (I) the US Letter of Credit Usage at such time, *plus* (II) the principal amount of US Revolving Loans (including US Swing Loans) outstanding at such time, *plus* (III) the principal amount of US Term Loans outstanding at such time."

(c) Section 2.2(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(a) Subject to the terms and conditions of this Agreement, on the Closing Date the Lenders with a US Term Loan Commitment (as of the Closing Date) made a term loan to the US Borrowers in the original principal amount of $19,000,000 and on April 25, 2016, the Lenders with a Delayed Draw Term Loan Commitment (as of April 25, 2016) made a Delayed Draw Term Loan to the US Borrowers in the original principal amount of $10,000,000. Immediately prior to the effectiveness of the Third Amendment as of the Third Amendment Closing Date, the outstanding principal balance of the US Term Loan made under and as defined in this Agreement was $27,687,500 (the "Original US Term Loan"). Subject to the terms and conditions of this Agreement and the Third Amendment, the Lenders agree (severally, not jointly or jointly and severally) to make additional term loans in Dollars to the US Borrowers on the Third Amendment Closing Date in an aggregate original principal amount of $16,687,500 (together with the Original US Term Loan, the "US Term Loan"). Each Lender's obligation to fund the portion of the US Term Loan to be funded on the Third Amendment Closing Date shall be limited to the amount set forth in footnote 1 on Schedule C-1 as the amount funded by it on the Third Amendment Closing Date.

(d) The table set forth in Section 2.2(b) of the Credit Agreement is hereby amended and restated in its entirety as follows:

Date	Installment Amount
December 31, 2016	$554,687.50
March 31, 2017	$554,687.50
June 30, 2017	$554,687.50
September 30, 2017	$554,687.50
December 31, 2017	$554,687.50
March 31, 2018	$554,687.50
June 30, 2018	$554,687.50
September 30, 2018	$554,687.50
December 31, 2018	$554,687.50
March 31, 2019	$554,687.50
June 30, 2019	$554,687.50
September 30, 2019	$554,687.50
December 31, 2019	$554,687.50
March 31, 2020	$554,687.50
June 30, 2020	$554,687.50
September 30, 2020	$554,687.50
December 31, 2020	$554,687.50
March 31, 2021	$554,687.50
June 30, 2021	$554,687.50
September 30, 2021	$554,687.50

(e) The table set forth in Section 2.2(d) of the Credit Agreement is hereby amended and restated in its entirety as follows:

Date	Installment Amount
December 31, 2016	$75,000
March 31, 2017	$75,000
June 30, 2017	$75,000
September 30, 2017	$75,000
December 31, 2017	$75,000
March 31, 2018	$75,000
June 30, 2018	$75,000
September 30, 2018	$75,000
December 31, 2018	$75,000
March 31, 2019	$75,000
June 30, 2019	$75,000
September 30, 2019	$75,000
December 31, 2019	$75,000
March 31, 2020	$75,000
June 30, 2020	$75,000
September 30, 2020	$75,000
December 31, 2020	$75,000
March 31, 2021	$75,000
June 30, 2021	$75,000
September 30, 2021	$75,000

(f) Section 2.14(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(a) Subject to the terms and conditions of this Agreement, at the election of and on a date (which shall be a Business Day) identified by Administrative Borrower after the Third Amendment Closing Date but prior to the Delayed Draw Term Loan Commitment Termination Date, each Lender with a Delayed Draw Term Loan Commitment agrees (severally, not jointly or jointly and severally) to make a delayed draw term loan in Dollars to US Borrowers (each such advance a "Delayed Term Loan Draw" and collectively, the "Delayed Draw Term Loan") in an amount equal to such Lender's Pro Rata Share of the Delayed Draw Term Loan Amount; provided, that (a) the aggregate principal amount of each Delayed Draw Term Loan Draw shall not be less than $2,500,000, and, in any event, shall be in an amount which is an integral multiple of $500,000, (b) after giving effect to any such Delayed Term Loan Draw, the aggregate original principal amount of the Delayed Term Loan Draws shall not exceed the Delayed Draw Term Loan Amount, (c) the conditions precedent set forth in Section 3 shall have been satisfied, and (d) Borrowers have delivered to Agent an updated pro forma certified calculation of the Leverage Ratio (after giving effect to the borrowing of the applicable Delayed Draw Term Loan) for the most recently ended fiscal quarter for which financial statements have been received pursuant to Section 5.1, and such Leverage Ratio is not greater than (i) with respect to any Delayed Term Loan Draw advanced on or before December 31, 2016, 4.25:1.0 and (ii) with respect to any Delayed Term Loan Draw advanced on or after January 1, 2017, the required Leverage Ratio for the applicable period set forth in Section 7(b).

(g) Section 2.15(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(a) At any time during the period from and after the Third Amendment Closing Date through but excluding the date that is the 4 year anniversary of the Third Amendment Closing Date, at the option of Administrative Borrower (but subject to the conditions set forth in clause (b) below), the US Term Loan Amount and/or the Canadian Term Loan Amount may be increased by an amount in the aggregate for all such increases of the US Term Loan Amount and the Canadian Term Loan not to exceed the Available Increase Amount (each such increase, an "Increase"). Agent shall invite each applicable Lender to increase its Pro Rata Share of the US Term Loan Amount or the Canadian Term Loan Amount (as the case may be) (it being understood that no Lender shall be obligated to increase its Pro Rata Share of the US Term Loan Amount or the Canadian Term Loan Amount) in connection with a proposed Increase at the interest margin proposed by applicable Borrowers, and if sufficient Lenders do not agree to increase their Pro Rata Share of the US Term Loan Amount or the Canadian Term Loan Amount (as the case may be) in connection with such proposed Increase, then Applicable Agent or applicable Borrowers may invite any prospective lender who is reasonably satisfactory to Applicable Agent and applicable Borrowers to become a Lender in connection with a proposed Increase. Any Increase shall be in an amount of at least $5,000,000 and integral multiples of $1,000,000 in excess thereof. In no event may the US Term Loan Amount and the Canadian Term Loan Amount be increased on or after the Third Amendment Closing Date pursuant to this Section 2.15 on more than 2 occasions in the aggregate for all such Increases. Additionally, for the avoidance of doubt, it is understood and agreed that in no event shall the Dollar Equivalent of the aggregate amount of the Increases to the US Term Loan Amount and the Canadian Term Loan Amount exceed $20,000,000.

(h) Section 2.15(b)(iii) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(iii) (A) Borrowers have delivered to Agent updated pro forma Projections (after giving effect to the applicable Increase) for Parent and its Subsidiaries evidencing compliance on a pro forma basis with Section 7 for the 4 fiscal quarters (on a quarter-by-quarter basis) immediately following the proposed date of the applicable Increase, (B) Borrowers have delivered to Agent an updated pro forma certified calculation of the Leverage Ratio (after giving effect to the applicable Increase) for the most recently ended fiscal quarter for which financial statements have been received pursuant to Section 5.1, and such Leverage Ratio is not greater than the lesser of (i) 4.25:1.0 and (ii) the required Leverage Ratio for the applicable period set forth Section 7(b) less 0.25, and (C) Borrowers have delivered to Agent an updated pro forma certified calculation of the Recurring Revenue Ratio (after giving effect to the applicable Increase) for the most recently ended fiscal quarter for which financial statements have been received pursuant to Section 5.1, and such Recurring Revenue Ratio is not greater than 1.00:1.0, and

(i) Section 2.15(c) of the Credit Agreement is hereby amended to (i) delete the reference therein to "September 30, 2015" and insert in lieu thereof a reference to "December 31, 2016" and (ii) delete the reference therein to "March 31, 2020" and insert in lieu thereof a reference to "September 30, 2021".

(j) Section 2.15(d) of the Credit Agreement is hereby amended to (i) delete the reference therein to "September 30, 2015" and insert in lieu thereof a reference to "December 31, 2016" and (ii) delete the reference therein to "March 31, 2020" and insert in lieu thereof a reference to "September 30, 2021".

(k) Section 5.14 of the Credit Agreement is hereby amended and restated in its entirety as follows:

Bank Products. On and after the Third Amendment Closing Date, the Loan Parties shall (i) maintain a depository relationship in the United States with Wells Fargo or one or more of its Affiliates, (ii) maintain their primary treasury management relationships in the United States with Wells Fargo or one or more of its Affiliates and (iii) maintain such depository and primary treasury management relationships at all times during the term of the Agreement; provided that nothing in the foregoing shall prohibit the Loan Parties from maintaining depository relationships with any other financial institution including one or more Lenders or their respective Affiliates.

(l) Section 5.15 of the Credit Agreement is hereby amended and restated in its entirety as follows:

Hedge Agreements. For so long as any lender party hereto is a Lender, during the term of this Agreement, the Loan Parties shall offer such Lender, or one or more of its Affiliates, the first opportunity to bid all interest rate protection, currency hedge agreements, foreign exchange agreements, or commodity hedge agreements to be entered into by any Borrower or one of its Subsidiaries.

(m) Section 6.7(a) of the Credit Agreement is hereby amended to delete the reference therein to "$500,000" and insert in lieu thereof a reference to "$830,000".

(n) Section 6.7(f) of the Credit Agreement is hereby amended to delete the reference therein to "$5,000,000" and insert in lieu thereof a reference to "$8,300,000".

(o) Section 7(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(a) **Fixed Charge Coverage Ratio**. Have a Fixed Charge Coverage Ratio, measured on each March 31, June 30, September 30 and December 31 of at least 1.25 to 1.00 for the 4 quarter period ending on each such date.

(p) Section 7(b) of the Credit Agreement is hereby amended and restated in its entirety as follows:

(b) **Leverage Ratio**. Have a Leverage Ratio, measured on a quarter-end basis, of not greater than the applicable ratio set forth in the following table for the applicable date set forth opposite thereto:

Applicable Date	**Applicable Ratio**
December 31, 2016	4.50 to 1.00
March 31, 2017	4.25 to 1.00
June 30, 2017	4.00 to 1.00
September 30, 2017	3.75 to 1.00
December 31, 2017	3.50 to 1.00
March 31, 2018	3.25 to 1.00
June 30, 2018	3.00 to 1.00
September 30, 2018	3.00 to 1.00
December 31, 2018	3.00 to 1.00
March 31, 2019	2.85 to 1.00
June 30, 2019	2.50 to 1.00
September 30, 2019	2.50 to 1.00
December 31, 2019	2.25 to 1.00
March 31, 2020	2.25 to 1.00
June 30, 2020 and each September 30, December 31 and March 31 thereafter	2.00 to 1.00

(q) The definition of "Applicable Credit Amount Percentage" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

"Applicable Credit Amount Percentage" means the percentage set forth in the following table for the applicable period set forth opposite thereto:

Applicable Period	Applicable Credit Amount Percentage
From the Third Amendment Closing Date through December 30, 2016	100.00%
December 31, 2016 through March 30, 2017	98.80%
March 31, 2017 through June 29, 2017	97.50%
June 30, 2017 through September 29, 2017	96.30%
September 30, 2017 through December 30, 2017	95.00%
December 31, 2017 through March 30, 2018	93.80%
March 31, 2018 through June 29, 2018	92.50%
June 30, 2018 through September 29, 2018	91.30%
September 30, 2018 through December 30, 2018	90.00%
December 31, 2018 through March 30, 2019	88.80%
March 31, 2019 through June 29, 2019	87.50%
June 30, 2019 through September 29, 2019	86.30%
September 30, 2019 through December 30, 2019	85.00%
December 31, 2019 through March 30, 2020	83.80%
March 31, 2020 through the June 29, 2020	82.50%
June 30, 2020 through September 29, 2020	81.30%
September 30, 2020 through the Maturity Date	80.00%

(r) The definition of "Applicable Margin" set forth on Schedule 1.1 to the Credit Agreement is hereby amended to delete the reference therein to "December 31, 2015" and insert in lieu thereof a reference to "March 31, 2017".

(s) The definition of "Available Increase Amount" set forth on Schedule 1.1 to the Credit Agreement is hereby amended to delete the reference therein to "$15,000,000" and insert in lieu thereof a reference to "$20,000,000".

(t) The definition of "Delayed Draw Term Loan Commitment Termination Date" is hereby amended to delete the reference therein to "May 14, 2017" and insert in lieu thereof a reference to "November 15, 2018".

(u) The definition of "EBITDA" set forth on Schedule 1.1 to the Credit Agreement is hereby amended to (i) delete the reference to "and" at the end of clause (c)(xv) thereof,

(ii) insert a reference to "and" at the end of clause (c)(xvi) and (iii) add a new clause (c)(xvii) thereto as follows:

(xvii) costs, fees, charges and expenses, in respect of restructuring items for reductions in force occurring on or before November 30, 2016, in an amount equal to (A) $2,404,993 for the 12 month period ending on September 30, 2016, (B) $1,505,113 for the 12 month period ending on December 31, 2016 and (C) $557,732 for the 12 month period ending on March 31, 2017,

(v) The paragraph at the end of the definition of "EBITDA" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

For the purposes of calculating EBITDA for any period of 4 consecutive fiscal quarters (each, a "Reference Period"), (a) if at any time during such Reference Period (and after the Closing Date), Parent or any of its Subsidiaries shall have made a Permitted Acquisition, EBITDA for such Reference Period shall be calculated after giving pro forma effect thereto (including pro forma adjustments arising out of events which are directly attributable to such Permitted Acquisition, are factually supportable, and are expected to have a continuing impact, in each case to be mutually and reasonably agreed upon by Parent and Agent) or in such other manner acceptable to Agent as if any such Permitted Acquisition or adjustment occurred on the first day of such Reference Period, and (b) EBITDA for the fiscal quarter ended December 31, 2015, shall be deemed to be $2,727,865, (c) EBITDA for the fiscal quarter ended March 31, 2016, shall be deemed to be $2,374,204, and (d) EBITDA for the fiscal quarter ended June 30, 2016, shall be deemed to be $2,785,205.

(w) The definition of "Fee Letter" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

"Fee Letter" means that certain amended and restated fee letter dated as of the Third Amendment Closing Date between Borrowers and Agent, in form and substance satisfactory to Agent.

(x) The definition of "Maturity Date" set forth on Schedule 1.1 to the Credit Agreement is hereby amended and restated in its entirety as follows:

"Maturity Date" means November 15, 2021.

(y) Clause (g) of the definition of "Permitted Indebtedness" set forth on Schedule 1.1 to the Credit Agreement is hereby amended to delete the reference therein to "$500,000" and insert in lieu thereof a reference to "$830,000".

(z) Clause (l) of the definition of "Permitted Indebtedness" set forth on Schedule 1.1 to the Credit Agreement is hereby amended to delete the reference therein to "$500,000" and insert in lieu thereof a reference to "$830,000".

(aa) Clause (m) of the definition of "Permitted Indebtedness" set forth on Schedule 1.1 to the Credit Agreement is hereby amended to delete the reference therein to "$10,000,000" and insert in lieu thereof a reference to "$16,700,000".

(bb) The definition of "US Term Loan Amount" is hereby amended by deleting the reference therein to "$19,000,000" and inserting in lieu thereof a reference to "$44,375,000".

(cc) Schedule 1.1 to the Credit Agreement is hereby amended by adding the following defined terms in alphabetical order:

"Original US Term Loan" has the meaning specified therefor in Section 2.2(a) of the Agreement.

"Recurring Revenue Ratio" means, as of any date of determination, the ratio of (a) Funded Indebtedness as of such date to (b) TTM Recurring Revenue.

"Third Amendment" means that certain Third Amendment to Credit Agreement, dated as of the Third Amendment Closing Date, by and among the Borrowers, Agent and the Lenders party thereto.

"Third Amendment Closing Date" means November 15, 2016.

(dd) Schedule C-1 to the Credit Agreement is hereby amended and restated in its entirety as set forth on Exhibit A attached hereto.

4. Continuing Effect. Except as expressly set forth in Sections 2 and 3 of this Amendment, nothing in this Amendment shall constitute a waiver or other modification of any other terms or provisions of the Credit Agreement or any other Loan Document, and the Credit Agreement and the other Loan Documents shall remain unchanged and shall continue in full force and effect, in each case as amended hereby. This Amendment is a Loan Document.

5. Reaffirmation and Confirmation. Each Borrower hereby ratifies, affirms, acknowledges and agrees that the Credit Agreement and the other Loan Documents to which it is a party represent the valid, enforceable and collectible obligations of such Borrower, and further acknowledges that there are no existing claims, defenses, personal or otherwise, or rights of setoff whatsoever with respect to the Credit Agreement or any other Loan Document as of the date hereof. Each Borrower hereby agrees that this Amendment in no way acts as a release or relinquishment of the Liens and rights securing payments of the Obligations. The Liens and rights securing payment of the Obligations are hereby ratified and confirmed by each Borrower in all respects.

6. Conditions to Effectiveness. This Amendment shall become effective upon the satisfaction of each of the following conditions precedent, in each case satisfactory to Agent in all respects:

(a) Agent shall have received a copy of this Amendment executed and delivered by the Lenders, and each Borrower, and each agreement, document and instrument set forth on the Closing Checklist attached hereto as Exhibit B;

(b) after giving effect to the making of the Loans and other extensions of credit to be advanced by the Lenders to the Borrowers, any prepayment of Loans to be made on the date hereof, and the payment of all fees and expenses required to be paid by the Borrowers under this Amendment, the Credit Agreement and the other Loan Documents on the date hereof, Borrowers have Availability, plus Qualified Cash, that exceeds $30,000,000;

(c) after giving effect to the making of the Loans and other extensions of credit to be advanced by the Lenders to the Borrowers on the date hereof and any prepayment of Loans to be made on the date hereof, the ratio of (x) Obligations outstanding as of the date hereof to (y) EBITDA for the 12 month period ended September 30, 2016, is not greater than 4.00:1.0;

(d) Agent shall have received payment of all fees, expenses, and other amounts due and payable on the date hereof under each Loan Document, including without limitation, all fees and expenses pertaining to this Amendment; and

(e) no Default or Event of Default shall have occurred and be continuing on the date hereof or as of the date of the effectiveness of this Amendment.

7. Representations and Warranties. In order to induce Agent and Lenders to enter into this Amendment, each Borrower hereby represents and warrants to Agent and Lenders that:

(a) after giving effect to this Amendment, all representations and warranties contained in the Loan Documents to which such Borrower is a party are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of this Amendment, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of such earlier date);

(b) no Default or Event of Default has occurred and is continuing; and

(c) this Amendment and the Loan Documents, as amended hereby, constitute legal, valid and binding obligations of such Borrower and are enforceable against such Borrower in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally.

8. Post-Closing Covenants.

(a) Borrowers shall deliver to Agent, within five (5) Business Days following the date hereof (unless such period is extended, in writing, by Agent in its sole discretion), a restated certificate of formation, dated on or about the date hereof, with respect to Upland Software VI, LLC, certified by the Treasurer of the Department of the Treasury of New Jersey and in form and substance reasonably satisfactory to Agent.

(b) Borrowers shall deliver to Agent, within thirty (30) days following the date hereof (unless such period is extended, in writing, by Agent in its sole discretion), a certificate of status with respect to Upland IX, LLC, issued by the appropriate officer of the State of Tennessee and indicating that Upland IX, LLC is in good standing in such jurisdiction and registered to do business in such jurisdiction under its legal name.

9. Miscellaneous.

(a) Choice of Law and Venue; Jury Trial Waiver; Reference Provision . Without limiting the applicability of any other provision of the Credit Agreement or any other Loan Document, the terms and provisions set forth in Section 12 of the Credit Agreement are expressly incorporated herein by reference.

(b) Counterparts. This Amendment may be executed in any number of counterparts, and by the parties hereto on the same or separate counterparts, and each such counterpart, when executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment.

(c) No Novation. The parties hereto acknowledge and agree that: (i) this Amendment and any other document or instrument executed and delivered in connection herewith do not constitute and shall in no event be deemed to be a compromise, satisfaction, reinstatement, accord and satisfaction, novation, release or termination of the Obligations as in effect prior to the Third Amendment Closing Date, or of any the Loan Documents or any rights or obligations thereunder, or a waiver by Agent or Lenders of any of their rights under this Amendment or the other the Loan Documents, whether at law or in equity or otherwise; (ii) the Obligations are in all respects continuing with only the terms thereof being modified to the extent expressly provided in this Amendment; and (iii) the guarantees and the Liens and security interests as granted or purported to be granted under or pursuant to the Credit Agreement and the other Loan Documents securing payment of the Obligations are in all such respects continuing in full force and effect and secure the payment of the Obligations as provided therein.

10. Release.

(a) In consideration of the agreements of Agent and Lenders contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each Borrower, on behalf of itself and its successors, assigns, and other legal representatives (each Borrower and all such other Persons being hereinafter referred to collectively as the "Releasors" and individually as a "Releasor"), hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Agent and Lenders, and their successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Agent, each Lender and all such other Persons being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a "Claim" and collectively, "Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which any Releasor may now own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, in any way related to or in connection with the Credit Agreement, or any of the other Loan Documents or transactions thereunder or related thereto.

(b) Each Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(c) Each Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized and delivered as of the date first above written.

PARENT AND A US BORROWER:

UPLAND SOFTWARE, INC.,
a Delaware corporation

By:
Name:
Title:

US BORROWERS:

UPLAND SOFTWARE I, INC.,
a Delaware corporation

By:
Name:
Title:

UPLAND SOFTWARE II, INC.,
a Delaware corporation

By:
Name:
Title:

UPLAND SOFTWARE III, LLC,
a Delaware limited liability company

By:
Name:
Title:

UPLAND SOFTWARE IV, INC.,
a Nebraska corporation

By:
Name:
Title:

UPLAND SOFTWARE V, INC.,
a Delaware corporation

By:
Name:
Title:

UPLAND SOFTWARE VI, LLC,
a New Jersey limited liability company

By:
Name:
Title:

UPLAND SOFTWARE VII, INC.,
a Delaware corporation

By:
Name:
Title:

UPLAND IX, LLC,
a Delaware limited liability company

By:
Name:
Title:

ULTRIVA, INC.,
a California corporation

By:
Name:
Title:

ADVANCED PROCESSING & IMAGING, INC.,
a Florida corporation

By:
Name:
Title:

Signature Page to Third Amendment to Credit Agreement

CANADIAN BORROWER:	**UPLAND SOFTWARE INC. / LOGICIELS UPLAND INC.**, a Canadian federal corporation By: Name: Title:

Signature Page to Third Amendment to Credit Agreement

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent, US Agent and as a Lender

By:
Name:
Title:

WELLS FARGO CAPITAL FINANCE CORPORATION CANADA, an Ontario corporation, as Canadian Agent and as a Lender

By:
Name:
Title:

CIT BANK, N.A., a national banking association, as a Lender

By:
Name: Title:________________________

EXHIBIT A

Schedule C-1

Lender	Canadian Revolver Commitment	US Revolver Commitment	Canadian Term Loan Commitment	US Term Loan Commitment	Delayed Draw Term Loan Commitment	Total Commitments
Wells Fargo Bank, National Association	$0	$6,142,857.14	$0	$30,089,285.71	$7,142,857.14	$43,375,000
Wells Fargo Capital Finance Corporation Canada	$1,000,000	$0	$5,625,000	$0	$0	$6,625,000
CIT Bank, N.A.	$0	$2,857,142.86	$0	$14,285,714.29	$2,857,142.86	$20,000,000
TOTAL	$1,000,000	$9,000,000	$5,625,000	$44,375,000	$10,000,000	$70,000,000

EXHIBIT B

Closing Checklist

[see attached]

EXHIBIT 21.1

List of Subsidiaries of Upland Software, Inc. as of December 31, 2016

Upland Software I, Inc. (f/k/a PowerSteering Software, Inc.)
Upland Software II, LLC (f/k/a Upland Software II, Inc., f/k/a Tenrox Inc. (U.S.))
Upland Software IV, LLC (f/k/a Upland Software IV, Inc, f/k/a Filebound Solutions, Inc.)
Upland Software V, Inc. (f/k/a ComSci, Inc.)
Upland Software VI, LLC (f/k/a ComSci, LLC)
Upland Software VII, LLC (f/k/a Upland Software VII, Inc., f/k/a Clickability Inc.)
Upland IX, LLC (f/k/a Mobile Commons, Inc.)
Upland Software Inc. (f/k/a Tenrox Inc. (Canada))
PowerSteering Software Limited (UK)
Ultriva, LLC (f/k/a Ultriva, Inc.)
Advanced Processing & Imaging, Inc.

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement on Forms S-8 (No. 333-211560, 333-203574 and 333-199961) pertaining to the 2014 Equity Incentive Plan and the Amended and Restated 2010 Stock Plan of Upland Software, Inc. of our report dated March 30, 2017, with respect to the consolidated financial statements of Upland Software, Inc. included in this Annual Report (Form 10-K) for the year ended December 31, 2016.

/s/ Ernst & Young LLP
Austin, Texas
March 30, 2017

Exhibit 31.1

CERTIFICATION PURSUANT TO RULES 13A-14(A) AND 15D-14(A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, John T. McDonald, certify that:

1. I have reviewed this Annual Report on Form 10-K of Upland Software, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have

    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 30, 2017

/s/ John T. McDonald
John T. McDonald
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO RULES 13A-14(A) AND 15D-14(A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Michael D. Hill, certify that:

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

Date: March 30, 2017

/s/ Michael D. Hill

Michael D. Hill
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

**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 of Upland Software, Inc. (the "Company") on Form 10-K for the period ended December 31, 2016 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John T. McDonald, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 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; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 30, 2017

/s/ John T. McDonald

John T. McDonald

Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

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 of Upland Software, Inc. (the “Company”) on Form 10-K for the period ended December 31, 2016 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Michael D. Hill, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 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; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 30, 2017

/s/ Michael D. Hill

Michael D. Hill
Chief Financial Officer
(Principal Financial Officer)